

VOLUME II OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable Alex Kinlaw, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEFFREY MICHAEL GEORGE,

APPELLANT

APPELLATE CASE NO. 2024-001653

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1 with one of those six photos was the defendant; is that
2 correct?

3 A Yes, I did.

4 Q And was this the first day that you came and saw him
5 on December 16th or was this the next day on ---

6 A This was the next day.

7 Q Approaching with State's 197 and 198. Please look
8 at those and tell me if you recognize those documents.

9 A (Reviews exhibits) I do.

10 Q What is State's 197?

11 A 197 is a photo lineup of Jeff George that was
12 prepared by SLED.

13 Q Okay. Was it comprised of six photos?

14 A It's comprised of six photos, all of which are
15 numbered.

16 Q Were the photos of similar description?

17 A Yes, they were.

18 Q Were they all the same size?

19 A All same size, yes, sir.

20 Q Did you present that photo -- did you present all
21 six of those photos to him at the exact same time or did
22 you do them one at a time?

23 A All at one time. All six pictures are one sheet.

24 Q And all six of these individuals had similar
25 features?

1 A They did.

2 Q You indicated he made a selection. What photo did
3 he choose?

4 A He selected Photograph Number 4.

5 Q And how did he indicate that he selected Photo
6 Number 4?

7 A He selected Photograph Number 4. He was then asked
8 to go ahead and circle the photograph, to initial it and
9 to date it.

10 Q Now, before he made that selection, what, if
11 anything, did you or Investigator Garrett tell him about
12 that lineup?

13 A Told him based on the information they told us the
14 night before, that we have prepared some lineups. If he
15 saw the person that came out of the room with the gun, I
16 need him to pick him out. And he was just given the
17 lineup -- well, shown the lineup.

18 Q Now, did you investigate -- I'm sorry. Did you
19 suggest or did Investigator Garrett suggest in any way
20 what photo he should select?

21 A None whatsoever.

22 Q I believe you said he circled it, initialed it and
23 dated it?

24 A That's correct.

25 Q How sure was he of the selection he had made?

1 A 100 percent.

2 Q Did he hesitate to make the selection?

3 A None whatsoever.

4 Q Who was the person that he circled?

5 A Jeffrey George.

6 Q That's the defendant over there (indicating)?

7 A Yes, sir.

8 Q Has that photo lineup been altered in any way?

9 A No, sir. None whatsoever.

10 MR. WILLIAMS: Your Honor, at this time, the State
11 would move to have Exhibit 197 admitted into evidence.

12 THE COURT: Any objection?

13 MR. MARCHANT: Yes, Your Honor. I don't know that
14 this exhibit can come in until the witness who's made the
15 identification can testify that that's his handwriting,
16 that he is the one that identified and circled and did
17 all that stuff with that lineup.

18 MR. WILLIAMS: That's fine, Your Honor. I'll call
19 that witness later.

20 BY MR. WILLIAMS:

21 Q So he identified Jeff George.

22 A He did.

23 Q Okay. Could you take a look at 198, tell us what
24 that is?

25 A 198 is what we call an identification on affidavit

1 for photographic identification.

2 Q Okay. Who filled that out?

3 A This particular form would have been filled out by
4 Terry Dillard.

5 Q Does he have his signature on there?

6 A He does.

7 Q And is that affidavit discussing the photo lineup we
8 just discussed with the defendant?

9 A Yes. It's a form. There's a portion on the form
10 that allows the person who viewed the form to give the
11 reason as to why he chose this individual out of this
12 lineup.

13 Q Okay. Has that form been altered in any way?

14 A No, sir. He just indicated that -- one of the lines
15 basically asks -- it says to the effect that Jeff George
16 is the person whom -- in his handwriting, Jeff George,
17 the person who had the pistol during the assault of Ivan
18 Gula at the house located at 212 C and S, Greer, on
19 December 1, 2019.

20 Q Okay. Moving on, you said you showed him some other
21 photo lineups. You showed him the photo lineup, I
22 believe, the day before of Bobby Smith; is that correct?

23 A That's correct.

24 Q Showing you State's 199 and 200. Let me know if you
25 recognize those documents.

1 A I do.

2 Q What are they?

3 A This one is a photo lineup of Bobby Smith from a
4 photo lineup made from Greenville County sheriff's photo
5 identification database.

6 Q Did Micco -- I'm sorry -- Terry Dillard make a
7 selection?

8 A He did.

9 Q Which photo did he select?

10 A He selected Photograph Number 4.

11 Q And who was the person that he selected?

12 A Bobby Smith.

13 Q And then did he also -- and he marked it the same
14 way he marked that other photo lineup, circled it,
15 initialed it ---

16 A He did.

17 Q --- dated it?

18 Did he give an affidavit, sworn affidavit?

19 A Yes, he did.

20 Q And what did he indicate on that affidavit?

21 A Bobby Smith, who was at 212 C and S Drive in Greer
22 on December 1, 2019, participating in the attack on Ivan
23 Gula.

24 Q Have either of those documents been altered in any
25 way?

1 A None whatsoever.

2 Q I'm showing you State's 201 and 202. Please let me
3 know if you recognize those documents.

4 A I do.

5 Q What are they?

6 A Photo lineups. This particular phone lineup is a
7 photo lineup containing Audrea Cook.

8 Q Did Mr. Dillard correctly identify her?

9 A She [sic] did.

10 Q What about the next exhibit?

11 A It's also -- it's also an affidavit for photograph
12 identification.

13 Q Completed by Mr. Dillard?

14 A This is also completed by Mr. Dillard. And it
15 basically states that he identified Audrea Cook as being
16 the person who owns the house at 212 C and S Drive,
17 Greer, where I saw her and others attack Ivan Gula.

18 Q Have either of those documents been altered in any
19 way?

20 A No, sir.

21 Q I'm showing you State's 203 and 204. Could you
22 please identify those.

23 A 203 is a photo lineup. I believe this gentleman is
24 -- I think this is Michael Tucker.

25 Q Would it help to reference the ---

1 A Affidavit?

2 Q Yeah.

3 A Yes, sir.

4 This actual lineup is a lineup which contains a
5 picture of Patrick Shane Poole.

6 Q Did Mr. Dillard correctly identify Mr. Poole?

7 A He did.

8 Q What did he write in the affidavit?

9 A "Patrick Shane Poole was at the house located at
10 212 C and S Drive in Greer who participated in the
11 assault on Ivan Gula and was the driver of the vehicle
12 who brought me home."

13 Q Have either of those documents been altered in any
14 way?

15 A No, sir. None whatsoever.

16 Q All right. I'll have you look at State's 205 and
17 206. Tell us if you can recognize those documents.

18 A 205 is a photo lineup containing Patrick -- I'm
19 sorry -- David Stokes.

20 Q Okay. And did he correctly identify David Stokes?

21 A Identified Photograph Number 3, initialed and dated
22 as being David Stokes.

23 Q And what did he say in the affidavit about David
24 Stokes?

25 A "David Stokes was the person who was hitting Ivan

1 Gula with the machete at the house located at 212 C and S
2 Drive in Greer on December 1, 2019.

3 Q Either of those documents, the photo lineup or the
4 affidavit, been altered in any way?

5 A No, sir.

6 Q All right. So you get these photo lineups. He's
7 identified these individuals. Obviously, identified the
8 defendant as the person holding a gun on Ivan. With that
9 information, did you end up speaking to that witness
10 Janice that he had identified?

11 A Yes, sir, I did.

12 Q What was her full name?

13 A Back then I believe her name was Janice DeFort.

14 Q Okay. And what do you know her name to be now?

15 A It's Janice Valensky [phonetic]. She has a Russian
16 name, so I'll do the best. That's Valensky. Otherwise,
17 I'm going to butcher that name. I'm not exactly sure.
18 But it has -- it's Valensky or some sort.

19 Q Okay. When did you interview her?

20 A I believe on the 20th.

21 Q And who would have been with you during that
22 interview?

23 A During that interview, I believe Investigator
24 Garrett was with me.

25 Q Okay. Where did you interview her?

1 A Janice was interviewed at the Law Enforcement Center
2 in the CID office interview room.

3 Q When you met with her -- well, first of all, I
4 believe you already indicated you've been in law
5 enforcement for 29 years?

6 A Yes, sir.

7 Q Do you have a pretty good read on assessing whether
8 someone is under the influence of a narcotic or alcohol
9 or anything like that?

10 A I do.

11 Q Okay. Did she, in any way, appear to be impaired to
12 you, whether drugs or alcohol or anything like that?

13 A No, sir. None whatsoever.

14 Q Did she appear to be in her right mind, like
15 competent?

16 A Competent, but scared. So I would say in her right
17 mind without a doubt.

18 Q But she wasn't impaired in any way.

19 A No, sir.

20 Q Okay. Tell us what information you received and
21 what you did with that information as a result of meeting
22 with Ms. Velichko.

23 A That particular interview, I learned that -- she
24 indicated, again, that she had gone to 212 C and S Drive
25 along with the victim, along with Terry Dillard and

1 Isaiah Corbison, I believe, or Hill. She indicated that,
2 again, once they got there, initially, she didn't want to
3 go in because she had a bad feeling about this place.
4 But eventually, she got out of the car and they all went
5 inside.

6 When they got inside, a guy came out of the bedroom.
7 She said multiple guys came out of the bedroom, one of
8 which had a gun which she subsequently identified as Jeff
9 George, and ordered them to the ground. She said at that
10 point, they got on their knees. She indicated that, at
11 some point, they were told to stand up and go and stand
12 in the kitchen while their friend was basically hacked
13 with this machete and hatchet. She said, again she was
14 -- she said, you know, he was bleeding. Again, the way
15 that they described it, was bleeding profusely, that at
16 some point, she yelled to the female who she identified
17 as Audrea Cook to ask these guys do stop. When they did
18 -- well, at least she said at some point he kind of
19 stopped hitting the victim. So she walks over and she
20 takes off her sock that she was wearing and she wrapped
21 the victim's hand because it was bleeding so bad.

22 After she did that, at some point, Audrea Cook and
23 Patrick Poole take them home.

24 Q And when you say "them," who in addition to Janice
25 did they take home?

1 A Terry Dillard and Isaiah.

2 Q And Ivan was left behind?

3 A He was.

4 Q As a result of that or during that interview, did
5 you also present Janice Velichko was some six-photo
6 lineups?

7 A I did.

8 Q Handing you State's 207 and 208. Would you please
9 take a look at both of those documents and tell us what
10 they are.

11 A Exhibit 207 is a photo lineup of Jeff George.

12 Q Okay. Is that the photo lineup that you presented
13 Ms. Velichko on December 20, 2019?

14 A Yes, it is.

15 Q And I want to make reference, December 20, 2019,
16 that would be 19 days after the murder had taken place,
17 approximately?

18 A Approximately. Because the indication that we
19 initially received, the murder actually occurred on
20 December 1st.

21 Q Okay. And you showed that photo lineup to her.

22 A I did.

23 Q Did you suggest what photo she should select?

24 A No, sir.

25 Q What, if anything, did you or Investigator Garrett

1 say to her when you presented it to her?

2 A We're going to show you a lineup. And if you see
3 the guy that came out of the room with the gun, we need
4 you to pick him out.

5 Q Are all of those photos of similar description? Do
6 they appear to be similar?

7 A Yes.

8 Q Okay. Are they the same size?

9 A Same size, yes.

10 Q Did you present all six photos to her at once or at
11 different times?

12 A All at once. All six photos are on one sheet of
13 paper.

14 Q Okay. Did she make a selection?

15 A She did.

16 Q What selection did she make?

17 A She selected photograph or Photo Number 6 which is
18 Jeff George.

19 Q How did she indicate that?

20 A She, again, circled the picture, initialed it and
21 dated it.

22 Q Did she hesitate to make that selection?

23 A No, sir.

24 Q Was she sure of her selection?

25 A She was absolutely certain.

1 Q Has State's 207 been altered in any way?

2 A No, sir.

3 Q The same condition as when you gave it to
4 Ms. Velichko at that time?

5 A Same condition.

6 Q And then what is State's 208?

7 A 208 is the affidavit of photograph identification
8 that was filled out by Ms. Velichko. I believe that's
9 the correct pronunciation of her name. She indicated
10 that this guy was the one that held the gun out at Ivan
11 several times.

12 Q Okay. And who was she -- that was referring to the
13 photo lineup?

14 A Of Jeff George.

15 Q Who she correctly identified.

16 A Yes, sir.

17 Q And she offered that affidavit?

18 A I'm sorry?

19 Q Did she offer that affidavit?

20 A Did she offer?

21 Q Did she write it?

22 A Yes, she did.

23 Q Did she sign it?

24 A She did.

25 Q Has it been altered in any way?

1 A None whatsoever.

2 Q Did you also present her with a photo lineup of
3 David Stokes?

4 A I did.

5 Q Showing you State's 209 and 210. Can you take a
6 look at these documents and tell us what they are?

7 A 209 is a photo lineup containing David Stokes.

8 Q Is that the six-photo lineup that you presented to
9 Ms. Velichko?

10 A Yes. Same lineup.

11 Q Did she make a selection?

12 A She made a selection, Number 3. She circled it,
13 made her initials and the date which is 12/20/2019.

14 Q Who was the individual she selected?

15 A David Stokes.

16 Q And then what about the affidavit?

17 A The affidavit, she wrote, "This person, if I'm not
18 mistaken, he was the one that ran out of the back room
19 swinging two big machetes around. He was swinging the
20 machetes at Ivan Gula."

21 Q Have State's 209 or 210 been altered in any way?

22 A No, sir.

23 Q Did you present a photo lineup of Bobby Smith to
24 Ms. Velichko?

25 A I did.

1 Q Can you identify State's 211 and 212?

2 A State's Exhibit 211 is a photo lineup containing
3 Bobby Smith.

4 Q Okay. Did she make the selection on that one?

5 A The selection that she chose on this particular
6 lineup was Photograph Number 4, which is Bobby Smith.
7 She again initialed it, dated it, and circled the
8 picture.

9 Q And then is 212 the affidavit for that photo lineup?

10 A Yes, sir, it is.

11 Q And she wrote that, Ms. Velichko?

12 A She did. She indicated that this guy told me to
13 come back inside of the house located -- the guy told me
14 to come back inside the house and lock the door. Told me
15 that no one is leaving anywhere right now.

16 Q Okay. Have either of those documents been altered
17 in any way?

18 A No, sir.

19 Q Did you present Ms. Velichko the photo lineup of
20 Audrea Cook?

21 A I did.

22 Q Showing you State's 213 and 214. Would you please
23 identify those.

24 A State's Exhibit 213 is also a photo lineup. This
25 one contains a picture of Audrea Cook.

1 Q And you presented that photo lineup to Ms. Velichko?

2 A I did.

3 Q Did she make a selection?

4 A Yes, sir, she did. She selected the photograph,
5 circled the picture of Audrea Cook. Again, she initialed
6 it, circled it and dated it.

7 Q And that was Audrea Cook who she identified?

8 A She did.

9 Q And is Exhibit 214 the affidavit for that photo
10 lineup of Audrea Cook?

11 A Yes, it is.

12 Q And she wrote that as well, Ms. Velichko?

13 A Yes, sir. She indicated, "Audrea, when we walked
14 into the trailer, she was in the kitchen. She started
15 yelling at Ivan because he brought her car back a little
16 later -- a little later. Then shortly after, several
17 guys ran out of the back room. Audrea ended up taking me
18 back home, and she pretty much ordered the guys to finish
19 up everything and clean everything up before she gets
20 back. She asked the guys which one of you wants to ride
21 with me?"

22 Q She signed that?

23 A She did.

24 Q Have either of those documents been altered in any
25 way?

1 A Not altered in no shape or form.

2 Q Did you also show a lineup to Ms. Velichko of
3 Patrick Shane Poole?

4 A I did.

5 Q Would you please identify 215 and 216.

6 A (Reviews exhibits) State's Exhibit 215 is a photo --
7 a photo lineup containing Patrick Poole.

8 Q And you presented that to Ms. Velichko?

9 A I did.

10 Q Did she make a selection?

11 A She did.

12 Q Who did she select?

13 A Number 4. Again, she circled it, initialed it and
14 dated it.

15 Q And who was that person?

16 A Patrick Poole.

17 Q And then the next document?

18 A Document, the affidavit for photograph
19 identification, she indicated that this was the guy that
20 was sitting in the backseat of the car when Audrea was
21 taking us home.

22 Q In reference to Patrick Shane Poole?

23 A Yes, sir.

24 Q And Ms. Velichko also wrote and signed that
25 affidavit?

1 A She did.

2 Q Have either of those exhibits been altered in any
3 way since the time you gave them to Ms. Velichko?

4 A None whatsoever.

5 Q Now, Investigator Bailey, you've been in
6 investigations for how long?

7 A I've been at the sheriff's office now for 29 years.
8 I spent 16 years in homicide.

9 Q 16 years in homicide.

10 Do you have an idea of how many murder
11 investigations you've been in charge of or worked?

12 A I would say in that 16 years, at least 50, less than
13 a hundred.

14 Q Okay. So you've been around the block a few times.

15 A A few times.

16 Q Okay. When you're starting an investigation, do you
17 attempt to collect as much information as possible or
18 just a narrow amount?

19 A Whenever we start any investigation, again, you
20 identify what we call the crime scene. When we go to a
21 crime scene, you only get one time to work that scene.
22 So you're going to collect any and everything that could
23 conceivably help you in identifying the person
24 responsible for the crime. So it's not uncommon to
25 collect hundreds of items in one case.

1 Q Okay. Is that the case with this particular
2 investigation as well?

3 A I believe this case, we took in more than 200 items.

4 Q Now, this more than 200 items, did you have every
5 single one of those items dusted for fingerprints, tested
6 for DNA?

7 A I did not.

8 Q Why not?

9 A Because this particular case we had gotten
10 descriptions of the vehicles -- I'm sorry -- the weapons
11 that had been used, a machete, a hatchet, some sticks,
12 et cetera. We have also had gotten information that
13 these items would have been found in David Stokes's home.
14 So when we went to -- as processing Stokes's home, we're
15 looking for these items specifically. When we located,
16 we know we're looking for a machete, we find a machete,
17 we see this machete looks as if there is blood on it, so
18 that was one item that was seized and that was one time
19 that we definitely wanted to test.

20 We also noted that there were several other items in
21 the home because -- several items such as knives or the
22 machetes. But we also learned during this investigation
23 that David Stokes had a thing for knives, that he would
24 work on knives and things of that nature. Despite that,
25 again, we took those items as well.

1 So we don't necessarily -- all the investigations
2 that I've worked, you don't necessarily look at the
3 number of items that you take off of the scene because,
4 again, at the start of it, you really don't know who or
5 what you actually have until you start working the case.
6 So in my mind, what dictates what I'm going to test is
7 the direction in which the case or the investigation
8 leads me.

9 I've never, out of all my years working homicide,
10 test every item that we seized because a lot of it is
11 irrelevant. Again, when you work a scene, you only get
12 an opportunity to do it once so you want to get any and
13 everything that you can possibly get that conceivably
14 could help you in determining or finding out who
15 committed the particular crime.

16 Q Now, let's talk about 212 C and S Drive where the
17 murder occurred. I'm sure you've already heard testimony
18 and you know from your investigation there were dozens
19 and dozens of cigarette butts collected and there were a
20 lot of cans that were collected as well or swabs from
21 cans and bottles and stuff like that. Why did you not
22 have any of those items tested for DNA?

23 A Again, when you go to a scene such as this
24 particular one on C and S Drive, you're going to collect
25 everything because everything that could conceivably help

1 us identify suspects, that's why we took so many
2 cigarette butts.

3 But there's -- even though we take items, you have
4 to look at the weight of the item that we took. At that
5 particular point in time, I wanted to have them just in
6 case my investigation led me in that direction. So,
7 again, because I can't go back and get them, we went
8 ahead and seized them. But as the investigation
9 progressed, as far as any evidentiary value, it had none.
10 So at that point, there was no need for me to test it. I
11 decided not to test those items.

12 Q And at that point that you decided not to test --
13 well, first of all, this scene where the murder occurred,
14 how much longer after the murder had occurred did you
15 actually process it?

16 A The murder happened on December 1st. We did not
17 process that scene or we did not find out about the
18 actual murder until December 16th. So we're roughly two
19 weeks behind the eight ball.

20 Q And when determining what all to test or whether or
21 not to test these cigarette butts and these cans and
22 whatnot, did you have any doubt about the defendant's
23 presence at Cook's trailer when Ivan was killed?

24 A No, sir. Not at the -- not after speaking with a
25 number of witnesses and actual persons involved.

1 Again, the other thing you have to factor in, the
2 other thing that I factored into things like the
3 cigarette butts is that, again, I knew that it happened
4 on December 1st, and I knew we were -- not gotten the
5 information, nor had we processed the house until
6 December 16th. So despite the number of cigarette butts
7 that were there, it did not -- it would not have told me
8 who was actually at that house that particular night.
9 But, again, I wanted to have those items just in case
10 information was developed and I needed it. If I needed
11 to test it, I actually had it.

12 Q Okay. Let's talk again about Mr. Terry Dillard who
13 you interviewed. And I believe you indicated he had
14 already done -- for the people he did know that were
15 there that night, he'd already done a considerable amount
16 of research on his own on Facebook; is that right?

17 A He did. He indicated, again, that he did -- he
18 didn't know -- he didn't know the others. The only
19 person that he knew in this particular case was Audrea
20 Cook and Bobby Smith.

21 Q Okay. And one of the people that he mentioned and
22 identified in a photo lineup was someone named Michael
23 Tucker; is that right?

24 A He identified Michael Tucker as being one of the
25 persons involved. Based on that identification, just

1 like the others, I obtained warrants for Michael Tucker's
2 arrest. During that interview, he also indicated that
3 Michael Tucker was actually in jail in Spartanburg on
4 some unrelated offenses. Now, bear in mind that we're at
5 December -- roughly December 18th, roughly -- December
6 17th. I'm sorry. So after getting that information from
7 him and obtaining the warrants for Michael Tucker's
8 arrest, he told me that Michael Tucker was in jail, being
9 held in Spartanburg.

10 So on December 18th, I drove to Spartanburg and
11 interviewed Michael Tucker. During that interview I
12 found out that Michael Tucker did, in fact, know Audrea
13 Cook. He did -- in fact, had heard some information
14 about what actually happened on C and S Drive, although
15 he was adamant that he was not there. He was adamant
16 that he had nothing to do with it, and, again, he was not
17 there.

18 That same day while I was interviewing Michael
19 Tucker at the detention center in Spartanburg, Bobby
20 Smith had been picked up by our fugitive squad unit in
21 reference to outstanding burglar warrants and being
22 interviewed by Investigator Garrett and Investigator
23 Picone.

24 So after I spoke with Michael Tucker, I told Michael
25 at that time that I still had some additional

1 investigation I wanted to look in to -- I wanted to look
2 in to check out his story and that he was so adamant that
3 he was not there.

4 So I was contacted by one of the investigators while
5 at Spartanburg, and they let me know that, hey, we just
6 arrested Bobby Smith. At that point, I asked the
7 investigator to ask Bobby Smith if he knew Michael
8 Tucker, which he did. And that's when I found out that
9 Bobby Smith indicated that, yes, he knew -- he knew
10 Michael Tucker. I think he went as far as saying Michael
11 Tucker was a punk of some sort, but he was adamant that
12 Michael Tucker was not at the house. He said Michael
13 Tucker was not at that house on December 1st. Michael
14 Tucker didn't have anything to do with it.

15 After getting that from Michael -- after getting
16 that from Bobby, I was at the office talking to one of
17 our investigators telling them about his involvement in
18 the murder. It became evident to me that Michael Tucker
19 had been misidentified and didn't have anything to do
20 with it.

21 So at that point and subsequently, I had those
22 warrants recalled which means I never served the warrants
23 on Michael Tucker. He wasn't charged.

24 Q Is having a warrant recalled, is that something
25 that's happened routinely throughout your career ---

1 A It has.

2 Q --- based on the evidence?

3 A Based on the evidence, especially in a case like
4 this where you have them -- it basically was a
5 misidentification. Misidentification in addition to
6 after speaking with Michael Tucker, talking to people,
7 you get a feel for whether or not they're being honest
8 and whether or not they're being truthful.

9 After speaking with him, I had doubts in my mind as
10 to whether or not he was actually there. That was one of
11 the reasons why I did not serve those warrants. Because,
12 again, having that feeling, and excuse the expression,
13 that gut feeling, and after talking with Bobby Smith,
14 there's no doubt in my mind he wasn't there. So I
15 couldn't, in good conscience, serve a warrant on Michael
16 Tucker.

17 Q Now let's talk about a couple of items that you may
18 have collected throughout your investigation. Did you
19 receive a blood spot of the victim, Ivan Gula, at one
20 point?

21 A I did.

22 Q And what was that item number?

23 A I don't know the exact item number.

24 Q Would AOB-1 ring a bell?

25 A That sounds familiar. And the reason I say it

1 sounds familiar is because items -- that's the way I
2 would indicate any items that I personally seized.

3 That blood spot -- a blood spot is during the
4 autopsy and the -- as a normal part of their protocol, in
5 addition to taking out organs and dissecting organs, they
6 typically take what we term as a blood spot. And it is
7 basically exactly what it sounds. It's a blood spot of
8 that victim or that decedent, that it's placed on a card.
9 That particular blood spot is then stored at the medical
10 examiner's office. And that's where I obtained it from.

11 Q Sealed it? Secured it?

12 A Sealed it and secured it.

13 The reason you get a blood spot is because you want
14 to develop that victim's DNA profile. That's why you
15 needed the blood.

16 Q Now, did you have the defendant arrested for murder
17 and kidnapping?

18 A I did.

19 Q At that time, was his phone taken off of his person?

20 A The date that he was arrested, I believe his phone
21 was seized by Investigator Garrett.

22 Q Would he have indicated that item to be JG-2?

23 A Probably so. Because, again, without looking at the
24 actual Property and Evidence sheet, we tend to identify
25 evidence based on our initials, and we have to assign a

1 number. No rhyme or reason. We just have to actually
2 assign that number to that particular item just for us to
3 be able to later look back and know what it is.

4 Q Are you familiar with cell phone data extractions?

5 A I am.

6 Q Okay. Did you request a cell phone data extraction
7 of the defendant's phone, JG-2?

8 A I did.

9 Q Would that have been in November of 2023?

10 A That sounds about right.

11 Q And what kind of things do you find on a cell phone
12 data extraction?

13 A The cell phone data extraction, you can find things
14 like -- you're going to find a list of that person's
15 contacts, you're going to find a -- you're going to find
16 photographs, you're going to find text messages whether
17 they actually be on the phone or in what we would
18 normally call the trash, things of that -- things of that
19 nature. Anything that conceivably you can find or put on
20 the phone, there's a good possibility they can be found
21 on the forensics examination of that phone.

22 Q So you sought a search warrant for that cell phone
23 data extraction?

24 A I did.

25 Q And you obtained it?

1 A I did.

2 Q And you had an investigator complete a cell phone
3 data extraction?

4 A Yes, I did.

5 Q What about the defendant's Facebook records? Did
6 you seek and obtain an arrest warrant -- or, sorry -- a
7 search warrant for his Facebook records?

8 A I did.

9 Q Did Facebook provide you with the defendant's
10 Facebook records?

11 A After they received -- after they received the
12 search warrant, probably weeks later I did, in fact,
13 receive copies of his actual Facebook records.

14 Q Okay. Backtracking somewhat, you mentioned that
15 Mr. Knutson, I believe you said he heard some wrestling
16 in the backyard. Did you mean wrestling or rustling like
17 some movement in the backyard?

18 A Some movement, again.

19 Q Not that Mr. Stokes was actually wrestling someone.

20 A No. He indicated that he heard some noise in the
21 back. He heard some noise while he was in the camper.
22 That's what caused him to get up, go outside.

23 Q You heard -- and Jonathan Hamilton, who was formerly
24 with forensics, testified earlier that he located a bag
25 in the driver's seat of the defendant's truck which had

1 JFH-9A which was a Smith & Wesson .40 caliber pistol that
2 was loaded. You were here for that testimony, correct?

3 A I was.

4 Q Why didn't you have that item tested for DNA?

5 A Again, when you work a case as such, you want to
6 take as much evidence as you possibly can. Because,
7 again, you're trying to find out who owns it or whether
8 or not it's a part of your investigation. The truck --
9 the weapon that he's referring to was actually taken out
10 of a truck that was being driven by the defendant,
11 Jeffrey George. The gun was located under the driver's
12 seat. So in my mind, it would not have been a surprise
13 to me that, if tested, we would have found Jeff George's
14 fingerprints and Jeff George's DNA. Because it was in
15 his constructive possession, DNA was under his driver's
16 seat. Based on that, I saw no need to test that item.

17 Q So the defendant's access to that vehicle?

18 A His access to it, he being taken out of the vehicle
19 the day of his arrest and the fact that the gun's
20 underneath the seat she was occupying rather than the
21 driver's seat.

22 MR. WILLIAMS: Okay. No further questions.

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

24 Cross-examination, Mr. Marchant? Or do you want to
25 take a break?

1 MR. MARCHANT: Might be a good idea, Judge.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, we're going to take about a ten minute break.

4 Please, ma'am, please, sir, do not talk about the case to
5 one another. Don't do anything of any kind. And this
6 will be a perfect time to stretch your legs or use the
7 restroom. So we'll bring you back in shortly.

8 (WHEREUPON, the jury exits the courtroom at 10:15 AM.)

9 THE COURT: Officer Bailey, if you need a break,
10 too, you can take one. You don't have to sit there.

11 THE WITNESS: Thank you, sir.

12 THE COURT: As you well know, you can't talk either.
13 You can't talk to anybody either.

14 THE WITNESS: Yes, sir.

15 (WHEREUPON, a recess is taken at 10:16 AM.)

16 THE COURT: We're back on the record. Let's bring
17 the jury back.

18 (WHEREUPON, the jury entered the courtroom at 10:34 AM.)

19 THE COURT: All right. Cross-examination?

20 CROSS EXAMINATION

21 BY MR. MARCHANT:

22 Q Investigator Bailey, let's start with the people
23 that you signed warrants on at the outset of this case.
24 Make sure I'm clear about how this thing unfolded. You
25 talked to a gentleman by the name of Kurt Knutson.

1 A I did.

2 Q Terry Dillard, who also goes by Micco.

3 A I did.

4 Q Okay. And based off of conversations with those two
5 individuals and identifications that they made, you
6 signed arrest warrants.

7 A Pretty much, yes, sir.

8 Q Okay. I mean, based off of what Bobby Ray Smith
9 tells you, you didn't get warrants, or David Stokes. You
10 already had those arrest warrants in hand after speaking
11 with Terry Dillard.

12 A That's correct. In addition to after processing the
13 scene at those two locations, yes, sir.

14 Q Okay. But just so we're clear, the only two people
15 that made identifications are Knutson and Dillard, and
16 then you secured warrants.

17 A Those were the initial individuals that were
18 identified. Those were the two individuals that, as a
19 result of those interviews, that I obtained warrants for
20 their arrest.

21 Q Okay. And you charged Knutson with accessory after
22 the fact.

23 A Charged Knutson with accessory after the fact of
24 murder.

25 Q That's the only charge he has.

1 A That's correct.

2 Q You charged Bobby Ray Smith with murder and
3 kidnapping.

4 A I did.

5 Q You charged David Stokes with murder and kidnapping.

6 A Yes, sir, I did.

7 Q You charged Patrick Shane Poole with murder and
8 kidnapping.

9 A I did.

10 Q You charged Audrea Cook with murder and kidnapping.

11 A Yes, sir, I did.

12 Q Jeff George, murder and kidnapping.

13 A Yes, sir, I did.

14 Q Michael Tucker, murder and kidnapping?

15 A Charged but warrant not served.

16 Q It's the same charge, right?

17 A That's correct.

18 Q And those people were charged based off your
19 conversations with Knutson and Dillard along with
20 whatever other evidence you all had secured at that point
21 in time.

22 A That's correct.

23 Q And the time that the warrants were secured, you had
24 already executed search warrants at C and S Drive,
25 correct?

1 A That's correct.

2 Q And Cripple Creek.

3 A Yes, sir.

4 Q Okay. So let's talk about Cripple Creek. And you
5 discovered throughout the course of the investigation
6 after warrants were signed and served, information that
7 you did not previously have before the warrants were
8 signed, correct?

9 A I don't think I understand your question.

10 Q Okay. Your investigation is continuing.

11 A That's correct.

12 Q It's not over once the warrants are signed.

13 A That's correct.

14 Q You continue to interview people, investigate,
15 correct?

16 A That's correct.

17 Q Okay. So is there some restriction or prohibition
18 at the sheriff's office that you can't go back to a scene
19 and serve a search warrant a second time?

20 A If circumstances should arise within an
21 investigation and you develop what we call probable cause
22 and have reasons to go back, there have been occasions
23 that investigators have gone back to a scene.
24 Personally, I have never gone back to a scene in my
25 16 years doing it.

1 Q Okay. So you have information from Knutson, served
2 a search warrant at Cripple Creek, and then you interview
3 Stokes, right?

4 A Yes. Yes, sir.

5 Q In between those two, you had already served the
6 search warrant at Cripple Creek.

7 A That's correct.

8 Q As well as C and S Drive.

9 A Yes, sir.

10 Q Okay. You got new information once Stokes comes and
11 talks to you and once Bobby Smith talks to you, right?

12 A I don't know if I -- I don't know if that was new
13 information, but I did get some information that day
14 after speaking with them.

15 Q Okay. So nothing to prevent you from going back and
16 doing a second search warrant at either of those
17 locations.

18 A At that point based on the information that I had, I
19 didn't see a need to go back to those locations.

20 Q All of these exhibits that the solicitor showed you,
21 all of these exhibits -- all of these -- all right. All
22 of these exhibits -- try for the third time -- the
23 solicitor showed you were lineups that you conducted with
24 various witnesses.

25 A It was.

1 Q Right. He didn't show you lineups that you
2 conducted with Terry Dillard that contained
3 identifications by Mr. Dillard of Andrew Pulley and
4 Michael Tucker, correct?

5 A I don't believe he indicated -- I don't believe he
6 showed me those two, no.

7 Q I'm going to show you what's marked as Defendant's
8 Number 2, Number 3, Number 4 and Number 5 and see if you
9 recognize those.

10 A (Reviews exhibits) I do.

11 Q Okay. And how is it that you recognize them? Are
12 they in the same condition, haven't been altered, all
13 those good questions the prosecutor asked you about the
14 other ones?

15 A That's correct.

16 Q Okay. And in the one you're holding which is
17 Defendant's 2, Mr. Dillard identifies Mr. Tucker in
18 Defendant's 3, correct?

19 A That's correct. In this particular affidavit, he
20 identifies Michael Tucker.

21 Q Okay. Based off of that identification where
22 Mr. Dillard tells you Mr. Tucker had either a stick or a
23 baseball bat, right?

24 A That's correct.

25 Q You got warrants on Michael Tucker.

1 A As I did with the others, yes, sir.

2 Q Do you recall the day that you secured those
3 warrants?

4 A December 17th.

5 (WHEREUPON, Defendant's Exhibit Numbers 10 and 11 were
6 marked for identification.)

7 BY MR. MARCHANT:

8 Q Show you what's marked as Defendant's 10 and 11, see
9 if you recognize those.

10 A (Reviews exhibits) Yes, sir, I do.

11 Q Okay. What are those?

12 A These are the two arrest warrants that I obtained on
13 Michael Shane Tucker, one charging him with kidnapping,
14 the second charged him with murder.

15 MR. MARCHANT: Defendant would move 10 and 11 into
16 evidence.

17 THE COURT: Any objection?

18 MR. WILLIAMS: No objection, Your Honor.

19 MR. MARCHANT: All right. So entered without
20 objection.

21 (WHEREUPON, Defendant's Exhibit Numbers 10 and 11 were
22 admitted into evidence.)

23 BY MR. MARCHANT:

24 Q All right. I'm showing you Defendant's 10. Charged
25 murder, right?

1 A That's correct.

2 Q And down here in this (indicating) area, the date's
3 12/17 of '19, correct?

4 A That's correct.

5 Q And while faint, this is the Judge's signature,
6 Judge Peden's signature down here authorizing those
7 warrants.

8 A Yes, sir.

9 Q So that's Defendant's 10. That's for murder.
10 Defendant's 11 is for kidnapping. They're
11 identical, right? Other than the charge, they're
12 identical.

13 A Yes, sir.

14 Q And that charge is based primarily off of Terry
15 Dillard's identification of Michael Tucker being present
16 at the house armed with a weapon.

17 A Yes, sir. As well as the others. Yes, sir.

18 Q Okay. So you go talk to Mr. Tucker, correct?

19 A Yes. I spoke with Mr. Tucker.

20 Q You found him in the Spartanburg County Detention
21 Center.

22 A In Spartanburg Detention Center on some unrelated
23 charges, yes, sir.

24 Q Okay. Had he not been in the detention center, your
25 warrant team would have been out looking for him to

1 arrest him.

2 A Yes, sir.

3 Q So those warrants were issued on December 17th.
4 When you have warrants in hand, is there a policy that
5 you have to serve those warrants if you have the person
6 in custody?

7 A If we have the person in custody? Rephrase your
8 question, sir.

9 Q Okay. And here's where I'm going. I'll just cut to
10 it. December 17th these warrants are issued.

11 A That's correct.

12 Q You travel to Spartanburg County Detention Center on
13 December 18th to talk with Michael Tucker, correct?

14 A That's correct.

15 Q Why did you not serve the warrants on him?

16 A I did not -- I did not serve those warrants on
17 Michael Tucker for two reasons. One, when I interviewed
18 him, he indicated he was adamant that he was not there
19 whatsoever. And at that point, he put some doubt in my
20 mind as to whether or not he was there. So I wanted to
21 check -- I wanted to do some further investigation. I
22 wanted to look into it further to either prove or
23 disprove what he told me.

24 That same day during that same time period while I'm
25 at the detention center speaking with Tucker, Bobby Smith

1 is arrested. Bobby Smith is another person charged as a
2 result of being at that house on C and S Drive that
3 night. I inquired. I asked one of the investigators
4 who's talking to Bobby to ask him if Tucker was there.
5 He -- he indicated that, again, I believe he said
6 something to the effect that Tucker's a little punk, but
7 he was not there. He indicated that he was not there.

8 At that point, I had no reason to believe that Bobby
9 Smith was telling me a lie. Why? Because he was there
10 telling another investigator about his involvement in the
11 same case that Michael Tucker had been charged.

12 Q So you believed Bobby Smith, but you didn't believe
13 Terry Dillard?

14 A I believed Terry Dillard because I obtained warrants
15 for those other individuals as a result of talking to
16 Terry Dillard. But I also had to take into consideration
17 in which I did as to fact that what Terry Dillard had
18 just experienced. He had just experienced what he
19 thought and what he, at that time, believed that his best
20 friend had been murdered in front of him.

21 Q Mr. Dillard referred to Ivan Gula as his best
22 friend?

23 A He referred to Ivan Gula as his uncle.

24 Q More like a family member. Were they actually
25 related?

1 A He said that he indicated he identified Ivan Gula as
2 his uncle because he said they had met each other, and
3 they were as close as family. So he referred to him as
4 his uncle.

5 Q Okay. So Terry Dillard is present December 1st at
6 Audrea Cook's house, correct?

7 A That is correct.

8 Q And what day did he contact law enforcement?

9 A December -- I believe he contacted -- you're saying
10 Terry Dillard?

11 Q When did Terry Dillard contact law enforcement?

12 A Terry Dillard, actually, as we looked -- as we
13 looked into the case further, Terry Dillard actually
14 contacted the sheriff's office on December the 6th.

15 Q Is there a report reflecting that contact?

16 A There's no report reflecting that contact because
17 when Terry Dillard initially contacted the sheriff's
18 office, he wanted to report Ivan Gula as missing. So he
19 spoke with at that time Sergeant Hammett about inquiring
20 about whether or not we actually had a missing persons
21 report that could very well be Ivan Gula, and he
22 indicated that we did not.

23 Q Did he file -- make sure I understood that date
24 correct. December the 6th.

25 A Yes, sir. December the 6th.

1 Q Did he file a missing persons report on December the
2 6th with the Greenville County Sheriff's Office?

3 A He didn't file a report with Greenville County
4 Sheriff's Office because Ivan Gula was a resident of
5 Spartanburg County. So I believe he was referred to
6 Spartanburg to file that report. Now, whether or not it
7 was actually done, I do not know.

8 Q I'm sorry. Who was the officer that Dillard spoke
9 with?

10 A Terry Dillard initially spoke with Sergeant Hammett.

11 Q Sergeant -- is that Chris Hammett?

12 A Chris Hammett, yes, sir.

13 Q Would Sergeant Hammett have filled out a report
14 indicating that someone contacted your office about a
15 missing person even though the residence was in a
16 different county?

17 A In this particular instance, he inquired. We didn't
18 have -- we did not have an outstanding missing person
19 that -- so, again, there was no need for him to document
20 or there was nothing for him to write up. So to answer
21 this question, no, we didn't.

22 Q Okay. How do you know that the report was made on
23 December 6th to Sergeant Hammett?

24 A I know that a report, again, was not made. I know
25 that a phone call -- I know Terry Dillard had contacted

1 the sheriff's office and spoke with Sergeant Hammett.
2 Again, Sergeant Hammett, at that time, I believe, was
3 over the missing persons unit, I believe. But at any
4 rate, when that conversation was had, he was basically
5 asking or wanted to find out or wanted to report Ivan
6 Gula as missing. Again, we had no reports as such, and
7 therefore, I think there was -- knowing that he lived in
8 Spartanburg County, that's what he was referred to to
9 make that report.

10 Q I guess, Investigator Bailey, what I'm trying to get
11 at is how are you so certain that that was on
12 December 6th if there is no record of it?

13 A Because Sergeant Hammett, we all worked in the same
14 office. Sergeant Hammett was the supervisor of the
15 Homicide Unit. So when the information came into us on
16 December 16th, we started talking in the office. And we
17 came to -- that's when Sergeant Hammett remembered having
18 that conversation with Terry Dillard back on the 6th.

19 Q Okay. Have you checked in Spartanburg County to see
20 if a missing persons report was filed on December 6,
21 2019, with the Spartanburg County Sheriff's Office?

22 A I did not.

23 Q Let's get back to Mr. Tucker now. You've got arrest
24 warrants for Mr. Tucker, and you're interviewing him in
25 the Spartanburg County Detention Center, correct?

1 A That's correct.

2 Q At that time you're interviewing him, you do not
3 know what Bobby Smith is telling one of your colleagues.

4 A I do not. No, sir.

5 Q Because you're in the jail, phone's not working
6 there or are difficult, right?

7 A Phones actually work in the detention center, but I
8 was not advised what was going on at the sheriff's office
9 until I got a call from one of the investigators or
10 actually called the investigator after receiving a call
11 that Bobby Smith had been taken into custody.

12 Q And you got that call while you were interviewing
13 Tucker or once you ---

14 A No. I believe I was still in Spartanburg County. I
15 believe I was still in the jail.

16 Q In the jail with Tucker?

17 A I don't know if I was with Tucker at that time, but
18 I believe I -- I know I was still in Spartanburg.

19 Q Throughout the course of this investigation, there
20 have been a number of interviews conducted. Do you
21 record all of your interviews?

22 A Most of them, yes, sir.

23 Q Was this interview with Michael Tucker recorded?

24 A It was not.

25 Q It was not?

1 A No, it was not.

2 Q Okay. I'd refer you to page 14 of 27 of your report
3 if you'd like to refresh your memory. Let me help you to
4 it.

5 A I've got it. 14. I found page 14.

6 Q Page 14 of 27.

7 A (Reviews document) The portion of the report that
8 Mr. Lucas has pointed out is the fact that in this --
9 this statement reads that he -- I gave Mr. Tucker his
10 Miranda, and I indicated that the interview, entire
11 interview was recorded.

12 Q But there's no recording.

13 A There would have been a recording -- if I indicated
14 this in this report that a recording would have been made
15 on December the 19th, then I would have recorded it. And
16 the reason I would have known that now is because that's
17 how I actually did my supplemental reports.

18 Whenever I do a report or do an interview, it's
19 impossible to write down what everybody -- what -- every
20 word that that individual tells you, so I record it. And
21 once I get back to the office at a later time, I sit down
22 and actually transcribe it and put it in my report.

23 Q Okay. And then you take that recording and you make
24 it part of the case file, right?

25 A Yes, sir.

1 Q Okay. So I know the solicitor's going to stand back
2 up in a minute and say that he does not have a copy of
3 that recording. Do you know where the copy of the
4 recording is?

5 A I do not.

6 Q So we have a piece of evidence that is missing.
7 You'd agree with me?

8 A I would not.

9 Q You wouldn't?

10 A I would not.

11 Q Okay. Where's the recording?

12 A I don't know where the recording is, but I don't
13 necessarily feel that that's a piece of evidence.

14 Q Okay. Well, let's continue talking about Mr. Tucker
15 and the conversation you had with him. Did you tell
16 Mr. Tucker on December the 18th that you did not have
17 warrants for his arrest?

18 A I probably did.

19 Q But you did have warrants for his arrest?

20 A I did.

21 Q So you lied to Mr. Tucker.

22 A Lying to Mr. Tucker to find out whether or not he
23 was actually telling me the truth. I was not going -- I
24 was not going to go in and interview a person as
25 Mr. Tucker and show my entire hand. So if the question

1 was asked whether or not I had a warrant, I would have
2 told him no.

3 Q So it's an acceptable practice for law enforcement
4 to lie to people that they're interviewing.

5 A It's an acceptable practice per the Supreme Court
6 that we are allowed to lie if it's going to help in the
7 furtherance of this particular investigation. So when
8 that question was asked, I did, in fact, tell him, no, I
9 did not have an arrest warrant.

10 Q So you made an independent decision in this case
11 that Michael Tucker has nothing to do with it, correct?
12 Because you had those warrants recalled.

13 A I made a decision, an independent decision to not
14 charge Michael Tucker because, after speaking with
15 Michael Tucker, I felt that he was, in fact, telling me
16 the truth and, secondly, had made contact with another
17 investigator who was speaking with another individual who
18 had been charged with the same offense, and he told me
19 that Michael Tucker was not there. Based on that, I did
20 not serve those warrants.

21 Q But so we're clear, Dillard picks Tucker as being
22 present at C and S Road and being a participant in the
23 attack of Mr. Gula.

24 A That is correct. He did initially say that.

25 Q All right. You've talked with Patrick Shane Poole.

1 A I spoke with Patrick.

2 Q Audrea Cook.

3 A I did.

4 Q David Stokes.

5 A I did.

6 Q Bobby Ray Smith.

7 A I believe another -- Investigator Garrett actually
8 spoke with Bobby Smith.

9 Q Okay. After Terry Dillard identified Andrew Pulley
10 for you, did you go find Mr. Pulley?

11 A Did not find Mr. Pulley, because if you remember
12 what I indicated was that we met with Mr. Dillard on the
13 night of the 16th. During that time and during that
14 interview, Mr. Dillard provided us with some names.
15 Again, he said that he had done some research on Facebook
16 and he came up with the names of people that he did not
17 know. One of those names that he came up with was Andrew
18 Pulley.

19 Following -- based on that information, we returned
20 back to the Law Enforcement Center which is the 16th,
21 early morning hours of the 17th because the 16th was a
22 particularly long day. On the 17th we returned back to
23 Mr. Dillard's along with that photo lineup of Andrew
24 Pulley. And it was during that time Mr. Dillard
25 indicated that he believed he made a mistake. He made a

1 mistake that Andrew Pulley was not at the house, but
2 Andrew Pulley was the person who he saw on Facebook
3 trying to sell Ivan Gula's or the victim's property.

4 Q You didn't feel the need to follow up with a
5 deceased individual's stolen property?

6 A I did not.

7 Q You were given various individuals in the home, and
8 were all of those people identified at C and S drive?

9 A The individual's names that Mr. Dillard provided to
10 me, those individuals were identified, yes.

11 Q Okay. So let's talk about the people that are in --
12 supposedly in the car that show up at Audrea's house.

13 Terry Dillard.

14 A Yes, sir.

15 Q Janice Velichko.

16 A Yes, sir.

17 Q Ivan Gula.

18 A Yes, sir.

19 Q And Isaiah Culbertson.

20 A Yes, sir.

21 Q Did you talk with Isaiah Culbertson?

22 A We attempted to talk with Isaiah, but Isaiah refused
23 to talk to us.

24 Q Where did you find Mr. Culbertson to attempt to
25 interview him?

1 A I believe we had gotten information, it was sending
2 messages through Dillard to get in contact with us
3 because, again, Dillard and Isaiah, they all were
4 presumably at that time were friends because they all
5 went to C and S Drive together. And he just refused to
6 return any of our phone calls.

7 Q Did you go to his house?

8 A We did not.

9 Q Didn't even attempt.

10 A At that point, again, he was actually in the car
11 with the people who went to the house. And at that
12 point, if he didn't talk to us, it was really -- we
13 didn't -- at that point, we had no reason to believe that
14 even been going to a house he would talk to us in person.

15 Q The people inside the home, you've identified them.
16 We've talked about the ones that have been charged.
17 There were other individuals that I think y'all had been
18 given names. One of them is Joe Foster. Did you talk
19 with him?

20 A I did not.

21 Q Mr. Foster's in the home the entire time these
22 events occurred, was he not?

23 A I believe Mr. Foster's name had came up. But,
24 again, he was not a person in my mind of interest at that
25 particular time because I had -- I had eyewitnesses,

1 people that were actually in the house when it happened.
2 I'd actually had people who had been charged which would
3 be his codefendants telling me what actually happened. I
4 had some people that came with the victim, and they're
5 telling me what happened. I really didn't have nor did I
6 see a need to interview those individuals that you're
7 speaking of.

8 Q You don't want to get the perspective of somebody
9 who was either not part of the victim's crew or part of
10 the defendant's crew which would make them an independent
11 witness?

12 A Based on the information that I had in this
13 particular case, no, sir.

14 Q The same goes for Kayla Jordan?

15 A That's correct.

16 Q She was in the house, correct?

17 A I believe we had gotten some information that she
18 was, in fact, in a bedroom, yes, sir.

19 Q Okay. And there's one other individual by the name
20 of Isaiah Hill.

21 A I believe Isaiah Hill was a person who they
22 eventually identified but used a different Facebook name,
23 I believe.

24 Q Did you go try to talk to Mr. Hill?

25 A I did not.

1 Q Did you ever get warrants for Joe Foster, Kayla
2 Jordan or Isaiah Hill for anything?

3 A I didn't speak with any of those individuals and I
4 did not obtain warrants, nor did I have any reason to
5 obtain warrants for those individuals.

6 Q Okay. Some of the codefendants and some of these
7 other witnesses identified someone else that was not
8 charged as being a participant in this event that
9 happened at C and S drive either by the name of Isaiah or
10 Isaac.

11 A That's correct.

12 Q What research did you do to identify that person
13 that was a participant in the thing that went down at
14 C and S Drive?

15 A I believe we tried to locate that particular name,
16 but I don't believe we were able to find out anything on
17 that individual.

18 Q So you got somebody that's over at C and S Drive
19 that one of the two parties has to know. Whether you
20 want to call them the victims or the defendant,
21 somebody's got to know who this guy is, right?

22 A That's correct. But at the same token, we can't
23 force any of these people to talk with us or to give us
24 the information that we're looking for.

25 Q When you give lineups and if someone does not

1 identify anyone in the lineup, do you keep those lineups?

2 A I believe we do. But in some cases, I've -- I've
3 done it both ways. In some cases, if a photo lineup, if
4 it's not used and if it's in my particular case, has been
5 kept, and other times it has not.

6 Q So if you were showing one of these witnesses a
7 lineup and they say I don't see anybody, would you have
8 kept that as part of the case file or you throw it away?

9 A I'm not sure in this particular case whether or not
10 I actually did that or not. I know if I had a lineup and
11 a person was not in a particular lineup, I would not have
12 seen a need to actually keep it.

13 Q Well, if you'd have had a lineup that you'd shown a
14 witness and it had Mr. George's picture in it, would it
15 still be part of your case file or would you have thrown
16 it away?

17 A It would have been part of the case file because
18 Mr. George, at that time, had been identified through
19 interviews that I had conducted. So that's a lineup that
20 I would have kept.

21 Q Even though someone didn't identify him.

22 A I believe I would have.

23 Q How confident are you about that? 100 percent?

24 A No, sir. Not 100 percent. Because, again, in this
25 particular case, and I've done it in both, I'm sure, if

1 this was one of the cases that I actually kept it or
2 discarded it.

3 Q Would there be a record somewhere of you asking for
4 that lineup to be generated?

5 A If I generated that -- if I made a request to SLED,
6 there would be a record of it, yes, sir.

7 Q Well, we've talked about two different types of
8 lineup. One's SLED and one -- I don't remember what the
9 name of it was.

10 A There are two types of -- there are two types of
11 lineups. There's some -- there's some individuals who
12 commit crimes who have not been arrested by Greenville
13 County Sheriff's Office. Most people in South Carolina
14 of age has a driver's license. When we search our
15 database and we do not find an individual that has been
16 identified as a possible suspect we want to show in a
17 lineup, we contact SLED. SLED uses the DMV lineup. The
18 DMV -- I'm sorry -- photo base, picture base. During
19 that -- and that's how we come up with those photo
20 lineups of individuals who are not -- who do not have
21 pictures in our database.

22 Q The testimony that you've given to the solicitor
23 about the search warrants, did you take anything and
24 everything possible that could be responsible as part of
25 the crime? Did you take that into evidence. Do you

1 recall saying that?

2 A I recall saying that, yes, sir.

3 Q Okay. I'm going to show you Defendant's 8 which
4 Jonathan Hamilton took a picture of out at Cripple Creek
5 Road. Did you take this blade into evidence?

6 A We did not.

7 Q Showing you Defendant's 7. Take that knife into
8 evidence?

9 A We did not.

10 Q Showing you Defendant's 6, specifically, this
11 serrated knife. Did you take that into evidence?

12 A No. We didn't take any of those items because we
13 were provided by the witnesses that I spoke with a
14 detailed -- a detailed description of the items that were
15 -- that were used. I think -- I believe Mr. Knutson even
16 told me that the machete that had been used was actually
17 in David Stokes's -- it was still -- it was still at the
18 house or still at the camper where they resided. When
19 knowing this and I relayed that information to our
20 forensics techs, he's looking -- he's looking for a
21 machete. But at the same token, he's looking for a
22 machete with possible blood on it. He's looking for a
23 machete that looks like it still could be readily used.
24 Some of the -- one of the pictures that I think we saw,
25 it was a machete, but that machete was rusted.

1 We were told that a machete was perhaps in that
2 particular home. When we did the search for that item,
3 we found what we believed it was because there was a
4 machete found. And if you remember, they did a
5 presumptive test on that item, and it came back positive
6 as blood.

7 So, again, the other thing I knew at the time was
8 Mr. Stokes had a thing, as Mr. Knutson said, for knives.

9 Q Okay. And at the time you did the search warrant,
10 Mr. Stokes had not been arrested yet, correct?

11 A Mr. Stokes had not been arrested, no, because that
12 was on the 16th.

13 Q Okay. He's going to come up in here in a minute and
14 he's going to tell the jury whatever his story is. But
15 one thing that you find out from Stokes is that he claims
16 that Mr. George used a serrated blade to kill Mr. Gula,
17 correct?

18 A He could have said that in an interview.

19 Q You don't recall?

20 A I don't recall that exact statement being used, no,
21 sir.

22 Q But if he did say that, if he did, that would have
23 been new information after you had executed the search
24 warrant the first time.

25 A That would have been new information to me, yes,

1 sir.

2 Q But you could have gone back out to Cripple Creek
3 and secured other pieces of evidence.

4 A It could if I saw a reason to do just that. But
5 doing this for 29 years, in homicide, 16, people will lie
6 to us. And as far as I was concerned, as far as what he
7 was telling us about the knife, he could have very well
8 have been lying and it was not a lead that I chose to
9 follow up on.

10 Q You testified earlier that Mr. George was arrested
11 in his vehicle or at least the GMC vehicle that we've
12 seen, right?

13 A I believe that Mr. George was arrested at home and
14 the vehicle was in the driveway, I believe.

15 Q Your testimony earlier was that he was arrested
16 inside the vehicle.

17 A I stand corrected. Mr. George was arrested. I
18 don't know exactly if he was in the vehicle or not.
19 There's a possibility that he was not. But when we
20 located Mr. George, it was not too far away from his
21 pickup truck.

22 Q Were you there when he was arrested?

23 A I was not there when he was arrested.

24 Q Okay. Do you rely on other deputies' reports to
25 understand and know what their participation in the case

1 was?

2 A In each death investigation, if an officer or deputy
3 has an involvement in the case such as responding and
4 actually placing an individual under arrest, they should
5 have generated a report, yes, sir.

6 Q Okay. Are you familiar with Sandro Jankovic with
7 your office?

8 A I'm familiar. He's a member of the fugitives team.

9 Q Okay. And would he have generated a report
10 regarding his participation in this case and the arrest
11 of Mr. George?

12 A A report should have been generated, yes, sir.

13 Q And you would have reviewed that report as part of
14 your investigation, as part of your case file, correct?

15 A I'm sure, at some point, I would have seen or read
16 that report, yes, sir.

17 Q Okay. So if I tell you that Jankovic says when they
18 encountered Mr. George, he emerged from a tarp concealing
19 the carport?

20 A I wouldn't be surprised, no, sir.

21 Q Okay. And we've seen pictures. There's a trailer
22 attached to the truck, right?

23 A I have seen that picture, yes, sir.

24 Q Okay. And Mr. George complied with their commands.
25 You want to see Mr. -- Deputy Jankovic's report?

1 A Yes, sir.

2 (Reviews document) That's correct. He indicated
3 that he immediately complied.

4 Q So he was not in the truck. In fact, he was nowhere
5 near the truck.

6 A Based on his report, no, sir.

7 Q Okay. Am I correct then that you also misstated
8 that the gun was underneath the seat?

9 A I know I said exactly what you just indicated. The
10 gun was in the cab of the truck. And if memory serves me
11 correctly, I believe I got that information from the
12 forensics sergeant who actually processed the truck.

13 Q You're talking about Sergeant ---

14 A Hamilton.

15 Q That testified yesterday who's now with the
16 coroner's office.

17 A That's correct.

18 Q Okay. But didn't he testify that he conducted the
19 search of the vehicle back at 23 Winterberry Court which
20 is his office?

21 A He did.

22 Q So we really don't know where the gun or the
23 backpack come from.

24 A We know the gun and the backpack came out of the
25 pickup truck because the day that he was placed under

1 arrest, that truck would have been sealed by forensics,
2 that truck would have been transported to forensics
3 office on Winterberry Drive, a warrant, which I would
4 obtain, would have searched -- they would have searched
5 that truck and they would have processed that truck.
6 Those items that he's referring to was seized by
7 forensics, and it was seized from the truck during the
8 execution of that search warrant.

9 Q We don't have any photographs of the truck out at
10 Mr. George's residence, do we?

11 A Not that I can recall. If memory serves me
12 correctly, I think the forensics has took some pictures
13 of the -- when they sealed the truck. I don't know ---

14 Q Nobody's testified that the gun or that bag was in
15 the truck at Mr. George's house. The only testimony is
16 that Sergeant Hamilton had that stuff at his office at
17 Winterberry Court.

18 A That was taken out of the truck, yes, sir.

19 Q He took it out of the truck.

20 A That's correct.

21 Q But there's been nobody to testify that that
22 backpack was in the truck when that car was taken
23 possession of.

24 A No, sir. There is no one.

25 Q All right. And do you recall the date that

1 Mr. George was arrested?

2 A I believe it was on the 19th, I believe.

3 Q Okay. And at that point in time, you had or had not
4 spoken to David Stokes?

5 A I've spoken to David Stokes a couple of times. I
6 don't recall if I had spoken to him prior to or after. I
7 spoke with him a couple of times.

8 Q Okay. If you can go back to your report. I refer
9 you to page 17 of 27, the last paragraph down at the
10 bottom.

11 A Yes, sir.

12 Q All right. So December 18th is when you talk with
13 Stokes. December 19th was when Mr. George was arrested,
14 correct?

15 A Okay.

16 Q All right. Did you search -- did you get a search
17 warrant for Mr. George's home?

18 A I did not.

19 Q The information you had was that Mr. George was
20 supposedly in possession of some serrated blade. Didn't
21 find anything in the truck, right?

22 A I believe most of the witnesses that I spoke to to
23 include some of the people that were arrested indicated
24 that Mr. George had a gun. We may have had one witness
25 that indicated something along the lines of a knife.

1 But, again, incident occurred on December 1st. We didn't
2 get involved, we being the sheriff's office didn't get
3 involved until December 16th.

4 Q Nothing preventing you from getting a search warrant
5 for Mr. George's home. A judge would have signed off on
6 a search warrant, would he not have?

7 A I didn't see a need to search his home, so
8 therefore, I did not obtain a search warrant.

9 Q Let's get an answer to the question, then you can
10 explain.

11 A No, sir. No, sir. I did not obtain a warrant -- a
12 search warrant for his home.

13 Q A judge would have given you one.

14 A If I had probable cause and reason to believe, he
15 would have given me a search warrant.

16 Q Okay. We've only seen what's been put into evidence
17 is one firearm. And that's State's 182, right?

18 A That's correct.

19 Q Okay. We know it wasn't printed and wasn't swabbed
20 for DNA.

21 A That is correct.

22 Q Were there any other guns seized in this case?

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

24 Q Okay. You got Facebook records for Jeff George,
25 correct?

1 A We did a search warrant for it, yes, sir.

2 Q Audrea Cook?

3 A Yes, sir.

4 Q Bobby Stokes -- excuse me -- Bobby Smith?

5 A I'm not sure about Bobby Smith, but I know I
6 obtained -- I know I did the actual search warrant for
7 those two individuals, yes, sir.

8 Q And you did one for Ivan Gula.

9 A That is correct.

10 Q You had cell phones. And did you send more than
11 just Mr. George's cell phone to be analyzed?

12 A Yes, sir. I sent multiple search warrants for
13 phones, records.

14 Q And we now know that Bobby Smith deleted a bunch of
15 messages off of his cell phone, right?

16 A I don't know for a fact, but that's very well a
17 possibility.

18 Q We know from your securing Facebook records between
19 Audrea Cook and Ivan Gula that Mr. Gula was demanding \$80
20 from Ms. Cook for some car repairs he'd done for her,
21 right?

22 A I believe so, yes, sir.

23 Q And he was not going to return her car until he got
24 compensated for that car repair work, correct?

25 A I don't know if that was actually a part of that

1 transmission or not. I wouldn't be surprised, though.

2 Q And in Mr. Gula's Facebook records, you reviewed
3 those, correct?

4 A I did look over those records, yes, sir.

5 Q There are several areas in there -- and by the way,
6 he goes by the name of Vano Johnny, correct?

7 A Facebook, yes, sir.

8 Q We know from reviewing those records that there is a
9 significant amount of correspondence between him and
10 others about prostitution and renting rooms and him
11 arranging basically sex for money, correct?

12 A I believe there may have been some mention, yes,
13 sir.

14 Q What involvement do you have in a case after
15 warrants have been served in determining what an
16 individual ends up pleading to if they are willing to
17 plead to something?

18 A I have no involvement in that whatsoever. That's
19 not ---

20 Q Whose responsibility is that?

21 A That has to be -- that's the solicitor. That falls
22 totally on the solicitor's office. We don't have
23 anything to do with those negotiations if negotiations
24 are had.

25 Q Okay. But it's not uncommon for you to be part of

1 that discussion of those negotiations, right?

2 A It's not common. It's not uncommon to be asked
3 certain questions about it, yes, sir. But ultimately,
4 that decision rests with the solicitor.

5 Q And you would agree with me during the course of
6 interviews that either you or Investigator Garrett over
7 here did with the codefendants that you have told them
8 things like if you do the right thing, we'll do the right
9 thing.

10 A There could have been some terminology if that's
11 what's used, yes, sir.

12 Q Or whoever comes to the table first eats the best.

13 A I'm sure that comment had been made, yes, sir.

14 Q Or you're in a unique position to help yourself out.

15 A That would not be uncommon, no, sir.

16 Q You don't have any information that Mr. Knutson was
17 at C and S Drive, correct?

18 A That is correct. I have no reason to believe that
19 he was there at the time of the incident.

20 Q So he had nothing to do with the death of the victim
21 in this case other than what he tells you about helping
22 Stokes bury the body.

23 A That is correct.

24 Q So he didn't really witness anything.

25 A He did not witness anything because he was not

1 there.

2 Q And you've confirmed that with other people in this
3 case.

4 A His name has never came up. That's absolutely
5 right.

6 Q So anything he knows, he learned from somebody else
7 other than what his role was back at Cripple Creek.

8 A It appears that everything that Mr. Knutson knows
9 had come from David Stokes.

10 Q And David Stokes is the individual that Mr. Knutson
11 was living with.

12 A That is correct.

13 Q Living in a camper on Mr. Stokes's property.

14 A That is correct.

15 Q Do you know whether or not he was paying any rent?

16 A I do not know anything about that.

17 Q They'd been friends for years.

18 A I knew they were friends. I don't know the extent
19 or the length of time, but I know they indicated that
20 they were friends.

21 Q You agree with me you'd have to be pretty good
22 friends with somebody to help them bury a body.

23 A I can agree with you that they indicated that they
24 were friends. As far as what the extent of that
25 friendship was, I do not know.

1 Q Is there any power out there at that house at
2 Cripple Creek?

3 A I honestly don't remember. I don't remember.

4 Q You would agree with me that the individuals that
5 were with Mr. Gula -- let me stop. Let's talk about
6 Mr. Gula. Did you make an identification of Mr. Gula?

7 A I didn't make the actual identification of Mr. Gula.
8 I believe the coroner's office, that positive
9 identification was made in autopsy the following day.

10 Q So you don't know that to be a fact. It's only what
11 somebody else has told you.

12 A I don't believe I understand your question.

13 Q Yeah. I mean, you're relying on information that
14 someone else is giving you. You didn't do a fingerprint
15 comparison.

16 A No, sir. Relying on someone else's identification.

17 Q Okay. So the people -- you'd agree with me that the
18 people came over in Audrea Cook's car. There are four of
19 them, right?

20 A That is correct.

21 Q If the people in that car are to be believed, there
22 were four people in there, right?

23 A Yes, sir.

24 Q And each one of them has given a different version
25 of events about what occurred inside that home, correct?

1 A Not a totally different account, no, sir. And of
2 the three individuals that were in the car, we only got
3 the accounts of two individuals because one of which
4 would not speak with us.

5 Q Okay. So Ms. Velichko and Mr. Dillard have given
6 you accounts of what they recall occurred inside.

7 A Yes, sir, they did.

8 Q Okay. And both of them told you that Mr. George
9 never laid a hand on Mr. Gula, correct?

10 A That is correct.

11 Q Okay. In fact, Ms. Velichko told you initially that
12 they were inside for about five minutes before anything
13 occurred.

14 A I know someone indicated that they were in the house
15 for a few minutes.

16 Q Let's look at page 23 of 27 of your report, the last
17 paragraph.

18 A Yes, sir.

19 Q All right. That first line you see Janice says she
20 walked in the house, and some woman who owned the car was
21 yelling at the victim asking him why he was getting there
22 so late, and after being there for only five minutes,
23 some five guys come out from a bedroom.

24 A Yes, sir. I see it.

25 Q Okay. She further tells you on the next page later

1 about midway through the next paragraph is that after
2 some of the attack, she starts talking to Mr. Gula,
3 correct?

4 A That's correct.

5 Q And she starts talking to him in Russian.

6 A That's what she said, yes, sir.

7 Q And she's asking him if he wants her to call for
8 help, right?

9 A I believe that's what she told me, yes, sir.

10 Q Okay. He said no, no, I'm fine.

11 A Yes, sir.

12 Q Something to that effect.

13 And then further she says that the female tells the
14 guys to stop.

15 A Yes, sir.

16 Q So how many females do we have in this case at the
17 house on C and S Drive on December 1, 2019?

18 A The female that she was referring to was Audrea
19 Cook.

20 Q Okay. She then says that she took one of her socks
21 to try to wrap it around the victim's hands, correct?

22 A That's correct.

23 Q And further, she said she was wiping blood from his
24 face because he was cut on his chin and jaw.

25 A That's correct.

1 Q You were here for the medical examiner's testimony,
2 right?

3 A Yes, sir, I was.

4 Q Okay. I'm showing you State's 40, specifically,
5 Number 1 which Dr. Dukes identified as one of the
6 injuries; do you recall that?

7 A I do.

8 Q And that's the only injury that we see on the face
9 -- excuse me -- the, quote, chin and jaw area; isn't that
10 correct?

11 A That is correct.

12 Q You gave Ms. Velichko some lineups, right?

13 A Yes, sir, I did.

14 Q And who all does she identify as being present; do
15 you remember?

16 A Can I see those lineups?

17 Q Yes, sir.

18 A (Reviews exhibits) I have the lineups.

19 Q Okay. She's identified some short stocky dude who
20 told her no one was going outside to use the phone. And
21 he made them come back inside to lock the door. Who was
22 that?

23 A Bobby Smith.

24 Q Bobby Smith prevented them from leaving?

25 A Yes, sir.

1 Q That's who she's referring to? Okay.

2 Then she further mentions the big guy with the gun
3 walked over, told the victim to empty out his pockets to
4 make sure he didn't have any weapons or anything.

5 A Which lineup are you referring to? Because they're
6 out of order.

7 Q Sure. Well, this should be easy because she's
8 saying the guy with the gun.

9 A This one. Yes. I have it, I believe.

10 Q Okay. So she's saying the guy with the gun was
11 checking to make sure he didn't have any weapons, right?

12 A The one that I have says, "The guy -- the guy was
13 the one who held the gun at Ivan several times."

14 Q Okay. Well, let me refer you to the bottom of your
15 report on page 24 of 27, the last paragraph.

16 A What's the page number again?

17 Q Page 24 of 27.

18 A Which paragraph?

19 Q The last paragraph.

20 A Yes. She did say that.

21 Q All right. You and Investigator Garrett interview
22 Bobby Ray Smith, correct?

23 A Investigator Garrett and Investigator Picone
24 interviewed Bobby Smith.

25 Q And you're aware of the status of Bobby Ray Smith's

1 charges?

2 A I believe Bobby Ray, like the others, have been
3 charged with the kidnapping and murder.

4 Q Do you know what he's pled to?

5 A I don't know, no, sir.

6 Q So pled to kidnapping and assault and battery by a
7 mob second degree.

8 A Okay.

9 Q Okay. He didn't plead to murder.

10 A Okay.

11 Q All right. You would agree that a number of the
12 codefendants in this case have been interviewed on more
13 than one occasion.

14 A I would agree with that.

15 Q Several have entered some sort of deal with the
16 State.

17 A I know several of them have pled, yes, sir.

18 Q Several of them have pled.

19 And any deal to be made is to be made by the
20 prosecution, right?

21 A That is correct.

22 Q And at sentencing for those individuals that are
23 convicted in this case, you have the opportunity to stand
24 up and tell the Court your position, correct?

25 A I don't know if I actually have the opportunity or

1 not. I know the victim's family is usually afforded that
2 opportunity.

3 Q Investigator Bailey, you're telling me you've never
4 been into court when somebody's been sentenced and told
5 the judge some information about your thoughts of the
6 case?

7 A I'm not saying that in my 29 years. I'm not saying
8 I've never done it.

9 MR. MARCHANT: All right. Investigator Bailey,
10 that's all I have right now. Thank you.

11 THE COURT: Redirect?

12 MR. FRETWELL: Judge, may it please the Court.

13 THE COURT: Yes, sir.

14 MR. FRETWELL: I think at this time we need to take
15 a matter up outside the presence of the jury.

16 THE COURT: All right. Ladies and gentlemen of the
17 jury, I'm going to send you to your jury room. Please,
18 ma'am, please, sir, do not talk about the case with each
19 other and I'll bring you back in as soon as I can.

20 (WHEREUPON, the jury exits the courtroom at 11:36 AM.)

21 THE COURT: Mr. Fretwell?

22 MR. FRETWELL: Judge, this has to do with me, not
23 with the examination of this witness. And I've been
24 doing this for about 25 years now. I've talked to a lot
25 of witnesses. I think I have a pretty good grasp of what

1 Brady information is and it is not. But I'm sure, as
2 Your Honor would know from practicing law, sometimes it's
3 only a certain set of circumstances that makes you
4 realize something that might actually be Brady that you
5 did not think of in that context before.

6 When I interviewed -- and, in fact, I'll tell you,
7 just a few minutes ago, I let out a sigh in the courtroom
8 that Mr. Marchant noticed and he has no idea why I did
9 it. But I did it because I was trying to figure out how
10 to articulate this to the Court at this precise moment.

11 It was not until Mr. Marchant asked a certain
12 question of Lieutenant Bailey, and I know our next
13 witness is Mr. Knutson, that I then started thinking
14 about something that Mr. Knutson had said in context of
15 the interview that he had with Investigator Garrett. I
16 know and I believe that Lieutenant Bailey was there as
17 well.

18 He said something about in his conversations with
19 Mr. Stokes that Mr. Stokes had told him something, and he
20 believed, Mr. Knutson believed Mr. George had finished
21 the victim off in this case. I asked him about that
22 specifically in an interview that we had the last couple
23 of weeks. And the way he explained that to me, Judge, is
24 he said that Mr. Stokes told him he couldn't do it,
25 couldn't kill the man.

1 He later went to Ms. Cook's trailer where Stokes
2 started living after the incident. Stokes pointed out
3 Jeff George. He spoke in reverent -- kind of reverent
4 terms, or that's what Mr. Knutson understood, and he made
5 some kind of head or eye move when he said Jeff George
6 was there, quote, when it happened. And I asked him,
7 well, what does that mean? He said the expiring of Ivan
8 the Russian. And that's where he understood that meant
9 George finished him.

10 So I went back and I looked at the interview to make
11 sure that he had not said Mr. Stokes told me that Jeff
12 George finished him. And he did not. He said that's
13 what he believed, and this was an explanation of that.
14 So at the time, I did not believe that to be Brady. And
15 I don't know that it's still Brady. But if I am
16 Mr. Marchant and I have one of the investigators who
17 conducted the interview of Mr. Knutson, I would want to
18 know that explanation so that I can ask this
19 investigator, I can look at the copy of the interview
20 before he finishes his cross-examination in case there's
21 anything else he wants to explore on that issue with this
22 investigator.

23 And I will tell the Court as an officer of the
24 Court, it did not occur to me until this moment in the
25 middle of the cross-examination that that information

1 might possibly be Brady. And that's why I'm relating it
2 now as soon as I know and certainly before Mr. Knutson is
3 testifying and before he's finished his cross-examination
4 of Lieutenant Bailey.

5 THE COURT: What do you say, Mr. Marchant?
6 Anything?

7 MR. MARCHANT: I'm not sure quite what to say at the
8 moment, Judge. I'd like to see either Mr. Fretwell's
9 notes related to the meeting or I hate to make the court
10 reporter read all of that back to me, but I need some
11 documentation about what was said or the explanation. If
12 I could have a moment, Your Honor.

13 THE COURT: Yes, sir.

14 (Pause in proceedings.)

15 THE COURT: Mr. Marchant?

16 MR. MARCHANT: I think the clerk's making some
17 copies, Judge.

18 THE COURT: Okay.

19 MR. MARCHANT: If I could have just another minute
20 to review that, then I'll figure out what my position is
21 going to be.

22 (Pause in proceedings.)

23 THE COURT: I do have one question. What does
24 "speaking in reverence" mean? What does that mean?

25 MR. FRETWELL: This is an exact quote that I can

1 recall from Mr. Knutson. When I pressed him for how he
2 understood and communicated to law enforcement that he
3 believed Mr. George had finished off the victim, that
4 when he either introduced him or saw Mr. George at
5 Ms. Cook's residence where Mr. Knutson was present, that
6 the way in which he said that's Jeff George was in a --
7 I'm using his exact terms -- in a reverential manner, a
8 tone of reverence. And then he later explained, and I
9 think Mr. Marchant has that note, that he also identified
10 a guy named Isaiah Hill and said, oh, yeah, he was there,
11 too. So he drew a distinction between those two and
12 understood that that meant that Mr. George is the one
13 since Mr. Stokes said he could not do it and those were
14 the people present, that he's the one that had finished
15 him off.

16 THE COURT: What do you say, Mr. Marchant?

17 MR. MARCHANT: Well, Mr. Knutson has not been called
18 as a witness so I think I can just simply take this up
19 with him. It's my understanding Investigator Bailey was
20 not present for this interview. So ---

21 THE COURT: You're going to wait until Knutson?

22 MR. MARCHANT: Yeah. I mean, if I need to call
23 Investigator Bailey, I know he will happily oblige.

24 THE WITNESS: Absolutely.

25 THE COURT: But you've still got some redirect?

1 MR. WILLIAMS: I do, Your Honor.

2 MR. FRETWELL: I just want to -- I don't mess around
3 with Brady information or anything that even comes close
4 to it. And the second that popped into my mind, I'll be
5 quite honest, Judge, it took everything in my power not
6 to stop Mr. Marchant's examination, and that was not the
7 thing to do. But at the first break, I wanted to make
8 sure that that was known.

9 THE COURT: Okay. Very good.

10 All right. Let's bring them back.

11 (WHEREUPON, the jury entered the courtroom at 11:50 AM.)

12 THE COURT: All right. Redirect?

13 MR. WILLIAMS: May it please the Court, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. WILLIAMS:

16 Q Investigator Bailey, I am going to show you some
17 photographs that have already been admitted into
18 evidence. And the first set of photographs are going to
19 be those items that were admitted through Kim Libus who
20 sealed the defendant's truck. This is State's 84. Is
21 that a correct and accurate photograph of the defendant's
22 truck when it was sealed by Kim Libus? It's there in the
23 driveway.

24 A There's the truck without -- without a seal, yes,
25 sir.

1 Q This is Exhibit 91. Do you see that black bag
2 there ---

3 A I do.

4 Q --- on the seat?

5 93, there was talk of a trailer, Exhibit 93. That
6 trailer appears to be attached in Exhibit 92. This is
7 all in that driveway.

8 Is that Exhibit 90 another photograph of that black
9 bag from the opposite side of the vehicle?

10 A Yes, sir.

11 Q And then there were some further pictures submitted
12 through Jonathan Hamilton who actually processed the
13 defendant's truck later on. I believe is it correct that
14 he labeled that item JFH-9?

15 A That is correct.

16 Q Is that the same bag that we saw in -- this is
17 Exhibit 174, but is that the same bag as Exhibit 90 at
18 the time the vehicle was seized at his house?

19 A I believe it is.

20 Q Okay. And this is, I believe, the photograph of
21 that bag when he further processed it down at their
22 forensics office; is that correct?

23 A That's correct.

24 Q That's the open bag. It's Exhibit 176.

25 And finally, 177 as well.

1 Investigator Bailey, it's clear that there's a gun.
2 What is this (indicating) right here? What are we
3 looking at right here?

4 A That's a holster.

5 Q Okay. All right. Now let's talk about Michael
6 Tucker for a minute. Mr. Marchant spent a lot of time
7 talking about him. You've already indicated your many
8 years in law enforcement, part of your job is to assess
9 the credibility of each person in the interview?

10 A Yes, it is.

11 Q And what did you indicate about the truth, whether
12 or not you felt that Mr. Tucker was telling the truth
13 when you interviewed him?

14 A I felt he was telling me the truth about being at
15 that C and S Drive the night of the murder.

16 Q Okay. Now, Mr. Dillard had identified Tucker as
17 being there; is that right?

18 A He did.

19 Q Of all the other individuals that you interviewed,
20 who else identified Mr. Tucker as being there?

21 A No one else.

22 Q Who did Mr. Dillard identify as holding the gun on
23 his friend Ivan that night?

24 A Jeff George.

25 Q Did Mr. Dillard identify anybody else as holding a

1 gun on Ivan that night?

2 A No one else.

3 Q Did any of the other people that you interviewed
4 identify the defendant, Jeff George, as holding a gun on
5 Ivan that night?

6 A Yes, sir.

7 Q In fact, was it one more or was it multiple more?

8 A I remember Janice.

9 Q Did any of the codefendants also identify Mr. Jeff
10 George as holding a gun on Ivan?

11 A They did.

12 Q Okay. Mr. Marchant brought up these two individuals
13 who were in the trailer, apparently: Joe Foster and
14 Kayla Jordan. What connection did Kayla Jordan have to
15 Bobby Smith?

16 A I believe she was the mother of his child.

17 Q Okay. And who was Joe Foster?

18 A I think that was a current boyfriend.

19 Q Okay. What information did Bobby Smith provide you
20 about these two individuals and where they would have
21 been located in the house?

22 A He didn't actually provide that information
23 specifically to me, but I believe that it's some
24 information that was relayed to Investigator Garrett. I
25 think he said something along the lines that he didn't

1 want to get those persons involved.

2 Q In fact, were they even in the living room when all
3 of this was going on or were they in a back bedroom?

4 A He indicated that they were in a back bedroom.

5 Q Were you ever given any information that they
6 identified anybody or identified the defendant or
7 anything like that?

8 A No, sir.

9 Q Mr. Marchant brought up a person named Isaiah Hill.
10 This name Isaiah Hill, was it ever brought to you?

11 A I believe it was, yes, sir.

12 Q Okay. Did you, in fact, have a conversation with
13 Terry Dillard about Isaiah Hill?

14 A I did.

15 Q When did that take place?

16 A It would have taken place at Mr. Dillard's
17 residence.

18 Q Was this a fairly recent conversation?

19 A It was.

20 Q Okay. Now, what information did Mr. Dillard provide
21 you about Isaiah Hill?

22 A I don't think I understand the question.

23 Q Okay. Did Mr. Dillard indicate anything about
24 Isaiah Hill being present?

25 A Not that I can recall.

1 MR. WILLIAMS: Okay. I have nothing further, Your
2 Honor.

3 THE COURT: Anything on recross, Mr. Marchant?

4 MR. MARCHANT: No, Your Honor.

5 THE COURT: All right. You can step down.

6 Okay. He will remain.

7 We will call the next witness.

8 MR. FRETWELL: Your Honor, the State would call Kurt
9 Russell Knutson.

10 THE COURT: All right.

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

14 WHEREUPON,

15 KURT KNUTSON

16 After having been duly sworn, testified as follows:

17 THE CLERK: Have a seat, please. State your full
18 name for the record.

19 THE WITNESS: Kurt Russell Knutson.

20 THE COURT: Push your seat up a little bit.

21 THE WITNESS: Kurt Russell Knutson.

22 MR. FRETWELL: Judge, I apologize. I just want to
23 get one exhibit before I begin my examination.

24 May it please the Court, Your Honor.

25 THE COURT: Yes, sir.

1 DIRECT EXAMINATION

2 BY MR. FRETWELL:

3 Q I could say good morning or good afternoon, but it's
4 basically noon, so hello, Mr. Knutson.

5 Can you tell the jury a little bit about yourself?
6 Where are you currently living?

7 A I'm homeless.

8 Q Okay. And were you born in the Greenville area or
9 the Upstate?

10 A Yes.

11 Q Okay. And where have you lived throughout your
12 life?

13 A I moved my entire life.

14 Q How far did you go in school?

15 A Ninth grade.

16 Q Did you go to school here in Greenville County?

17 A Partly, yes.

18 Q Okay. And where was that, sir?

19 A Blue Ridge High School.

20 Q And as you're speaking, Mr. Knutson, what I'm going
21 to ask you to do is pull that microphone just a little
22 bit closer to your mouth to speak up for us so everybody
23 can hear what you're saying, okay, sir?

24 A All right.

25 Q Are you married?

1 A No.

2 Q Do you have any children?

3 A Two.

4 Q Two girls?

5 A That's correct.

6 Q And are you currently working right now,

7 Mr. Knutson?

8 A Yes.

9 Q What kind of work do you do?

10 A I work for an asphalt company.

11 Q In fact, you run heavy equipment for that asphalt
12 company, do you not?

13 A That's correct.

14 Q Mr. Knutson, and is that the proper way to pronounce
15 your last name Knutson?

16 A Yes.

17 Q Let me take you back to December 16, 2019.

18 Mr. Knutson, did you contact law enforcement or 9-1-1 or
19 any kind of government agency on that date?

20 A Yes.

21 Q And did you ask to speak to a particular law
22 enforcement officer?

23 A Yes.

24 Q With whom did you ask to speak, sir?

25 A Officer League.

1 Q Officer League. Is he a deputy with the Greenville
2 County Sheriff's Office?

3 A He worked for Greenville County Sheriff's Office.
4 I'm not sure of his title.

5 Q And how did you know Deputy League?

6 A He's arrested me a few times.

7 Q Okay. And so why did you want to reach out and
8 speak to him?

9 A Because he's always been fair with me, you know.

10 Q Did you think anything about the way that he would
11 think of you?

12 A He knows that I'd be telling the truth.

13 Q All right. Did you tell Deputy League over the
14 phone why you asked to speak to him?

15 A Yes.

16 Q Now, what did you tell him over the phone was the
17 reason for your call?

18 A That I had a body for him.

19 Q What does that mean, Mr. Knutson?

20 A That means that I had a dead person. I was trying
21 to show him where it was.

22 Q And how did you come to know the location of this
23 body, sir?

24 A I helped bury it.

25 Q You helped who bury it?

1 A My buddy David Stokes.

2 Q Did you provide all of the details of everything
3 that you knew at that time over the phone with Deputy
4 League?

5 A No.

6 Q What did you do?

7 A I met with him.

8 Q You asked him to meet you somewhere?

9 A That's correct.

10 Q Do you have recall where you asked him to meet you?

11 A I was at the Greer Police Department when I called
12 him.

13 Q And did Deputy League meet with you?

14 A Yes.

15 Q Did you tell him what happened approximately two
16 weeks prior to that date?

17 A Yes.

18 Q After you spoke to Deputy League, did you meet with
19 homicide investigators at the Law Enforcement Center?

20 A Yes.

21 Q Did you tell the investigators there in an interview
22 even more details about what had happened?

23 A Yes.

24 Q Okay. At this time, Mr. Knutson, can you tell us
25 what happened on or around December 1, 2019, as you know

1 it to be and as you understood it to be from whatever
2 source you received it that you communicated to law
3 enforcement some two weeks later in December of 2019?

4 A Basically, what happened was my buddy got a call.
5 He was supposed to go meet a girl about something. And
6 he did. When he got over there, they ended up saying
7 that this guy was going to kidnap the girl or something
8 crazy. And I don't know if they were going to rob him or
9 whatever they do. He decided to get himself involved.
10 And he ended up chopping the guy with a machete. And
11 from what he said, a whole bunch of people basically bat
12 this guy to death.

13 And at the time, I didn't know that. At the time I
14 got involved, I was sleeping in a camper that night it
15 happened on his property. Well, that next morning, I
16 heard -- I heard -- I heard some noises that night
17 outside the camper, but I didn't go outside because I was
18 in there with a girl and I didn't really care. They
19 didn't knock on the door.

20 Well, the next morning when I got up, he was outside
21 digging a hole, I'd say, 60, 70 feet away from where the
22 camper sits. Not far, and out in the woods. And I was
23 like, "Well, what's up? What are you doing?" I got a
24 shovel. I started helping him dig a hole.

25 He said, "Well, can't help you -- I can't ask you to

1 help me do this."

2 And I said, "Well, you didn't ask me. You didn't
3 ask me to start with."

4 And as we're digging the hole, you know, the hole's
5 getting bigger, I'm like, "Well, why can't you burn it?"
6 Because, I mean, there's trash all over this place. I
7 mean, it's an awful looking place. There's trash, burn
8 piles. So I'm wondering why he can't burn -- just burn
9 whatever it is.

10 And he said, "Well, it's mighty wet."

11 And then I was like, oh, man. He's got a body. I
12 just know that it in my head. And I was like, "Should we
13 dig a hole like a body size?"

14 And he was like, "Yeah. A smallish guy," or
15 something like that.

16 And I was, "Where's it at?"

17 And he pointed right back to the camper I was
18 staying in. And they put it right outside the door of
19 the camper, basically, in a little -- basically, a little
20 plywood box he had built. They just covered it up and
21 they had to get this guy wrapped up like a bed sheet,
22 like a cheetah looking bed sheet and plastic, stuff like
23 that.

24 I never did actually see a body, but when I -- it
25 was rolled up small like this right here (gesturing).

1 But when I reached down, I grabbed a boot and it picked
2 up and it was a leg. It was a body in there, you know.
3 You could see a little blood in the bottom or whatnot.

4 I said, "Oh, no." So I went in. I grabbed a bed
5 sheet, the bottom bed sheet with a spring on it, rolled
6 him into it and drug him down there, put him in the hole.
7 And because I'm thinking there's got to be some reason
8 for this to happen.

9 Well, Dave finished covering him up. I gathered
10 some leaves up, threw them over the basically grave site,
11 whatever you want to call it. And we go back in and I'm
12 like, "Well, what happened here?"

13 And he said, "Well, me and Bobby Ray," and then he
14 started naming names. And then after he said, "Me and
15 somebody else," especially the guy Bobby Ray, he -- I
16 don't know. I've got nothing good to say about him.
17 Well, my mind sort of went blank so I don't know what
18 other names he said, but there was a bunch of them. And
19 he said, "We basically killed this guy." And he told me
20 the story. It was basically they killed him for what to
21 me seemed to be no reason.

22 Q I'm going to take you back through and I'm going to
23 ask some questions and make sure we cover everything.
24 This body that you described that was wrapped, you never
25 unwrapped the body to see anything inside; is that

1 correct?

2 A That's correct.

3 Q And you said you went and got a separate something
4 from -- was that the camper you were staying at?

5 A Yeah. Sheet. I just bought some new sheets and I
6 got a sheet.

7 Q So you got a sheet.

8 A To drag the body down in.

9 Q Okay. And what happened to that sheet?

10 A I would have just rolled in with the body when I
11 pushed it in.

12 Q So you think it may have gone in?

13 A Definitely did.

14 Q Okay. But you didn't wrap it around -- or did you
15 wrap it around?

16 A Yeah. It's got the sponges on it, so when I put him
17 in, it sort of wraps around. I just pulled it like a
18 sack down there.

19 Q Would you have tied that on him in any way?

20 A No. If anything, it would have just been twisted.

21 Well, maybe I -- I may have tied it. I don't know.

22 Either way, it was just the purpose was to drag him down
23 there in it.

24 Q Let me show you what has been entered into evidence
25 as State's 183, 189 and 190. Is that the bedsheet?

1 A Yeah. That is, yeah. That's where I would have
2 probably tied and then just slid the loose end up through
3 and pulled it ---

4 Q Okay. I see.

5 A --- more than likely.

6 Q So when you saw the body, and I was going to -- let
7 me -- just so I can, for the purposes of the jury, so
8 what's in State's 183, 189, that's the bedsheet that you
9 went and got and used to pull the body down to the hole?

10 A That's correct.

11 Q And is 190, is that the knot that you just
12 described?

13 A Yeah. More than likely.

14 Q Okay. So whatever is underneath that sheet, is that
15 how you would have seen the body when you first saw it in
16 that either some kind of a box or whatever you just
17 described a few minutes ago; is that right?

18 A Yeah. The box thing was just set over the top of
19 him.

20 Q Okay. And so when you say something about earlier
21 you heard rustling, is that what you were referring to,
22 somebody putting the body there?

23 A It wasn't there when I went to sleep. And that was
24 the only noise I heard overnight, and I was up all night
25 right there.

1 Q But you heard that noise overnight.

2 A That's correct.

3 Q And the next morning when the sun came up is when
4 you went outside and assisted in the burial of the body;
5 is that correct?

6 A That's correct.

7 Q Okay. Make sure I -- that leopard print fabric
8 that's around the body, do you recall seeing that?

9 A Yes.

10 Q And you said, at some point, you reached down and
11 you could actually feel a shoe or a boot, something that
12 you understood to be a foot or a shoe?

13 A That's correct.

14 Q You mentioned that you were with a girl that night.
15 What's that girl's name?

16 A Her name's Nikki.

17 Q Okay. Was she in a position -- did she come out
18 with you that morning and see any of this or talk to
19 Mr. Stokes or anything like that?

20 A No. She left earlier that morning.

21 Q Okay. Where did -- where and how did Mr. Stokes
22 tell you what had happened the night before? Was that
23 out while you were in the process of burying this body?
24 Or how did that happen?

25 A No. Afterwards. Nothing was really said other than

1 that small conversation of what size of hole it needed to
2 be. And then I never said anything after that. Then a
3 little bit later, probably 30 minutes later we went in
4 the house and we was eating. And that's when I asked him
5 what happened.

6 Q And this is where the information you just imparted
7 to the jury came from Mr. Stokes?

8 A Yes, that's correct.

9 Q And you indicated a minute ago something about a
10 group of people that you mentioned a Bobby Smith.
11 Obviously, your friend Mr. Stokes was there. Did you
12 identify any other individuals to law enforcement or any
13 names of any other individuals to law enforcement?

14 A Yes.

15 Q Tell me about that.

16 A Guy named Jeff, the girl's name was Aubrey or Audrea
17 or something like that, and a kid named Isaiah.

18 Q Okay. And tell us about, if you will, those three
19 people and what understanding you had or any relevance
20 they had to this situation, if you could, sir.

21 A It was maybe a week later, so Dave took me by the
22 girl's house. That's where he was living at then. And I
23 met a guy named Jeff. And the way Dave spoke about him,
24 you could just tell he looked up to him. And the kid
25 Isaiah, and Dave told me both of them were there.

1 Q Is there any different way that he referred to one
2 versus the other?

3 A He was very nonchalant about the Isaiah kid.

4 Q And what about with respect to with this individual
5 he identified as Jeff?

6 A He just spoke with like reverence towards him or
7 something. I don't know. Like he looked up to him. I
8 don't know why. That was my assumption.

9 Q And what conclusion did you derive from that little
10 meeting you had at Ms. Cook's or Aubrey's trailer?

11 A Well, David told me that he couldn't actually kill
12 the guy even though he went in and hit him with a machete
13 and all that. When it turned time to kill him, that he
14 couldn't actually do it. And from what I seen, the guy
15 named Jeff was the only one that would have been, in my
16 words, responsible enough to end it. And Dave made me
17 feel that way also.

18 Q And that information is what you transmitted to the
19 police?

20 A That's correct.

21 Q About that same place where you just described this
22 trailer, Ms. Cook's trailer, did you understand that is
23 where the incident took place?

24 A Yes.

25 Q Did you give any street address or any additional

1 information to police about that location or the location
2 next door that would help identify that location?

3 A I just knew the address of the house next door.

4 Q And what was that; do you recall?

5 A 220 C and S Drive.

6 Q So that's the address you gave for them next door to
7 the location where you had been told all this took place?

8 A That's correct.

9 Q Okay. I believe you mentioned this in your
10 narrative about what occurred, but that somehow you
11 understood that this had something to do with trying to
12 kidnap someone. Can you tell us about that a little bit
13 more?

14 A The guy that was killed I had met previously a
15 couple months beforehand with some friends of mine that
16 are prostitutes, basically. And they asked me to meet
17 this guy. If I thought he was okay, they could go out
18 with him for a couple weeks or however long they go out
19 and do the thing. So I knew that he was messing around
20 girls, you know, or whatever. But from what I
21 understood, they did it on their own accord.

22 But whenever Dave told me the story about the girl,
23 he made it seem that he was going to kidnap her and force
24 her into sex slavery, basically, was his understanding.

25 Q And what girl are you referring to?

1 A The Audrea or Aubrey or whatever her name is.

2 Q The one whose trailer where all this took place.

3 A That's correct.

4 Q Okay. Did you know anything about the relationship
5 between that girl and the guy named Jeff?

6 A I think they were dating. I'm not sure.

7 Q And at some point, Mr. Stokes related to you that he
8 knew that they were going to beat this guy up and harm
9 him; is that correct?

10 A That's correct.

11 Q Did Mr. Stokes and your understanding of all of this
12 involve any kind of formalized plan?

13 A He said that he told -- he told whoever else was
14 there that if they put the guy down, we basically put
15 them in a position of submission, that he would go in and
16 probably start beating him up or whatever. Instead, he
17 probably went in and whacked him with a machete, to my
18 understanding.

19 Q When you say put him down in a position of
20 submission, how was that person supposed to do that?

21 A Probably with a weapon and probably putting them on
22 their knees more than likely. I'm not sure.

23 Q Did you tell law enforcement that that weapon was a
24 gun?

25 A Yeah. That's what I understood at the time.

1 Q And I want to make sure I cover this as well. At
2 some point, were people that were there taken out of the
3 trailer or removed from the scene? And did you
4 communicate that information to law enforcement?

5 A Yes. I heard that Ivan usually -- he was a small
6 guy. He usually traveled around with bodyguards type of
7 deal. He always had had people around him. And that
8 after Dave whacked him and he started getting bad before
9 he actually died, that they got -- the people who came
10 with Ivan or were uninvolved, however it may be, out of
11 there and put them in cars and took them and dropped them
12 off somewhere.

13 Q And what was the purpose of doing that?

14 A I don't know. I -- I don't know.

15 Q Did you communicate what you thought or what you
16 understood from your conversations with Mr. Stokes as to
17 why they wanted those people out of there?

18 MR. MARCHANT: That's already asked and answered,
19 Your Honor.

20 THE COURT: All right. Overruled. I'm going to
21 allow it. Go ahead.

22 THE WITNESS: I would assume so they didn't see
23 anything else further happening.

24 BY MR. FRETWELL:

25 Q Did you, in fact, say because they didn't want ---

1 MR. MARCHANT: Objection. Leading.

2 MR. FRETWELL: Your Honor, this is impeachment. I
3 can impeachment my own witness.

4 THE COURT: Overruled.

5 BY MR. FRETWELL:

6 Q Didn't want them there when the man was killed.

7 A That's correct.

8 Q That place you were staying on Cripple Creek Road,
9 how far away was that from the C and S location?

10 A Probably a quarter mile.

11 Q Could you walk?

12 A Yes.

13 Q Very close?

14 A Yes.

15 Q Can you go back and forth from Cripple Creek to that
16 trailer on C and S without ever having to go out on Mount
17 Lebanon Church Road?

18 A Yes.

19 Q There's a back -- it intersects back behind there,
20 doesn't it?

21 A That's correct.

22 Q How would you describe that property up there where
23 you were living at the time, its location, any kind of
24 light? I mean, just how would you describe it?

25 A It's all by itself, and it is trashy and awful.

1 Q You testified a little bit about what you told law
2 enforcement about David Stokes. What did you tell them
3 about David Stokes?

4 A That he's not really all there in the head, that
5 he's already hit one of our other buddies with a machete
6 for no reason and they were friends. Right about cut his
7 arm off. And he'll do -- he'll do anything to be your
8 buddy or be your friend, and he's just -- he's just an
9 idiot. You can talk him into doing anything.

10 Q So he's easily influenced?

11 A Yes.

12 Q Did you tell law enforcement about a weapon that you
13 knew about or Mr. Stokes had talked to you about in this
14 particular case?

15 A Yes.

16 Q Tell us about that, what he told you and what you
17 told law enforcement.

18 A It was a Fiskars machete, and he had -- he tried to
19 give it to me as a little gift. He likes to give gifts
20 and stuff like that. And I didn't take it. And he had
21 drawn a little diagram on it. He liked to make knives
22 and stuff. And he was going to cut it, and that way they
23 couldn't trace it back to the crime, basically.

24 Q And, in fact, when you talked to those investigators
25 down at the Law Enforcement Center, did you tell them

1 about this machete?

2 A Yeah.

3 Q And when you were up there -- where did you go after
4 you were at the Law Enforcement Center for that
5 interview?

6 A We went back up to the trailer.

7 Q Okay. And when you were there, at some point, did
8 you actually take them and show them where this machete
9 was?

10 A Yeah.

11 Q You mentioned -- let me just do that. State's 143,
12 is this the machete that he showed -- is that a picture
13 of the machete that he showed you?

14 A Yes.

15 Q That's got the same drawing on it?

16 A Yes.

17 Q And who did that drawing?

18 A Dave.

19 Q You know that?

20 A Yeah.

21 Q Because he was going to alter that weapon?

22 A That's correct.

23 Q No doubt that's Dave Stokes's machete. I'm asking.

24 A No doubt.

25 Q Okay. You said he likes to give gifts. Is that the

1 only thing he tried to give you from that incident?

2 A No.

3 Q Tell us about it.

4 A He also tried to give me like a cut-proof,
5 bulletproof or some type of vest. It had like square
6 sandbags in it. It was all cut and bloody. It looked
7 like it had been shot through. I don't know.

8 Q Okay. Told the police you didn't know if it'd been
9 shot through, but it had holes in it?

10 A Yeah.

11 Q And you said it was bloody?

12 A Yeah.

13 Q Did you take it?

14 A No.

15 Q Did you take this (indicating)?

16 A No.

17 Q But he tried to give it to you.

18 A That's correct.

19 Q What else did he try to give to you?

20 A There was three book bags full of basically just
21 junk. And that's how I -- that's how I come to find out
22 who -- who was actually buried and that I had known that
23 person. And they weren't that bad of a person as far as
24 my relationship with them.

25 Inside those three book bags on one of the side

1 pockets, one of them was full of blue lighters, one of
2 them was full of clothes, one of them had some cell phone
3 still turned on, a watch still turned on. But there was
4 a bunch of rings, big heavy rings. I don't know if
5 anyone knows what I'm talking about, but they're like the
6 ones with the big long fingernails on them and stuff like
7 that. Basically, used more like weapons. And that kid
8 Ivan was the only person I'd ever seen wear rings like
9 that with skulls and stuff like that on them. And that's
10 when -- that's when I knew who it was, and that's when I
11 asked him, I said, "Well, did the guy drive a van? Was
12 he Russian?" I was like, man, that was a homeboy y'all
13 killed, man.

14 Q And you said in that same bag or maybe one of those
15 bags there was a cell phone and it was still turned on?

16 A That's correct.

17 Q Mr. Knutson, what prompted you to report all of this
18 to law enforcement?

19 A A few things. One, is I felt like that if I didn't,
20 nobody would ever find this guy and his family would
21 never get peace. That's one thing.

22 Two, I didn't want to be in the boat with these
23 people. I'm -- I'm a criminal my whole entire life, but
24 I'm not okay with murdering and stuff like that.

25 And I waited about two weeks because I was hoping I

1 would never even have to get involved and someone would
2 find him because there were people that were there that
3 saw him basically go missing and all that. But in my
4 head, two weeks is my time limit where I can still go
5 tell these people and not have my hand all the way in the
6 cookie jar with them.

7 Q You said you were concerned about his family. Did
8 you mention specifically what part of his family you were
9 concerned about?

10 A I mean, I believe he had a wife and kids as far as I
11 had known.

12 Q As a result of you going forward to law enforcement
13 and giving them all this information, what happened to
14 you?

15 A I was put in jail for over a year with no bond.

16 Q And what were you charged with, sir?

17 A Accessory to murder after the fact.

18 Q Before those warrants were even -- that warrant was
19 even served on you, did you cooperate ---

20 A Yes.

21 Q --- with homicide investigators?

22 A Yes.

23 Q Now, you were convicted of possessing marijuana with
24 intent to distribute in 2018. Did you plead guilty to
25 that charge?

1 A Yes.

2 Q So you cooperated with homicide investigators. In
3 fact, were you the one that identified the specific spot
4 where they could locate the body?

5 A Yes.

6 Q Do you remember how you identified it?

7 A Yes.

8 Q How?

9 A I drew a map.

10 Q Do you remember referencing any kind of piece of
11 nature that it was close to or under or next to?

12 A There was a black locust tree that had fell, and it
13 was at the root ball of it.

14 Q Did you tell law enforcement who was involved in the
15 death of Ivan Gula like you've said here today?

16 A As I knew at the time, yes.

17 Q Did you or did you not tell them of your own
18 involvement in helping to conceal this crime by
19 participating in the burial of Ivan Gula's body?

20 A Yes.

21 Q And who did you name to investigators as the two
22 parties responsible for the burial of Ivan Gula's body on
23 December 2, 2019?

24 A Me and Dave Stokes.

25 Q You understand fully, based on what you've admitted

1 to those investigators, that under South Carolina law,
2 you are guilty of accessory after the fact of murder?

3 A That's correct.

4 Q And at the time you cooperated with investigators,
5 did you have any deal in place or had you even met
6 myself, Mr. Williams? Other than the investigators that
7 you spoke, had you met anybody before you decided to call
8 Deputy League?

9 A No.

10 Q Anybody tell you, hey, if you bring -- if you come
11 forward, we'll give you a deal?

12 A No.

13 Q In February of 2022, did you plead guilty to the
14 charge of accessory after the fact of murder?

15 A Yes.

16 Q Did anyone, myself, Mr. Williams, these
17 investigators, anyone promise you anything in order to
18 get you to enter your guilty plea, sir?

19 A No.

20 Q Did anyone promise you a particular sentence or any
21 kind of recommendation in exchange for your testimony
22 today in court?

23 A No.

24 Q You're here because you're under subpoena; is that
25 correct, sir?

1 A I'm here because you have asked me to. I don't know
2 about a subpoena. I'm here because ---

3 Q Because your lawyer said you had to be here, didn't
4 he?

5 A That's correct.

6 Q Did anyone else promise you anything at all in
7 exchange for testifying in court today?

8 A No.

9 Q And do you know what the maximum sentence for your
10 charge, do you know that that's 15 years in prison?

11 A That's correct.

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

13 THE COURT: Cross-examination, Mr. Marchant?

14 CROSS EXAMINATION

15 BY MR. MARCHANT:

16 Q Mr. Knutson, how long had you been living up at
17 Cripple Creek back in December?

18 A Just a week or two. Very short time.

19 Q How is it that you and Mr. Stokes were in such a
20 relationship that he agreed to let you live out there?

21 A I was really just crashing up there more than
22 living. But we had known each other for a long time.

23 Q Well, is a long time a month? a year? ten years?

24 A I knew of him since high school. We were good
25 friends for ten to 15 years at that time.

1 Q You mentioned knowing the Russian. How did you know
2 him? What's the relationship with him?

3 A The relationship with him was I was at a girl's
4 house, my friend, and basically, she says, well, we've
5 got a guy coming over, going to basically pimp us if you
6 think he's cool or whatever. Because they're my friend.
7 You know what I mean?

8 And so he came in, he took his hat off and we sat
9 and talked for an hour and got high, whatnot. And every
10 -- he seemed all right, you know, so they left with him
11 and came back a week or two later.

12 Q Do you have a recollection of when that was in
13 relation to his death?

14 A I had not known him maybe two years at the most.
15 Something like that.

16 Q So he was prostituting people out for two years? Is
17 that what you're telling us?

18 A My understanding that two years previous to it
19 happening, he was doing it. And I had never heard that
20 he ever stopped.

21 Q How often would you have interaction with him over
22 the course of those two years?

23 A Maybe every six months or so. I think I only met
24 him three or four times.

25 Q So the first time you met him was with some

1 girlfriends of yours?

2 A That's correct.

3 Q Friend girls?

4 A Yeah, yeah.

5 Q Whatever. Do you remember what their names were?

6 A It was Chesnee Quinn. It was at her house.

7 Q What was the last name?

8 A Quinn.

9 Q Quinn?

10 A Yeah.

11 Q Chesnee Quinn.

12 A That's correct.

13 Q Did you tell law enforcement about Ms. Quinn?

14 A Yeah.

15 Q You did?

16 A Yeah.

17 Q So the first time you met Ivan was at Chesnee
18 Quinn's house about two years before all this happened.

19 A Yes.

20 Q And you said you got high. What did you get high
21 on?

22 A We all -- we did meth at the time.

23 Q Meth.

24 How often back in 2018, 2019 were you using drugs?

25 A I was a meth addict my whole entire life since I was

1 14 years all the way up until recently. Then I quit.

2 Q Today is September 19, 2024. When is the last time
3 you used?

4 A It would have been almost two years ago now, before
5 I went to jail. You know, I went to prison.

6 Q All right. You got arrested about five years ago
7 for this case, right?

8 A That's correct.

9 Q December 2019. You say you went to prison two years
10 ago?

11 A Yes.

12 Q What was that for?

13 A The marijuana charge and some others. They had
14 probation. Because I pled guilty to accessory after the
15 fact, I had to do a three-year sentence on my probation
16 violation.

17 Q Okay. So as Mr. Fretwell asked you a minute ago,
18 when you pled guilty on February 10, 2022, that triggered
19 a probation violation for you?

20 A That's correct.

21 Q Did you go to jail? Did you go to the Department of
22 Corrections that day?

23 A I went to prison, yes.

24 Q Yeah. How long did you have to go for?

25 A 18 -- I served a three-year sentence. I just was

1 released, I believe, in June this year.

2 Q Released in June this year.

3 Do you remember when you met with law enforcement
4 that night on the 16th of December?

5 A Yes.

6 Q You met with two investigators. One of them is
7 Investigator Bailey over here?

8 A Yes.

9 Q Do you remember that?

10 A Yeah.

11 Q And then there's another investigator by the name of
12 Tracy King, had a white goatee, a little bigger guy?

13 A Yeah.

14 Q You remember that?

15 A Yes.

16 Q Okay. And you told him you were on probation at
17 that time, right?

18 A That's correct.

19 Q Okay. And you told them you wanted out of this
20 because you weren't the one that did any killing.

21 A Yes.

22 Q And just wanted some more probation.

23 A No. I told them I knew that I was going to have to
24 accept accessory after the fact. I didn't -- never done
25 nothing like that. I don't think we ever said.

1 Q You didn't tell them I just want to do some more
2 probation in your interview?

3 A I may have. That would definitely be my -- my hope.
4 But I don't believe -- I don't know. It wasn't ---

5 Q I mean, well, let's just be honest. You don't want
6 to go to jail for 15 years.

7 A No. But really is only seven, seven and a half.
8 It's a nonviolent sentence. So...

9 Q Okay. So a 15-year sentence, if that's what you
10 got, you'd only have to do seven and a half?

11 A That's correct.

12 Q But you don't even want go to jail for seven years,
13 do you?

14 A I don't want to go to jail for one day if I can help
15 it.

16 Q Don't want to go at all. Okay.
17 But you have not been sentenced yet.

18 A No. That's correct.

19 Q And practically, you would agree that whatever you
20 do in here today is going to significantly impact and
21 make a determination with the Court about what happens to
22 you.

23 A That's up to the Court to decide. I would hope -- I
24 would hope that it may or may not help. That's not why
25 I'm here.

1 Q You're here because you didn't kill that fella.

2 A Yeah.

3 Q But you dragged him in a hole and buried him.

4 A That's correct.

5 Q Okay. Let's go back to December 1st of 2019.

6 You're in the trailer with a female named Nikki.

7 A Yeah.

8 Q You say that you hear some rustling late at night.

9 A Yeah. We heard a truck pull up or a car, a vehicle
10 pull up and then heard somebody outside the camper.

11 Q You don't know who it was because you didn't go
12 outside and see.

13 A No clue.

14 Q So if Dave Stokes says you came outside, would he be
15 mistaken?

16 A He wouldn't say that because I didn't go outside
17 that night.

18 Q I understand. But if he's told law enforcement that
19 you came outside ---

20 MR. FRETWELL: Your Honor, I'd object to the pitting
21 of the witnesses.

22 THE COURT: All right. I'm going to sustain that
23 objection.

24 BY MR. MARCHANT:

25 Q All right. Mr. Knutson, you say you never came

1 outside that night.

2 A That's correct.

3 Q It wasn't until the next morning when Stokes is
4 digging a hole.

5 A That's correct.

6 Q So you don't know who came up the driveway or
7 however you get to the house that evening.

8 A No.

9 Q You don't know who was outside.

10 A No.

11 Q Don't know what car was brought up there.

12 A No.

13 Q Don't know anything about what happened prior to you
14 seeing Dave Stokes digging a hole the next morning.

15 A That's correct.

16 Q Because you were not at C and S Drive.

17 A That's correct.

18 Q Everything that you've told law enforcement and have
19 testified to here today is what somebody else told you.

20 A That is 100 percent correct.

21 Q Okay. And you did tell law enforcement about Bobby
22 Ray Smith and that he actually set all this up, right?

23 A That's correct.

24 Q Okay. In fact, he had a beef with Ivan Gula, right?

25 A That is what I have heard, yes.

1 Q Who did you hear this from?

2 A This was after I'd been arrested. While I was in
3 jail, I've heard that.

4 Q Okay. Who told you that?

5 A I'm not sure.

6 Q You don't remember?

7 A No. It was just jail talk.

8 Q White guy? black guy?

9 A I have no clue.

10 Q Okay. Well, let's talk about your history with
11 Bobby Ray Smith. How long have you known him?

12 A I've known of him since the late nineties.

13 Q Well, when you say you've known of him, help me
14 understand what that means.

15 A They were sort of on the Spartanburg side of things,
16 we were on the Greenville side of things. Just messing
17 around with cocaine and stuff like that back then.

18 Q Okay. So you were messing around with cocaine with
19 Bobby Ray Smith back in the day?

20 A No. I've never messed around with him. It was
21 people that we knew of, and they got arrested.
22 Spartanburg got in trouble, and everybody told on each
23 other for weed and cocaine back then. So I've never
24 messed around with Bobby Ray because of that.

25 Q But you're okay with methamphetamine.

1 A I -- I was okay with any drug. We never did heroin
2 or, you know, now fentanyl. We never did that. But
3 anything else, we were okay with it, yes.

4 Q Okay. This other fellow that you told law
5 enforcement about that Dave Stokes took a machete to,
6 Wayne Beasley, how do you know Mr. Beasley?

7 A Me and Wayne worked together on cell phone towers
8 for ten years. I've known him about 15, I guess.

9 Q And this attack on -- that Dave Stokes made on Wayne
10 Beasley was made up there at Cripple Creek?

11 A That's correct.

12 Q Did he use the same machete on him?

13 A I believe he used a different one that he had
14 handmade, I believe. I'm not 100 percent sure of that.

15 Q You've been inside the mobile home.

16 A That's correct.

17 Q But you were staying out in the camper.

18 A That's correct.

19 Q But you've been inside the mobile home. There's
20 weapons all over the place, isn't there?

21 A That's correct.

22 Q Okay. The shovels you used to bury the body, where
23 did those come from?

24 A They would have just been laying around the house.
25 There was just junk everywhere like that.

1 Q Did you have a conversation or find out that weeks
2 before all this happened, that Bobby Ray Smith had a plan
3 to kill Ivan?

4 A That's what I've heard.

5 Q Had you ever been down to this house at C and S?

6 A Never, never.

7 Q You've never stepped foot in the house.

8 A Not -- not previous to this happening.

9 Q Yes, sir. That's what I mean. I'm not trying to
10 trick you up there.

11 Prior to December 1, 2019, you'd never been in that
12 house.

13 A That's correct.

14 Q Had you ever met the girl that lived in the house
15 prior?

16 A No.

17 Q What about any of these other people that have been
18 named?

19 A Never.

20 Q Let's talk about the stuff that Mr. Stokes is trying
21 to give you. The picture that the prosecutor showed you
22 is this piece of evidence which is State's 148. This is
23 what Mr. Stokes tried to give you?

24 A That's correct.

25 Q Why would he try to give you this?

1 A Because he -- he was -- he liked to give people
2 gifts. He's like a little kid, sort of, in the head.

3 Q So he's wanting to give you a murder weapon?

4 A If that's what was used to kill him, yes, he
5 definitely wanted to give me a weapon used in a crime.

6 Q Did he ask you to get rid of it?

7 A No.

8 Q Or he just wanted you to have it?

9 A He just wanted me to have it for some reason.

10 Q Do you think he's trying to set you up?

11 A That did go through my mind at the time, yes.

12 Q Okay. When did you have this conversation with him
13 about this machete? If these events occurred on
14 December 1st and you reported to law enforcement on the
15 16th, when did he have this conversation with the
16 machete?

17 A If the events occurred on December 1st which would
18 have been midnight or so, the next morning when we buried
19 him would have been the 2nd, directly after that is when
20 we had the conversation about the machete. It was in
21 three hours.

22 Q And then he tried to give you -- I think you
23 referred to it or the question was a bulletproof vest?

24 A Yeah.

25 Q Where is that vest?

1 A I have no clue.

2 Q Did you see the vest?

3 A Yes.

4 Q Was it in Mr. Stokes's trailer or was it outside
5 when y'all were talking?

6 A No. He had brought it to the camper. He'd brought
7 the three book bags to the camper, then we brought them
8 back into the trailer.

9 Q So he brought this stuff over into your place where
10 you're sleeping.

11 A Yeah. Then we brought most of it back over to his.
12 I think -- I think we left the bag that was full of
13 lighters in the camper. I'm not 100 percent sure about
14 that.

15 Q You said there were three book bags full of stuff.

16 A Yeah. Three blue JanSport, I believe, book bags.
17 Three with this exact same book bags.

18 Q Do you know where those book bags went?

19 A Like I said, I believe the one that was full of
20 lighters was still in the camper, and the other two would
21 have been in the trailer after being emptied, I guess.

22 Q Did you tell law enforcement when you were
23 interviewed on the 16th of December about the bulletproof
24 vest and these three bags?

25 A That's correct. I believe it was actually a

1 cut-proof vest.

2 MR. FRETWELL: Judge, I'll object to the nature of
3 the compound question including all of those items
4 together.

5 THE COURT: All right. Rephrase your question,
6 Mr. Marchant.

7 BY MR. MARCHANT:

8 Q Mr. Knutson, on the 16th of December of 2019, did
9 you tell law enforcement about the bulletproof vest?

10 A The cut-proof vest? I believe I did.

11 Q Did you tell them about the three book bags full of
12 junk?

13 A Yes.

14 Q You did?

15 A I'm pretty sure.

16 Q Would you be surprised that you did not tell them
17 about those things?

18 A Yes.

19 Q You would be surprised?

20 A Yeah.

21 Q Okay. When you went and met with law enforcement at
22 that time, were you on methamphetamine?

23 A Yeah.

24 Q So that morning -- hang on a second. You called
25 Deputy League somehow.

1 A Yes.

2 Q Did you have a phone or did you go to a pay phone?

3 A No. I went to the Greer Police Department.

4 Q And they let you use the telephone?

5 A That's correct.

6 Q Okay. Do you remember if it was daylight or had the
7 sun set yet?

8 A It was day.

9 Q Do you remember what time of day?

10 A If I had to guess, I'd say 10 o'clock.

11 Q Okay. So sometime before lunch; is that fair?

12 A It seems, yes.

13 Q Okay. And you had used methamphetamine that
14 morning?

15 A I couldn't tell you. I definitely had it in my
16 system at the time. We'll assume that I did.

17 Q The day that you buried the body, did -- you and
18 Stokes were using methamphetamine that day?

19 A That's correct.

20 Q Okay. And pretty much every day in between?

21 A Every day since I was 14.

22 Q Every day since you were 14. How old are you now,
23 sir?

24 A 43.

25 Q So you're 38 roughly when this ---

1 A That's correct.

2 Q --- happened back in December?

3 Dave told you that he and Bobby Ray were the ones
4 that brought the body up to his trailer, isn't he?

5 MR. FRETWELL: Objection.

6 THE WITNESS: I don't believe he actually said that.

7 THE COURT: Hold on.

8 MR. FRETWELL: I withdraw the question, Judge --
9 objection.

10 THE COURT: All right.

11 MR. MARCHANT: I'm sorry. I'm not sure what the
12 objection was, Judge.

13 THE COURT: Well, he didn't state anything. Move
14 on.

15 BY MR. MARCHANT:

16 Q Dave told you that he and Bobby Ray were the ones
17 that drove up to the trailer that night, didn't he?

18 A No. I don't believe so. I don't remember hearing
19 anything about who or how they got the body supposedly
20 from C and S there. I -- I couldn't tell you.

21 Q And it's -- the prosecutors talked about how to get
22 from Cripple Creek to C and S. I know there's some
23 roads. I'll just show you State's Exhibit Number 2. Do
24 you see that okay on the monitor?

25 A Yes.

1 Q Okay. So this is an exhibit that's already in
2 evidence, and you can see where Cripple Creek Road is,
3 right?

4 A Yes.

5 Q And that's where you were living at the time with
6 Mr. Stokes.

7 A Yes.

8 Q Okay. And there's C and S Drive. And those two
9 roads intersect up there towards the top of the screen,
10 right?

11 A Yes.

12 Q Okay. And you don't actually have to get on the
13 road to get to C and S Drive. You could just walk
14 straight sort of what we call the crow flies. You can go
15 straight from one to the other, right?

16 A There's a pond right here (indicating).

17 Q Let's do this. Why don't you step down and show the
18 jury where the pond is. And if you'll speak up so the
19 court reporter can hear you.

20 A I believe there's a pond right here, a big fence
21 right here. And it is only 100 or so yards from here to
22 there. So you're going to go right here to right there
23 (indicating throughout).

24 Q And if you wanted to, could you walk directly from
25 here (indicating) down to here (indicating)?

1 A The trailer's actually right here (indicating), not
2 right there (indicating).

3 Q Let's go back to my question. The trailer being up
4 here (indicating), could you just walk straight or is
5 there something preventing you? Is there a river? a
6 creek?

7 A Yeah. There's a creek, a big hill. You could if
8 you wanted to.

9 Q You could if you wanted to. Okay. Thank you.

10 So it's your testimony you didn't destroy any of the
11 book bags or anything that Dave tried to give you, Dave
12 Stokes tried to give you that night, right?

13 A Yes. We burned the telephone.

14 Q You burned the telephone. Where?

15 A Right outside the camper, basically in the same spot
16 where the body was placed whenever I got to it.

17 Q Did you tell law enforcement that you destroyed that
18 telephone?

19 A Yeah.

20 Q You did?

21 A Yeah.

22 Q Did you tell them that at the initial interview or
23 did you tell them that at some other point in time?

24 A I've never really talked to them other than the
25 initial interview.

1 Q Okay. Bear with me, Mr. Knutson. There's lots of
2 photos.

3 While I'm searching through these, what sort of work
4 do you do?

5 A Right now I do asphalt work.

6 Q What other types of work have you done in your life?

7 A Carpentry, the cell phone towers, I worked the cell
8 phone towers climbing them, technician, all that, heavy
9 equipment, that type of thing.

10 Q Sort of general construction?

11 A I guess you could call it that.

12 Q Do any HVAC work?

13 A No.

14 Q Electrical?

15 A No.

16 Q You got me curious now. Why is that so funny?

17 A I about -- I about killed myself and about blew my
18 leg off, and I've got a scar this big around (gesturing)
19 when it went all the way down to the bone where I got hit
20 with a power line. It's not really funny, but...

21 Q What sort of work does Stokes do?

22 A He helps his dad out every once in a while, I guess.
23 I don't know if he ever really had a job much. Maybe --
24 I think he did electrical work for a little while.

25 Q I know they're somewhere, sir, so you'll have to

1 bear with me still a little bit longer. But I'm trying
2 to get oriented here.

3 I'm showing you State's 131. Do you recognize that?

4 A Yes.

5 Q Okay. So where was your camper in relation to
6 State's 131?

7 A Probably about 20, 30 feet away on the left side of
8 the perspective with the camera being took.

9 Q So as we're looking at this photograph, your
10 camper's over here to the left.

11 A It would be behind you and to the left if you were
12 the one taking the picture.

13 Q Oh, so if I'm the photographer, it's going to be ---

14 A Correct.

15 Q --- behind me.

16 A To the left.

17 Q And so where is the burn pile in relation to your
18 camper and the trailer?

19 A There's a circle driveway right there. And walking
20 up, the camper would be directly ahead of you, and the
21 trailer to your right. The burn pile would be basically
22 in the middle of the trail that goes to both of them.

23 Q So I'm going to show you State's 151. Is this the
24 burn pile you're talking about?

25 A One of the many, yes.

1 Q You told -- is that where the cell phone is?

2 A No.

3 Q Let's look at 159. That's where you were staying?

4 A Yeah.

5 Q Is that right?

6 So we've seen some photographs with a whole bunch of
7 stuff painted on the sides, 155, all this writing, did
8 you do that or is that Mr. Stokes?

9 A That was Dave.

10 Q Does State's 152 help you identify the burn pile at
11 all?

12 A The burn pile where we burned the phone?

13 Q Where you burned the phone.

14 A Where we burned the phone would be directly behind
15 that big tree, right to the side of it.

16 Q And you believe you told law enforcement about that
17 on the 16th of December.

18 A Yeah. I believe I did.

19 Q All right. So do you know where the book bags got
20 off to?

21 A No. I -- you know, I had left the week before I
22 went and told the officer, so anything could have
23 happened. But when I left, I know that there was one of
24 the blue bags that was full of lighters was still in the
25 camper. And I believe the other two were in the trailer

1 where we sat and took the stuff out of them that day.

2 Q So you don't know where any of that stuff went.

3 A No.

4 Q But you told law enforcement about that stuff when
5 you went down and interviewed on December 16th.

6 A Yes.

7 Q Prior to coming in here today, you met with the
8 prosecution, right?

9 A That's correct.

10 Q Talked to them about your testimony.

11 A Yes.

12 Q And you've told them things that you had not told
13 law enforcement on the 16th of December of 2019, right?

14 A Yes.

15 Q Okay. You never told law enforcement that you went
16 to the trailer at C and S Drive, right? You're looking
17 at that investigator over there, Mr. Bailey.

18 A Yeah.

19 Q You never told him you went to the trailer.

20 A I believe -- I believe that's false. I'm pretty
21 sure I did.

22 Q Okay. When did you go to the trailer?

23 A It would have been maybe a week later.

24 Q You're aware that your interview was recorded?

25 A Yeah.

1 Q Audio and video?

2 A Yeah.

3 Q Have you had an opportunity to watch that?

4 A Yeah.

5 Q You have?

6 A Yeah.

7 Q And you're still certain that you told him that you
8 went over to the house.

9 A To the C and S, yes.

10 Q Positive?

11 A Not to the house. To the trailer at C and S.

12 Q That's what you told law enforcement on the 16th of
13 December 2019.

14 A Yes.

15 Q When's the last time you watched your interview?

16 A I watched it a week, week and a half ago now.

17 Q So what we know from what you know is just what you
18 were told by David Stokes.

19 A Correct. The only thing I know for sure is I took
20 the body from here to there. Everything else has been
21 told to me.

22 Q You've not talked with anybody else about what
23 happened that night.

24 A I don't understand my question. Oh, as far as -- as
25 far as my testimony and if I talked to anybody involved

1 in it, no. I have not talked to anybody involved about
2 anything about that.

3 Q And you had been staying with Stokes for a couple
4 weeks, you said?

5 A Yeah. It wasn't long.

6 MR. MARCHANT: Okay. Thank you. I have no further
7 questions.

8 THE COURT: Redirect.

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

10 REDIRECT EXAMINATION

11 BY MR. FRETWELL:

12 Q First of all, about the book bag with the lighters
13 that you didn't tell law enforcement about on the 16th of
14 December, is that camper or trailer still there?

15 A I don't understand. Excuse me?

16 Q If you didn't tell law enforcement about that bag of
17 lighters in the camper, you said?

18 A Yeah.

19 Q Is that camper still there? How long after was that
20 camper removed from that site?

21 A From the house site? I don't know.

22 Q But it's not there now.

23 A No. They leveled everything now. I do know that.

24 Q And that picture that Mr. Marchant showed you of the
25 inside of that camper, a lot of stuff in there.

1 A That's correct.

2 Q Most of it wasn't yours.

3 A No.

4 Q Okay. And whatever you knew about Mr. Gula, did he
5 have a lot of electronics on him, generally?

6 A I don't know. That was never part of our
7 relationship.

8 Q Okay. Do you know about him working on cell phones,
9 laptops, anything like that?

10 MR. MARCHANT: Objection. Asked and answered.

11 THE COURT: I'm going to allow it. Go ahead.

12 BY MR. FRETWELL:

13 Q You don't know anything about that?

14 A I have no clue about anything like that.

15 Q Okay. And let me ask you about this gentleman right
16 back here in the purple shirt. Is this your lawyer
17 Mr. Pringle?

18 A That's correct.

19 Q You mentioned on cross-examination something about
20 being in jail. You were arrested by Greer police how
21 long ago?

22 A I was arrested in February, February 16th, 18th,
23 something -- somewhere close to around there.

24 Q What was that charge?

25 A I had been arrested for stealing.

1 Q Okay.

2 A But -- but they held me for the probation violation.

3 Q I understand. But when they had the court date,
4 where were you?

5 A I was in jail, the county jail.

6 Q Somewhere else.

7 A Yeah. Heading to prison.

8 Q You got tried and convicted in your absence; is that
9 right?

10 A That's correct.

11 Q Okay. And did Mr. Pringle over here, your lawyer,
12 he's in the process of getting that conviction undone,
13 right?

14 A Yes.

15 Q But that's something you've been arrested for,
16 right?

17 A Correct.

18 Q Okay. You mentioned something about these friends
19 of yours wanted you to come meet Ivan because he was
20 going to -- they were going to do something with him.
21 Who contacted you, Ivan or these friends of yours?

22 A I was already at their house when he was on the way
23 there.

24 Q Is this something that you understood was something
25 they were being threatened about or it was something they

1 wanted to participate in?

2 A No. They were -- they were doing it for themselves.

3 Q Did you know -- in the time that you knew Mr. Gula,
4 did you ever know him to have a vehicle?

5 A Yeah. Well, he rode around in a high top Mercedes
6 van all the time. That's how we knew who he was.

7 Q Was that his or was that somebody else's?

8 A I -- I don't know. I just know that's how we knew
9 who he was.

10 Q And you mentioned something about your friend
11 Mr. Stokes, how he never really held much of a job
12 before, right?

13 A That's correct.

14 Q And Mr. Marchant asked you about whether he was ever
15 an electrician?

16 A Yes.

17 Q Or did electrical work? Would you call him an
18 electrician?

19 A No.

20 Q Okay. So maybe did a little work with his dad; is
21 that right?

22 A Yes.

23 Q Not a contractor. Not -- didn't do anything like
24 that on a regular basis.

25 A No.

1 Q Finally, Mr. Smith, Bobby Ray Smith, you don't care
2 for him too much, do you?

3 A No.

4 Q You made that very clear.

5 Did you see him at all the night before this
6 happened?

7 A No.

8 Q You don't recall seeing him the night before?

9 A Well, when he come and picked up Dave.

10 Q Okay. That's what I'm asking. Did he come up there
11 and pick up Dave?

12 A Yeah.

13 Q Did you go outside and see him or talk to him? Or
14 you saw him, I guess.

15 A Yeah. I just stood there and looked at him, taunted
16 him.

17 Q Okay. Do you remember what he was -- or what
18 vehicle he was in?

19 A No.

20 Q Okay. But you just remember knowing he was out
21 there.

22 A Yeah.

23 Q And you didn't go anywhere over there.

24 A No.

25 Q Didn't know who was in the car with him?

1 A No. I don't know if there was anyone in the car
2 with him.

3 MR. FRETWELL: Okay. That's all the questions I
4 have, Judge.

5 THE COURT: Anything on recross?

6 RECROSS EXAMINATION

7 BY MR. MARCHANT:

8 Q Tell me about this high top Mercedes van. What is
9 that?

10 A You -- it's a sprinter-style van. That's just how
11 -- he was always in that van every time anybody seen him.
12 We just knew him being called the Russian, basically is
13 what we called him, in the van. And that's what he'd
14 take the girls around and pimp them out of, basically.

15 Q Did you ever pay for the services that he was
16 providing?

17 A No, no. I don't -- I think that's awful.

18 Q I'm sorry?

19 A I think prostitution's awful. I think it's awful,
20 all the way around awful.

21 Q So the girl Chesnee was it?

22 A Yes.

23 Q Did you have a relationship with her?

24 A Not a sexual relation. We were good friends.

25 Q Okay. And the prosecution's asked you about this

1 trailer being burned down or cleared or whatever. You
2 don't know if the book bags were still in the trailer
3 when the stuff got leveled.

4 A No, no. I don't know anything about -- I -- I
5 really haven't been told anything about anything since I
6 went to jail about this, really.

7 Q Okay. But you know about the book bags and you told
8 that to the investigator over there.

9 A Yeah. I would have told him that because I told him
10 basically everything I knew just like I'm doing right
11 now.

12 Q And you told him what was in the book bags.

13 A I would have told him -- I would have definitely
14 told him about the rings being in the book bag and that's
15 how me identifying who the person was.

16 Q And were there other identifying things in the book
17 bag that belonged to other people?

18 A No. They were just -- there was just stuff. I
19 don't know if they belonged to who.

20 Q Like charm bracelets or hair bows?

21 A I don't remember that right now, no.

22 MR. MARCHANT: Thank you, Mr. Knutson.

23 THE WITNESS: Yes.

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

25 THE WITNESS: All right. Thank you.

1 THE COURT: Any objection to this witness being
2 excused?

3 MR. FRETWELL: I don't believe so, Your Honor.

4 MR. MARCHANT: No.

5 THE COURT: All right. You have somebody in jail as
6 your next witness?

7 MR. FRETWELL: Not as the next witness, Judge.

8 THE COURT: Who's your next witness?

9 MR. FRETWELL: Mr. Dillard is sitting outside.

10 THE COURT: Let's go ahead and get him real quick.

11 MR. FRETWELL: Okay.

12 THE COURT: You got a problem with that?

13 MR. MARCHANT: No, sir.

14 THE COURT: You're staring at me. I just wanted
15 to ---

16 MR. MARCHANT: I anticipate perhaps being lengthy.

17 THE COURT: Just have a seat.

18 MR. MARCHANT: Yes, sir.

19 THE CLERK: Please pause here at the bench. Lay
20 your left hand on the Bible.

21 WHEREUPON,

22 TERRY DILLARD

23 After having been duly sworn, testified as follows:

24 THE CLERK: Thank you. You may be seated. Please
25 state your name for the record.

1 THE WITNESS: Terry Lynn Dillard, Jr.

2 DIRECT EXAMINATION

3 BY MR. WILLIAMS:

4 Q Your name is Terry Dillard?

5 A Yes.

6 Q Do you prefer to go by Micco Dillard?

7 A Yes.

8 Q Where are you from?

9 A What do you mean?

10 Q Like where do you live?

11 A Right now I live in Calhoun Falls, Abbeville County.

12 Q Back in December of 2019, where were you living?

13 A Gaffney.

14 Q Did you know a person named Ivan Gula?

15 A I did.

16 Q How did you know him?

17 A He was my best friend.

18 Q Tell us a little bit about your relationship with
19 him.

20 A We met through a mutual friend where I was living at
21 one time and come to find out both of us had a love for
22 working on electronics and phones and stuff. And we hit
23 it off right away and were real close friends ever since.

24 Q How long was this before he died?

25 A Probably about two, two and a half years.

1 Q Did you call him your uncle?

2 A Yes.

3 Q Why did you call him that?

4 A I have a Ukrainian background as well. We weren't
5 related, but we were so close that, you know, we meshed
6 really well, and he became such a close friend that I
7 referred to him as my uncle.

8 Q So you've known him for a few years.

9 A Yes.

10 Q Bonded over electronics?

11 A Uh-huh. Among other things.

12 Q What other things did you bond over?

13 A I mean, we both had a love for like different
14 things, knives or crosses. Both of us loved crosses that
15 were real ornate and stuff. And just we played show and
16 tell every time we saw each other.

17 THE COURT: Pull your seat up, sir.

18 THE WITNESS: I'm sorry. Do I need to repeat that?

19 THE COURT: No. I don't think so. Speak loudly.

20 THE WITNESS: Yes, sir.

21 BY MR. WILLIAMS:

22 Q So did you spend a lot of time with him?

23 A I did.

24 Q Would you say you saw him every day?

25 A Sometimes he lived with me off and on a couple times

1 so we saw each other all day everyday sometimes.

2 Q So you knew him pretty well.

3 A Yes.

4 Q Did he have a family?

5 A Yes.

6 Q Can you tell us a little bit about that?

7 A He had been separated from his wife, and he was
8 trying to work his way back to being with his wife. And
9 he spent -- loved them, his wife and daughters. He spoke
10 of them very highly all the time. He said that his wife
11 was sick or getting sick, having heart problems, I think.
12 And he wanted to try to repair that bond with them.

13 Q Where does his wife and daughters live?

14 A Charlotte.

15 Q Did you know why their marriage had had some
16 problems?

17 A He had cheated on her and his drug use and alcohol.

18 Q Drug use and alcohol, what can you tell us about
19 that?

20 A What do you mean?

21 Q Like what do you mean, drug use?

22 A He was using drugs. And instead of spending time
23 with his family and doing like he should, he was running
24 around in the streets and getting high.

25 Q High on what?

1 A Methamphetamine.

2 Q Had you ever watched him get high?

3 A Yes. I've gotten high with him before.

4 Q Was that a common occurrence?

5 A Yes.

6 Q You said he was trying to repair. How was he trying
7 to repair that relationship?

8 A From what I understood, the Monday after he was
9 killed, he was supposed to be leaving for Pennsylvania to
10 get away from Spartanburg area and all the drugs and
11 everything and start a new life working for his family
12 and basically bettering himself, getting back on track.

13 Q Now, did you happen to know a person named Audrea
14 Cook?

15 A I did.

16 Q How did you know her?

17 A I met her through a mutual friend years before. She
18 was actually coming to my house to sell me drugs.

19 Q She came to your house to sell you drugs?

20 A Yes.

21 Q What kind of drugs?

22 A Methamphetamine.

23 Q How often?

24 A Only once or twice back then. That would be about
25 the same time that I met Ivan, you know. Maybe a little

1 sooner than that.

2 Q Did Audrea Cook know Ivan?

3 A I didn't -- she didn't meet Ivan until later on
4 shortly before the incident which is the next time I saw
5 Audrea Cook myself. Ivan was the one that brought her
6 there to my house is where they came.

7 Q Now, how soon was this before Ivan was killed?

8 A About two weeks, somewhere around there, I think.

9 Q What did you understand the nature of her
10 relationship with Ivan Gula to be?

11 A That they were boyfriend and girlfriend, starting to
12 see each other is what I was told.

13 Q So you knew that they spent some time hanging out
14 together.

15 A Yes.

16 Q Had you ever known Ivan to be engaged in human
17 trafficking?

18 A No.

19 Q So he liked drugs. Did he like a lot of women? Did
20 he like to be with all of them?

21 A Ivan liked women. Any man would that is in that
22 lifestyle.

23 As far as human trafficking, you asked. That's kind
24 of a broad blanket, human trafficking. Ivan was known
25 for if a girl called him up and said, hey, I need a ride

1 to go here to, you know, be with someone, he would give
2 her that ride which is technically considered human
3 trafficking, I guess. But he wasn't kidnapping girls and
4 stealing them and selling them to the Mafia or anything
5 like that.

6 Q And you knew him very well.

7 A Yes.

8 Q Let's go to the last time you ever saw Ivan,
9 December 1, 2019. How did you first come to see Ivan
10 that day?

11 A Ivan picked me up at my house in Gaffney and brought
12 me with him to Audrea Cook's house with the intent of
13 fixing some computers and, you know, hanging out and just
14 having a good time that night.

15 Q What would hanging out and having a good time
16 usually entail in a situation like that for you and Ivan
17 and this group of people?

18 A We hadn't -- I hadn't been with that group at that
19 time. But for me and Ivan, that would be, you know, hang
20 out and talk, play show and tell with her, new things we
21 like to show each other and get high. I mean, that's
22 what it was all about.

23 Q Get high on meth?

24 A Yes.

25 Q Now, when he picked you up from your residence in

1 Gaffney, was anybody with him?

2 A Yes.

3 Q Who was with him?

4 A He had Janice and Isaiah were with him. We call him
5 Zay.

6 Q Did you know these people before that night?

7 A I had met Janice before, but not Zay.

8 Q And do you remember what Ivan was driving?

9 A He was driving Audie's car.

10 Q How did you know it was Audie's car?

11 A She had messaged my wife and myself probably five,
12 six hours before that upset that Ivan had her car and
13 hadn't returned it yet and come home, and she was going
14 to call the police. And I told her, well, call the
15 police. I mean, if he stole your car, then report it
16 stolen. But he didn't. So when he comes through to pick
17 me up to come fix these computers, then he'll have your
18 car.

19 Q Did you know how long Ivan had had her car?

20 A She said it was just a few hours at first. And he
21 told me that it was from early that morning until late
22 that night. I think he picked me up probably about
23 seven, 7:30.

24 Q Do you know what he had done with that car prior to
25 picking you up?

1 A I know he went to Charlotte to see his wife and
2 kids. Other than that, I have no idea.

3 Q Do you have any idea why he originally had the car
4 to begin with?

5 A Well, he had the car because he was going to
6 purchase some drugs for Audrea.

7 Q Really. Did you get the impression that she was
8 upset with him?

9 A Oh, yeah. Yeah. She was mad.

10 Q Do you know why?

11 A You mean ---

12 Q Why she was upset with him.

13 A Because he had her car and she was supposed to, I
14 believe, go see her family or something and couldn't make
15 that appointment with them because he had her car.

16 Q Did anybody else reach out to you about that?

17 A Bobby Ray Smith did.

18 Q How did you know Bobby Ray Smith?

19 A I met Bobby Ray Smith several years before, about
20 the same time I met Audrea through another mutual friend.
21 And we had hung out maybe two or three times. But I
22 didn't really know him, know him. We were just
23 acquaintances.

24 Q Okay. So did you make your way over to Audrea
25 Cook's trailer?

1 A I did.

2 Q Do you know where that was located?

3 A 212 C and S Drive.

4 Q Where -- is that in ---

5 A It's in Greer.

6 Q It's in Greer.

7 Had you ever been there before?

8 A No.

9 Q Do you remember about what time it was?

10 A I think we got there right about 8:30, I want to
11 say. 8:00, 8:30, something like that.

12 Q Was it dark outside?

13 A Yes.

14 Q This was December 1st?

15 A Uh-huh.

16 Q What did you do? What happened when you got there?

17 A We pulled into the -- under the little carport that
18 was there. As we're getting out of the vehicle, us being
19 Ivan, Janice, Isaiah and myself, Bobby Ray is coming down
20 the steps and to the back of the cars, standing at the
21 back of the car and demanding the keys to the car.

22 Audrea's standing up on the I guess deck to the back
23 door. And we get out of the car. I tell Bobby Ray,
24 "Look, he's not going to go anywhere with the car, you
25 know. You don't have to stand here and block it in."

1 And then we started to head in the house, and Audrea
2 says, "Excuse the mess. Come on in." And we went into
3 the house.

4 Q So you, Ivan, Zay, Janice all go inside.

5 A Right.

6 Q Who's inside when you get in there?

7 A Well, like I said, Bobby Ray came out and was with
8 us following behind us in the door. Audrea was up on the
9 deck right by the door. When we went inside, all I saw
10 was Isaiah Hill standing against the stove in the
11 kitchen, and that was it.

12 Q Okay. So the only people at that point was Cook,
13 Smith and Isaiah Hill there?

14 A Right.

15 Q Okay. And tell me -- tell us, did you go in the
16 front door? the back door?

17 A It was the back door.

18 Q Okay. And what happened when y'all got inside?

19 A Isaiah and Janice went to the far side and sat down
20 on the couch and I sat on the couch on the left side.
21 Ivan stood at the little, I guess, island that separates
22 the kitchen and stuff and starts pulling stuff out of his
23 bag, you know, excited to show Audrea the stuff.

24 Right about that time, there was a loud noise and a
25 flashing. There were people coming out of the back

1 bedroom with weapons in their hands, pistols, machetes,
2 hatchets and screaming for us to get on the ground, get
3 on the ground. And it shocked us.

4 Q All right. Backtrack just a little bit. You said
5 Ivan was pulling stuff out of his bag. He was excited to
6 play show and tell, basically?

7 A Yes.

8 Q Do you know what he was pulling out of his bag?

9 A I wasn't paying too much attention to what he had in
10 his bag.

11 Q Okay. And about how long were you in there in the
12 house before these armed men came out of this back
13 bedroom?

14 A Maybe two minutes at most.

15 Q Did you recognize any of these guys?

16 A No. Not at first, no.

17 Q Okay. At that point in time ---

18 A At that point, I didn't know who they were.

19 Q Do you think you'd ever met any of them at that
20 point?

21 A The only ones I knew there were Ivan, Janice, Bobby
22 Ray and Audrea.

23 Q Okay. Tell us, you mentioned a bunch of different
24 weapons. Tell us what these folks were doing, these guys
25 were doing.

1 A The one with the pistol, which was Jeff George, was
2 in the front, and he had the pistol up at the ready and
3 was, you know, in a stance almost like a law enforcement
4 officer would be and aggressively, you know, standing
5 there looming. Next to him was David Stokes who had a
6 machete and a hatchet. Beside him was Patrick Poole who
7 had what looked like a walking stick or something that
8 has, you know, ornate stuff on it and a big knob on the
9 top of it.

10 We got down on the ground. It was told that Janice
11 and Isaiah and myself were okay, not us, you know. We
12 could get up. So we got up off the floor and sat on the
13 couches and proceeded to listen to Audrea give her
14 monologue.

15 Q Monologue?

16 A Yeah. She gave a weird monologue about she was a
17 former SLED agent and she was doing a human trafficking
18 ring, you know, that they were trying to shut them down
19 and that Ivan had been -- had taken the girl and left her
20 dead body up in Rutherfordton or something or Rock Hill,
21 which at the time they had found a body in a church
22 there, but it had nothing to do with him. But she was
23 going through this whole monologue as to Ivan being such
24 a bad person, you know, and that he had done all these
25 awful mean things.

1 And when she mentioned him kidnapping a
2 fourteen-year-old girl and selling her to the Russian
3 mafia, he jerked his head up to respond because it
4 offended him. And when he did, David Stokes, who was
5 standing over the top of him, you know, took that as a
6 threat and swung about four times, hitting him in various
7 spots with the machetes and hatchets.

8 Q You said he kind of put his head up to respond.

9 A Right. At that point, he was down on his knees with
10 his hands behind his head. And he was kind of like this
11 (demonstrating), you know, looking down at the ground
12 when she started speaking. But when that particular bit
13 of information was mentioned, it offended him and he just
14 quickly like jumped up to say something (demonstrating),
15 you know, to defend himself about it being a child. And
16 David Stokes took that as a threat because, I mean, he
17 was literally standing just a few inches, maybe a foot at
18 most above him towering over him with the weapons.

19 Q Okay. Now, when David Stokes started to hit him
20 with a machete, where was Jeff George?

21 A He was standing behind David Stokes still kind of
22 like right at the edge of the kitchen and the living room
23 still holding a pistol facing towards Ivan.

24 Q He was pointing the pistol at Ivan.

25 A Right.

1 Q What did that communicate to you?

2 A What do you mean?

3 Q What did you think that the purpose of him pointing
4 that pistol at Ivan was in that situation?

5 A I mean, to keep him controlled and in place. I
6 mean...

7 Q And you previously mentioned that when they all came
8 out of that bedroom, all four of you were on the ground.

9 A Right.

10 Q And you said that the defendant was pointing a
11 pistol. Was he pointing it at all four of you at that
12 point?

13 A No. Well, I mean, kind of. It's the way the house
14 was set up and where we were, when he came out of the
15 back room, all four of you are in front of him but kind
16 of spread a little bit. It would be almost like the
17 bailiff and the two ladies back there. They were
18 directly in front of me. So from here they're right in
19 front of me, but as I got closer, they move off, if that
20 makes sense.

21 Q But he had that gun out from the moment he came out
22 of the back room?

23 A Right, right.

24 Q And he was pointing it?

25 A Right.

1 Q Did you see what kind of gun it was?

2 A It looked like it was a Glock.

3 Q Some kind of a handgun?

4 A Uh-huh. I mean, the holster he had on his side and
5 the pistol itself, it looked like something law
6 enforcement would have.

7 Q It looked like a law enforcement gun in a holster?

8 A It did.

9 Q And as Stokes is starting to hit Ivan with the
10 machete, what are you and Janice and Zay, where are you?
11 Are you kind of in the kitchen area?

12 A No. At that point, we were still in the living
13 room. I had just gotten up off the floor and sat back on
14 the couch. Ivan was just a few feet, you know, in front
15 of me from the couch to the kitchen counter, and Stokes
16 was right there. Zay and Janice were on the other couch.
17 It wasn't until after this -- the blows with that that we
18 all got up and moved to the kitchen.

19 Q And then you moved to the kitchen. What proceeded
20 after that?

21 A Audie still continued on with her monologue while
22 David Stokes was instructing Ivan to empty his pockets
23 and going through his bag and such. Janice went outside
24 to get napkins for, you know, just to help clean and stop
25 the blood because Ivan was bleeding. Audrea told Patrick

1 Poole to go after her, no phones. That's what she said.
2 She said, "Go get her. No phones."

3 He ran outside behind Janice and brought her back
4 inside.

5 Audrea just continued on with her monologue and then
6 said, you know, "You guys, come on. You're going to get
7 in the car and we're going to take you home."

8 And so Audrea, Janice, Zay, and myself and Patrick
9 Poole got into the vehicle to leave.

10 Q What vehicle did you get into?

11 A It was Audrea's car.

12 Q Okay. Now, you said that David Stokes had struck
13 him and then continued just when he's telling him to pull
14 stuff out of his pockets moments later. What's Jeff
15 George doing at that time?

16 A The whole time Jeff George was kind of like rocking
17 back and forth. He would take two steps forward, you
18 know, two steps back, kind of rocking, and he'd have the
19 gun up at the ready and then he'd kind of lower it and
20 then he'd pull it back up. It was like he just couldn't
21 make up his mind what he wanted to do.

22 Q But the whole time he kept pointing it again.

23 A Right.

24 Q When he would continue to point it, it was always
25 pointed at your friend Ivan?

1 A Right.

2 Q Okay. And you mentioned that first time that Ivan
3 tried to respond to something Cook said, Stokes attacked
4 him. Did you see if Ivan ever had a chance to actually
5 say anything or respond to anything?

6 A He never did.

7 Q Okay. Did Ivan have any kind of a weapon on him?

8 A No. I mean, he probably had a pocketknife or
9 something, but everybody, you know, carries a pocketknife
10 nowadays. And he didn't have anything that would be used
11 to, you know, defend yourself.

12 Q When he was getting struck by Stokes with a machete,
13 did he ever try to defend himself with his arms or
14 anything like that?

15 A He -- he put his arms up a little bit. That's why
16 he was bleeding from right here (indicating) on his arm
17 and he had blood dripping down. But he -- he was only
18 hit a couple times before Audrea told David Stokes that's
19 enough and everything stopped.

20 Q And was that the point when she took y'all outside?

21 A Right. That was after -- after that. When we left,
22 Ivan was standing on his own two feet leaning against the
23 wall that leads down into the hallway to the other
24 bedrooms silent and bleeding with David Stokes going
25 through his property and Mr. George standing there still

1 holding a pistol on him.

2 Q Okay. And did you try to -- did you feel hopeless
3 in that moment to try to help your friend?

4 A I mean, I did.

5 Q Why did you feel hopeless?

6 A Even if I would have tried to help him, you know,
7 you've got the only pistol in the house is aimed at -- at
8 your friend. If I go to help him, I mean, it was an
9 unwinnable situation and I felt like there was nothing I
10 could do.

11 Q Did you have any weapons on you?

12 A No.

13 Q Did you know if Janice or Zay had anything?

14 A No. I don't know if he they did or not, but I doubt
15 they did.

16 Q All right. So you're told to leave. Before you
17 left, you said he was bleeding a lot. Do you remember
18 specific places where he was bleeding?

19 A I know he had right on his shoulder there was a
20 spot, and then at the top of his head, and I believe his
21 arm.

22 Q Okay. And while you were there, did you see anyone
23 actually strike him other than David Stokes?

24 A No.

25 Q Okay. But you mentioned that the defendant had that

1 gun on.

2 A Yes.

3 Q And I believe you mentioned other people might have
4 had clubs or sticks or something like that.

5 A Yes.

6 Q Now, Janice, at some point, did she ever try to help
7 him out?

8 A She did. That's what I was saying. While he was
9 standing there leaned against the wall and you could see
10 the blood dripping from his fingertips onto the floor,
11 she ran outside to get napkins that were in the vehicle
12 to help stop the blood.

13 Q When you got back in the car that you had just
14 arrived in -- this was Cook's car?

15 A Yes.

16 Q Who was driving?

17 A When we got to the house or when we're leaving the
18 house?

19 Q No. When you were leaving.

20 A When we were leaving the house, it was Audrea Cook
21 was driving.

22 Q Okay. And where did everybody sit?

23 A Janice sat up front with Audrea, myself, Zay and
24 Patrick Poole were in the back.

25 Q Okay. When you were leaving, did you notice any

1 other vehicles near the carport area or anything like
2 that?

3 A There was a white truck and I believe a station
4 wagon. It's been so long, I can't remember completely.
5 But I know the white truck was there.

6 Q Did you notice any other individuals leaving around
7 the same time that you -- the five of you?

8 A Bobby Ray left the same time we did because he
9 stopped me on the way out as we were getting in the
10 vehicles to tell me that that's why he had tried calling
11 me earlier in the day, was I have seizures, and they were
12 afraid that all the stress was going to cause me a
13 seizure from them doing whatever they had planned. And
14 he was trying to give me a heads-up, a warning so that
15 way I wouldn't, you know, spaz out and have a seizure on
16 them.

17 Q Okay. Did you see Bobby driving anything?

18 A He was in the white truck, I believe.

19 Q Okay. You saw him driving a white -- was it a
20 pickup truck of some kind?

21 A Yeah. It looked like it was a -- like a work truck.
22 He followed us out of the driveway as we left.

23 Q Did he follow you for very long?

24 A No. He turned off at like the first or second stop
25 sign.

1 Q Okay. And where did you go at this point?

2 A Audrea drove Janice home first. She was the first
3 stop in Boiling Springs. Because Zay lived in Landrum
4 and I lived in Gaffney, so we went to stop right at the
5 parking lot of a business right outside where Janice's
6 parents live.

7 Q And did she get out of the car?

8 A Who, Janice?

9 Q Uh-huh.

10 A Yes.

11 Q What did you do at that point?

12 A Right about that time as she got out of the car or
13 just before, Audrea Cook's phone just started ringing and
14 ringing and ringing. And she kept hitting ignore, but it
15 kept ringing. And finally, she hands the phone to
16 Patrick Poole and says, "Here. See what Jeff wants. He
17 won't leave me alone."

18 And so she handed the phone back to, you know, Shane
19 Poole. And he answered the phone, and then he just looks
20 at her and he goes, "You need to talk to him," and hands
21 her the phone.

22 And she gets on the phone with him and says, "Okay.
23 I've got to turn around and go back to the house and help
24 my team out. We'll have somebody drive you home."

25 So we turned around from Boiling Springs and went

1 all the way back to Greer and pulled up to the house.

2 Q When you pulled up to the house, where did you park?

3 A This time the car was pulled right in front of the
4 front door instead of the carport or by the back. She
5 pulled, you know, sideways at the house and in the front.

6 Q Anything you observed about the house at that point?

7 A As we were pulling up and coming in, that white
8 truck was backed up to the back deck with the tailgate
9 down and all the lights looked like they were out.

10 Q Okay. When you say "the back deck," are you talking
11 about the front door or the back?

12 A The back door.

13 Q The back door.

14 A Yes.

15 Q How could you see the back door?

16 A We couldn't see -- couldn't see the door, but
17 there's a deck. As you pull in through the driveway and
18 where she went to turn and park the car, as you're coming
19 around, you could see the truck sticking out from the
20 side of the house and part of the deck. You can't see
21 the door itself, but you could see the truck backed all
22 the way up to the deck.

23 Q Okay. So are you saying you could see maybe the
24 front of the truck from the roadway?

25 A You could see all -- the whole truck as you're

1 coming in, but you can't see the door. It's like that
2 angle was -- I can see probably a quarter of the deck
3 itself.

4 Q Now, was this the vehicle that you thought you had
5 seen Bobby driving away in when you left ---

6 A Yes.

7 Q --- earlier that night?

8 I'm showing you State's 102. Does that look
9 familiar at all to you?

10 A It's the carport at Audrea's house.

11 Q Okay. And this is State's 107, different angle.

12 A That's her car. And back there you can see where
13 the deck is.

14 Q Okay.

15 A So when she pulled us up front there, as you're
16 coming in the driveway and turning that way, you'll see
17 this (indicating) part of the deck right there with the
18 truck sticking out.

19 Q Why don't you show the jury on that TV there.

20 A Where the deck is here, it sticks out. And if you
21 can move the picture a little bit this way. There you
22 go. That's where she parked when we came back. The
23 angle of the house when you pull in the driveway, you
24 could still see this corner of the deck right there. The
25 truck was backed right up to it with the tailgate down.

1 You could see that as we pulled in (indicating
2 throughout).

3 Q Did that appear to be the same truck that you had
4 seen?

5 A Yes.

6 Q Did you go inside the house?

7 A No. We didn't get out of the vehicle.

8 Q Why not?

9 A We were told not to. We were told to just wait and
10 somebody would take over driving and take us home.

11 Q And Cook went inside the front door at that point?

12 A No, no. She went around the back.

13 Q She went around the back. But she didn't pull into
14 the normal driveway spot. She pulled around to the
15 front.

16 A Right.

17 Q How long were you there before you left again?

18 A Just a matter of moments.

19 Q Okay. And then who left the second time?

20 A It was Isaiah, myself and Shane Poole in Audrea's
21 car to finish the trip of taking us home.

22 Q Who got home first?

23 A Isaiah.

24 Q And then Poole took you to your house?

25 A Correct.

1 Q Did y'all spend any time together after that, you
2 and Poole?

3 A Yes. He came into my house and sat down on the
4 couch. I fixed the phone for him and we got high.

5 Q So did he leave eventually, though?

6 A Yes.

7 Q Okay. What did you do after that night? What did
8 you do about your friend Ivan? Did you try to contact
9 law enforcement?

10 A In a roundabout way. In the drug world, you don't
11 call the Police a lot of times. So in order to get
12 information and find out about my friend, I would contact
13 Audrea or someone else. But we also contacted the media
14 trying to find out information and get them to do
15 something. And then eventually, I just gave in and we
16 did contact Detective Haden from the Cherokee County
17 Sheriff's Office who put us in touch with Greenville
18 County who, at that time, I guess, was already
19 investigating and knew what had happened.

20 Q Okay. And what did you say to them?

21 A They asked if they could come to my house and talk
22 to me about it, and I told them yeah. They drove to my
23 house later that morning. And it was the detectives
24 there. And they asked me what happened, and I told them
25 the story. And they showed me some mug shots of

1 different people and asked me to identify people who were
2 there, which I did.

3 Q How were you able to identify any of these
4 individuals? Were you able to provide them any names, I
5 should say, before you ---

6 A Some of the names that I did provide to the
7 detectives were incorrect names. The photos that I
8 picked up -- out in the lineups were correct. It was the
9 names I had wrong because I did like people do nowadays
10 and I was a junior detective sleuth on Facebook, you
11 know, trying to piece together the people I didn't
12 recognize.

13 Q Was one of the names that you gave them a guy named
14 Andrew Pulley?

15 A Yes.

16 Q What did you initially tell them about Andrew
17 Pulley?

18 A That he looked, you know, similar to Patrick Poole
19 but without the beard, and also that a phone that I had
20 just sold to Ivan before the incident was now being put
21 on Facebook marketplace by Andrew Pulley. And it's --
22 the charger in the picture still had my wife's hair band
23 wrapped around it. So, you know, I thought that that was
24 who was there if he had that phone.

25 Q So you saw him on Facebook trying to sell Ivan's

1 stuff and you thought that guy was there. Did you also
2 tell investigators that you thought he was the guy with
3 the machetes initially?

4 A I don't think I told them that he was the guy with
5 the machetes. I could have. It's been five years and my
6 memory's not completely, you know, up to par on what that
7 is or what was said five years ago.

8 Q When they actually -- did they show you a six-photo
9 lineup that included Andrew Pulley?

10 A They did.

11 Q And when you got that photo lineup, what did you
12 tell them at that point? Did you tell them the same
13 thing you just told me, that this guy was selling Ivan's
14 stuff online?

15 A Yes.

16 Q Okay. Did you say that that's the guy with the
17 machetes at that point?

18 A I don't know if I did or not. I can't remember.

19 Q Did you also give them a name Levi Spalding?

20 A I did.

21 Q Okay. Who was Levi Spalding?

22 A Come to find out his real name was Isaiah Hill.
23 That was just a name he went by, you know, on Facebook
24 was Levi Spalding. He's the one that was in the house
25 when we got there standing against the stove with his

1 hands in his pockets and staring at the ground.

2 Q Okay. But at the time you told law enforcement ---

3 A I thought he was Michael Tucker, if that's what
4 you're asking.

5 Q No. I'm just asking you, you thought somebody was
6 Levi Spalding.

7 A Right.

8 Q Okay. So you never got a lineup necessarily of Levi
9 Spalding.

10 A No.

11 Q Because that was just a name you found on Facebook
12 and that could have been an incorrect name.

13 A Right.

14 Q What about Jeff George? Did you find him on
15 Facebook?

16 A Yes.

17 Q Okay. And were you pretty confident that this was
18 the guy that held the gun on Ivan?

19 A I mean, I was 100 percent. I remember his face.

20 Q Okay. When investigators, they -- I think they met
21 with you a couple different times at your house in
22 Gaffney, right?

23 A Twice, yes.

24 Q Do you remember who the investigators were?

25 A It was Detective Bailey, and I apologize. I forget

1 the other detective's name. But it's the two detectives
2 sitting right there.

3 Q Okay. And when they met with you, did they show you
4 some photo lineups?

5 A They did.

6 Q Did they -- before they showed these to you, did
7 they tell you -- did they suggest who you should pick or
8 anybody like that?

9 A They -- they just said, "I'm going to show you a
10 piece of paper with some photos on it. Let me know if
11 you recognize anyone in the photos. And if you do,
12 circle it, initial it, date it and then tell me where you
13 recognize them from and write an affidavit."

14 Q Did they show you these photos one at a time or all
15 at once?

16 A There's six photos on each piece of paper, and they
17 would show one and let me look at it and two, you know,
18 and so forth.

19 Q Okay. Were the people that they showed you in these
20 photo lineups similar features to each other?

21 A Yes.

22 Q And were the photos all the same size?

23 A Yes.

24 Q They didn't make any suggestions regarding those
25 photos.

1 A No.

2 Q I'm showing you State's 197 and 198. First of all,
3 197, do you recognize that?

4 A I do.

5 Q What is it?

6 A It's the photo lineup that was shown to me of Jeff
7 George.

8 Q Okay. And did you make a selection?

9 A I did.

10 Q What did you select?

11 A I selected Photograph Number 4. I initialed it and
12 dated it.

13 Q Okay. Does that photo lineup appear to be in the
14 exact same condition as when you circled it?

15 A It does.

16 Q Has it been altered in any way?

17 A No, sir.

18 Q When they showed you that photo lineup, did you
19 hesitate to make a selection?

20 A No.

21 MR. WILLIAMS: Okay. Your Honor, at this time, the
22 State would move to have 197 admitted into evidence.

23 THE COURT: Any objection?

24 MR. MARCHANT: Subject to the previous objections.

25 THE COURT: So noted.

1 (WHEREUPON, State's Exhibit Number 197 was admitted into
2 evidence.)

3 MR. WILLIAMS: Permission to publish, Your Honor.

4 THE COURT: All right. Same objection?

5 BY MR. WILLIAMS:

6 Q All right. Is that the photo lineup that you were
7 provided with?

8 A It is.

9 Q And you indicated Number 4 right here (indicating)?

10 A Yes.

11 Q And that's the date of December 17th?

12 A Yes, sir.

13 Q Are these your initials, TD?

14 A It is.

15 Q Okay. So you identified the defendant right there.

16 A Yes.

17 Q All right. Now, Exhibit 198, would you take a look
18 at that and tell us if you recognize it?

19 A I do.

20 Q What is it?

21 A It's the affidavit that I wrote to go along with the
22 photo identification.

23 Q Okay. Would you go ahead and -- first of all, is
24 that an accurate copy of that affidavit?

25 A It is.

1 Q You filled it out?

2 A I did.

3 Q You signed it?

4 A I did.

5 Q Has it been altered in any way?

6 A No.

7 MR. WILLIAMS: Your Honor, at this time, the State
8 would move 198 into evidence.

9 THE COURT: Subject to the same objection.

10 (WHEREUPON, State's Exhibit Number 198 was admitted into
11 evidence.)

12 BY MR. WILLIAMS:

13 Q Would you go ahead and tell us what you wrote on
14 that affidavit about the defendant, Jeff George, who you
15 just identified.

16 A Yes. It said that I identified Jeff George as being
17 the person who had the pistol during the assault of Ivan
18 Gula at the house located at 212 C and S Drive in Greer
19 on December 1, 2019. And then I signed it and put my
20 phone number and address.

21 Q Do you see the defendant in court today?

22 A I do.

23 Q Where is he?

24 A He's sitting to the left -- my right of the counsel
25 man.

1 Q At this table over here (indicating)?

2 A Yes.

3 Q You're talking about this man right here
4 (indicating)?

5 A Yes.

6 Q That's Jeff George?

7 A Yes.

8 Q That's the man? Is there any doubt in your mind
9 that that's the man that held a gun on your friend that
10 night?

11 A No, sir.

12 Q No doubt whatsoever.

13 A None whatsoever.

14 Q All right. Were you also shown a photo lineup of a
15 man named Bobby Smith?

16 A I was.

17 Q I'm showing you State's 199 and 200. Would you
18 please identify both of those.

19 A The first one is the photo lineup of -- with Bobby
20 Smith, and the second one is the affidavit for the
21 identification.

22 Q Did you identify Bobby Smith? Did you circle his
23 photo?

24 A I did.

25 Q And what did you say in the affidavit?

1 A It says, "The person being identified as Bobby Ray
2 Smith who was at 212 C and S Drive in Greer on
3 December 1, 2019, participating in the assault of Ivan
4 Gula." I then signed it, put my address and phone
5 number.

6 Q Are those documents in the same condition as when
7 you saw them that day?

8 A They are.

9 Q Have they been altered in any way?

10 A No, sir.

11 MR. WILLIAMS: Your Honor, at this time, the State
12 would move State's 199 and 200 into evidence.

13 THE COURT: Any objection?

14 MR. MARCHANT: Subject to the same objections, Your
15 Honor.

16 THE COURT: All right. So noted.

17 (WHEREUPON, State's Exhibit Numbers 199 and 200 were
18 admitted into evidence.)

19 BY MR. WILLIAMS:

20 Q Were you shown a photo lineup of Audrea Cook?

21 A I was.

22 Q I'm showing you State's 201 and 202. Would you
23 please tell us what those documents are.

24 A It's the photo lineup of Audrea Cook and my
25 affidavit for the identification.

1 Q Okay. Fair and accurate copy of both of those?

2 A Yes.

3 Q Which photo did you select?

4 A She was Number 5.

5 Q Okay. And then what did you say in the affidavit?

6 A Let's see. It says, "Audrea Jones Cook who owns the
7 house at 212 C and S Drive in Greer, South Carolina,
8 where I saw her and others attack Ivan Gula." And then I
9 signed it and put my address and phone number again.

10 Q Have either of those documents been altered in any
11 way?

12 A No.

13 MR. WILLIAMS: Your Honor, the State moves State's
14 201 and 202 into evidence.

15 THE COURT: Any objection?

16 MR. MARCHANT: Subject to the same objection, Your
17 Honor.

18 THE COURT: So noted for the record.

19 (WHEREUPON, State's Exhibit Numbers 201 and 202 were
20 admitted into evidence.)

21 BY MR. WILLIAMS:

22 Q All right. Now I'm showing you State's 203 and 204.
23 Can you tell us what those documents are?

24 A It is a photo lineup containing Patrick Poole and my
25 affidavit of identification.

1 Q Did you circle that photo of Patrick Poole there?

2 A I did. He was Number 3.

3 Q Did you also fill out that affidavit?

4 A Yes, I did.

5 Q Either of those documents been altered in any way?

6 A No, sir.

7 Q What did you say about Patrick Poole?

8 A I said, "Patrick Shane Poole who was at the house
9 located at 212 C and S Drive in Greer who participated in
10 the assault on Ivan Gula and was the driver of the
11 vehicle who brought me home." And then I signed it,
12 address and phone number.

13 MR. WILLIAMS: Your Honor, at this time, the State
14 would move Exhibits 203 and 204 into evidence.

15 THE COURT: All right. Subject to the same
16 objection?

17 MR. MARCHANT: Yes, Your Honor.

18 THE COURT: All right. So noted.

19 (WHEREUPON, State's Exhibit Numbers 203 and 204 were
20 admitted into evidence.)

21 BY MR. WILLIAMS:

22 Q And were you also presented with a photo lineup of
23 David Stokes?

24 A I was.

25 Q Showing you State's 205 and 206. Do you recognize

1 those documents?

2 A Yes. They're the photo lineup for David Stokes and
3 my affidavit for identification.

4 Q And you made that -- you circled that photo for
5 David Stokes?

6 A I did.

7 Q And what did you say about David Stokes in the
8 affidavit?

9 A "David Stokes was the person who was hitting Ivan
10 Gula with a machete at the house located at 212 C and S
11 Drive in Greer on December 1, 2019." And then I signed
12 it, address and phone number again.

13 Q Both of those documents true and authentic?

14 A Yes.

15 MR. WILLIAMS: Your Honor, at this time, the State
16 would move Exhibits 204 [sic] and 205 into evidence.

17 THE COURT: Subject to the same objection,
18 Mr. Marchant?

19 MR. MARCHANT: Yes, Your Honor.

20 THE COURT: All right. So noted.

21 (WHEREUPON, State's Exhibit Numbers 205 and 206 were
22 admitted into evidence.)

23 BY MR. WILLIAMS:

24 Q Okay. Now, at one point, you told investigators
25 someone named Michael Tucker you believed was there?

1 A Yes.

2 Q What did you believe this person to be doing at that
3 -- during your time at the trailer there? What was his
4 role?

5 A He was the one that came and told Shane Patrick
6 Poole to take us home and get some cell phones out of the
7 car and take to Audrea.

8 Q Okay.

9 A I think originally, I had mistaken Levi Spalding for
10 Michael Tucker in the beginning.

11 Q Were both of these individuals harder for you to
12 remember for any reason?

13 A Yes. Because they weren't involved. They didn't
14 have -- involved in a way of like they didn't have a
15 weapon, they weren't, you know, the aggressors. That's
16 always who you're going to remember are the people who
17 are, you know, standing there with the weapon versus the
18 person who's leaned against the stove and, you know, not
19 acting as if they were part of the incident.

20 Q But you remember David Stokes very well.

21 A Very, very well.

22 Q And you remember the defendant, Jeff George, well.

23 A I do.

24 Q He was the one holding the gun on Ivan.

25 A Right.

1 MR. WILLIAMS: Your Honor, I misspoke. I should
2 have said 205 and 206. So please move 206 into evidence.

3 THE COURT: All right. Same -- noted for the
4 record. Subject to the objection.

5 MR. WILLIAMS: I have no further questions, Your
6 honor.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, we're going to take a break. And I know I'm a
9 little later than I would like to be, but we've got to
10 try to move this along as much as we can.

11 It is 1:45. I'm going to ask you to be back in your
12 jury room exactly at 3 o'clock, exactly 3 o'clock so we
13 can get started.

14 Please, ma'am, please, sir, do not talk about the
15 case to each other or do anything at the break or any
16 kind of research or anything like that, okay?

17 All right. I'll see you back at 3 o'clock.

18 And, sir, you're still under oath. Hold on one
19 second.

20 (WHEREUPON, the jury exits the courtroom at 1:48 PM.)

21 THE COURT: All right. Sir, you're still under oath
22 and you can't talk to anybody about the case. Do you
23 understand that?

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay. All right. We're going to be

1 down until about 3 o'clock, gentlemen.

2 (WHEREUPON, a recess is taken at 1:48 PM.)

3 THE COURT: Are y'all ready? Mr. Marchant, are you
4 ready?

5 MR. MARCHANT: Yes, Your Honor.

6 THE COURT: Okay. Bring them in.

7 (WHEREUPON, the jury entered the courtroom at 3:02 PM.)

8 THE COURT: All right. Madam Court Reporter, we're
9 back on the record.

10 Cross-examination, Mr. Marchant?

11 CROSS EXAMINATION

12 BY MR. MARCHANT:

13 Q Mr. Dillard, do you go by Micco sometimes?

14 A Yes, sir.

15 Q And your wife is Dorothy Lynnette White; is that
16 right?

17 A Yes.

18 Q And she was present during an interview that you had
19 with Investigator Bailey out at your house, right?

20 A Correct.

21 Q Your version of events is that you were going to
22 Ms. Cook's house to fix her computer.

23 A Right.

24 Q Okay. And sell her a phone?

25 A No. Not sell her a phone.

1 Q Okay. But you sell phones or you fix phones or
2 something like that for a living?

3 A I do. Not for a living. I just do it on the side.

4 Q Okay. What do you do for a living?

5 A I'm disabled.

6 Q Why are you disabled?

7 A For mental health reasons.

8 Q So you have an official diagnosis on record?

9 A I do.

10 Q And what is the diagnosis?

11 A There are several of them.

12 Q Okay.

13 A Do you need to me to list off all of them?

14 Q Yes, sir.

15 A All right. There's everything from PTSD, anxiety,
16 agoraphobia. I can't think of how they word it. It's
17 bipolar. And then it goes into I have seizures because
18 of a brain aneurysm.

19 Q Okay. And you take medication for those conditions?

20 A I'm supposed to, but I had been off my medications
21 for quite a while.

22 Q Today is September 19, 2024. When's the last time
23 you took any of those medications?

24 A Probably two months ago.

25 Q Okay. Prior to two months ago, were you taking it

1 daily?

2 A No. I mean, it's off and on. It's sporadic. When
3 you have issues like I have with the PTSD and mental
4 health issues, you tend to feel like you don't need the
5 medication, you know. You take it and you feel well
6 enough and so you stop taking it because you don't need
7 it. And it's a pretty bad cycle.

8 Q So you go to the doctor and the doctor just gives
9 you a bottle of prescription medication and says take it
10 as needed for the symptoms of bipolar?

11 A It's not as needed. It's I go to the doctor and
12 they would give me the medication and I'm supposed to
13 take it on a set schedule. But after a while, I feel
14 like I don't need it.

15 Q You make the decision that you don't need ---

16 A Yes.

17 Q --- to take prescribed medication by a doctor.

18 A Yes.

19 Q Were you taking that medication back in December of
20 2019?

21 A I was not.

22 Q How long had you been off your medication?

23 A I don't know. I don't know.

24 Q When did you become disabled? You don't have to
25 give me an exact date, but generally speaking, 2000?

1 2010? 1990?

2 A Probably '99, somewhere in there. And then I didn't
3 actually get disability until 2007, I think. Somewhere
4 around there.

5 Q You have disability through the federal government?

6 A Yes.

7 Q And so you get a check each month.

8 A Yes.

9 Q Because you cannot work.

10 A Right.

11 Q Okay. How much do you get each month?

12 A I think before the deduction for child support, it's
13 roughly \$1,300 a month.

14 Q Does your wife work?

15 A Yes.

16 Q What sort of work does she do?

17 A It varies. Right now she works for Dollar General.

18 Q Is she a manager or ---

19 A Yes. She's a keyholder.

20 Q Back in 2019, were you employed then?

21 A No.

22 Q Was your wife?

23 A Off and on.

24 Q You were using methamphetamine pretty much daily
25 back in 2019, weren't you?

1 A Yes.

2 Q And using it pretty regularly since then as well,
3 right?

4 A Except for there was a period of time that I was
5 clean for over a year.

6 Q You used on Sunday of this very week, did you not?

7 A I did.

8 Q Did you use today?

9 A No, sir.

10 Q Not last night either, did you?

11 A No, sir.

12 Q Who did you use with on Sunday?

13 A Myself.

14 Q Nobody else?

15 A Hu-uh.

16 Q Does your wife use methamphetamine?

17 A My wife and I have been separated for three months.
18 She lives in another city.

19 Q So where are you living right now?

20 A Calhoun Falls.

21 Q Calhoun Falls.

22 Who are you living with?

23 A Myself.

24 Q How much is your rent each month?

25 A About \$300 a month.

1 Q \$300?

2 A Uh-huh.

3 Q Do you live with someone else?

4 A No.

5 THE COURT: Pull your seat up a little bit.

6 THE WITNESS: Yes, sir.

7 THE COURT: Speak into that microphone.

8 BY MR. MARCHANT:

9 Q Okay. So you've got roughly another thousand
10 dollars a month to live off of.

11 A No. I have other bills.

12 Q Well you've got a thousand dollars to pay the rest
13 of your bills ---

14 A Yes.

15 Q --- each month.

16 A Correct.

17 Q On Sunday of this week, how much methamphetamine did
18 you use?

19 A About a quarter of a gram, maybe.

20 Q All right. How much does a quarter of a gram go
21 for?

22 A I'm not sure.

23 Q Well, how did you get it if you don't know how much
24 it costs? Did somebody give it to you?

25 A I mean, I don't buy it in the amount of a quarter of

1 a gram. I buy it in a larger amount.

2 Q Okay. Well, how much did you buy?

3 A The last time I purchased it, I bought a gram.

4 Q A gram. How much did the gram cost?

5 A \$25.

6 Q \$25 for a gram.

7 A Uh-huh.

8 Q How much did it cost back in 2019?

9 MR. WILLIAMS: Objection, Your Honor. I don't see
10 the relevance of this line of questioning.

11 MR. MARCHANT: Judge ---

12 THE COURT: Hold on a second.

13 All right. Ladies and gentlemen of the jury, let me
14 send you back to your jury room just for a second. I'll
15 bring you right back out.

16 Please, ma'am, please, sir, do not talk about the
17 case to each other. Bring you right back out.

18 (WHEREUPON, the jury exits the courtroom at 3:09 PM.)

19 THE COURT: All right. Now let me hear this dialog.

20 MR. WILLIAMS: Your Honor, the State agrees that
21 drug use is relevant throughout this whole case. But
22 getting down to the nickels and dimes of how much it cost
23 and how much do you buy and all that kind of stuff, I
24 don't know how that's relevant.

25 THE COURT: What's the relevance of that? I thought

1 the same thing.

2 MR. MARCHANT: Judge, it goes to -- everything that
3 this man is testifying to is about his credibility. And
4 the amount of drugs he was using and the value of the
5 drugs that he was using is going to be further explored
6 by me with other witnesses.

7 THE COURT: Tell me how the value of the drugs ---

8 MR. MARCHANT: It goes to his believability and the
9 truthfulness of what he's saying.

10 THE COURT: Whether he said he paid \$25 or not, does
11 that ---

12 MR. MARCHANT: That's part of it. And I asked him
13 how much he was paying back in 2019 and how frequently he
14 was using. He's not working.

15 MR. WILLIAMS: It's totally fine for him to get into
16 the fact of how often he used and all that sort of thing.
17 But why we're talking about how much it cost, \$25 a gram,
18 I don't feel how that's relevant.

19 THE COURT: I think the first part is relevant in
20 terms of how often he used and did he use before he got
21 in here, are you using during the time this occurred.
22 All that's relevant. But to ask him how much he paid for
23 it, Mr. Marchant, it escapes me to see how that's
24 relevant to anything. I mean, he paid 25. The next guy
25 might pay 50. I don't know. I don't see how that helps

1 your case.

2 You know, and I'll say this. You know, you can ask
3 all these questions and I'm going to give you a lot of
4 leeway in this case and let you ask as many questions as
5 you want to. But when you roll outside the area of
6 relevance, all you're doing is extending the time it's
7 going to take to try this case. And, you know, it was
8 scheduled for a week. That's all I'm saying. So do what
9 you want to do. But I'm just saying just keep that in
10 mind. Let's just be relevant.

11 So in response to the objection, I think his usage
12 today, yesterday or the day before, even at the time of
13 this incident is relevant. But I don't think that what
14 he paid for it and who he bought it from, I don't see any
15 relevance of that. I deem that not to be relevant.

16 But I'll let you respond to that, Mr. Marchant. I
17 want to be fair. You can respond to what I just said.

18 MR. MARCHANT: Well, Judge, I think one of the
19 answers that he's either already given that I believe is
20 -- I'm entitled to explore is he said Audrea Cook drove
21 to his house to sell him drugs.

22 THE WITNESS: When I first met her.

23 THE COURT: Right. Okay. That's fine. What's the
24 follow-up?

25 MR. MARCHANT: Can I get into that? I mean, it's

1 cross-examination. I'm entitled to some latitude to
2 explore the questions that were asked on direct
3 examination.

4 THE COURT: Well, see, if you're talking about
5 Audrea Cook, I will allow you to ask what Audrea Cook --
6 well, if Audrea is still using drugs, how much did you
7 pay her? But this is a general question about how much
8 you paid for the drugs. That's too general. So I'm
9 going to be -- you know, I think you can ask -- if you
10 went to Audrea Cook's house to buy some drugs, I think
11 you can ask him how much did you pay her. I think that's
12 okay. But just to ask how much your drugs cost, I don't
13 think that's relevant.

14 MR. MARCHANT: Yes, sir.

15 THE COURT: All right. Let's bring them back.

16 (WHEREUPON, the jury entered the courtroom at 3:14 PM.)

17 THE COURT: Mr. Marchant?

18 MR. MARCHANT: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 BY MR. MARCHANT:

21 Q All right. Mr. Dillard, you previously testified in
22 this case this week, right?

23 A Yes. On Monday.

24 Q And when I asked you on Monday if you were bipolar,
25 you told me no. Do you remember that?

1 A You asked if I was schizophrenic.

2 Q I said or bipolar and you said no?

3 A I'm sorry. I didn't hear that part.

4 Q Didn't hear that part. Okay.

5 So back in 2019, you're using methamphetamine just
6 about every day.

7 A Yeah.

8 Q Right?

9 A Just about.

10 Q And so in December of 2019, going backwards, were
11 you using it daily for one year? two years? three years?

12 A I've used methamphetamine since probably 2016 until
13 2020 where I was sober for about a year and relapsed and
14 have struggled to try to quit.

15 Q And you've been on disability well before 2016.

16 A Yes.

17 Q So you're spending your federal paycheck on drugs.

18 A Sometimes. Most of the time I work on cell phones
19 or computers to obtain my drugs.

20 Q And so the night that you testified about on
21 December 1st, you had gotten high with Ivan, right?

22 A No.

23 Q No?

24 A Not that night. That was the intent was to go to
25 Audrea's house to get drugs.

1 Q I thought you said you smoked methamphetamine that
2 night.

3 A I did not. I said that that was the intent was to
4 go to her house so I could get the drugs. I had nothing
5 before that. I was sober that night.

6 Q All right. You were messaging with Ivan over
7 Facebook that night, right?

8 A I was.

9 Q Yeah. Told him you had a bad day, right?

10 A Uh-huh. I did.

11 Q Been trapped in a coffin for weeks.

12 A Uh-huh.

13 THE COURT: Make sure you say yes or no.

14 THE WITNESS: Yes.

15 BY MR. MARCHANT:

16 Q I really want to eat the barrel of a gun.

17 A I did. I was depressed.

18 Q And you're telling this to Ivan?

19 A Uh-huh. I did.

20 Q And the response between the two of y'all was to go
21 get high?

22 A That's how most drug addicts solve their problems is
23 by getting high.

24 Q You also told him I'm on the verge of a total
25 nuclear meltdown.

1 A I was.

2 Q What does that mean to you of you having a total
3 nuclear meltdown?

4 A It stems from my wife and I having a disagreement
5 and an argument. To me, a total nuclear meltdown would
6 be us getting into a fight and argument and me being loud
7 and obnoxious.

8 Q What were you having a nuclear -- or this argument
9 about?

10 A There's no telling.

11 Q All right. So Ivan comes and picks you up, right?

12 A Right.

13 Q You'd never been to this trailer before.

14 A No.

15 Q Correct?

16 A Correct.

17 Q Never met Mr. George before.

18 A No.

19 Q Really never met anybody in the trailer at all
20 before except Bobby Smith, right?

21 A Bobby Smith and Audrea.

22 Q And you say Bobby tries to call you before coming
23 over there?

24 A As Ivan was picking me up, my phone kept ringing on
25 Facebook. And it was Bobby Ray, but I kept -- I hit the

1 ignore button twice and didn't answer it.

2 Q Why?

3 A Because we weren't close friends. I hadn't really
4 spoken to him in two years. And I was more interested in
5 Ivan and what was going on with Audrea's car and getting
6 out of the house because I was fighting with my wife and
7 didn't -- didn't know that he was at Audrea's house at
8 the time.

9 Q Bobby Ray, if you hadn't known him or seen him in
10 two years, why would he call and tip you off about
11 anything?

12 A Because they all knew that I had seizures. He and
13 Audrea knew that I have seizures, and they were afraid
14 that I was going to get stressed out from whatever was
15 going to happen and have a seizure.

16 Q All right. So you testified on direct that you got
17 over to the house, and Bobby Ray meets you in the
18 driveway?

19 A He comes out the door, stands at the back of the car
20 in the driveway.

21 Q And he demands the keys to the car?

22 A He said he wasn't moving from where he was until he
23 gets the keys.

24 Q He's upset?

25 A He wasn't upset. He was -- it was matter of factly.

1 Like, you know, he said -- I said, "Come on. Let's go in
2 the house."

3 He said, "Well, I'm not moving until I get the keys
4 to the car."

5 Q You also testified earlier that Ivan and Audrea are
6 dating.

7 A They supposedly were seeing each other. If you've
8 got my Facebook messages, you should have the rest of the
9 conversation.

10 Q And so Bobby ushers y'all into the house, right?

11 A He and Audrea do. Audrea's standing at the top of
12 the stairs on the deck and says, "Come on in. Excuse the
13 mess."

14 Q Let me show you State's 43. Did y'all park
15 underneath the carport?

16 A We did. We did.

17 Q Same one that you see in 42?

18 A Correct.

19 Q Okay. And so were you able to pull in far enough to
20 see the back deck?

21 A What, from the back of the car?

22 Q Wherever you say you parked the car.

23 A Right. The front of her car was just past right
24 where those logs are right there. Like you almost ran
25 over the logs there.

1 Q Right. So those logs were there on December 1st.

2 A I don't know. I'm saying he would have almost run
3 over those logs.

4 Q Okay.

5 A The front of the car was right where that -- just
6 past where that pole is.

7 Q And Audrea's on the front porch?

8 A No. Back porch.

9 Q Excuse me.

10 A The one that was right there in the photo.

11 Q You didn't see anybody else?

12 A No.

13 Q You go inside. You go sit on the couch, right?

14 A Yes.

15 Q Okay.

16 A I saw somebody when I got in the house. That's
17 where the Levi Spalding/Isaiah Hill was.

18 Q Okay. Let's talk about Levi Spalding since you
19 mentioned him. How did you identify Levi Spalding?

20 A There was a post made by Audrea Cook five days after
21 the incident where she tagged certain people on Facebook
22 and said that she was having a good time with family and
23 friends. And the people she tagged were David Stokes and
24 Levi Spalding. And upon clicking on his name and viewing
25 his profile, there was the picture of Isaiah Hill going

1 by the name Levi Spalding on Facebook. And it was the
2 same man that was standing in the kitchen when I got
3 there.

4 Q And you told this to law enforcement?

5 A I did.

6 Q Did you ever talk to Isaiah Hill at some point in
7 time?

8 A I have.

9 Q Did you tell law enforcement that you talked to
10 Isaiah Hill?

11 A I did.

12 Q You did.

13 A Well, I don't know if I told law enforcement or if I
14 told the solicitor's office.

15 Q You told Mr. Williams that you talked to Isaiah
16 Hill, right?

17 A Yes.

18 Q Okay. This guy that did the questioning with you.

19 A Right.

20 Q Okay. You then told that to law enforcement,
21 specifically Investigator Bailey, on July 31, 2024.

22 A Okay. It's possible.

23 Q So 60, 90 days ago you held that information for
24 four or five years.

25 A No. I gave that information a lot sooner than that.

1 Q Well, we're going to see what Investigator Bailey, I
2 guess, has to say about that.

3 A Investigator Bailey might not have gotten the
4 information until then, but the solicitor's office had
5 the information.

6 MR. WILLIAMS: Your Honor, objection.
7 Argumentative.

8 THE COURT: I'm going to allow it. Go ahead.

9 BY MR. MARCHANT:

10 Q When did you meet with the solicitor's office?
11 Because I'm telling you, Investigator Bailey comes out to
12 your house on July 31st of this year. So how soon or how
13 much earlier than July 31st of this year did ---

14 A The trial was originally set for ---

15 Q I need to finish my question.

16 A Sorry.

17 Q How soon did you tell this solicitor about Mr. Hill?

18 A I believe it was when I came for pretrial the last
19 time the trial was scheduled. So that would have been --
20 the trial was scheduled for, what, December, of last
21 year? Pretrial would have been several months before, so
22 probably in the summer.

23 Q So last summer, 12 months ago ---

24 A Uh-huh.

25 Q --- give or take is when you told this solicitor

1 that you had made contact with Isaiah Hill.

2 A Yes.

3 Q And Isaiah Hill -- don't tell me what he said.

4 A I'm not.

5 Q Isaiah Hill had information about this case.

6 A Yes.

7 Q Correct?

8 A Correct.

9 Q Had lots of information.

10 A Correct.

11 Q Firsthand information.

12 A Correct.

13 Q So you sat down with law enforcement on December 16,
14 2019, when Investigator Bailey and Investigator Garrett
15 come to your house.

16 A Yes.

17 Q And then they come back the next day.

18 A Right.

19 Q Okay. In between December 1st when this event
20 occurred and December 16th when they came to your house,
21 you used methamphetamine every day.

22 A No.

23 Q Right?

24 A Most days, but not every day, no.

25 Q Are you sure that was what your testimony was

1 previously?

2 A Well, I mean, I used methamphetamine almost every
3 day, but at that particular time when -- from the time
4 that Ivan was killed till the time that investigators
5 came to see me, I had had several seizures from stress
6 and was asleep for a day or two at a time. But the days
7 that I was awake, yes, I used meth.

8 Q Okay. Were you not using it because you lost your
9 source of supply in Ivan?

10 A No. There's always a supply. I was not using
11 because I had had seizures and was knocked out cold.

12 Q So they show up at your house and they show you a
13 bunch of photographs based off of information that you
14 provided them, correct?

15 A Yes.

16 Q I'm showing you what's marked as Defendant's 2 and
17 Defendant's 3. Tell me if you recognize those. Is that
18 your signature on them?

19 A (Reviews exhibits) It is.

20 Q Let me show you Defendant's 4 and Defendant's 5, see
21 if you recognize those.

22 A (Reviews exhibits) I do.

23 Q They're the same as when you signed them?

24 A They are.

25 Q All right.

1 A I don't know that the signature looks different, but
2 it probably is.

3 Q Well, no. We need to be real clear. You're telling
4 me on Defendant's 5 ---

5 A It's my initials, just a different pen from a
6 different day. It's blue ink instead of black.

7 MR. MARCHANT: I move Defendant's 2, 3, 4 and 5 into
8 evidence.

9 MR. WILLIAMS: No objection, Your Honor.

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

12 (WHEREUPON, Defendant's Exhibit Numbers 2 through 5 were
13 admitted into evidence.)

14 BY MR. MARCHANT:

15 Q All right. So, Micco, on December 17, 2019, you
16 tell Investigator Garrett, he's the one that was with you
17 as well as Bailey, that Michael Tucker was involved in
18 the assault on Ivan Gula, right?

19 A Right.

20 Q Okay. And specifically, you've identified picture
21 Number 2 as Michael Tucker.

22 A Right.

23 Q Okay. Those are your words. That's your
24 handwriting, right?

25 A Yes, sir.

1 Q You know as a result of this identification of
2 Michael Tucker, murder warrants were signed out on him
3 and kidnapping warrants.

4 A I do not.

5 Q All right. Well, let's talk about Mr. Pulley. You
6 say, "I recognize Andrew Pulley as one selling items
7 belonging to Ivan Gula on Facebook." And then you've
8 identified Number 2 in Defendant's 5, right?

9 A Right.

10 Q You originally told law enforcement that Pulley was
11 the one committing the assaults inside the residence.

12 A I don't recall that.

13 Q You don't recall?

14 A Why would I sign an affidavit that says ---

15 Q No, sir.

16 A --- he was selling items the first time I meet law
17 enforcement rather than ---

18 Q No, sir. Your affidavit on the 17th says this
19 gentleman is the one you recognize as selling items on
20 Facebook ---

21 A Right.

22 Q --- is this guy. But you originally, the day
23 before, said he was the one assaulting Ivan inside the
24 residence.

25 A Okay. If I said that, that was a mistaken identity.

1 It had to do with stress from there being so much going
2 on.

3 Q So you're telling this jury that you have initially
4 misidentified this person as the one that was committing
5 the assault.

6 A No. I'm telling the jury that that person that I
7 identified is the one who was selling the items as the
8 affidavit states.

9 Q Yes. December 16th, the very first time these
10 investigators came out and talked to you ---

11 A Right.

12 Q --- you told them Andrew Pulley was the one that I
13 saw when I came inside the residence holding the machete
14 that assaulted Ivan. That's what you told them on the
15 16th.

16 A Okay. It's quite possible. It's -- was mistaken
17 identity.

18 Q Okay. And it's the next day is when you say, whoa,
19 whoa, whoa. I don't think that's true. I think he's the
20 one that's selling these items on Facebook.

21 A Okay. Yes.

22 Q And you specifically today identified a cell phone
23 and a charging cable that had your wife's hair tie on it.

24 A I didn't do that today. I did it then.

25 Q Are you sure about that?

1 A Yes.

2 Q Positive?

3 A (Non verbal answer.)

4 Q You know the recording of your interview is
5 available for you to listen to.

6 A What -- are you talking today as in today right now
7 or today as in the date that the ---

8 Q Today right now when you testified under oath, you
9 told this jury that the phone that you saw on
10 Facebook ---

11 A Had my wife's hair tie around it.

12 Q Right.

13 A Right.

14 Q You never told them that -- you've never told
15 anybody that before today.

16 A Then why do you have an affidavit that said he was
17 selling items?

18 Q It only says selling items. You never specifically
19 identified the item being the cell phone and the charging
20 cable.

21 A Not in writing, but I probably said it to the
22 detectives.

23 Q Okay. Well, I guess we can get the detective back
24 up here to see what he recollects.

25 Would it help you to listen to your recording or

1 your interview to refresh your memory?

2 A It probably would. It's been five years.

3 Q So you get inside the house. You're sitting on the
4 couch.

5 A Yes.

6 Q And you claim five men come from out of the back
7 bedroom.

8 A I said three come from out of the back bedroom.

9 Q Three. There's one standing in the kitchen.

10 A Right.

11 Q So there are three that come out of the back
12 bedroom.

13 A Correct.

14 Q And who are those three?

15 A It was David Stokes, Jeff George and Patrick Poole.

16 Q And Bobby Ray comes from outside and he locks the
17 door.

18 A He followed behind us as we came in. So he was
19 already standing in the kitchen with Audrea when they
20 came out of the back room.

21 Q So three people come out of the back room.

22 A Uh-huh.

23 Q And Stokes -- excuse me -- Bobby Ray Smith locks the
24 door.

25 A I don't know if he locked the door or not. He was

1 the last one in behind us.

2 Q I thought you testified a minute ago the door was
3 locked so nobody can leave?

4 A I was never asked about the door being locked.

5 Q Okay. Well, was the door ever locked?

6 A I don't know. The door was shut and it was told
7 that when Janice went outside to get the napkins, you
8 know, no cell phones. Go get her.

9 Q Okay.

10 A It was made very clear that we weren't free to
11 leave.

12 Q Who was it that told Janice she cannot go outside?

13 A It wasn't told to Janice. Audrea Cook said that to
14 Shane Poole, Patrick Poole, and told him to go get her
15 and bring her back in.

16 Q So Shane Poole is part of this whole thing.

17 A Yes.

18 Q He's an active participant. Did you ever see him
19 strike anybody?

20 A No.

21 Q But he's doing things to prevent you from leaving,
22 you're saying.

23 A Right.

24 Q Okay. But you never saw him touch or lay hands on
25 anybody?

1 A Hu-uh, no.

2 Q You're obviously scared of him if he is a
3 participant in this event.

4 A Right.

5 Q Okay. So he ends up driving you home, and you bring
6 him into your home. You give him a charging cable and
7 another cell phone and you smoke meth with him, right?

8 A Right.

9 Q But you're terrified of him.

10 A Right.

11 Q Did you give him the meth or did he supply it?

12 A He supplied it.

13 Q So the guy that's kidnapping you and that you're
14 fearful of is giving you methamphetamine.

15 A Okay.

16 Q Yes or no?

17 A Yes.

18 Q How much did you smoke?

19 A Whatever he had in his bowl.

20 Q You testified today that Stokes comes out and swung
21 about four times.

22 A Right.

23 Q Does it surprise you to hear that when you talked
24 with law enforcement on the 16th of December of 2019, you
25 told them that it was at least ten times?

1 A I don't recall that.

2 Q You testified today that Jeff George is standing up
3 the whole time always in the ready position, correct?

4 A No. I said that he kept dropping the gun and
5 bringing it back up, dropping it and bringing it back up.

6 Q But it was always in his hands.

7 A Yes.

8 Q Okay. Does it surprise you to know that on
9 December 16th you told law enforcement they he had a
10 holster and he kept putting the gun back in the holster,
11 that every time he felt like Ivan was going to get up,
12 he'd put his hand back on it like he was going to pull
13 it?

14 A It would surprise me.

15 Q It would surprise you?

16 A Yes.

17 Q Okay. You told law enforcement that Michael Tucker
18 was the gopher the whole time. He was getting phones,
19 telling -- telling us to do this and that. That's what
20 you told law enforcement on the 16th of December.

21 A He was the one that came out to the car and got the
22 cell phones out of the car when Audrea brought us back
23 and gave the information to Patrick Poole.

24 Q And as we sit here today, showing you Defendant's 3,
25 this guy right here, Michael Tucker who you identified in

1 Defendant's 2, that's the guy that was at the house.

2 A That's the guy that I saw when we got back to the
3 house the second time.

4 Q The second time.

5 A Well, I got there the first time with Ivan. The
6 second time was when Audrea brought us back there to
7 change drivers. That's when he came out and got the cell
8 phones out of the car and told Shane Poole, "Hey, Auddy
9 says drive them home."

10 Q Thousand percent sure.

11 A Not a thousand. I mean ---

12 Q Well, you've identified him as the person.

13 A Okay.

14 Q So how confident are you?

15 A Today? I'm not 100 percent sure of anything with
16 Michael Tucker. Like I said, I only saw him that one
17 moment there. It's been five years. A lot to try to
18 remember when he wasn't -- that person wasn't involved in
19 the actual attack.

20 You have to understand, when I spoke to detectives
21 after the incident, I was under a lot of stress. I had
22 just had this incident happened, my friend's gone. You
23 know, stressed out, things aren't clear. It's definitely
24 not clear five years later.

25 Q Things weren't clear then and they're less clear

1 now, right? We need a verbal answer.

2 A Yes. Some things.

3 Q And you had been using methamphetamine in between
4 the time of the event at Cook's house and in between the
5 time you met with these two investigators, right?

6 A Yes.

7 Q Perhaps that's why things are unclear, you've done
8 so much ---

9 A The -- the important parts of this case, no matter
10 who they are without names or anything, are always going
11 to be clear. I have nightmares because of what's
12 happened. There's certain people and certain things that
13 will never be clouded or be forgotten.

14 Q You've referred to Ivan as your best friend, right?

15 A Yes.

16 Q So close that you consider him an uncle.

17 A Right.

18 Q So you just see a man get assaulted with a machete,
19 bleeding profusely. You are required to be carried away
20 from the house.

21 A Right.

22 Q You do not call law enforcement.

23 A When we were even leaving out of the house to get in
24 the car to go, Zay tried to pull out his phone to see
25 what time it was and Shane Poole snatched the phone out

1 of his hand and said, "No phones."

2 Q Okay.

3 A I had just witnessed my friend being attacked in a
4 situation that there were so many people, it was
5 shocking. There was no way for me to help him or do
6 anything, and then shock kicks in and you don't think
7 clearly. Whether methamphetamines or not, which I wasn't
8 high at that time, you don't think of anything that is, I
9 guess, how do I put it? That you should do, that would
10 be a normal, rationalized thought because you're in
11 shock. Now I'm being put in a vehicle with, you know,
12 other people that these people have just committed this
13 act, what's going to happen to us?

14 So no. I wasn't thinking about calling law
15 enforcement or anything. I was thinking about getting
16 home alive to my family.

17 Q And you got home alive and you smoked meth with one
18 of your captors?

19 A Right. Because if I saw what he just did to my
20 friend, why would I want to make him think I was a
21 threat?

22 Q Well, what did Poole do to your friend?

23 A Poole didn't do anything to my friend.

24 Q Right. The only person you saw do anything was
25 David Stokes.

1 A Right.

2 Q He's the only person that assaulted Ivan.

3 A That I saw. That I saw.

4 Q That's all you know. You can't talk about anything
5 else.

6 A Right.

7 Q Right?

8 A Right.

9 Q Okay. So you smoke some meth. You wake up the next
10 morning. You call law enforcement.

11 A No.

12 Q You didn't call law enforcement the next day?

13 A No.

14 Q What about the day after that?

15 A No.

16 Q The day after that?

17 A No. It took almost probably 12 days before I called
18 law enforcement. Until law enforcement told me, I didn't
19 know he was dead. I was looking for him.

20 Q You were looking for him.

21 A Yes.

22 Q Did you call Bobby Ray Smith?

23 A I spoke to him. I spoke to Audrea Cook. I would
24 check hospitals, news articles, contacted media.

25 Q Is the reason you didn't call law enforcement

1 because you did not believe that Ivan was injured?

2 A I mean, I knew he was injured. I saw the blood
3 dripping from him. I didn't believe he was dead.

4 Q And you had assurances from Audrea Cook when she
5 said, "Don't worry. He will be taken care of. We'll get
6 him to the hospital," right?

7 A Right.

8 Q And you didn't tell that to the prosecution until
9 August the 1st of this year.

10 A Okay.

11 Q Right?

12 A It's possible. I mean, as you sit down with the
13 prosecution, you get more in depth in the facts of the
14 case. I mean, detectives do a good job and they ask all
15 sorts of questions, but when they have enough for what
16 they -- they need, they go arrest the people and then
17 it's turned over to the prosecutors who question you in
18 more detail.

19 Q Well, you met with law enforcement on December 16th
20 at your house in the comfort of your own home.

21 A Right.

22 Q And then you met with them again on the 17th ---

23 A Right.

24 Q --- the following day for roughly about an hour each
25 meeting.

1 A Could be.

2 Q Feel about right?

3 A Sounds right.

4 Q And you're telling as you told today that Audrea, as
5 she's leaving the house, is telling them to take care of
6 this and clean it all up, right? That's what you
7 testified today about what Audrea said.

8 A I didn't testify anything to what Audrea said.

9 Q Nothing?

10 A No.

11 Q No. Okay. So it wasn't until you sat down with
12 these two prosecutors that you told them that Audrea told
13 you that Ivan would be taken care of. He would be going
14 to the hospital?

15 A Right. She said they'll make sure he's all right
16 and taken care of.

17 Q They.

18 A Right.

19 Q Law enforcement showed you a picture of Isaiah Hill
20 on the 17th of December 2019, right?

21 A Yes.

22 Q You said it looks like him, but I'm not really sure.
23 You thought the name was Levi Spalding.

24 A Right.

25 Q But you're saying now you know that Levi Spalding is

1 Isaiah Hill.

2 A Correct.

3 Q And he was there standing in the kitchen that night.

4 A Yes.

5 Q And he's the one that you've had contact with
6 recently.

7 A Yes.

8 Q Did Janice ever make it outside to get the napkins?

9 A Yes.

10 Q She went to the car to get napkins?

11 A Yes.

12 Q Why were there napkins in the car?

13 A I guess when it was Isaiah and Janice and Ivan by
14 themselves, they stopped and got food or something or
15 what have you. There were napkins in the car that looked
16 like from Burger King or somewhere.

17 Q Okay. On the way home when you were being taken
18 home, did y'all stop and get food anywhere?

19 A We did.

20 Q Okay. Shane Poole's driving, right? Shane Poole
21 took you and Isaiah home.

22 A I think -- no. When -- we stopped when Auddy was
23 still driving.

24 Q Okay.

25 A When Shane was driving, I believe we just went

1 straight to Landrum and then to my house.

2 Q So when Audrea was driving, there's five of you in
3 the car.

4 A Right.

5 Q And y'all stop and get Burger King or Taco Bell or
6 something?

7 A Gas and food at the store.

8 Q Who paid for it?

9 A I think actually Janice or Isaiah paid for it.

10 Q Did they buy some for Audrea and Shane?

11 A I don't remember.

12 Q Okay. So you were at a gas station, a public area.

13 A Uh-huh.

14 Q Being held captive by Shane Poole and Audrea Cook,
15 and you didn't choose to say anything to the clerk or
16 anybody?

17 A I didn't go inside.

18 Q You didn't leave the car?

19 A I was still in the car.

20 Q Who went inside?

21 A I think Audrea went in the store and I believe Zay
22 might have gone in. I never left the vehicle.

23 Q So y'all leave. And Audrea says, "I've got to go
24 back home," because she got a phone call. You don't know
25 who the phone call is from.

1 A All I know is her phone kept ringing, and she turned
2 to hand her phone to Shane or Patrick Poole and said,
3 "Here. See what Jeff wants. He won't stop calling my
4 phone."

5 Q But you do not know that it was Jeff on the other
6 line.

7 A I do not.

8 Q And the phones, you had a phone with you that night?

9 A I had several phones.

10 Q Did they take possession of all the phones when you
11 were in the car?

12 A No.

13 Q They didn't take your phone at all.

14 A Uh-huh.

15 Q Why did you have several phones?

16 A Because I work on phones.

17 Q Were they all functional?

18 A Uh-huh. Not -- not with service. They were Wi-Fi
19 functional.

20 Q Why did you give Shane Poole a phone back at your
21 house?

22 A Why did I?

23 Q Yeah.

24 A Like I said, I was trying to not make myself seem
25 like a threat. Like you've just witnessed this crime,

1 this person being attacked. And you're driven home by
2 one of the people that's involved in it, and they come in
3 and sit on your couch and everything. So why wouldn't
4 you want them to think you're not a threat?

5 Q You testified that the pickup truck was pulled up to
6 this back door, right?

7 A Yes. It was at an angle almost.

8 Q Go ahead and step down and show the jury.

9 A The truck was backed up. The front of the truck was
10 here and it was backed up with the tailgate down right
11 there at the back of the deck (indicating throughout).

12 Q Stay down there, sir. Show the jury where you were
13 parked in front of that house that night.

14 A We were parked right here (indicating) along the
15 side of the trailer.

16 Q And that's the front of the trailer, right?

17 A Right.

18 Q You agree? And you're saying the pickup truck was
19 in the back.

20 A Right. As you pull in the driveway, though, from
21 the angle and she -- the way she swung out to turn to go
22 in, you could see it as you turned along.

23 Q So you say that truck that Bobby Ray Smith was
24 driving was pulled all the way up here (indicating),
25 right?

1 A Yes.

2 Q So this entire portion. The truck was all the way
3 up. The bed or the tailgate was touching the steps ---

4 A It was close to it.

5 Q --- thereabout?

6 A It was close to it, yeah.

7 Q You had some other messages with somebody on
8 Facebook where they inquired of you why didn't you call
9 the police, and you responded to them because you knew he
10 was going to the hospital, right?

11 A I don't recall.

12 MR. MARCHANT: Let's mark this as an exhibit.

13 (WHEREUPON, Defendant's Exhibit Number 12 was marked for
14 identification.)

15 BY MR. MARCHANT:

16 Q Showing you what has been mark as Defendant's 12.
17 See if you recognize this conversation.

18 A (Reviews exhibit) I do.

19 Q Okay. Who is that conversation with?

20 A It looks like it's with Michael Powell.

21 Q Okay. Who's Michael Powell?

22 A He's an acquaintance of mine.

23 Q Why is Michael Powell asking you about this event?

24 A This was just recently when he was hanging out with
25 Audrea Cook and I had said some stuff to him about the --

1 her being at trial. And he was telling me that she had
2 threatened to commit suicide when she was convicted and
3 such. And I told him about me feeling bad about certain
4 things and my depression from it and nightmares. And
5 this is what...

6 Q And in this message, you told him, "There were
7 seven-plus people with guns, machetes and hatchets,"
8 right?

9 A Right.

10 Q Seven-plus people.

11 A Okay.

12 Q Okay. But none of your testimony here today talks
13 about there being seven-plus people. Why did you tell
14 Michael Powell there were seven-plus people?

15 A Well, you've got the five that were originally
16 there. And then, you know, it's just an expression.
17 There were more people involved because that conversation
18 was had recently, well after the event, to where
19 information that I have found out from other people
20 allowed me to know that there were more people there.

21 MR. MARCHANT: No further questions.

22 THE COURT: Mr. Williams, yes, sir.

23 REDIRECT EXAMINATION

24 BY MR. WILLIAMS:

25 Q Mr. Dillard, it's been close to five years since

1 your friend Ivan was killed?

2 A Right.

3 Q Are some of those details that are a little hazy
4 now?

5 A There are.

6 Q Okay. So you may not remember specifically every
7 single thing that you said to detectives.

8 A Right, right.

9 Q Are there certain things, however, you do remember
10 very specifically?

11 A Yes.

12 Q Do you remember the defendant specifically?

13 A I do.

14 Q Why do you think you remember the defendant so
15 specifically?

16 A Because he had the weapon. I mean, he was one of
17 the main ones involved in that, and I felt threatened at
18 the time that the incident went down.

19 Q So some people on the peripheral you're not quite as
20 sure about.

21 A Right, right, exactly.

22 Q But that face right there (indicating) you'll never
23 forget.

24 A Correct.

25 Q Is that man, the man you identified as holding the

1 gun on your friend Ivan, is he sitting right over here
2 (indicating)?

3 A Yes.

4 MR. WILLIAMS: Nothing further, Your Honor.

5 THE COURT: Anything on recross?

6 MR. MARCHANT: No, Your Honor.

7 THE COURT: Sir, you can step down.

8 THE WITNESS: Thank you.

9 THE COURT: Is everybody in agreement for this
10 witness to be excused?

11 MR. WILLIAMS: We are, Your Honor.

12 MR. MARCHANT: Yes, Your Honor.

13 THE COURT: Sir, you're free to go.

14 THE WITNESS: Thank you.

15 THE COURT: All right. The state can call its next
16 witness.

17 MR. WILLIAMS: Your Honor, the State calls Janice
18 Velichko.

19 THE COURT: Okay.

20 MR. WILLIAMS: Your Honor, may we approach?

21 THE COURT: Yes.

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

23 MR. WILLIAMS: Your Honor, we're going to take a
24 little out of order and we're going to call Patrick Shane
25 Poole at this time.

1 THE COURT: All right.

2 (Pause in proceedings.)

3 THE COURT: Patrick Poole is your next witness?

4 MR. WILLIAMS: He's coming, Your Honor.

5 THE CLERK: Please pause here at the bench. Lay
6 your left hand on the Bible, raise your right hand.

7 WHEREUPON,

8 PATRICK POOLE

9 After having been duly sworn, testified as follows:

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

12 THE WITNESS: Patrick Shane Poole.

13 DIRECT EXAMINATION

14 BY MR. WILLIAMS:

15 Q Mr. Poole, I see you're clearly an inmate right now
16 in Greenville County. What charge are you in there for
17 right now?

18 A Possession of methamphetamine with intent to
19 distribute and driving under suspension third.

20 Q Okay. Do you know the defendant, Jeff George?

21 A I do.

22 Q How do you know him?

23 A We were friends for a brief time.

24 Q When was that time frame?

25 A Probably from -- I'd say from May or June till

1 sometime around December.

2 Q Of what year?

3 A '22, '23, I guess.

4 Q How did you come to know him?

5 A I met him through Auddy Cook.

6 Q Okay. So you knew Auddy Cook as well?

7 A Yes.

8 Q How did you know her?

9 A I actually met her through her sister. I was at a
10 Walmart one night, and she was walking in the parking
11 lot. And me and a friend of mine asked her if she needed
12 a ride and took her and dropped her off. And that's how
13 I met Auddy.

14 Q What was the nature of your friendship with the
15 defendant?

16 A We were just friends here and there. I mean, we
17 hadn't known each other that long.

18 Q Did you go to Auddy Cook's house to hang out?

19 A Sometimes.

20 Q Okay. So you've been there more than once?

21 A Yeah.

22 Q Okay. Do you recall an incident from December of
23 2019 where someone was assaulted at her house?

24 A I do.

25 Q Someone named Ivan?

1 A Yes, sir.

2 Q Okay. How did you come to be at Auddy Cook's house
3 that day?

4 A I had got a ride from Jeff to go to LKQ. The
5 vehicle I had at the time, the transmission went out and
6 he dropped me off to pull one out to replace the one I
7 had.

8 Q All right. So you didn't have a vehicle at that
9 time?

10 A No, sir.

11 Q And then somehow you made your way to Cook's trailer
12 that day?

13 A He picked me back up when I was done with the
14 transmission, and he wanted to ride by Auddy's house.

15 Q What time was it approximately when you got there?

16 A He got there and picked me up at LKQ, it was
17 probably close to 5:30 because they were already closed
18 and everybody was just checking out of the line. So it
19 was probably six, a little after six when we got there.

20 Q To Cook's house?

21 A Uh-huh.

22 Q Who was there when you got there?

23 A From what I remember, just Auddy.

24 Q Just Auddy was there?

25 A Uh-huh.

1 Q So you and Jeff joined Auddy.

2 A Uh-huh.

3 Q What did you do when you got there?

4 A We were there for ten or 15 minutes. And we were
5 hanging out in the bedroom, and she got a phone call.
6 And somebody that was staying with her needed a ride, so
7 Jeff let me use his truck to go pick the guy up to bring
8 back.

9 Q Jeff let you use his truck?

10 A Yes, sir.

11 Q What kind of truck did Jeff have?

12 A It was a white Chevrolet, I believe.

13 Q It was a pickup truck?

14 A Yes, sir.

15 Q So you went and picked somebody up. Do you know who
16 that person was?

17 A I do not.

18 Q Were they close by?

19 A No. Kind of in between Blue Ridge and Spartanburg
20 area, I guess.

21 Q Okay. So you picked that person up. Did you make
22 your way back to Cook's trailer at that time?

23 A Yes, sir. Well, I had to take him. He wanted to go
24 by he said it was his parents' house. He wanted to pick
25 up some clothing and stuff on the way there. So I took

1 him by there. He went inside and did what he had to do,
2 and then we went from there to Auddy's house.

3 Q Do you remember about what time you got back to her
4 house?

5 A I can't be sure, no. I was probably gone
6 45 minutes, maybe an hour.

7 Q Good and dark by then?

8 A Oh, it was plenty dark.

9 Q Who was there when you got back?

10 A Jeff, Auddy, and two other guys, Bobby and David.

11 Q Do you know their last names, by chance? Bobby's?

12 A I know their names now. It's Smith and Stokes.

13 Q Bobby Smith and David Stokes?

14 A Yes, sir.

15 Q Okay. What were they doing?

16 A They were hanging out talking, just smoking pot and
17 meth and everything, getting high and bullshit. Sorry.

18 Q So kind of having a party?

19 A Sorry?

20 Q Kind of a party going on?

21 A Yeah. Sort of.

22 Q Anybody else that you remember at the house at that
23 time?

24 A Just the guy I brought back.

25 Q Okay. How much longer were you there till Ivan

1 arrived at the house?

2 A Maybe 30 minutes.

3 Q Okay. What do you remember about when he came to
4 the house?

5 A He was waiting on him to get there. Said that he
6 called and said he was on his way, and they're watching
7 the camera system when he pulled up so they knew when he
8 pulled up.

9 Q Before he got there, in that 30 minute timeframe
10 when you were there at the house, did you hear any
11 conversation about Ivan bringing the car back?

12 A Yeah. There were some discussion about him bringing
13 the car back. Said they was waiting on his -- he was
14 supposed to have been back.

15 Q Was anybody upset?

16 A Yeah.

17 Q Who was upset?

18 A Ms. Cook.

19 Q Anybody else?

20 A Not that I know of. I mean, there was tension in
21 the air about the car and everything.

22 Q So just generally, there was tension there ---

23 A Yes, sir.

24 Q --- with everybody involved.

25 So what happened when Ivan got there?

1 A When Ivan got there, they come out of the back room
2 and I got up to follow to see what was going on. After
3 he come in the house, they come in behind him.

4 Q Let's elaborate on that if we could a little bit.

5 So you guys are all in a back bedroom?

6 A Yeah. In the master bedroom.

7 Q The master bedroom. Was that Cook's bedroom?

8 A Yes, sir.

9 Q And Ivan comes in. Was anybody else with him?

10 A He had two other people -- or three other, actually.
11 Two males and one female.

12 Q Okay. They come in there, and then you said the
13 group that was back there in the bedroom which would have
14 been Jeff George, your friend the defendant. Auddy Cook,
15 was she back there or was she already out front?

16 A She was back there at the time when he pulled up.

17 Q Okay. Auddy Cook. Who else was back there with
18 you?

19 A David and Bobby.

20 Q Okay. And then ---

21 A And the other guy that I don't know his name.

22 Q Okay, okay. So he comes in. Before him and his
23 three friends come in, and then what happened?

24 A When he -- they come in, they go to the living room
25 and Auddy comes out to meet them, to let them in. And

1 then once they go into the living room, everybody else
2 followed.

3 Q What do you mean, followed?

4 A Followed behind into the living room area.

5 Q Okay. What were these guys doing?

6 A They had -- the two guys and the female was on the
7 back wall, and Ivan was in the middle of the living room
8 at the back wall, and Jeff was on one side and David was
9 on the other.

10 Q What were Jeff and David doing?

11 A It looked like they were just keeping him at bay in
12 the middle of the room, keeping him to himself separated.
13 There was some tension between David and Ivan, and Ivan
14 and David got into an argument, basically. And David
15 punched Ivan one time.

16 Q You saw him punch him like with his fist?

17 A Yes, sir.

18 Q Okay. You said David and the defendant Jeff George
19 were kind of ---

20 A One on one side, one on the other.

21 Q Keeping it at bay, like he couldn't leave?

22 A He was -- well, not really keeping him -- they were
23 both on one side and basically, yeah, they were keeping
24 him in between where he couldn't go anywhere.

25 Q Did you see either of them with any weapons?

1 A I remember seeing them when I come in, yes.

2 Q What weapons did they have?

3 A I seen a knife and a pole, some kind of pole, maybe
4 a floor jack handle.

5 Q Who had the knife?

6 A David.

7 Q Who had the pole?

8 A I don't know who had the pole. I seen him when I
9 was in the back bedroom.

10 Q Did you see the defendant with a gun at any point?

11 A I seen him with a gun before, yes, sir.

12 Q That night, I mean.

13 A I think it was in the truck that night.

14 Q Okay. But you knew him to carry a gun?

15 A Yes, sir.

16 Q And you're not sure if he had a gun or not that
17 night.

18 A I seen it in the truck that night so I assumed he
19 still had it with him, yeah. Because it wasn't in there
20 when I had the truck.

21 Q Okay. But the defendant and Mr. Stokes are on
22 either side.

23 A Yes, sir.

24 Q There's an altercation. You saw Stokes physically
25 hit him.

1 A Yes, sir.

2 Q Did you see Stokes do anything else to him?

3 A Not -- just threatening him and cussing at him, you
4 know, like he's in kind of a rage.

5 Q And where were you actually positioned when this is
6 going on?

7 A When you come out of Auddy Cook's master bedroom,
8 there's like a small hall at the back door. It's kind of
9 a laundry area. Has a washer, dryer and a little partial
10 wall, and then it goes into the kitchen area from there.

11 Q Did you have a good vantage point of what was going
12 on?

13 A Yes and no, depending on which way I was standing.
14 If I was leaning forward, they have a partial wall, and
15 if I was standing straight, I could still see.

16 Q Okay. Were there people in front of you at all?

17 A No.

18 Q Okay. So you see there's some kind of scuffle
19 involving Mr. Stokes and the defendant and Ivan.

20 A Yes, sir.

21 Q And after that happened, what occurred? Did it stop
22 at some point?

23 A Yeah. Auddy was saying back and forth about her car
24 and why he kept it so long and she'd wanted it back and
25 why he thought he was going to get away with it. And

1 after David hit Ivan and everything, Auddy told him to
2 stop, and everything was stopped.

3 Q Okay. And what happened at that point?

4 A After that, she told the other three people that she
5 was going to take them home, and she come over and asked
6 me if I would ride with her to take them home with her.

7 Q Did you agree?

8 A I did.

9 Q So what did you do at that point?

10 A After that, we went outside. And I got in the
11 backseat with the two males and she got in the front seat
12 with the female. And she proceeded to drive the female
13 home.

14 Q Okay. So did you get in her car?

15 A Yes, sir.

16 Q This is the one that Ivan had just brought back,
17 apparently?

18 A Uh-huh.

19 Q Did you see anyone else leave?

20 A No, sir.

21 Q Did it appear to you that Ivan was free to leave?

22 A I thought he was at the time because Auddy told him
23 to stop, everything was stopped. So I figured, you know,
24 that was kind of the end of it.

25 Q Okay. Where did you go when you left?

1 A She drove the female to Spartanburg, said it was her
2 -- neighborhood her parents lived in.

3 Q Okay. And did she drop her off?

4 A She dropped her off. Auddy was trying to get her to
5 ask -- or she was asking where the female's address was,
6 and she told her it was her parents' house and she didn't
7 want Auddy to know where she lived at.

8 Q Do you recall getting any phone calls from anyone
9 back at the trailer while you were driving?

10 A I didn't get any phone calls.

11 Q You didn't get any phone calls?

12 A No, sir. Not that I can remember. I was on -- I
13 was on marketplace most of the time while I was riding.

14 Q So after you dropped off the girl, where did you
15 guys go?

16 A Auddy said she was feeling sick, and she drove back
17 to her house. And when she got back to her house, she
18 asked me to take the other two people home. And she
19 pulled up in the front yard when she got there and gave
20 me the keys. I got in the front seat and proceeded to
21 take the other two people home.

22 Q Now, when you got there, Auddy, obviously, got out
23 of the car. Did anybody else get out of the car?

24 A No, sir.

25 Q You didn't get out of the car?

1 A I got out of the car and got in the front seat.

2 Q Okay. But you didn't go inside?

3 A No, sir.

4 Q What did the two men that had come with Ivan do?

5 A The one we got in the front seat when they dropped
6 the female off. He was in the front seat when I got up
7 front to drive, and the other guy was sitting behind me.
8 He rode behind me the whole way. We took him home first,
9 the guy that was in the backseat.

10 Q And then you took the last person home?

11 A Yes, sir. Took him back to Spartanburg, a different
12 area in Spartanburg.

13 Q Did you have any kind of conversations?

14 A We talked a little bit. Ivan -- not Ivan. I don't
15 know the guy's name. One of them was a heavier set guy
16 and one was a smaller guy. The heavy set guy was in
17 front with me. He worked on phones and computers, and he
18 was having conversation back and forth with Auddy on the
19 way. And we took the female without a laptop, and I
20 discussed getting a laptop from him and what he could do
21 with cell phones. He said he could repair cell phones
22 with screens and stuff like that. Basically, he does
23 computer work.

24 Q You took him and you spent some time with him at his
25 house when you dropped him off?

1 A The last guy that was in front with me? I did.

2 Q What did you guys do?

3 A We went into his camper and he introduced me to his
4 girlfriend that was living with him at the time. We got
5 high and I left.

6 Q You got high?

7 A Yes, sir.

8 Q Okay. Do you remember what time you got back to
9 Cook's trailer that night?

10 A I don't exactly remember. It was -- it was early
11 morning hours.

12 Q What do you remember about what happened when you
13 got back? Anything?

14 A When I got there, I called her and told her I was
15 pulling up to let her know I was coming. And she come
16 out and got in the car, and we drove. And she dropped me
17 off at Jeff's house to where he could take me to work.

18 Q So you never went back inside the trailer?

19 A No, sir.

20 Q Did she say anything to you about what had been
21 going on?

22 A No, sir. The only thing I understood was at the car
23 when I first got there and along the way. And,
24 obviously, she knew the other people that were with Ivan
25 because they carried on a conversation. Like I say, she

1 knew the guy that done the computer work, and she knew
2 something about the guy that was in the backseat, too.
3 But I don't know if she knew the female or not. It
4 didn't seem like they actually knew each other.

5 Q Now, were you charged with any crimes related to
6 this incident?

7 A Yes, sir.

8 Q What were you charged with?

9 A Murder and kidnapping.

10 Q What's the status of those charges?

11 A As far as I know, they're still there.

12 Q Have you made any deals with the State?

13 A No, sir.

14 Q Any promises made to you by the State ---

15 A No, sir.

16 Q --- for your testimony today?

17 A No, sir.

18 Q So your charges are still pending.

19 A Yes, sir.

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

21 THE COURT: Mr. Marchant?

22 CROSS EXAMINATION

23 BY MR. MARCHANT:

24 Q Mr. Poole?

25 A Yes, sir.

1 Q Am I clear to understand that you never had any
2 weapon inside Ms. Cook's trailer that day?

3 A The only weapon I had that night was I had a
4 pocketknife in my pocket. And it was a small Shakespeare
5 that I use at work.

6 Q Two or three inches?

7 A Sir?

8 Q Two or three inches?

9 A If that.

10 Q Did you ever pull it out?

11 A No, sir. As a matter of fact, they gave it back to
12 me when I was released.

13 Q So about two weeks after this event, you were
14 charged with murder and kidnapping.

15 A Yes, sir.

16 Q And then at some point in time, you end up meeting
17 with the prosecutor and give a statement; do you remember
18 that?

19 A Yes, sir.

20 Q Before you met with the prosecutor, you and your
21 lawyer entered into what they call a proffer agreement
22 with the State; do you remember that?

23 A Yes, sir.

24 Q Do you remember reading that document and signing
25 that document?

1 A I do.

2 Q And basically, the gist of that document says
3 anything you say during the interview cannot be held
4 against you to prosecute you, right?

5 A That's correct.

6 Q If you continue to tell the truth, right?

7 A Yes, sir.

8 Q Okay. You had plenty of time to read that document.
9 And your lawyer, I think, is now here in the courtroom,
10 Mr. Wilkes?

11 A Uh-huh.

12 Q And you sat down with Mr. Williams -- at least
13 Mr. Williams and Investigator Garrett over here.

14 A Okay.

15 Q You see Investigator Garrett?

16 A Yes, sir.

17 Q In the solicitor's office conference room, right?

18 A Yes, sir.

19 Q You're not in custody, not handcuffed, none of that
20 stuff. And what they told you is if you tell the truth,
21 we're not going to use it against you.

22 A Yes, sir.

23 Q Okay. But you are still currently charged with
24 murder, correct?

25 A (Nonverbal answer.)

1 Q And do you know what the penalty for murder is?

2 A Yes, sir.

3 Q What is the penalty for murder?

4 A Life to death penalty, either one up to life.

5 Q Do you know what the minimum sentence for murder is?

6 A I do not.

7 Q Okay. So if I were to tell you the minimum sentence
8 is 30 years to life, that is the sentencing range for
9 murder, okay?

10 A Okay.

11 Q You're also charged with kidnapping.

12 A Yes, sir.

13 Q Do you know what the penalty range for kidnapping
14 is?

15 A It's about the same thing, isn't it?

16 Q Not too far off. But it's zero. So you don't have
17 to serve any time for kidnapping.

18 A Yes, sir.

19 Q But it's up to 30 years. Okay. I'm sure Mr. Wilkes
20 has gone over this with you in general, hasn't he?

21 A Yes, sir.

22 Q Okay. So you know that potentially you've looking
23 at a life sentence for what you were charged with today
24 right now.

25 A Yes, sir.

1 Q Have you been truthful in here today?

2 A Yes, sir.

3 Q Were you truthful with the prosecution back on
4 January 24, 2023?

5 A Yes, sir.

6 Q You hope that that truthful testimony gets these
7 charges dismissed.

8 A I hope it does something, but there's no guarantee
9 it does anything.

10 Q Okay. But you didn't kidnap or have any part or
11 participation holding anybody against their will.

12 A No, sir.

13 Q And you didn't kill anybody.

14 A No, sir.

15 Q Okay. Did you do something else that you should be
16 charged for that you're not charged for ---

17 A What does that mean?

18 Q --- as it relates to this case?

19 A What's that mean?

20 Q Well, did you help bury a body?

21 A No, sir.

22 Q Okay. All right. So you show up at the house
23 because you say Mr. George brought you over there. And
24 some little bit of time passes and you go pick up
25 somebody you don't know who he is.

1 A Yes, sir.

2 Q Don't know the name or nothing.

3 A No, sir. All I know, he was a younger guy that was
4 staying there at Ms. Cook's house at the time.

5 Q Okay. Y'all introduce yourself to each other, had
6 some pleasantries a little bit on the ride?

7 A Not really. I picked him up at a trailer he was
8 remodeling. It was in the dark. And I took him to where
9 he needed to go get some clothes. And he gave me the
10 directions on how to get there, and then we went back to
11 Auddy's house.

12 Q How did you get to the location to pick him up?

13 A With just the truck.

14 Q I'm sorry. How did you know where to go to get him?

15 A I had GPS on my cell phone.

16 Q Okay. When you had the interview back in January of
17 '23, did you still have that same cell phone?

18 A Actually, the State has it.

19 Q The prosecution has your cell phone.

20 A It's in evidence.

21 Q It's in evidence. So they can look into your phone
22 and see ---

23 A Yes, sir.

24 Q --- where that location is.

25 A They should be able to, yes, sir.

1 Q When you got back to the house with this fellah, you
2 didn't leave again until you took these other people home
3 with Auddy.

4 A Correct.

5 Q The guy that you picked up, did he go in the back
6 bedroom and smoke some drugs with y'all?

7 A Yes, sir.

8 Q Was he armed with any sort of weapon?

9 A Not that I seen.

10 Q So let's talk about the number of people that are in
11 the bedroom when Ivan shows up.

12 A Okay.

13 Q Okay. There's, of course, yourself.

14 A Uh-huh.

15 Q Okay. So are you in the bedroom?

16 A I'm in the bedroom on the edge of the bed -- on the
17 foot of the bed, actually.

18 Q Okay. But are you sitting in that location or in
19 that room when Ivan and his friends come into the
20 trailer?

21 A I was sitting in the bedroom, yes.

22 Q You're not outside in the kitchen?

23 A Not until afterwards.

24 Q Or in the den.

25 A No, sir.

1 Q Okay. So in the bedroom where -- everybody that
2 we're getting ready to talk about in the bedroom ---

3 A Uh-huh.

4 Q --- you, Jeff George ---

5 A Uh-huh.

6 Q --- David Stokes.

7 A Uh-huh.

8 THE COURT: Make sure you say yes or no.

9 THE WITNESS: I'm sorry. Yes, sir.

10 BY MR. MARCHANT:

11 Q Bobby Ray Smith ---

12 A Yes, sir.

13 Q --- Audrea Cook ---

14 A Correct.

15 Q --- and then whoever this other guy is.

16 A That's right.

17 Q There's six of you in Cook's bedroom.

18 A Yes, sir.

19 Q And at some point in time, four other people come
20 into the house.

21 A Uh-huh. That's right.

22 Q Did Audrea Cook go to the door to let them in the
23 house?

24 A She did.

25 Q Did Bobby Ray Smith stay in the bedroom while Audrea

1 Cook went to the door?

2 A I believe so, yes, sir.

3 Q Did Bobby Smith go outside and meet these people at
4 the car?

5 A No. Not at the time.

6 Q You're sure about that?

7 A Pretty sure.

8 Q 100 percent?

9 A Can't be 100 percent, but I'm pretty sure.

10 Q Can't be 100 percent because your mind was clouded
11 with drugs or ---

12 A There was a lot of people there.

13 Q So these four people come through the front door,
14 people you've never met before, Ivan ---

15 A Come to the back door.

16 Q Come to the back door.

17 A Yes, sir.

18 Q Never met any of those people before.

19 A Never met them before in my life.

20 Q And you didn't have anything in your hands, no
21 weapons, no knives, no sticks, no poles, nothing.

22 A The only thing I had was a pocketknife in my pocket.

23 Q Pocketknife.

24 A Yes, sir.

25 Q So if someone else were to have given a statement to

1 law enforcement that you were armed with a pipe or pole
2 or stick or something like that ---

3 MR. WILLIAMS: Objection, Your Honor. Pitting the
4 witnesses.

5 THE COURT: I will sustain the objection. Rephrase
6 your question, Mr. Marchant.

7 BY MR. MARCHANT:

8 Q Just to be clear, you didn't have a weapon?

9 A Only the pocketknife that was in my pocket.

10 Q All right. So these other people show up, and you
11 see David Stokes, right, come out of the bedroom?

12 A Yes, sir.

13 Q And he's armed with what?

14 A A knife.

15 Q A knife. Can you describe the knife?

16 A It was a large knife, maybe this big or a little
17 bigger (gesturing).

18 Q Okay. How wide or long was the blade?

19 A Maybe like a machete size knife.

20 Q Okay. Well, let me show you what's marked as
21 State's 148. Have you seen that before?

22 A That looks like it.

23 Q You think that's it. That's what ---

24 A I think so.

25 Q --- what he had in his hand.

1 Okay. Did you see anything else in his hand?

2 A That's the only thing. I didn't see anything.

3 Q The only thing you saw?

4 A Uh-huh.

5 Q You didn't see this in his hand?

6 A No, sir.

7 Q Jeff George didn't have this in his hand.

8 A I didn't see that with him either.

9 Q Okay. And when y'all all end up in the kitchen,
10 it's tight quarters in there.

11 A In the kitchen?

12 Q The kitchen, the den area of this trailer, right?

13 A Not really tight quarters, but...

14 Q Well, for ten people to be hanging out in that area,
15 it's not cramped? Let me get you some pictures. Let's
16 just start with this one. And I'm going to go a little
17 bit in reverse.

18 When you came back with Audrea from taking the lady
19 home -- and I'm going to ask you to step down, step down
20 so you can show the jury. Can you do it?

21 A Yeah.

22 Q All right. When you come back with Ms. Cook, where
23 do you recall parking?

24 A Right here (indicating).

25 Q Okay. And do you recall whether or not you came in

1 to the driveway from this (indicating) side or this
2 (indicating) side?

3 A This (indicating) side.

4 Q Okay. And so you end up parking right here
5 (indicating).

6 A Right here (indicating).

7 Q And this would be the ---

8 A That's the front door.

9 Q --- front door. Okay.

10 What other vehicles did you see in the driveway?

11 A There was a little gold champagne colored station
12 wagon it seemed like on the -- sat over here (indicating)
13 where the carport's at.

14 Q Okay. That's the only one you saw?

15 A That's the only one I saw.

16 Q Didn't see Jeff's truck?

17 A I did not.

18 Q Okay. I'm going to ask you to step back up.

19 All right. I'm going to show you now what's marked
20 as State's 53. When you came out of the bedroom, did you
21 come from this (indicating) way?

22 A No, sir.

23 Q You came from over here (indicating).

24 A From back that way.

25 Q Okay. And when you came out of the bedroom, where

1 did you go stand? Were you in the kitchen or the den
2 area?

3 A I was in the laundry room.

4 Q The laundry room.

5 A Yes, sir.

6 Q All right. I'm going to show you State's 70. This
7 looks like a desk, right?

8 A Yes, sir. I don't remember that or the living room
9 that way either.

10 Q Okay. This that same piece of furniture?

11 A It looks like it.

12 Q Okay. And so you come back from this bedroom right
13 here (indicating)?

14 A Yes, sir. That's the master bedroom.

15 Q Okay. And where is the laundry room in relation to
16 the master bedroom?

17 A It would be on the left-hand side right there where
18 the partial wall is in that hallway area.

19 Q Right here (indicating)?

20 A Right in there.

21 Q So the laundry room's behind the refrigerator?

22 A Yeah. Where there's a partial wall there, there's a
23 stove and a washing -- washing machine and a dryer right
24 there together.

25 Q Is there a door that goes into that laundry room?

1 A Not that I recall, no. It's just a washer and dryer
2 sitting in the hallway.

3 Q Did all of y'all come out at the same time meaning
4 you, Stokes, George, Bobby Ray Smith and whoever the
5 other guy was?

6 A We come out basically the same time. I was kind of
7 in the back of the pack and the other guy was in the
8 bedroom.

9 Q Okay. Do you recall who the first person was? If
10 y'all are coming out of the bedroom, who was in the
11 front?

12 A Auddy went out first out the door with the man, and
13 they came in. Jeff went out and David went out and the
14 other went out, and then I went out and stuck with the
15 laundry room and the other guy stayed in the bedroom.

16 Q Okay. So was there anybody in the kitchen area?

17 A Auddy was in the kitchen.

18 Q She was the only person in the kitchen area before
19 the rest of y'all come out the bedroom.

20 A Correct.

21 Q Okay. And the people who had showed up, do you
22 recall in State's 53 where they were?

23 A Yeah. That TV wasn't there.

24 Q Okay. Why don't you step down again. I'm sorry to
25 make you do that with those chains.

1 All right. So we're looking at State's 53. All
2 right. When you came out of the bedroom, you say Auddy's
3 in the kitchen.

4 A She's over here (indicating).

5 Q Okay. Is there any other male standing in the
6 kitchen?

7 A Where this desk is, there's a guy standing here,
8 another guy standing there and a female standing there.
9 This wasn't there (indicating throughout).

10 Q Who wasn't there?

11 A The desk wasn't there.

12 Q Okay. So there were three people that were standing
13 in that area.

14 A Uh-huh. The house had been rearranged.

15 Q Two guys and one female.

16 A That's correct. Right here (indicating) where this
17 is.

18 Q Right. So ---

19 A The two guys and the female that rode with Ivan to
20 get there were standing there where the desk is at now in
21 the picture.

22 Q Where is the third guy? Because you took ---

23 A The third guy, the one that was driving Ivan?

24 Q Yeah.

25 A Was standing where the TV is. So the TV wasn't

1 there.

2 Q So Ivan's over here (indicating).

3 A Yep.

4 Q The two other guys and the female are here
5 (indicating).

6 A Correct.

7 Q Y'all come out of the bedroom which is ---

8 A The bedroom's on this (indicating) side.

9 Q Okay. And there's nobody else in the kitchen when
10 you come out of the bedroom except Audrea?

11 A Audrea's right there (indicating). And this is
12 considered the kitchen area, so there would be three
13 people standing there on this (indicating) side in the
14 kitchen.

15 Q But those three people were the three people that
16 y'all took home.

17 A Correct.

18 Q Okay. You can take your seat.

19 All right. So you say you see David Stokes come out
20 with at least this (indicating) machete?

21 A I seen that, yes, sir.

22 Q Okay. Before those four people arrived, you and
23 Bobby and Dave and others were in the bedroom smoking
24 some meth, smoking some pot.

25 A Correct.

1 Q Drinking beer?

2 A (Nonverbal answer.)

3 Q Okay. How long would you say you were back in that
4 bedroom from the time you picked up the guy whose name
5 you don't know and the time these four other people
6 showed up?

7 A 20, 30 minutes.

8 Q 20 or 30.

9 In that time, did you hear any discussion about
10 assaulting any of those four people that were coming in
11 the house?

12 A No, sir.

13 Q None. No conversation at all.

14 A No.

15 Q All right. When you left the first time to go take
16 these three people home ---

17 A Uh-huh. Yes, sir.

18 Q --- you just take the female home, and then you have
19 to come all the way back to Cook's house.

20 A That's correct. Auddy said she was sick and had to
21 go back home.

22 Q In between the time of that trip, did you take any
23 phone calls?

24 A Not that I recall, no.

25 Q Nobody called you.

1 A No.

2 Q Do you recall anybody calling Audrea?

3 A Yes.

4 Q Okay. Do you know who that was?

5 A No, sir.

6 Q You didn't answer the phone and then hand it to her.

7 A No, sir.

8 Q All right. So you get back. You do not come into
9 the house. You simply get in the front seat.

10 A Correct.

11 Q Okay. Showing you Defendant's 2. Do you recognize
12 this guy?

13 A No, sir.

14 Q Okay. I'm telling you that that has been identified
15 as Michael Tucker.

16 A I know who he is now that you say his name. They
17 call him Runt.

18 Q They call him Runt?

19 A Yes.

20 Q So you do know him.

21 A I don't recognize the picture, but I do know him ---

22 Q Okay.

23 A --- vaguely only by association with Jeff.

24 Q Okay. And he was there that night?

25 A Not that I recall, no.

1 Q When Audrea needed to get dropped off, she went
2 inside. How did you get the keys to drive the car?

3 A I was in the car when we got back. She gave them to
4 me as she got out.

5 Q Did anybody from inside come out?

6 A No.

7 Q You never see Michael Tucker ---

8 A Not at that night, no. I seen him at Jeff's house
9 and I have seen him at her house before, but not that
10 night.

11 Q Michael Tucker didn't come out of the house and come
12 to the car?

13 A No. And he's not the person I picked up at the
14 trailer that night either.

15 Q As y'all were leaving the first time, did you hear
16 anybody threaten the people that were in the car? I
17 mean, did anybody threaten you, Audrea, who we now know
18 is Terry Dillard, the larger guy whose house you went to,
19 Isaiah Culbreth or Janice Velichko? Those are the five
20 people that were in the car with you and Auddy. Did
21 anybody threaten any of them?

22 A Not that I heard.

23 Q Did Auddy threaten them?

24 A No, sir.

25 Q Okay. And so we're clear about what car you were

1 in ---

2 A It was a black Ford Escape -- no, Edge.

3 Q Showing you what's in evidence as 104, State's. Is
4 this the car you were in?

5 A It looks like it, yes.

6 Q Okay. That looks like the car you were driving that
7 night?

8 A It looks like it, yes.

9 Q Okay. That's a small four-door vehicle.

10 A Yeah. A small Ford four-door black car.

11 Q And so tell me the seating arrangement again on the
12 first trip. Cook is in the front driving. Who's in the
13 front seat?

14 A Female.

15 Q Okay. And where are you positioned in the back?

16 A Behind the female.

17 Q You're behind the female. Who's in the middle?

18 A Little smaller guy.

19 Q And then the bigger guy's on the outside.

20 A Big guy's on the outside.

21 Q Okay. Did you threaten any of those three people?

22 A No, sir.

23 Q Did Ms. Cook?

24 A Not that I heard.

25 Q Small car. Easy to hear what's going on inside.

1 A Radio was on, too.

2 Q Sir?

3 A Stereo was going, too.

4 Q All right. You testified that you only saw Stokes

5 punch Ivan ---

6 A Correct.

7 Q --- one time.

8 A Yes, sir.

9 Q No one else touched him?

10 A Not that I seen.

11 Q Did you see anybody else carrying a baseball bat?

12 A No, sir.

13 Q Bobby Ray Smith didn't have a baseball bat?

14 A I didn't see a baseball bat.

15 Q Didn't see a baseball bat.

16 A No, sir. I know what a baseball bat is.

17 Q Okay. Never saw Jeff with a gun.

18 A I seen the gun in his truck that night, but I didn't

19 see him with it then in the house.

20 Q So when you come out of the bedroom and these other

21 people are there ---

22 A Yes, sir.

23 Q --- you didn't see Jeff George making Ivan and these

24 other people get down on the ground.

25 A No, sir.

1 Q How intoxicated were you?

2 A Excuse me?

3 Q How intoxicated were you?

4 A I was not that intoxicated.

5 Q Okay. So you didn't see Jeff George doing this
6 (gesturing), pointing the gun at Ivan and preventing Ivan
7 from leaving that trailer.

8 A No, sir.

9 Q Never heard Jeff George say anything to Ivan or any
10 of those other people about them not being able to leave
11 that trailer.

12 A No, sir. That's why we left to take the three
13 people home.

14 Q All right. You get back with Audrea. She gets out.
15 The next time you come back to the trailer, everybody's
16 gone.

17 A I assume so. I never went inside.

18 Q All right. So you never went back inside after you
19 dropped the other two guys off.

20 A Correct.

21 Q Audrea comes outside?

22 A I called and told her I was fixing to pull up.

23 Q You called. And they've got your phone.

24 A Yes, sir. They got two of my phones, actually.

25 Q On the first trip with Audrea when you're taking the

1 female home, y'all stopped and got something to eat,
2 right?

3 A No, sir.

4 Q You didn't.

5 A Stopped and got gas.

6 Q Stopped and got gas. Do you recall which gas
7 station?

8 A 7-Eleven in Spartanburg/Greer area.

9 Q Do you remember who got out of the vehicle to go
10 inside and pay for it?

11 A I went and paid and somebody to -- it got pumped.

12 Q Did you tell any of the people when you went inside
13 to pay for the gas they couldn't go anywhere?

14 A No, sir.

15 Q So if the guy that you ended up smoking meth with
16 that night wanted to walk away, nothing was preventing
17 him from doing that.

18 A No. I was in the store.

19 Q All right. Trip 2, you end up taking the two guys
20 home. You take the littler guy home first.

21 A Yes, sir.

22 Q Any discussions about anything?

23 A We stopped at McDonald's and went through the
24 drive-thru to get something to eat.

25 Q Okay. Who paid for that?

1 A The guy in the back. The little guy.

2 Q He bought you something to eat?

3 A He bought me something, the other guy something and
4 himself something.

5 Q Did y'all eat in the car?

6 A Sure did.

7 Q And you dropped the little guy off.

8 A (Nods head affirmatively.)

9 Q Bye, see you later.

10 A Drop him off, yeah, at some business I think is
11 where he went. It wasn't a residence.

12 Q And then you end up going to Micco, Mr. Dillard, the
13 bigger guy ---

14 A Yeah. Okay.

15 Q --- you went to his house.

16 A Uh-huh.

17 Q He had a camper, you said, I think?

18 A A camper.

19 Q And when you got to the camper, his wife was up?

20 A His girlfriend.

21 Q Girlfriend. He told you that was his girlfriend.

22 A That's what he told me, yes.

23 Q Okay. And you spent about two hours there with him,
24 right?

25 A I spent probably an hour or an hour and a half at

1 least, yeah.

2 Q And y'all talked about a variety of things.

3 A Cars, phones, computers.

4 Q And he gave you a cell phone. Didn't pay for it.

5 A It was a non-hooked up phone.

6 Q What else did he give you?

7 A That was it.

8 Q Did you tell him that you needed a charging cable to
9 charge your phone?

10 A I may have. I don't remember.

11 Q You don't remember if he gave you a charging cable?

12 A He may have. My phone was about dead, I believe.

13 But...

14 Q Did you threaten him that if he didn't give you a
15 charging cable you were going to harm him?

16 A No, sir.

17 Q And then y'all smoke some meth. The three of you or
18 just the two of you?

19 A Two. She -- he says she done hers a different way.

20 Q You get done dropping them off. You get back to
21 Audrea's house, and then she ends up taking you to Jeff's
22 house.

23 A Correct.

24 Q When you got to Jeff's house, do you recall about
25 what time it was?

1 A It had to have been 3:30, somewhere around there
2 because I had to be at work. I usually go into work
3 4:30, 5 o'clock.

4 Q And Jeff turned around and carried you to work?

5 A He took me by my residence, I got a change of
6 clothes and he took me by work and dropped me and my
7 transmission off. He helped me unload the transmission
8 and put it in my truck. It was in the parking lot.

9 Q Jeff's acting normal?

10 A Sir?

11 Q Jeff's acting normal?

12 A Yes, sir.

13 Q Same as you had known him for the months that
14 y'all ---

15 A The time I had known him, yes, sir.

16 Q Wasn't excited.

17 A No, sir.

18 Q Wasn't animated?

19 A No, sir.

20 Q Wasn't acting like he just killed somebody.

21 A No, sir. Asked me how long it would take my
22 transmission to be put in, how long I figured I'd have my
23 truck back up. I told him depending on if I had any
24 trouble, a couple days maybe. But I couldn't get it back
25 up until the weekend when I was off.

1 Q Any point in time you ever here Audrea Cook tell
2 Ivan Gula tonight is the night you're going to die?

3 A No, sir.

4 Q Did you ever tell Audrea Cook when y'all were
5 leaving to take these people home to the rest of the
6 people that are in the trailer to clean this stuff up and
7 finish him off?

8 A I'm sorry. Say that one more time.

9 Q Did you ever hear Audrea Cook tell the people that
10 were left in the trailer when y'all left the first time
11 when you took -- there were five people in the car, when
12 she is leaving out, did you ever hear her say finish it
13 up -- finish him off and clean it up?

14 A No, sir.

15 Q Was Ivan injured when you left?

16 A Just where he'd been hit.

17 Q Been punched, right?

18 A Yes.

19 Q Okay. Now, to be clear, David Stokes has got this
20 machete, but he never hit him with that.

21 A I never seen him ---

22 Q You never saw that. You never saw this.

23 A No, sir.

24 Q Pretty big item here.

25 A Correct.

1 Q If you'd have seen somebody get hit with this in
2 that space that we've talked about, you'd have seen that,
3 wouldn't you?

4 A Yes, sir.

5 MR. MARCHANT: No further questions. Thank you,
6 Mr. Poole.

7 THE COURT: Anything else?

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

9 REDIRECT EXAMINATION

10 BY MR. WILLIAMS:

11 Q Mr. Poole, so you never saw George with a gun that
12 night. You knew him to carry a gun, but not necessarily
13 that night.

14 A I seen it in the truck that night, but I never seen
15 it actually on his person.

16 Q And you never saw Ivan get cut that night.

17 A No, sir.

18 Q In the 20 to 30 minutes before Ivan and his friends
19 arrive, you're in that back bedroom of Audrea Cook's.

20 A Yes, sir.

21 Q You never heard any talk about what they were going
22 to do to hurt Ivan that night.

23 A Never heard them say what they was going to do
24 hurting him wise. I just heard they were upset because
25 the car wasn't back. That's what she was concerned about

1 was her vehicle.

2 Q Because at the end of the day, if you had heard that
3 kind of talk back there, you'd be admitting to your
4 participation in this whole thing, wouldn't you?

5 A I'm sorry?

6 Q If you had heard talk about harming Ivan when he got
7 there and you had observed him getting cut and Mr. Jeff
8 George holding that gun, you'd be admitting to a lot more
9 of your participation in this, wouldn't you?

10 A Yes, sir.

11 Q And Jeff George, at the time, he was a good friend
12 of yours, wasn't he?

13 A He was my friend at the time, yes, sir.

14 Q And you wouldn't want to see anything bad happen to
15 him, would you?

16 A I wouldn't want anything bad to happen to me.

17 Q But you wouldn't want anything bad to happen to him?

18 A No. I don't want nothing bad happening to anybody.

19 MR. WILLIAMS: Nothing further, Your Honor.

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

21 Who's your next witness?

22 MR. FRETWELL: Your Honor, she has just pulled into
23 the parking lot. If we could ---

24 THE COURT: Velichko?

25 MR. FRETWELL: Yes, sir.

1 THE COURT: All right. Let's take a -- she's in the
2 building or in the parking lot?

3 MR. FRETWELL: Her car is parked and she's getting
4 her kids and coming inside.

5 THE COURT: Y'all need a small break or are you
6 good? Somebody talk to me. All right. I'll give you
7 five minutes. She'll be here. Take a five minute break.

8 Please, ma'am, please, sir, don't talk about the
9 case. I'll bring you back in in a minute.

10 (WHEREUPON, the jury exits the courtroom at 4:38 PM and a
11 recess is taken.)

12 THE COURT: All right. Bring the jury back.

13 (WHEREUPON, the jury entered the courtroom at 4:55 PM.)

14 THE COURT: All right. State's ready to call it's
15 next witness?

16 MR. FRETWELL: We are, Your Honor.

17 THE COURT: Yes, sir.

18 MR. FRETWELL: The State would call Janice Velichko.

19 THE COURT: All right.

20 THE CLERK: Please pause here at the bench. Put
21 your left hand on the Bible and raise your right hand.

22 WHEREUPON,

23 JANICE VELICHKO

24 After having been duly sworn, testified as follows:

25 THE CLERK: Thank you. You may be seated. And

1 please state your full name for the record into the mic,
2 please.

3 THE WITNESS: Janice Velichko.

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

5 THE COURT: Yes, sir.

6 DIRECT EXAMINATION

7 BY MR. FRETWELL:

8 Q Good afternoon, Ms. Velichko.

9 Ms. Velichko, how far did you go in school?

10 A High school.

11 Q Did you get a diploma?

12 A I have more than a diploma.

13 Q Okay. So you did get a diploma. Did you take some
14 college classes?

15 A I did.

16 Q Was that here in the Upstate or in another location?

17 A In another location.

18 Q Okay. What kind of work do you do, Ms. Velichko?

19 A I don't work.

20 Q You don't work?

21 A No.

22 Q Are you married?

23 A Yes.

24 Q Ms. Velichko, do you speak and understand a language
25 other than English?

1 A I do.

2 Q And what language is that?

3 A Russian.

4 Q And how did you learn Russian?

5 A I didn't learn it. I grew up in it.

6 Q I guess that's what -- I should have asked it that

7 way. Did you learn Russian growing up being taught

8 Russian?

9 A Yes.

10 Q Are you pretty fluent in Russian? Do you understand

11 it? Can speak it?

12 A Yes.

13 Q Okay. Ms. Velichko, did you know an individual by

14 the name of Ivan Gula?

15 A I did.

16 Q Was he a friend of yours?

17 A No.

18 Q Did you consider him a friend?

19 A No.

20 Q Did you consider him a good friend?

21 A No.

22 Q How long did you know Mr. Gula?

23 A A couple years. Maybe one, two.

24 Q Maybe three years?

25 A (Gesturing.)

1 Q Was December 1st of 2019 the last time you saw Ivan
2 Gula?

3 A I don't know.

4 Q Was it in December of 2019; do you recall?

5 A I don't know.

6 Q Ms. Velichko, you don't want to be here today, do
7 you?

8 A (No verbal answer.)

9 Q You have to tell the truth. You don't want to be
10 here today, do you?

11 A No, sir, I don't.

12 Q You're here because you received a subpoena, right?

13 A That's correct.

14 Q And you were informed that you're required to be
15 here.

16 A That's correct.

17 Q You didn't call our office and say you'd like to
18 testify.

19 A No, sir, I did not.

20 Q Do you remember the last night you saw Mr. Gula?

21 A No. I don't remember.

22 Q Did you, in fact, meet with investigators of the
23 Greenville County Sheriff's Office in December of 2019,
24 approximately December 20th, so about five days before
25 Christmas?

1 A I don't know. I don't remember.

2 Q Do you recall sitting down with them in an interview
3 room at the Law Enforcement Center that particular day?

4 A I don't remember.

5 Q You have severe anxiety, don't you?

6 A I mean, I'm sure in this kind of situation anybody
7 does.

8 Q Do you recall that you met with those investigators
9 shortly before 8 p.m.?

10 A I don't know.

11 Q Do you know these two gentlemen right back here? If
12 they can stand just so you can see them. Do you remember
13 meeting with both of these investigators back five years
14 ago?

15 A I don't.

16 Q You don't.

17 A Hu-uh.

18 MR. FRETWELL: Your Honor, at this time, pursuant to
19 Rule 607, 613, I will lay the foundation for extrinsic
20 evidence and impeachment.

21 THE COURT: All right.

22 Mr. Marchant, you were rising?

23 MR. MARCHANT: Well, your Honor, I think I know
24 where we're going with this. And if there's something
25 that she doesn't remember, there's a way that the

1 solicitor could refresh her memory. But that would need
2 to be done outside of this setting. So I have an
3 objection to where this is at this point in time.

4 MR. FRETWELL: Judge, that's not the only way I'm
5 required to do that. She has had her memory refreshed.
6 It has been ineffective.

7 THE COURT: Based upon that, I'm going to allow you
8 to continue.

9 MR. FRETWELL: Thank you, Judge.

10 BY MR. FRETWELL:

11 Q Ms. Velichko, did you -- in that interview that you
12 had with police, did you tell these investigators that
13 that night you just wanted to get out of the house and
14 away from your parents for a few hours?

15 A I don't remember what I said. It was a long time
16 ago.

17 Q I understand.

18 Did you tell them that your friend Ivan -- well,
19 first of all, did you tell them that Ivan was a good
20 friend of yours?

21 A I don't remember. That was a long time ago.

22 Q I understand.

23 did you tell them that Ivan came by to pick you up
24 around 4:15 or 4:20 that day?

25 A I don't know.

1 Q And did you tell them that you went to the house of
2 a mutual friend you identified as Grandpa Paul in
3 Chesney?

4 A I don't know.

5 Q Did you describe Grandpa Paul as an older gentleman
6 and say that that was a cultural term of respect?

7 A (No answer.)

8 Q You have to answer one way or the other,
9 Ms. Velichko. I'm very sorry.

10 A The cultural term respect?

11 Q Yes.

12 A Yes, that's correct.

13 Q "Grandpa" is a cultural term of respect?

14 A Well, in our -- in our side of the family, yeah.

15 Q Yes, ma'am. And you know a guy named Grandpa Paul.

16 A I mean, I did.

17 Q And do you recall telling them that you went with
18 Ivan to Grandpa Paul's house that evening?

19 A I don't remember.

20 Q Do you recall telling them that Ivan was staying
21 there at the time in a duplex?

22 A I don't remember what I said.

23 Q And that you were there for a couple of hours. You
24 ate something.

25 A (No answer.)

1 Q You have to answer audibly yes or no or you don't
2 remember.

3 A I don't remember.

4 Q Okay. And that Ivan had paid someone to borrow
5 their car for the day.

6 A I don't know.

7 Q That you left Grandpa Paul's around 7:30 so Ivan
8 could return the car. Do you remember telling the
9 investigators that?

10 A No, sir.

11 Q Okay. That Ivan picked up his friend Micco Dillard,
12 drove to Greer.

13 A I don't know.

14 Q That everyone was in a good mood on the way.

15 A I don't -- I don't know. Don't remember.

16 Q That Micco was going there -- you know Micco
17 Dillard.

18 A No. I don't remember him.

19 Q That Micco was going there to fix a laptop. Yes, no
20 or I don't remember.

21 A I don't remember.

22 Q Okay. I thought we were dropping the car off and
23 Micco and then leaving, do you remember telling them
24 that?

25 A No, sir.

1 Q That you also said you stayed in the car at first
2 when you first arrived and you thought at the time it was
3 about ten minutes.

4 A I don't know.

5 Q That you had a bad feeling. Do you remember telling
6 them about your bad feeling?

7 A No, sir.

8 Q And that you did not want to go into that house?

9 A No, sir.

10 Q Do you recall saying that Ivan soon returned to the
11 car and told you to come outside?

12 A I don't know.

13 Q Or inside. I'm sorry.

14 That a lady or a girl you identified as the car
15 owner was there and she was yelling at Ivan.

16 A I don't know.

17 Q That she was yelling at him about why he was so
18 late. He should have brought the car back hours ago.

19 A I don't know, sir.

20 Q Do you recall telling them that you did not know
21 her, you never met her but you recall her name was
22 Audrea?

23 A I don't know, sir.

24 Q Okay. And that you knew that because a guy had
25 asked her if she went by Audrea or Auddy. Do you recall

1 that?

2 A No, sir, I don't.

3 Q Do you recall saying that after about five minutes,
4 five guys jump out from a back room?

5 A No, sir. I do not recall.

6 Q Do you recall you saying that one of them was
7 holding a gun?

8 A I don't know.

9 Q And that another had two machetes?

10 A I don't know.

11 Q That they told Ivan to get down on his knees? I
12 have to have you answer.

13 A I don't remember.

14 Q Don't remember.

15 That it looked like Ivan thought they were joking
16 and he was smiling at that time?

17 A I don't know, sir.

18 Q That you then told him one of them shoved him?

19 A I don't know, sir.

20 Q That Ivan stopped smiling and asked what he did?

21 A I don't know.

22 Q They told him that he knew what he had done?

23 A I don't know.

24 Q The guy with two machetes started swinging them at
25 Ivan. Do you recall telling the investigators that?

1 A I do not recall.

2 Q Do you recall telling them and then demonstrating
3 that Ivan put up his hands to shield or defend himself?

4 A I do not recall that.

5 Q And that the guy sliced Ivan's arms with the
6 machetes?

7 A I do not recall that.

8 Q And then further, when the guy swung the machetes,
9 Auddy went into the back room and, as you described, hid?

10 A I do not recall that.

11 Q That you followed her into the room crying and
12 begging her to make them stop. Do you remember that?

13 A I do not.

14 Q That she finally came back out of the room?

15 A I do not remember.

16 Q She said "stop" or whistled or did something to make
17 them back away. Do you remember that?

18 A No, sir.

19 Q That you called or described it as giving an order?

20 A I don't remember.

21 Q You told them, if you recall, the guy hesitated but
22 he did not stop swinging machetes at Ivan?

23 A I do not recall that.

24 Q And that Ivan was bleeding everywhere it seemed?

25 A I do not recall.

1 Q You said that no one was helping Ivan, so you went
2 up to him to see if he was okay?

3 A I do not remember that.

4 Q That you noticed his hands were slashed open and
5 bleeding badly?

6 A I do not remember that.

7 Q And that you said because there was nothing around,
8 you took off your socks and wrapped them around Ivan's
9 wounds to create pressure? Do you recall that?

10 A I do not recall that.

11 Q You didn't know what else to do is what you told the
12 investigators. Do you remember that?

13 A I do not remember.

14 Q Do you remember telling them that Ivan also had
15 gashes on his face near his neck and you demonstrated?

16 A I do not remember.

17 Q Do you recall telling the investigators that you
18 spoke to Ivan in Russian and told him let's hurry up and
19 get out of there?

20 A I do not remember.

21 Q That he said he was staying put, so you asked what
22 he wanted you to do, if he wanted you to call someone to
23 pick them up -- him up?

24 A I do not remember.

25 Q Do you recall him saying, "Who would I call? I

1 don't really know who to call"?

2 A I do not remember.

3 Q And that you figured Ivan would know more people
4 than you did?

5 A I do not remember.

6 Q Do you recall that finally you asked Ivan if you
7 should call an ambulance?

8 A I do not remember that.

9 Q And do you recall telling them at that point he
10 tensed up and said, "No, no, no"?

11 A No. I do not remember.

12 Q Do you recall telling them that everyone else was
13 standing around just looking at Ivan?

14 A I do not recall.

15 Q That finally you walked away from Ivan and attempted
16 to walk outside?

17 A I do not remember.

18 Q That a guy followed you and said, "Nobody's going
19 outside"?

20 A I don't remember.

21 Q He was a short, stocky, bald guy is how you
22 described him. Do you recall that?

23 A I do not recall.

24 Q Do you recall that you told the investigators this
25 short, stocky, bald guy said, "Nobody is using their

1 phone," and then locked the door so you couldn't go back
2 outside?

3 A I do not remember.

4 Q Do you recall that the person you identified as
5 Audrea, telling the investigators that she called you
6 over and asked if you had a phone and who you were going
7 to call?

8 A I do not recall.

9 Q Do you recall telling them that you showed her no
10 service on your phone so that she wouldn't take it from
11 you?

12 A I do not remember.

13 Q Do you recall telling investigators that you didn't
14 go up to Ivan after that anymore because you were too
15 scared?

16 A I do not remember.

17 Q Do you recall saying that you went back and stood
18 next to Micco against the wall?

19 A I do not remember.

20 Q Do you recall saying that then the other guy, a big
21 guy came up with a gun, pointed it at Ivan and told him
22 to empty all of his pockets?

23 A I do not remember.

24 Q Do you recall saying that Ivan then emptied his
25 pockets and his backpack and they checked him for a

1 weapon?

2 A I don't remember.

3 Q Do you recall telling the investigators that Audrea
4 got up from her chair and instructed Ivan -- the people
5 that had come with Ivan, you, the other two individuals
6 that had come with Ivan to come with her?

7 A I don't remember.

8 Q That you then went outside and Audrea told you to
9 get in the car?

10 A I don't remember.

11 Q Do you recall telling them that Audrea asked a guy
12 who also came out of the back room to go with her because
13 she didn't want to go by herself?

14 A I do not remember.

15 Q Do you recall that this was a real skinny guy who
16 got into the backseat?

17 A I do not remember.

18 Q And that you got into the front passenger's seat?

19 A I do not remember.

20 Q Do you recall telling them that Audrea asked you
21 where you lived and you told her the Boiling
22 Springs/Landrum area?

23 A I do not remember.

24 Q That day you told investigators that the individual
25 named Isaiah was already in the car when Ivan picked you

1 up?

2 A I don't remember.

3 Q That he had been with Ivan all morning?

4 A I don't remember.

5 Q That you called Ivan at 11 and he was waking up and
6 on his way to Landrum?

7 A I don't know.

8 Q That Ivan was going to sell Isaiah a computer in
9 Landrum?

10 A I don't know.

11 Q Do you recall telling them that Audrea took you home
12 first?

13 A I don't remember.

14 Q That on the way, she continually made what you
15 called little threats to Ivan's friends, that would be
16 you, Mr. Dillard and Isaiah Culbreth?

17 A I don't remember.

18 Q That you told them specifically after some thought
19 that she said, "Hopefully, we can all forget this day"?

20 A I don't remember.

21 Q Or, "Remember, no one saw anything, right"?

22 A I don't know.

23 Q That you then responded, "This is a day definitely
24 not to remember"?

25 A I don't know, sir.

1 Q Do you recall telling them that Audrea continued
2 with comments and threats until each one in the car
3 agreed with her?

4 A I don't remember.

5 Q Do you recall telling them that Audrea said, "We're
6 going to keep this amongst ourselves"?

7 A I don't remember.

8 Q That she said, "We're going to pretend like this
9 never happened"?

10 A I don't remember.

11 Q That you recall telling the investigators, "I didn't
12 tell her exactly where I lived, just in the general
13 area"?

14 A I don't know.

15 Q That you told investigators you didn't want her to
16 know where you lived?

17 A I don't know.

18 Q So you had her drop you off at a subdivision near
19 your house and you walked?

20 A I don't know.

21 Q And that you got home about 10:30 p.m.?

22 A I don't know.

23 Q That further, Audrea was mad at Ivan because he kept
24 her car a couple hours longer than he was supposed to and
25 she needed to use it?

1 A I don't know.

2 Q That you told the investigators you didn't know how
3 long Ivan had had the car?

4 A I don't know.

5 Q That you told the investigators other than coming
6 out of the room with the other guys, the guy that came
7 with Audrea to drop Ivan's friends off really didn't do
8 anything?

9 A I don't know.

10 Q Do you recall saying I don't talk to any of the guys
11 that came out of the room -- you didn't while you were
12 there talk to any of the guys that came out of the room?
13 You were too scared and you were focused on Ivan?

14 A I don't know.

15 Q Do you recall telling investigators that Audrea
16 didn't call the guys by name, just sort of commanded
17 them?

18 A I do not recall, no.

19 Q That you said that Audrea took both of Ivan's
20 phones, and then you went back and said, "Well, he didn't
21 take mine. There was no service"?

22 A I do not recall that.

23 Q That you recall at that point that Ivan had dropped
24 his phone under the driver's seat on the way there?

25 A I do not recall that.

1 Q That Audrea found the phone, picked it up and asked
2 you whose phone it was?

3 A I don't know.

4 Q That you said, "I am guessing it's Ivan's"?

5 A I don't know.

6 Q That at that point, Audrea laughed, turned it off
7 and put it away and that it looked like an iPhone?

8 A I don't know.

9 Q Do you recall telling investigators that you found
10 -- that Audrea found this, Ivan's phone, when she drove
11 you home?

12 A I don't know.

13 Q That she did not take Micco's or Isaiah's phone and
14 specifically that Isaiah had kept his in his pocket the
15 whole time?

16 A I don't know.

17 Q All right. Do you recall investigators showing you
18 a lineup when you described an individual with the
19 machetes as a tall, medium build?

20 A I do not remember.

21 Q And that you would definitely be able to recognize
22 him?

23 A I do not know.

24 Q Let me show you what's been marked as State's
25 Exhibit 209. I'll show you what's been entered into

1 evidence as State's 209. Do you recognize your initials
2 right here?

3 A It looks like mine, yes, sir.

4 Q It looks like your initials?

5 A Yes, sir.

6 Q Okay. And do you recognize this writing of this
7 date, 12/20/2019?

8 A Yes, sir.

9 Q Does that appear to be your writing?

10 A It looks like it.

11 Q Do you recall writing this?

12 A I do not recall.

13 Q Okay. Do you see that this is circled, Number 3?

14 A Yes, sir.

15 Q Okay. Do you recall circling that?

16 A I do not recall.

17 Q Okay. Let me show you what's been introduced as --
18 I'm sorry -- marked as State's Exhibit 210 which is an
19 affidavit of photographic identification. Is this your
20 writing, ma'am?

21 A It must be.

22 Q It must be. Okay.

23 And do you recall giving the information to both
24 Investigator Garrett and Investigator Bailey, those two
25 people I pointed out to you just a little while ago, that

1 Number 3, if I'm not mistaken, he was the one that ran
2 out of the back room swinging two big machetes? Do you
3 remember that?

4 A I do not remember.

5 Q Do you remember asking them how to spell "machete"?

6 A I do not remember.

7 Q Do you remember Mr. Bailey over there, the one on
8 the left, telling you how to spell it and he spelled it
9 wrong?

10 A I do not remember.

11 Q Okay. At the end, do you remember this: He was
12 swinging the machetes at Ivan Gula, you ran out of space
13 and you had to write it twice? Do you remember that?

14 A I do not remember.

15 Q Let me show you what's been marked as State's
16 Exhibit 211 and 212. First, 211, do you recognize your
17 initials JV right there (indicating)?

18 A That is my initial, yes.

19 Q Okay. Good. And this writing right here
20 (indicating)?

21 A Yes.

22 Q 12/20/2019, that's your writing?

23 A Yes.

24 Q Okay. And this circle right here (indicating), do
25 you recall making that circle?

1 A I do not recall.

2 Q Okay. That's fine.

3 With respect to State's Exhibit 212, do you recall
4 providing information to those two investigators, "This
5 guy told me to come back inside the house," you drew an
6 arrow up probably afterwards, after writing "and told me
7 that no one is leaving anywhere right now," drew an arrow
8 up after "house," "and locked the door"? Do you remember
9 doing that?

10 A I do not remember.

11 Q Do you remember signing this?

12 A I do not remember.

13 Q That is your signature, right?

14 A Yes, sir. But I do not remember signing it.

15 Q Okay. And at the time, that was an address that you
16 had and the phone number that you had, is that correct,
17 at that time?

18 A I don't know.

19 Q Okay. This on State's Exhibit 210, that's your
20 signature as well, is it not, ma'am?

21 A It looks like it, yes.

22 Q And this was your address and phone numbers and
23 information at the time?

24 A Yes.

25 Q Okay. Ms. Velichko, do you recall telling the

1 investigators that at the house before they left, the
2 girl you identified as Audrea said to you all, "Did you
3 know Ivan transport girls? That's how he makes his
4 money"?

5 A I do not recall that at all.

6 Q Do you recall telling them, "None of us said
7 anything, so she kept repeating it"?

8 A I do not recall that.

9 Q That at the house when all of this was going on,
10 after the Audrea individual had said that, that finally
11 Ivan said, "What girls?" Do you recall that?

12 A I do not recall.

13 Q Do you recall that Audrea said, "You know what I'm
14 talking about. Little did you know I used to work for
15 the cops or the sheriff, and I've looked into your
16 background. I've been watching you"?

17 A I do not recall that.

18 Q You don't recall telling them that?

19 A I do not recall.

20 Q Do you recall telling them that she said when --
21 that she left -- that Audrea said she let Ivan borrow the
22 car, and that somehow she had tapped it and listened to
23 all the conversations in the car?

24 A I do not recall that.

25 Q Do you recall that then you told them Ivan repeated,

1 "What girls"?

2 A I do not recall that.

3 Q That Audrea then said, "Don't try to play dumb. I
4 know everything about you"?

5 A I do not recall any of that.

6 Q Do you recall telling them when you got in the car,
7 Audrea brought it up again and you told her, Ma'am, I can
8 promise you with respect to Ivan and the girls, this is
9 definitely not true, and she said, "You don't know
10 nothing about him"?

11 A I do not recall that.

12 Q Do you recall telling them that you said, "Well,
13 I've known him long enough and he's lived with me for a
14 year, and there were no kinds of girls at the house. He
15 never left the house. He kept to himself"?

16 A I do not recall that.

17 Q Do you recall telling the investigators that Micco
18 Dillard in the car also tried to tell her there's no way
19 he, meaning Ivan, did anything like that?

20 A I do not recall that.

21 Q Do you recall telling them that Audrea told you on
22 the way home that trafficking girls was the reason all of
23 this had happened?

24 A I do not recall that.

25 Q Do you recall that, as a result of a follow-up kind

1 of question, that you said to the investigators, "None of
2 that about the girls is true, definitely"?

3 A I do not recall.

4 Q That he didn't even have a car to do any of that,
5 not that he would?

6 A I do not know.

7 Q Do you recall telling them about two years before
8 this, the incident where he was killed, that he lived
9 with his parents after he left his wife?

10 A I do not know.

11 Q Do you recall telling them that his wife and his two
12 daughters lived at that time in the Charlotte area?

13 A I do not know.

14 Q Do you recall telling them that, when asked about
15 what Ivan did, if anything, that you told them that he
16 didn't move, I guess he was scared, that's in the house
17 where all this was happening, that he didn't move, he was
18 scared, there was the guy with the gun and the guy with
19 the machete was standing near him?

20 A I do not know.

21 Q Do you recall telling the investigators that you did
22 try to tell him come on, let's go, but I guess he knew he
23 couldn't come with you?

24 A I do not know.

25 Q That you were communicating in Russian at that time?

1 A I do not remember.

2 Q Do you recall communicating with Ivan in Russian
3 that evening?

4 A No. I do not remember.

5 Q Do you recall describing Ivan's injuries before you
6 left, that his arms were sliced open?

7 A I do not know.

8 Q That you demonstrated that on basically the back
9 sides of your hands and wrists?

10 A I don't know.

11 Q Do you recall that you said that he was cut on his
12 face and you basically demonstrated that on both sides of
13 the jaw and throat?

14 A I do not know.

15 Q Do you recall that you told them he was bleeding out
16 of every corner even though it was dark in the house?

17 A I do not know.

18 Q That you told them you were worried about his hand
19 that was gashed open?

20 A Don't know.

21 Q That you told them when you went to get in the car,
22 Audrea said to the guy that had followed her, "Finish up
23 you guys's job. When I get back, you guys better be
24 done"?

25 A I do not know.

1 Q You don't recall saying that?

2 A I do not recall.

3 Q You don't recall telling them right here?

4 A I do not recall.

5 Q Do you recall in that interview with the
6 investigators telling them that when you were driving
7 home, that Audrey was out of gas, so she took you by a
8 gas station that you thought was called the Flipper?

9 A I do not recall.

10 Q Something like that. And then you went through some
11 different streets until the two of you and the
12 investigators figured out that what you were talking
13 about was US 29? You're familiar with US 29, Wade
14 Hampton?

15 A No.

16 Q No?

17 Do you recall telling them that you had \$10, you
18 tried to give it to her for gas and she wouldn't take it?

19 A I do not recall.

20 Q That that \$10 was, obviously, cash?

21 A I do not recall.

22 Q That she ended up getting money from Isaiah who had
23 a debit or a credit card?

24 A I do not know.

25 Q That she said she would pay him back when they got

1 back?

2 A I do not know.

3 Q Which you thought meant that she must not be taking
4 him home, she must be taking him back to the house?

5 A I do not know.

6 Q Okay. Do you recall telling the investigators that
7 when you pulled in, that her phone kept blowing up like
8 someone was calling her repeatedly?

9 A I do not know.

10 Q Do you recall telling the investigators that it was
11 one of the guys from the trailer?

12 A I do not know.

13 Q That she tried to text him back but wasn't able to?

14 A I do not know.

15 Q That she handed her phone to the guy that had come
16 with her, not you, not Mr. Dillard, not Isaiah Culbreth,
17 the other guy?

18 A I do not remember.

19 Q And said, "You text him back and tell him you know
20 what to tell him"?

21 A I do not recall that.

22 Q Do you recall telling the investigators that then
23 Audrea turned off her phone, before she did, I guess at
24 some point, "Why do you guys keep blowing up my phone"?

25 A I do not recall that.

1 Q That you said, "She said 'I clearly told you guys
2 what you guys need to do. What part did you guys not
3 understand'?"

4 A I do not recall that.

5 Q That you also told the investigators that you
6 thought maybe one of the guys back at the house might
7 have been hesitant?

8 A I do not know.

9 Q Do you recall telling the investigators that you
10 remember her asking -- or you asking Aubrey -- or Audrea,
11 "You're not going to hurt me, are you"?

12 A I do not recall.

13 Q Do you recall Audrea then laughing and saying, "Do I
14 really look like the type that would do something like
15 that"?

16 A I do not recall.

17 Q And that you responded, "No, ma'am"?

18 A I do not recall.

19 Q That you told investigators, "I was really scared.
20 When they first got to the car, there was no telling
21 whether she was going to take us somewhere else or what
22 she was actually going to do"?

23 A I don't remember.

24 Q Do you recall saying that you tried to be nice, not
25 to get on her bad side?

1 A I do not recall.

2 Q That you didn't want to communicate with her, but
3 you also didn't want it to seem like -- to get her mad or
4 something like that to come after you?

5 A I do not recall that.

6 Q That also you didn't want her to think you were
7 trying to be friends with her either?

8 A I do not recall that.

9 Q Let me show you what's been marked as State's
10 Exhibit 213 and 214. I'll ask you again if you recognize
11 your initials JV on State's 213 right here (indicating).
12 Do you recognize that?

13 A Yes.

14 Q And your handwriting in writing the date of
15 12/20/2019?

16 A (Gesturing.)

17 Q Do you recall circling that twice?

18 A I do not recall.

19 Q How about State's 214? This is your signature,
20 correct?

21 A It appears to be, yes, sir.

22 Q Okay. And this is all the information, your
23 personal information at the time?

24 A Yes.

25 Q Okay. And that it says, "Audrea, when we walked

1 into the trailer, she was in the kitchen. She started
2 yelling at Ivan because he brought her car back a little
3 late. Then shortly after, several guys ran out of the
4 back room. Audrea ended up taking me back home. She
5 pretty much ordered the guys to finish up everything or
6 clean up everything before she got back. She asked the
7 guys, 'Which one of you wants to ride with me?'" Do you
8 remember writing that?

9 A I do not remember.

10 Q Don't remember writing that.

11 Ms. Velichko, do you recall telling the
12 investigators that Ivan wasn't doing any drugs that night
13 but that you know that he's done drugs in the past?

14 A I do not recall.

15 Q That he likes to drink vodka every now and then,
16 he'll have a little bit of meth and smoke it?

17 A I don't remember.

18 Q That that night he didn't have nothing on him, no
19 money, nothing literally?

20 A I do not know.

21 Q And that he's never done heroin in his life?

22 A I do not know.

23 Q Do you recall telling the investigators you've never
24 seen any of these people before in your life? It was
25 your first time there at the trailer where all of that

1 happened?

2 A I do not know.

3 Q Do you recall telling the investigators that you
4 only know Isaiah as Zay and has never had -- you've never
5 had a number for him, a telephone number for him?

6 A I do not know.

7 Q That you told the investigators that you hadn't, at
8 the time of the interview, talked with Micco?

9 A I do not know.

10 Q Since, of course, the incident, the December 1st.
11 That Micco did send you a friend request but you
12 never responded to it?

13 A I do not recall.

14 Q Telling the investigators that Audrea had, quote,
15 those guys hypnotized?

16 A I do not recall that.

17 Q That she said something like one word and they would
18 all run to her right away?

19 A I do not recall that.

20 Q That they were either scared of her or something?

21 A I do not recall that.

22 Q That you gave the example of where's my phone, they
23 all run up the stairs back into the house to look for it
24 and all came back and said we can't find it? All of
25 them?

1 A I do not recall.

2 Q Do you recall telling them that they finally found
3 it -- they called it, they found it, and she says, "Now,
4 that wasn't hard"?

5 A I do not recall.

6 Q Very specific example, don't you think?

7 A I do not know.

8 Q Do you recall telling the investigators that she had
9 some kind of power over them in, quote, a weird way?

10 A I do not recall.

11 Q And then you used the word "sickening"?

12 A I do not recall.

13 Q Do you recall telling the investigators she either
14 buys them their choice of drugs or does something to keep
15 them like that?

16 A I do not recall.

17 Q That was your opinion at the time? Do you recall
18 that?

19 A I do not recall.

20 Q Okay. Let me show you -- let me show you what has
21 been -- well, let me first of all ask you this. Do you
22 recall describing the gunman that night as shorter, more
23 fatter, I guess, than the individual with the machetes
24 that you had just described with a bald spot up in front?

25 A I do not recall.

1 Q That he was about 45 to 50 years of age, kind of
2 tall?

3 A I do not recall.

4 Q That he was wearing a beard?

5 A I do not remember.

6 Q Do you recall that you were asked to review this
7 lineup?

8 A I do not recall.

9 Q Do you recognize your initials JV right there
10 (indicating)?

11 A I see that, yes.

12 Q Do you recognize the 12/20/2019 date in your
13 handwriting?

14 A Yes.

15 Q Okay. And do you recognize this asterisk that's
16 right up here, this star that's drawn right up here? Do
17 you recall drawing that star?

18 A No, I do not.

19 Q Do you recall circling this Number 6?

20 A I do not recall, no.

21 Q Do you recall where you were when you were shown
22 this lineup?

23 A I do not recall.

24 Q Do you recall that you were in an interview room
25 with both of those gentlemen that I had stand a few

1 minutes ago?

2 A I do not recall.

3 Q Do you recall -- would you agree that these faces
4 look similar?

5 A Yes.

6 Q Would you agree that all six of them are presented
7 on one piece of paper, not individually?

8 A Yes.

9 Q Do you recall what, if anything, Investigator
10 Bailey, the man all the way on the left over there in the
11 corner, told you about this before he showed it to you?

12 A I do not recall.

13 Q Do you recall him saying, "Do you recognize anyone
14 in that lineup"?

15 A I do not recall.

16 Q Did anybody suggest that you should pick Number 6?

17 A I do not know.

18 Q About how long were you able to observe the man with
19 the gun that night; do you remember?

20 A I do not remember.

21 Q Do you remember it being about ten to 15 minutes?

22 A I do not remember.

23 Q Do you remember being just feet away from that
24 individual?

25 A I do not remember.

1 Q Do you remember there being some lights on in the
2 trailer?

3 A I do not remember.

4 Q Do you remember being able to get a good look at
5 that person?

6 A No.

7 Q You don't remember that?

8 Do you think, based on what happened that evening,
9 that this would have been a memorable event for you?

10 A No.

11 Q Do you think, based on what happened that night,
12 this would be a face you would remember, particularly a
13 couple weeks later?

14 A No.

15 Q Were you able and do you recall identifying Number 6
16 on this lineup as the person that you identified with a
17 gun that evening?

18 A I do not recall.

19 Q Do you recall writing in your own handwriting on
20 State's Exhibit 208, "This guy was the one that held the
21 gun out at Ivan several times"?

22 A I do not recall that.

23 Q And you said "several times."

24 A I do not recall that.

25 Q Do you recall circling that picture over there,

1 putting an asterisk, your initials and the date?

2 A I do not recall.

3 Q Do you recall telling the investigators that you saw
4 a gun that evening and describing what it looked like?

5 A I do not recall.

6 Q Do you recall describing it as a little handgun,
7 possibly a 22?

8 A I do not recall.

9 Q Do you recall telling them that you recall that it
10 was silver?

11 A I do not recall.

12 Q Do you recall telling them that you thought, well,
13 maybe it might be a 38 because maybe a 22 was bigger than
14 a 38?

15 A I do not recall.

16 Q And do you remember Investigator Bailey telling
17 you, no, it's the other way around, a 22 is smaller than
18 a 38?

19 A I do not recall.

20 Q Do you recall being asked about whether or not you
21 know the difference between a semiautomatic handgun and a
22 revolver?

23 A I do not recall.

24 Q Do you recall saying that you knew it was not a
25 revolver?

1 A I do not recall.

2 Q Do you recall telling the investigators you could
3 tell there were bullets in it the way he did something
4 with it?

5 A I do not recall.

6 Q Do you recall -- well, let me ask you this. Sitting
7 here today, could you recognize the individual you saw
8 that night with the gun?

9 A No.

10 Q Would you please take a moment and would you look
11 around the courtroom?

12 A (Witness complies.)

13 Q Have you looked everywhere?

14 A Yes, sir.

15 Q Do you recognize that man, ma'am?

16 A No, sir.

17 Q Do you recall, Ms. Velichko, near the end of your
18 interview stating that you were very concerned with the
19 people from that night finding out who you are and
20 harming you?

21 A I do not recall.

22 Q Do you recall telling them that when you left in the
23 car, one of the guys, the guy you described as a short,
24 stocky guy, drove from the back of the house in a newer
25 model white short-bed truck parked in the back of the

1 trailer?

2 A I do not recall.

3 Q Do you recall calling Ivan a good person?

4 A I do not recall.

5 Q Was Ivan a good person?

6 A I don't know.

7 Q Do you recall asking him -- I'm sorry. Do you
8 recall, in response to a question or on your own, saying
9 whenever anyone was stranded and needed a ride to be
10 picked up or even a tire change, that Ivan would drop
11 everything and go help those people? Do you remember
12 that?

13 A I don't know.

14 Q That when you were going through a particularly hard
15 time and you wanted to vent, he would sit there and
16 listen to you?

17 A I do not know.

18 Q Finally, do you recall State's Exhibit 215 and 216,
19 are those your initials right there, JV?

20 A It looks like it.

21 Q And then your date 12/20/2019 ---

22 A Yes, sir.

23 Q --- in your handwriting?

24 And do you recall circling that (indicating)?

25 A I do not recall.

1 Q And State's 216, that's your signature, Janice
2 Velichko?

3 A Yes.

4 Q And this is the date -- this is the address and
5 phone number information that you had at the time?

6 A (Nods head affirmatively.)

7 Q Do you recall -- you have to answer audibly. You
8 can't shake your head.

9 A I do not recall.

10 Q You don't recall. Okay.

11 Do you recall telling them, "This was the guy that
12 was sitting in the backseat of the car when Audrey was
13 taking us home"?

14 A I do not recall that.

15 Q Do you recall, ma'am, being shown previously a copy
16 of the interview that you had with investigators in this
17 case?

18 A I do not recall.

19 Q You don't recall that? Do you recall us showing
20 that to you right on Monday before the trial started?

21 A I do not recall.

22 Q You don't recall that from Monday?

23 A No.

24 Q You don't recall it playing right there on that
25 screen behind you?

1 A No.

2 Q You don't recall identifying yourself on that
3 screen?

4 A No.

5 MR. FRETWELL: Your Honor, at this time, I believe
6 I've laid the foundation for extrinsic evidence. I will
7 have to authenticate that interview by recalling
8 Investigator Bailey -- or Lieutenant Bailey.

9 At this time, I have no further questions for the
10 witness.

11 CROSS EXAMINATION

12 BY MR. MARCHANT:

13 Q Ms. Velichko, do you remember meeting with these
14 prosecutors last December?

15 A I do not remember.

16 Q Do you remember telling them at the meeting with
17 just the prosecutors that during your interview with law
18 enforcement, you were speaking fast and you must have
19 been high?

20 A That is...

21 Q Yes?

22 A Yes.

23 Q And during this time in your life, December 2019,
24 you were using methamphetamine and heroin almost daily?

25 A That is correct.

1 MR. MARCHANT: No further questions.

2 MR. FRETWELL: No redirect, Your Honor.

3 Your Honor, may this witness be excused?

4 THE COURT: Any objection?

5 MR. MARCHANT: No objection.

6 THE COURT: Ma'am, you're free to go.

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

8 I have a brief rebuttal. If I could call -- recall

9 Investigator Bailey.

10 THE COURT: I'm going to let you do that before we
11 adjourn.

12 MR. FRETWELL: Yes, sir. Thank you very much.
13 Thank you.

14 THE COURT: I'll let you do that.

15 Come on up, Lieutenant Bailey. We're going to swear
16 you in once again.

17 Madam Clerk?

18 WHEREUPON,

19 ANTONIO BAILEY

20 After having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FRETWELL:

23 Q Investigator Bailey, were you present for the
24 interview I just described?

25 A Yes, I was.

1 Q And let me just show you the items of evidence that
2 you've seen before, that you've identified before. I
3 would just ask at this time if you could look over these
4 documents. Ms. Velichko has authenticated her initials
5 and the date and providing her signature and what was --
6 her signatures on the affidavits. Did Ms. Velichko
7 author all of those documents and put all of the writing
8 on there with the exception of your signature,
9 Investigator Garrett's signature on the affidavits and
10 the personal information such as the address and the
11 phone number, anything like that?

12 A I'm sorry?

13 Q Did everything else come from Ms. Velichko?

14 A Yes, it did.

15 Q Is it authentic?

16 A Yes, sir.

17 Q Are these documents and exhibits in the same
18 condition they were when executed in December -- on
19 December 20, 2019?

20 A Yes, they were.

21 MR. FRETWELL: At this time, I'd move all of those
22 into evidence.

23 THE COURT: Objection, Mr. Marchant?

24 MR. MARCHANT: A couple questions for Investigator
25 Bailey.

VOIR DIRE

BY MR. MARCHANT:

Q You were present during our prior testimony this week.

MR. FRETWELL: Judge, can I just ask, is this on the limited purpose of this? Because I'm not done.

MR. MARCHANT: Yes.

THE COURT: Okay.

BY MR. MARCHANT:

Q You were present ---

A Yes, sir. Yes, I was.

Q --- when Ms. Velichko was here on Monday.

A I was here, but I believe that was the time I stepped out.

MR. MARCHANT: Then I don't have any questions for him, but do have my objections based on my previous objections.

THE COURT: Noted for the record, Mr. Marchant. Go ahead.

MR. FRETWELL: And, Your Honor, I would move those into evidence at this time.

THE COURT: All right. Subject to his objection. So noted for the record.

(WHEREUPON, State's Exhibit Numbers 207 through 216 were admitted into evidence.)

1 DIRECT EXAMINATION (Continued)

2 BY MR. FRETWELL:

3 Q Let me show you what's been marked as State's
4 Exhibit 230, ask if you recognize this and how you
5 recognize it.

6 A (Reviews exhibit) Yes. I recognize it.

7 Q How do you recognize it and what is it, sir?

8 A It's a video of the interview with Velichko, and I
9 recognize it because it has my initials.

10 Q And you've reviewed that exhibit?

11 A I have.

12 Q Other than redactions for purposes of evidentiary
13 and court rules, does it contain and accurately reflect
14 the interview you had with Ms. Velichko on December 20,
15 2019, sir?

16 A Yes, it does.

17 Q Has it been altered in any way other than what I've
18 already described?

19 A Has not been altered.

20 MR. FRETWELL: Your Honor, at this time, I would
21 move State's 230 into evidence.

22 THE COURT: Mr. Marchant?

23 MR. MARCHANT: Yes, Your Honor. I would object.

24 The information presented has already been delivered by
25 the solicitor in his questioning of Ms. Velichko. This

1 piece of evidence is duplicate and bolstering.

2 THE COURT: All right. I'll allow it subject to
3 your objection. Go ahead.

4 (WHEREUPON, State's Exhibit Number 230 was admitted into
5 evidence.)

6 BY MR. FRETWELL:

7 Q Finally, two other questions for you, Lieutenant
8 Bailey, rebuttal as well. Did you, at some point between
9 last summer and August of this year, come into possession
10 of information about an Isaiah Hill or a meeting between
11 Isaiah Hill and Mr. Terry Micco Dillard?

12 A Yes.

13 Q Did you indicate your desire ---

14 MR. MARCHANT: Your Honor, I object. This is not in
15 reference to the examination of Ms. Velichko.

16 MR. FRETWELL: It's rebuttal, Your Honor. It's
17 rebuttal with respect to matters that were raised by
18 Mr. Marchant on the cross-examination of Mr. Dillard.

19 MR. MARCHANT: That was for Mr. Dillard, not
20 Ms. Velichko. This is outside the scope.

21 MR. FRETWELL: Your Honor, he's a rebuttal witness.
22 He can address anything in the case that has to do with
23 rebuttal, Judge.

24 THE COURT: All right. I'm going to allow it and
25 then go directly into the video.

1 MR. FRETWELL: Yes, sir. I'm going to do that.

2 BY MR. FRETWELL:

3 Q Did you indicate a desire to go and speak with
4 Mr. Hill?

5 A I did.

6 Q Were you informed that Mr. Hill had charges and was
7 represented by counsel?

8 A Yes, I was.

9 Q And were you instructed by our office because you
10 had consultation with our office that you have to go
11 through his attorney, Matt Shealy, at the time?

12 A Yes.

13 Q And were you informed by conversation from Matt
14 Shealy that his client would not speak to you?

15 A Through the solicitor's office, yes, sir.

16 Q And were you ever able to locate an Isaiah
17 Culbreth?

18 A No, I have not.

19 MR. FRETWELL: At this time, Your Honor, I believe
20 we've laid the foundation in evidence. We could please
21 not play it tonight. It's almost an hour.

22 THE COURT: All right.

23 MR. FRETWELL: But any cross-examination that
24 Mr. Marchant has.

25 ///

CROSS EXAMINATION

BY MR. MARCHANT:

Q Well, let's talk about Isaiah Hill. You say you were informed through the solicitor's office ---

A Yes, sir.

Q --- that you couldn't talk to Isaiah Hill?

A Through the -- from his attorney, yes, sir.

Q Did you talk to his attorney or did you talk to the solicitor's office?

A I spoke with the solicitor's office.

Q So you never talked with his lawyer to know whether or not he would talk with you.

A No, sir.

Q Did you prepare a report reflecting the conversations you had with the solicitor's office?

A I did not.

Q When did you have that conversation?

A Months ago.

Q It's important to document things so we have a specific date and time so we can go back and refresh our memories, correct?

MR. FRETWELL: Your Honor, is this a question?

THE COURT: What's your question? You're making a statement, Mr. Marchant. What's your question?

MR. MARCHANT: I had a question, Your Honor. I was

1 interrupted.

2 BY MR. MARCHANT:

3 Q Investigator Bailey, isn't it important to document
4 things so that if you don't recall, you have a document
5 to go back and refresh your memory?

6 A Yes, sir.

7 MR. MARCHANT: No further questions.

8 MR. FRETWELL: No questions, Judge.

9 THE COURT: All right. You can step down, Officer
10 Bailey. You may be a witness tomorrow, so you understand
11 the rules.

12 THE WITNESS: Yes, sir.

13 THE COURT: All right. Ladies and gentlemen of the
14 jury, we're going to adjourn for the evening. We're
15 going to have an early start tomorrow morning as well.
16 Please, ma'am and please, sir, be here at 9 o'clock.
17 We're going to get started very promptly at 9 o'clock.

18 Overnight do not talk with anybody about this case,
19 your family members, your friends, no one. Do not try to
20 do any research or anything of that nature, try to watch
21 TV or -- looking for this information. Don't do anything
22 at all. And I'll see you tomorrow morning very promptly
23 at 9 o'clock. Okay. Follow the bailiff.

24 (WHEREUPON, the jury exits the courtroom at 5:47 PM.)

25 THE COURT: All right. Gentlemen, anything before

1 we adjourn for the day?

2 MR. FRETWELL: None from the State, Your Honor.

3 THE COURT: Anything from the defense?

4 MR. MARCHANT: No, Your Honor.

5 THE COURT: All right. See you in the morning at
6 9 o'clock.

7 (WHEREUPON, proceedings recessed at 5:47 PM.)

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1 Friday, September 20, 2024

2 (WHEREUPON, State's Exhibit Numbers 219 through 226 and
3 229 were marked for identification; proceedings commenced
4 at 10:54 AM.)

5 THE COURT: Okay. Is there anything before we bring
6 the jury out?

7 MR. FRETWELL: No, Your Honor.

8 MR. MARCHANT: No, Your Honor.

9 THE COURT: All right. Bring the jury out.

10 MR. FRETWELL: Judge, just for the Court's
11 information, we're going to start by playing, as we
12 indicated in chambers, the State's Exhibit 230.

13 THE COURT: All right. Yes. Okay.

14 (WHEREUPON, the jury entered the courtroom at 10:56 AM.)

15 THE COURT: All right. Good morning. Sorry you had
16 to wait just a little bit, but we're going to go ahead
17 and get started.

18 Mr. Fretwell?

19 MR. FRETWELL: Your Honor, may it please the Court.

20 THE COURT: Yes, sir.

21 MR. FRETWELL: At this time, the State would request
22 that we be permitted to publish State's 230 which is in
23 evidence.

24 THE COURT: All right. Any objection, Mr. Marchant?

25 MR. MARCHANT: Subject to the previous objection

1 from yesterday, Judge.

2 THE COURT: All right. Thank you, sir.

3 (WHEREUPON, State's Exhibit Number 230, a video
4 recording, was played in open court.)

5 MR. FRETWELL: Judge, we're ready to call our next
6 witness.

7 THE COURT: ALL right. Call your next witness.

8 MR. FRETWELL: Your Honor, the State calls Bobby Ray
9 Smith.

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

13 BOBBY RAY SMITH

14 After having been duly sworn, testified as follows:

15 THE CLERK: Thank you. You may be seated. State
16 your full name for the record.

17 THE WITNESS: Bobby Ray Smith.

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

19 THE COURT: Yes, sir.

20 DIRECT EXAMINATION

21 BY MR. FRETWELL:

22 Q Good morning, Mr. Smith.

23 A Good morning.

24 Q How old are you?

25 A 40.

1 Q Whereabouts in South Carolina do you live currently?

2 A Lyman.

3 Q Are you married?

4 A No, sir.

5 Q Do you have any children?

6 A Yes, sir.

7 Q How old is your child?

8 A 8.

9 Q Are you working currently, sir?

10 A Yes, sir.

11 Q What kind of work do you do?

12 A I drive a used oil truck.

13 Q How long have you held that job?

14 A 12 going on 13 years.

15 Q Mr. Smith, in 2019, did you know an individual by
16 the name of Ivan?

17 A Yes, sir.

18 Q Where did you meet him and how well did you know
19 him?

20 A I met him at Audrea Cook's house, and I did not know
21 him very well.

22 Q Where was Audrea Cook's house?

23 A At C and S Drive or street or whatever it is. It's
24 C and S.

25 Q Was the evening of December 1, 2019, the last time

1 you saw Ivan?

2 A Yes, sir.

3 Q What did you see that night the last time you saw
4 Ivan? How did you describe that, sir?

5 A A very grueling situation. I saw him get beat up
6 and cut up.

7 Q Did you tell law enforcement that you saw Ivan get
8 the shit kicked out of him?

9 A Yes, sir.

10 Q The day before that, did you have a conversation
11 with Audrea Cook?

12 A Yes, sir.

13 Q What did she tell you about Ivan and her vehicle?

14 A That he had it and wouldn't bring it back and she
15 was trying to get it back.

16 Q In fact, you said she was raising hell about it; is
17 that correct?

18 A Yes, sir.

19 Q What was your relationship with Ms. Cook?

20 A Friendly. It's just it wasn't nothing but a friend.
21 I met her through doing dope and running around with
22 people.

23 Q Doing dope?

24 A Doing drugs.

25 Q Can you pull that microphone just a little bit

1 closer? And make sure you speak up nice and loud,
2 please, sir.

3 A Yes, sir.

4 Q Thank you.

5 Did you help Ms. Cook try to get her car back?

6 A Yes, sir.

7 Q How did you go about doing that?

8 A Me and Ivan had been in contact, and I was trying to
9 just making phone calls trying to get him to bring it
10 back.

11 Q Okay. And you and Ivan had more than just a phone
12 conversation. There was something else going on with
13 Ivan. What was that, sir?

14 A He owed me money for drugs I had sold him.

15 Q You sold Ivan some drugs and he owed you money.

16 A Yes, sir.

17 Q What kind of drugs and how much did he owe you?

18 A Methamphetamines, \$500.

19 Q Is \$500 a lot of money to you?

20 A Yes, sir.

21 Q It was a lot of money to you back in 2019?

22 A Yes, sir.

23 Q Would you like to have gotten that \$500?

24 A Yes, sir.

25 Q So how upset would you say Audrea was about Ivan

1 taking the car?

2 A Pretty pissed.

3 Q What, if anything, did she want done about it?

4 A She had made the statement she wanted him beat up.

5 Q Is your exact words -- and you need to try to see if
6 you can say the exact words, okay?

7 A She wanted his ass whooped.

8 Q Thank you, sir.

9 On December 1, 2019, did you go over to Ms. Cook's
10 trailer once or multiple times?

11 A Multiple.

12 Q Do you recall what time early that morning you
13 arrived?

14 A No, sir.

15 Q Was it fairly early in the morning?

16 A Yes, sir.

17 Q And was it before the sun comes up or after the sun
18 comes up?

19 A The first time -- I'm wanting to say before.

20 Q Okay. Throughout that day, did you leave and
21 eventually come back later on?

22 A Yes, sir.

23 Q Did you return at some point that late afternoon or
24 early evening of December 1st?

25 A Yes, sir.

1 Q How do you know what time you came back?

2 A If I'm not mistaken, it was right the time after I
3 put my son to sleep.

4 Q That's what I'm asking you about.

5 A Yeah.

6 Q So you waited until after your son was asleep?

7 A Yes, sir.

8 Q Who was there at the time that you arrived, sir?

9 A Jeff George, Audrea Cook, Shane Poole and another
10 man.

11 Q Do you know the name of that other man?

12 A I'd only met him once. It's either Isaac, Isaiah,
13 something like that. I can't remember.

14 Q A biblical name?

15 A Something like that, yes, sir.

16 Q All right. Did you mention what kind of vehicle
17 Jeff George had?

18 A White GMC pickup.

19 Q At the time, what kind of model was it? An old
20 model? new model?

21 A Newer. Probably around '08 I'm wanting to say.

22 Q Okay. Where in the trailer was everyone at the time
23 that you arrived?

24 A Audrea's bedroom.

25 Q When you come into the trailer, where do you go to

1 get to Audrea's bedroom?

2 A To the right.

3 Q Is that the front door or the back door?

4 A Back door.

5 Q Did anyone have any weapons?

6 A Jeff George had a gun on his side.

7 Q What kind of gun, do you recall?

8 A A semiautomatic pistol.

9 Q Do you recall what caliber?

10 A I'm wanting to say it's a 40, but I'm not
11 100 percent.

12 Q Do you recall what color?

13 A Black.

14 Q Did you meet with the sheriff's office investigators
15 on December 18, 2019, to discuss this incident?

16 A Yes, sir.

17 Q Were you asked to review what's been marked as
18 State's 217? Were you asked to review this lineup, sir?

19 A Yes, sir.

20 Q How do you recognize it?

21 A It's the exact same way it was that day after I
22 marked it after I identified him.

23 Q So you marked it?

24 A Yes, sir.

25 Q Are your initials on it?

1 A Yes, sir.

2 Q Who showed you this lineup; do you recall?

3 A The detective that's sitting right behind you.

4 Q In the blue?

5 A Yes, sir.

6 Q Okay. And do you remember what the location was
7 when you were shown this lineup, sir?

8 A It was in the jail -- or in the sheriff's office.

9 Q Like in an interview room?

10 A Yes, sir.

11 Q Okay. Do you recall if there was anybody else
12 besides Investigator Garrett there, this gentleman right
13 here?

14 A There was another guy, yeah. But I don't remember
15 who he was.

16 Q Kind of went in and out?

17 A Yes, sir.

18 Q Okay. In that exhibit that you have in front of
19 you, it's 217, I believe, for the record, how many photos
20 are on the lineup?

21 A Six.

22 Q Are the photos of similar description?

23 A Yes, sir.

24 Q Were the photos displayed to you just like that or
25 were they one at a time?

1 A Just like this.

2 Q What, if anything. Did Investigator Garrett tell
3 you about that lineup before he put it in front of you?

4 A He asked me to point out if I recognized anybody on
5 the lineup.

6 Q Anyone suggest who you should select?

7 A No, sir.

8 Q How long have you known Mr. George?

9 A No more than six months.

10 Q Okay. And how did you meet him?

11 A Through Audrea Cook.

12 Q And maybe I should go back. I mean, how long did
13 you know him at the time? About six months? No more
14 than six months?

15 A No more than six months.

16 Q And you met him through Ms. Cook?

17 A Yes, sir.

18 Q Any doubt that Mr. George was the man with the gun
19 at Audrea Cook's house the evening of December 1, 2019?

20 A No, sir.

21 Q Were you able to identify the gunman from the photos
22 that you were shown?

23 A Yes, sir.

24 Q Which photograph did you select, sir?

25 A Number 4.

1 Q How sure were you of your selection?

2 A Positive.

3 Q How did you indicate which photo you selected?

4 A I circled it, initialed it and dated it.

5 Q Did you also fill out what's known as an affidavit
6 of photographic identification?

7 A Yes, sir.

8 Q Did you do that at the request of law enforcement?

9 A Yes, sir.

10 Q I'm going to ask you if you recognize State's 218,
11 sir.

12 A Yes, sir.

13 Q Does that have your signature?

14 A Yes, sir.

15 Q All right. And this is what you completed during
16 that interview with law enforcement?

17 A Yes, sir.

18 Q Does this information up here come from you?

19 A Yes, sir.

20 Q Either of these exhibits -- I'm sorry. Both of
21 these exhibits, are they in the same condition as when
22 you completed this one and completed this one?

23 A Yes, sir.

24 MR. FRETWELL: Your Honor, at this time, the State
25 would move State's 217, 218 into evidence.

1 THE COURT: Any objection?

2 MR. MARCHANT: Subject to previous objections.

3 THE COURT: All right. So noted.

4 (WHEREUPON, State's Exhibit Numbers 217 and 218 were
5 admitted into evidence.)

6 BY MR. FRETWELL:

7 Q Could you read right here starting with, "I, Bobby
8 Ray Smith"? And then tell me if that's the information
9 you provided to law enforcement.

10 A "I, Bobby Ray Smith, have reviewed a group of six
11 photos on December the -- 18th of December 2019 from
12 which I have positively identified Photo Number 4
13 displayed to me by Investigator Jon Garrett of Jeff
14 George as being the person who held a gun on Ivan at
15 Audrea Cook's house while David Stokes assaulted him with
16 a weapon."

17 Q Mr. Smith, have you ever selected a photo of anyone
18 else identified as the gunman you saw that night?

19 A No, sir.

20 Q Is the person you identified present in the
21 courtroom, sir?

22 A Yes, sir.

23 Q Will you please identify him for the judge, the jury
24 and the record.

25 A (Indicating) He's right there.

1 Q Please give us a little bit more description on his
2 clothing, sir.

3 A The defendant.

4 Q What kind of tie is he wearing?

5 A I can't see his tie. But he's sitting right here
6 next to his lawyer.

7 Q What was the nature of the relationship between the
8 defendant and Audrea Cook?

9 A I thought they were together.

10 Q Who gave you the information that they were
11 together?

12 A I got that impression from Jeff.

13 Q And did Ms. Cook give you a different impression?

14 A Yes, sir.

15 Q What was that?

16 A That they were just friends.

17 Q Do you recall any discussion going on in Ms. Cook's
18 bedroom that night?

19 A Other than the fact of wanting to -- saying that
20 Ivan deserved his ass whooped for all of this and that he
21 needed to get his ass whooped.

22 Q Who was saying that?

23 A Jeff, Audrea.

24 Q Anybody else? Jeff and Audrea?

25 A Yes.

1 Q And what about the rest of the people in the house?

2 A We are kind of just going along with it, agreeing
3 with it.

4 Q And you've mentioned that you also had a problem
5 with Ivan that night.

6 A Yes, sir.

7 Q You wanted that money paid back?

8 A Yes, sir.

9 Q At some point, did you leave again?

10 A Yes, sir.

11 Q For what reason?

12 A I went to go pick up my son's mother and her
13 boyfriend.

14 Q Before you left to do that, did you go pick somebody
15 else up?

16 A Oh, yeah. I went and picked up David. Sorry about
17 that.

18 Q And who is David?

19 A David Stokes.

20 Q Where did he live?

21 A Right around the corner from her, from Audrea.

22 Q Was he somebody that you knew?

23 A Yes, sir.

24 Q How did you know him?

25 A Through acquaintances and hanging out, doing drugs.

1 Q You went and got him. And tell us the reasons that
2 you went and picked him up, sir.

3 A Basically, to intimidate Ivan into paying me my
4 money.

5 Q Any other reasons?

6 A No, sir.

7 Q What about did Mr. Stokes like to get high?

8 A Yes, he does. Sorry.

9 Q Was he coming for that reason?

10 A Yes, sir.

11 Q Did you make that clear to him?

12 A Yes, sir.

13 Q Did you say something to law enforcement about some
14 issues that Ms. Cook had been having with her property or
15 her barn or something like that?

16 A Yes, sir.

17 Q What did you say?

18 A She had told me that people had been breaking into
19 her barn behind her house. And when I went and got
20 David. I told David about it, and he said he could help
21 her out with it, keep an eye on it.

22 Q So that was a true statement that you made to law
23 enforcement.

24 A Yes, sir.

25 Q Okay. But that wasn't the only reason.

1 A No.

2 Q What did you also know about David Stokes? What did
3 you know about him as a person?

4 A Very easily riled up and very dangerous. Could be.

5 Q Is there something that he particularly likes or is
6 enthusiastic about?

7 A Knives.

8 Q And did you say something to law enforcement or did
9 you understand something about David Stokes with respect
10 to his thought processes or how he thought?

11 A He was crazy.

12 Q You said he lived right around the corner. Do you
13 remember the name of the street he lived on?

14 A Cripple Creek.

15 Q Basically intersects with C and S; is that right?

16 A Yes, sir.

17 Q What kind of person did you know David Stokes to be
18 personally?

19 A I had never been involved with David with him being
20 violent, but I had seen him mad before.

21 Q And did you describe him as somebody who always
22 wanted to be your friend?

23 A Yes, sir.

24 Q Is that a correct characterization of Mr. Stokes?

25 A Yes, sir.

1 Q When you returned with Mr. Stokes, did anyone tell
2 him about the plan to assault Ivan Gula when he arrived
3 with Ms. Cook's vehicle?

4 A Not when we first got back. I don't know what was
5 said when I went and got my son's mother.

6 Q Okay. But did you tell him about that?

7 A I told him about wanting to intimidate him, get my
8 money out of him.

9 Q And then you left him with them while you went to
10 pick up who?

11 A My son's mother and her boyfriend.

12 Q What's her name?

13 A Kayla George -- Kayla Jordan, sorry, and Joe Foster.

14 Q And he was her boyfriend at that time?

15 A Yes, sir.

16 Q All right. Tell us about them, where they were and
17 why you went to pick them up.

18 A The reason I went and picked them up is because I
19 asked Audrea if they could stay there because my mother
20 didn't want them at the house. And I was just trying to
21 keep them from being out in the cold.

22 Q Why did your mother not want them at the house?

23 A Because my son acting kind of unruly when his mother
24 was around. He didn't like to listen.

25 Q Is there another reason you said that your mother

1 didn't want these two people at her house?

2 A Because they were both drug addicts.

3 Q Okay. And you asked Ms. Cook if they could stay
4 there; is that correct?

5 A Yes, sir.

6 Q Was that for the night or for longer-term?

7 A Just the night.

8 Q And did she agree to that?

9 A Yes, sir.

10 Q And where were these people supposed to stay in the
11 trailer?

12 A In the back bedroom on the opposite end of the
13 house.

14 Q When you asked Ms. Cook about whether they could
15 stay, did she give you any conditions?

16 A They had to keep the door shut and don't come out of
17 the room.

18 Q Why?

19 A That's what she wanted.

20 Q And did she give you a reason as to why she wanted
21 that?

22 A Not right offhand.

23 Q Did you say that she wanted them to stay in the room
24 and not ---

25 MR. MARCHANT: Objection to leading.

1 MR. FRETWELL: Your Honor, I'm impeaching my own
2 witness.

3 THE COURT: Overruled.

4 MR. MARCHANT: He's got to lay the foundation before
5 he can impeach, Judge.

6 BY MR. FRETWELL:

7 Q Did you make a prior statement, sir, in which you
8 said that they stayed in the room -- she wanted them to
9 stay in the room and not to come out so they wouldn't be
10 involved with what was happening with Ivan; is that
11 correct?

12 A Yes, sir.

13 Q Is that a true statement?

14 A Yes, sir.

15 Q Did she say that to you?

16 A I take it was more she just didn't want them
17 involved in nothing that was going on.

18 Q But did you make that statement?

19 A Yes, sir.

20 Q You also feel like or express any kind of opinion
21 about why she would do you this favor and let your
22 child's mom and her boyfriend stay at the house?

23 A She was just doing me a favor.

24 Q Why?

25 A Because I had looked out for her in the past.

1 Q And for what was going to happen that night?

2 A Possibly, yes.

3 Q All right. So you drove to get -- now, you didn't
4 drive all the way to your mama's house. Tell us about
5 where you went and what happened when you got back.

6 A I went to the frog stop which is at the intersection
7 of Jordan and Mount Lebanon Road, and I met them there.
8 And they followed me back to Audrea's house. And Audrea
9 had Kayla -- had Joe drive a car to David's house and
10 park it so it would not be seen.

11 Q Wouldn't be seen by whom?

12 A Ivan.

13 Q So tell us about that. Did you have any role in
14 moving that car from Ms. Cook's house over to
15 Mr. Stokes's place?

16 A I followed them over to David's and I picked them
17 up.

18 Q Them? Who are them?

19 A David and Joe.

20 Q Okay. So David went with Joe?

21 A Yes, sir.

22 Q Back to his house?

23 A Yes, sir.

24 Q All right. What happened up there at his house, if
25 anything?

1 A Well, when Joe parked the car, David went inside and
2 grabbed some stuff and put it in the back of my car. And
3 then I drove back to Audrea's.

4 Q Before we get to whatever he grabbed and put in his
5 car, back at the house when Ms. Cook has you relocate
6 that car, Mr. George was there.

7 A Yes, sir.

8 Q Where was his truck?

9 A Parked down by the barn.

10 Q So back behind the property? Could you see it from
11 the driveway when you drove in initially?

12 A No, sir.

13 Q Okay. So you said Mr. Stokes went in to his
14 trailer, came out, threw what into your car?

15 A A book bag and a tarp.

16 Q And a tarp?

17 A Yes, sir.

18 Q What kind of tarp?

19 A Just a gray tarp.

20 Q Did you know what was in the book bag?

21 A No, sir. Not right offhand.

22 Q Did you find out later?

23 A Yes, sir.

24 Q What was in that book bag?

25 A A butcher knife and a machete.

1 Q You saw him put a tarp in your car, sir, did you?

2 A Yes, sir.

3 Q What did you think that meant?

4 A I got a bad feeling from it.

5 Q Where did you park when you returned -- well, let me
6 ask you this. What car were you in that night?

7 A I was in a 2005 Subaru Outback.

8 Q Who did that belong to?

9 A My mother.

10 Q Where did you park your mother's car?

11 A Under the carport next to the house.

12 Q Is that right outside of ---

13 A The bathroom, the master bathroom.

14 Q Okay. Were there any other cars other than yours
15 parked in a visible way once you got back from picking up
16 Joe Foster and David Stokes and bringing them back?

17 A No, sir.

18 Q Where did everyone go when you went -- or where was
19 everyone and where did you go when you went inside?

20 A Well, when I got back with Joe and them, I walked to
21 the back bedroom with Joe and Kayla and was getting high
22 with him while they were still sitting in Audrea's
23 bedroom.

24 Q Who's "they"?

25 A David, Jeff, Audrea, and Shane Poole and the other

1 guy.

2 Q Is he a younger guy?

3 A Yeah.

4 Q Okay. That's the one that you said is either Isaac
5 or Isaiah?

6 A Yes, sir.

7 Q Did you eventually leave the back bedroom, go back
8 to Audrea's bedroom?

9 A Yes, sir.

10 Q What were they talking about when you came in?

11 A They were still running -- running their mouth about
12 wanting -- saying Ivan deserves his ass whooped and
13 everything. And they were just getting high.

14 Q And was Mr. Stokes present at that point?

15 A Yes, sir.

16 Q In fact, that night, you got some drugs. Did you
17 bring them?

18 A No, sir.

19 Q Who brought the drugs?

20 A Jeff George.

21 Q And before you went back there and smoked with Joe
22 and Kayla, who provided you that and how did you describe
23 it?

24 A Jeff George. Crystal meth.

25 Q How did you describe it?

1 A I'm trying to recall.

2 Q What does it mean to load a bowl?

3 A Oh, he packed my bowl which is with my meth pipe.

4 Q So you could go back and smoke with them?

5 A Yes, sir.

6 Q At some point after you'd arrived -- while all this
7 was going on after you'd arrived at Cook's trailer, did
8 you have contact with Ivan or somebody that was in the
9 car with him?

10 A Yes. I talked to Micco Dillard that was in the car
11 with him.

12 Q Okay. And was there anything that was communicated
13 back, I guess, from Ivan about something he expected to
14 happen when he got there or was wanting to have happen?

15 A He had said something about her paying him his
16 money.

17 Q Okay. Anything else?

18 A Not that I recall.

19 Q Did you say anything about him wanting to make sure
20 there was some dope there?

21 A Yeah.

22 Q Okay.

23 A Yeah. Sorry.

24 Q That's okay.

25 You said you spoke with Micco. You knew Ivan was in

1 the car. Anybody else you knew that was coming with him?

2 A Another guy named Zay.

3 Q Okay.

4 A And then there was a blond chick in the car.

5 Q And you didn't know about her coming and you didn't
6 know her when she got there?

7 A No, sir.

8 Q Okay. Based on the discussions in which you had
9 been involved, what did you expect to happen when Ivan
10 arrived?

11 A I expected him to get beat up and that was it.

12 Q How badly did you expect him to get beaten up?

13 A I expected him to get hurt pretty bad.

14 Q Do you recall approximately when Ivan arrived in
15 Ms. Cook's car?

16 A It was later on that evening. I don't remember the
17 time.

18 Q Was it dark?

19 A Yes, sir.

20 Q Okay. How did you know he had arrived?

21 A For one, I saw the lights, and I heard him pulling
22 up. And also, she had cameras up.

23 Q She had cameras on the outside of her trailer?

24 A Yes, sir.

25 Q What did you do when Ivan arrived, sir?

1 A Audrea asked me to walk outside and get a box of
2 electronics out of the trunk.

3 Q Did you do that?

4 A Yes, sir.

5 Q And when you went outside, did you find the people
6 that you expected to be in the car and also the blonde
7 female?

8 A Yes, sir.

9 Q What happened -- well, let me ask you this. You got
10 the stuff out of the car; is that correct?

11 A Yes, sir.

12 Q How did you get the truck unlocked; do you recall?

13 A I'm wanting to say with the key or the trunk pop
14 inside the door.

15 Q Okay. And then they went inside?

16 A Yes, sir.

17 Q Did you then come inside with the electronics? What
18 happened when you came inside?

19 A David attacked Ivan.

20 Q Before he attacked him, was he doing anything else?

21 A Not that I remember. I'm trying to recall.

22 Q Do you recall what you told law enforcement happened
23 as soon as you walked inside?

24 A I know they were yelling at him and then David
25 attacked him.

1 Q Hold on. Who was yelling at him?

2 A David.

3 Q Anybody else?

4 A Not that -- not that I can recall.

5 Q That's what you recall?

6 A Yeah.

7 Q Okay. Did you know why David was yelling at him?

8 A No, sir.

9 Q Tell us what happened next. You said he attacked
10 him with what?

11 A He attacked him with a machete and a meat cleaver.

12 Q Okay. Can you describe or tell us about how that
13 attack took place, sir?

14 A David started swinging them both at him, and Ivan
15 just kind of balled up trying to get away from him.

16 Q Do you recall anything like what he hit him with or
17 anything unusual that may have happened during that
18 attack?

19 A I know he had hit him in the arm with the -- with a
20 meat cleaver and a machete, and I know he was balled up
21 against the front door.

22 Q Did you tell law enforcement anything about that
23 meat cleaver?

24 A It was one that David had that he had -- I'm trying
25 to remember.

1 Q Let me show you what's State's Exhibit 83. A meat
2 cleaver like this?

3 A Yes, sir.

4 Q Does that look to be something you'd buy in a store?

5 A No, sir.

6 Q Okay. How did that come into being to your
7 understanding?

8 A David had found it, and he was trying to clean it up
9 and restore it.

10 Q Anything unusual about that handle?

11 A It's missing.

12 Q Do you recall telling law enforcement anything about
13 what happened with this meat cleaver that night when he
14 went to attack?

15 A It had come out of David's hand and flew across the
16 room.

17 Q Did he hit him with the machete on the arm?

18 A Yes, sir.

19 Q All right. You think you'd recognize that machete?

20 A Should be a Bear Grylls machete.

21 Q Bear Grylls, the outdoor guy?

22 A Yeah.

23 I'm wanting to say it's got an orange and back
24 handle on it.

25 Q Okay. Something like this?

1 A Yes, sir.

2 Q That's, for the record, State's Exhibit -- I'll have
3 to look at my list. We'll get that state's exhibit
4 number in just a minute.

5 You say he started swinging those instruments at
6 Ivan.

7 A Yes, sir.

8 Q He injured him.

9 A Yes, sir.

10 Q Where was Ivan -- or, I guess, where did they end
11 up?

12 A Up against the front door.

13 Q In the front door area?

14 A Yes, sir.

15 Q That's David Stokes and Ivan?

16 A Yes, sir.

17 Q What was Ms. Cook doing at that time?

18 A Sitting back. It looked like she was enjoying the
19 situation.

20 Q What about Mr. George, the defendant?

21 A He was standing in the general kitchen area with his
22 gun in his hand.

23 MR. FRETWELL: Okay. And, Your Honor, for the
24 record, that State's Exhibit 148.

25 THE COURT: So noted.

1 BY MR. FRETWELL:

2 Q What did it appear that Mr. George was doing with
3 that pistol?

4 A Using it to intimate everybody from moving or going
5 anywhere.

6 Q Okay. Do you recall anything about the holster on
7 that that he had?

8 A Not right offhand. I know it was one on his belt.

9 Q You know he had a holster, but you don't recall
10 specifically anything about it?

11 A Not right offhand.

12 Q What about that younger individual and Mr. Poole,
13 what were they doing?

14 A The younger individual was back by the back door.
15 And if I'm not mistaken, Mr. Poole was in the bedroom.

16 Q Okay. And did they have any weapons on them that
17 you recall?

18 A Not that I recall.

19 Q About how many times do you recall Mr. Stokes
20 hitting Ivan?

21 A With the machete, maybe -- I know he swung it at him
22 five or six times.

23 Q Do you recall telling law enforcement he swung it
24 about three or four times?

25 A That could be it, yes, sir.

1 Q And you demonstrated a few minutes ago that Ivan put
2 up his arms in a defensive posture (demonstrating); is
3 that correct?

4 A Yes, sir. That's how his arm got hit.

5 Q So Mr. Stokes wasn't swinging down near his arms if
6 his arms were down at his side. If his arms aren't
7 there, what does he hit?

8 A The skull.

9 Q Was the defendant still in possession of his pistol
10 at this time out of the holster?

11 A Yes, sir.

12 Q What were those people that you described that came
13 with Ivan, what were they doing at this point?

14 A Standing up against the kitchen counter by the sink.

15 Q How do you describe them?

16 A Terrified.

17 Q Did you say the word "shock"?

18 A Most definitely.

19 Q What, if anything, did you do at that point when you
20 come in? You've seen this, what did you do?

21 A I hollered at David to stop.

22 Q But he didn't do that initially, did he?

23 A No, sir.

24 Q When did he stop, sir?

25 A When Audrea told him to.

1 Q What happened when Mr. Stokes stopped hitting Ivan?

2 A Audrea went to talking and saying all kind of stuff.

3 Q And tell us about that, please, sir.

4 A She was talking, saying that she was law
5 enforcement, all this other stuff. And also, she said
6 that the man had raped her and was talking about sex
7 trafficking and everything.

8 Q Is this the first time or had you heard about Ivan
9 raping her? Had you heard that come from Audrea Cook
10 before that point?

11 A No, sir.

12 Q That's not something she had told you earlier.

13 A No, sir.

14 Q What about during this time period, did you see any
15 of the people that were in the kitchen that had come with
16 Ivan do anything?

17 A After the blonde -- when David stopped, the blonde
18 was trying to bandage his arm and stop the bleeding. And
19 then after she stopped doing that, she went to walk out
20 the back door. And Audrea asked me to tell her to come
21 back inside, that she'd give her a ride home.

22 Q When you say that the blonde female was up there
23 with Ivan ---

24 A By the door.

25 Q --- did you recall anything that you communicated to

1 law enforcement about the nature of what they were
2 talking about?

3 A I couldn't understand what they were saying.

4 Q Okay. Why is that?

5 A Either it was because they were talking low enough
6 to where I didn't hear it is what I'm -- if I'm recalling
7 properly.

8 Q Okay. Do you recall believing that they were
9 speaking in a different language?

10 A They might have been. I didn't understand it.

11 Q You have customers that speak Russian, sir?

12 A With the waste oil -- my waste oil business that I
13 work for, yes, I do.

14 Q Okay. And you have some customers that are Russian
15 and some are Ukrainian; isn't that correct?

16 A Yes, sir.

17 Q And that you know enough to recognize the language.

18 A Yes, sir.

19 Q Do you recall telling law enforcement you thought
20 they were speaking in Russian?

21 A If I'm -- I think so.

22 Q Who appeared to be in charge, Mr. Smith, of what was
23 going on in that trailer?

24 A Audrea.

25 Q And what did she do once you brought that girl back

1 inside?

2 A She just kept talking, and then right after that,
3 they all went to her car.

4 Q Who is "they all"?

5 A Micco Dillard, Zay, the blonde and Shane Poole and
6 her.

7 Q And then who was in charge of that process?

8 A Of getting them out? She -- Audrea was.

9 Q This is something that Ms. Cook said, "Time to go,"
10 or something to that effect?

11 A Yeah.

12 Q Did it appear -- did she leave with those
13 individuals ---

14 A Yes, sir.

15 Q --- and Mr. Poole?

16 A Yes, sir.

17 Q Okay. And then when she left, did it appear that
18 anybody was in charge after she left?

19 A Jeff.

20 Q What, if anything, did the defendant have you do as
21 Ms. Cook was leaving with those individuals?

22 A He asked me to bring his truck up.

23 Q From where?

24 A Out behind the barn.

25 Q And you did that?

1 A Yes, sir.

2 Q What, if anything, did you -- did you go back in the
3 house?

4 A Yes, sir.

5 Q What, if anything, did you notice as you re-entered
6 the trailer, sir?

7 A They had Ivan in the kitchen.

8 Q And what was going on?

9 A It looked like they were starting to put down
10 everything. Right after I walked in, Jeff had took a
11 picture of Ivan, and he sent it to somebody. He said he
12 was trying to make sure that Ivan was the one that tried
13 to kidnap his friend and his daughter.

14 Q What did you decide to do, sir, based on what you
15 had seen when you came back in and what the defendant had
16 told you?

17 A I got Kayla George -- Kayla Jordan and Joe Foster
18 out of there.

19 Q And why did you decide to do that at that point,
20 sir?

21 A Because they did not need to be there and they did
22 not need to be involved.

23 Q How did you come to that realization, sir?

24 A Because I had a bad feeling that they were going to
25 kill this man.

1 Q During this entire time, where had Joe and Kayla
2 been?

3 A In the back bedroom with the door shut.

4 Q Did they come out at any time?

5 A No, sir.

6 Q Is that right next to the living room or is there a
7 hall that goes down there?

8 A At the end of the hallway at the very end of the
9 trailer.

10 Q When you tried -- when you brought them out, tell us
11 about that. How did you do that?

12 A I told Jeff and them to turn Ivan around backwards
13 so they couldn't see him and he couldn't see them just so
14 I could get them out of the house and get them out of
15 there.

16 Q What, if anything, did you see the defendant,
17 Mr. Stokes or anybody else that was still there do when
18 you were leaving with Kayla and Joe?

19 A They were holding him into the kitchen.

20 Q Where was that? Did you see the tarp?

21 A Yeah. I think I saw it on the floor in there.

22 Q Did you return after you dropped them off at their
23 -- well, let me ask you this. Where did you take them?

24 A I took them up to David Stokes's house. They got
25 Joe's car, and they went back to my house.

1 Q And you didn't go back to your house.

2 A Not immediately.

3 Q Where did you go?

4 A I went back down there.

5 Q Tell us what you saw or observed when you got back
6 to the trailer. Did you go inside?

7 A Yes, sir.

8 Q Tell us about that.

9 A Right after I returned, David started hitting Ivan
10 with a ball bat in the head.

11 Q How did you know that there was a ball bat used in
12 this particular situation?

13 A Because I saw it in David's hands, and also it was a
14 bat that I had given Audrea prior for protection because
15 she had told me she'd been robbed.

16 Q During this assault, what, if anything, do you
17 recall occurring?

18 A Ivan hollered at me for help. And then right after
19 that, he tried to go for the back door. And the younger
20 gentleman hit him and knocked him down.

21 Q And then what, if anything, happened at that point,
22 sir?

23 A That was when I decided I needed to leave.

24 Q Where was Ivan Gula when you left, sir?

25 A Sitting against the wall close to the back door.

1 Q What condition was he in when you left, sir?

2 A Beat to hell and back.

3 Q Is there anything that you described when you left
4 about Ivan Gula, anything that he said or anything that
5 you heard?

6 A Not that I recall. I remember telling an
7 investigator that he was alive and breathing when I
8 left.

9 Q Because you could hear his breathing; is that
10 correct?

11 A Yeah. I could hear his breathing, yes.

12 Q Was it an unusual breathing or normal breathing?

13 A It was a little unusual.

14 Q Mr. Smith, that entire time since Ivan got to that
15 house, that trailer that night, did he ever fight back --

16 A No, sir.

17 Q Did he ever have a weapon in his hand?

18 A No, sir.

19 Q Did you ever learn what happened after you left,
20 sir?

21 A David had told me that ---

22 MR. MARCHANT: Objection to hearsay.

23 MR. FRETWELL: Your Honor, it's a statement of a
24 co-conspirator in the furtherance of a conspiracy.

25 THE COURT: I'll allow it. Overruled.

1 BY MR. FRETWELL:

2 Q What did Mr. Stokes tell you, sir?

3 A David told me that Jeff was the one that finished
4 him off.

5 Q When did he tell you that, sir?

6 A A couple days later.

7 Q Way back in December of 2019, a couple days after
8 this incident?

9 A Yes, sir.

10 Q That's when he told you that information.

11 A Yes, sir.

12 Q What did he tell you about himself?

13 A He told me that he couldn't kill him, but that's
14 when Jeff did.

15 Q And based on what he told you, what was your
16 understanding about the defendant's belief about his
17 relationship with Audrea Cook at the time?

18 A That they were in a relationship.

19 Q And in addition to taking her car, Ms. Cook had
20 alleged in front of this defendant, is that correct, that
21 Ivan had raped her?

22 A Yes, sir.

23 Q Did Investigator Garrett, this gentleman right back
24 here, did he ask you about a guy named Michael Tucker?

25 A If I'm not mistaken, he did.

1 Q How do you know Michael Tucker? What do you know
2 him as?

3 A Runt.

4 Q Runt?

5 A Yes, sir.

6 Q Must not be very big of a man.

7 A He's not.

8 Q Kind of a small person?

9 A He's probably my height and about that (gesturing)
10 big around. I mean, he's not very big.

11 Q And when Investigator Garrett asked you about
12 Michael Tucker, what did you tell him?

13 A Michael Tucker didn't have nothing to do with this.

14 Q Was Michael Tucker there that night?

15 A No, sir.

16 Q You've been back to that trailer since this
17 incident, sir?

18 A Once or twice.

19 Q And what did you notice about the condition of that
20 trailer when you got back?

21 A That the carpet had been cut up right as you walk
22 out of the kitchen into the living room and in front of
23 the front door.

24 Q Okay. And was that front door area where the carpet
25 was cut up, was Ivan in that location?

1 A Yes, sir.

2 Q Did Mr. Stokes tell you anything about what he and
3 Ms. Cook were doing right after this incident?

4 A That they'd been burning stuff.

5 Q All right. And did you get any information from
6 Ms. Cook or from this younger gentleman -- this younger
7 guy, either Isaac or Isaiah, about any activities they
8 were participating in?

9 A I'd seen on Facebook where they'd been out back
10 burning different things.

11 Q Like a bonfire or something like that?

12 A Yeah. Yes, sir.

13 Q Where was Mr. Stokes staying after this incident?

14 A With Audrea.

15 Q Where was he staying before this incident?

16 A His camper.

17 Q Is his trailer and his camper up there on top ---

18 A Yes, sir. On top of the hill.

19 Q What condition was Mr. Stokes's trailer?

20 A It had been burned down.

21 Q So after this incident, he was staying there with
22 Ms. Cook; is that correct?

23 A Yes, sir.

24 Q At some point after this incident, did you do
25 something to your phone or messages that you had on your

1 phone?

2 A I deleted some messages, yes.

3 Q Why did you do that sir?

4 A Scared.

5 Q What kind of messages and with whom?

6 A Just messages between me and Audrea, me and David
7 and everything.

8 Q How about messages between you and Ivan?

9 A And me and Ivan. I apologize.

10 Q All right. Let me show you what's been marked as
11 State's 219 through 222, sir. I'll ask you if you
12 recognize these. Just take a minute to look through all
13 four of them.

14 A (Reviews exhibits) Yes.

15 Q Do you recognize them?

16 A Yes, sir.

17 Q Do they either have your initials or signature on
18 them?

19 A Yes, sir.

20 Q Are they all in the same condition as the last time
21 you handled them?

22 A Yes, sir.

23 Q Any alterations?

24 A No, sir.

25 MR. FRETWELL: All right. Your Honor, at this time,

1 the State would move State's 219 through 222 into
2 evidence.

3 THE COURT: Any objection?

4 MR. MARCHANT: Subject to previous objections.

5 THE COURT: So noted for the record.

6 (WHEREUPON, State's Exhibit Numbers 219 through 222 were
7 admitted into evidence.)

8 BY MR. FRETWELL:

9 Q Mr. Smith, with respect to State's 219, 220, are
10 those the lineup and the affidavit that you completed on
11 David Stokes?

12 A Yes, sir.

13 Q Is the picture that you circled David Stokes?

14 A Yes, sir.

15 Q Could you read to the Court the affidavit on State's
16 220 with respect to Mr. Stokes?

17 A "I, Bobby Smith, have reviewed a group of six photos
18 this 18th day of December 2019 from which I positively
19 identified Photograph Number 3 displayed to me by
20 investigator Jon Garrett of David Stokes as the person
21 who beat the hell out of Ivan at Audrea Cook's house with
22 a bat and a meat cleaver."

23 Q Is that the information you provided to Investigator
24 Garrett?

25 A Yes, sir.

1 Q And how about State's 221 and 222? Is that the
2 photo lineup of Audrea Cook?

3 A Yes, sir.

4 Q Did you identify Ms. Cook by circling her?

5 A Yes, sir.

6 Q Could you tell us what you told law enforcement
7 that's recorded on State's 222?

8 A "I, Bobby Ray Smith, have reviewed a group of six
9 photographs this 18th day of December 2019 which I
10 positively identified Photograph Number 5 displayed to me
11 by Investigator Jon Garrett of Audrea Cook as the person
12 who organized everything where Ivan was assaulted at
13 Audrea Cook's house."

14 Q Did you tell Investigator Garrett anything more
15 about Audrea Cook when you saw that photo lineup; do you
16 recall?

17 A I don't recall. I know...

18 Q Who was responsible for this incident, sir?

19 A Audrea.

20 Q Did you tell Investigator Garrett that?

21 A Yes, sir.

22 Q Did you use the word "orchestrated"?

23 A Yes, sir.

24 Q After this incident, did you and Ms. Cook have a
25 conversation?

1 A Yes, sir.

2 Q What did she tell you in that conversation what
3 happened if you told anybody about this?

4 A She was going to blame it all on me.

5 Q Mr. Smith, you were convicted of possessing
6 methamphetamine in 2017. Did you plead guilty to that
7 charge?

8 A Yes, sir.

9 Q You were guilty?

10 A Yes, sir.

11 Q With what criminal offenses were you charged in
12 December of 2019 in connection with the death of Ivan
13 Gula?

14 A Murder and kidnapping.

15 Q Before those warrants were even served on you, did
16 you cooperate with homicide investigators?

17 A Yes, sir.

18 Q Did you tell them who was involved in the death of
19 Ivan Gula?

20 A Yes, sir.

21 Q Did you or did you not tell them of your own
22 involvement in the events that led to his death?

23 A For the most part, yes.

24 Q Who did you tell investigators was the principal
25 party that lured Ivan Gula to Audrea Cook's house on the

1 evening of December 1, 2019?

2 A Audrea.

3 Q And who helped her?

4 A And me.

5 Q And you did.

6 A Yes, sir.

7 Q Who did you tell investigators was the person that
8 went after the blonde female that came with Ivan and kept
9 her from leaving or going to get help?

10 A Me.

11 Q Did you tell investigators that you knew Ivan would
12 be beaten at the very least before he arrived?

13 A Yes, sir.

14 Q And do you understand, based on what you admitted to
15 those investigators under South Carolina law, you are
16 guilty of both kidnapping and murder, sir?

17 A Yes, sir.

18 Q Under the hand of one is the hand of all principle
19 of accomplice liability; do you understand that, sir?

20 A Yes, sir.

21 Q Is your attorney here?

22 A Yes, sir.

23 Q Or was he here?

24 A He was here.

25 Q He was here a little while ago.

1 A I think he's about to come back through the door.

2 Q Mr. Richey?

3 A Yes, sir.

4 Q He explained those concepts to you?

5 A Yes, sir.

6 Q At the time you cooperated with investigators, did
7 you have any deal in place or had you even met me,
8 Mr. Williams or anybody from the solicitor's office?

9 A At that time, I hadn't met no lawyer, not even my
10 own.

11 Q In March of last year, did you plead guilty in a
12 courtroom just like this, Mr. Smith, to the charges of
13 kidnapping and assault and battery by a mob in the second
14 degree?

15 A Yes, sir.

16 Q Did anyone promise you anything in order to get you
17 to enter your guilty plea?

18 A No, sir.

19 Q Did anyone promise you a particular sentence or any
20 kind of recommendation in exchange for your testimony
21 today, sir?

22 A No, sir.

23 Q Did anyone promise you anything at all, anything ---

24 A No, sir.

25 Q --- for testifying today, sir?

1 A No, sir.

2 Q Did you know that the maximum sentence for the crime
3 of kidnapping carries 30 years with no parole in prison,
4 sir?

5 A Yes, sir.

6 Q Are you aware that the crime of assault and battery
7 by a mob in the second degree carries a maximum sentence
8 of 25 years without parole in prison?

9 A Yes, sir.

10 Q Are you further -- you said you're 40 years old.

11 A Yes, sir.

12 Q Are you further aware that if a judge, just like
13 Judge Kinlaw right up here, so chooses, he or she can
14 order you to serve the sentences you receive for these
15 crimes consecutively meaning one right after the other?

16 A Yes, sir.

17 Q So that you face without parole a maximum sentence
18 of up to 55 years in prison if you live that long?

19 A Yes, sir.

20 MR. FRETWELL: No further questions.

21 THE COURT: Cross-examination, Mr. Marchant?

22 CROSS EXAMINATION

23 BY MR. MARCHANT:

24 Q Mr. Smith, when you got arrested, you were in the
25 car with Deputy Arrowood. You remember that, right?

1 A Yes, sir.

2 Q And he took you to the Law Enforcement Center where
3 you eventually met with Investigator Garrett, right?

4 A Yes, sir.

5 Q And in the ride to the Law Enforcement Center, you
6 told Deputy Arrowood that you observed an ass whooping,
7 and you were only over there at the house to let Audrea
8 use your phone; isn't that right?

9 A Yes, sir.

10 Q And that you, quote, did not know the guy, right?

11 A Yes, sir.

12 Q You're under arrest in the back of a patrol car.

13 A Yes, sir.

14 Q That's a lie, right?

15 A Yes, sir.

16 Q You get into the interview room with Investigator
17 Garrett and Detective -- Investigator Picone, and you
18 tell them, "I swear to Christ I ain't got no problem
19 telling you anything."

20 A Yes, sir.

21 Q Right?

22 You further said, "I'm telling you everything I
23 know. I swear to Christ. I swear on my child's life."

24 A Yes, sir.

25 Q You further say, "I swear on my grave," when you

1 were referring to your grandfather ---

2 A Yes, sir.

3 Q --- that you were telling these investigators
4 everything you knew about what happened.

5 A Yes, sir.

6 Q It wasn't until September 5th, about two weeks ago,
7 that all the truth comes out, because now you meet with
8 these two prosecutors about your testimony here today,
9 right?

10 A Yes, sir.

11 Q And you tell them, well, I ain't tell y'all
12 everything, right?

13 A Yes, sir.

14 Q Now you're telling them that you sold Ivan
15 methamphetamine and he owed you \$500, right?

16 A Yes, sir.

17 Q And you're pissed about that.

18 A Yes, sir.

19 Q That's a lot of money to you.

20 A Yes, sir.

21 Q How much do you make a week?

22 A My check after taxes is \$512 and some change.

23 Q That's a whole paycheck.

24 A Yes, sir.

25 Q Did you front Ivan the dope?

1 A Yes, sir.

2 Q What does it mean when you front somebody some dope?

3 A I give you something and I expect you to pay me back
4 when you get the money.

5 Q Had you done that with him before?

6 A No, sir.

7 Q You testimony a while ago is you only met this guy
8 twice.

9 A Yes, sir.

10 Q So did you front him the dope on the first time or
11 the second time you met him?

12 A Second time.

13 Q So you're fronting \$500, a whole paycheck's week
14 worth, to some guy you've only met twice.

15 A Yes, sir.

16 Q Were you selling drugs to other people at this time?

17 A At times, yes.

18 Q Anything other than methamphetamine?

19 A No, sir.

20 Q You're using methamphetamine pretty much on a daily
21 basis back then, weren't you?

22 A Yes, sir.

23 Q When you were in the investigator room the day that
24 you got arrested with these two officers on the 18th of
25 December of 2019, were you under the influence of

1 methamphetamine?

2 A No, sir.

3 Q Why is that?

4 A Because I had not been awake that very long, and
5 they got me -- Spartanburg County pulled up to my house
6 I'm wanting to say probably 12, 1 o'clock.

7 Q Lunchtime or midnight?

8 A Afternoon.

9 Q You weren't working that day?

10 A I took that day off.

11 Q One thing that you also did not tell law enforcement
12 in your interview back in December of 2019 is that you
13 now claim that Cook wanted you to take an active role in
14 whipping Ivan's ass; isn't that right?

15 A No, sir.

16 Q When you sat down with these two prosecutors and had
17 your pretrial conference, you met with them several
18 times, right?

19 A Yes, sir.

20 Q You'd gone over your testimony, right?

21 A Yes, sir.

22 Q This guy's asked you all the questions that he asked
23 you here today.

24 A Yes, sir.

25 Q Multiple times, right?

1 A Yes, sir.

2 Q To make sure you got your story right.

3 MR. FRETWELL: Objection, Your Honor. I object to
4 the insinuation for me.

5 THE COURT: I'm going to sustain your objection.

6 MR. FRETWELL: Thank you, Judge.

7 BY MR. MARCHANT:

8 Q He's asked you these questions before.

9 A For the most part, yes.

10 Q All these questions that he stood over here, right
11 here, he stood right here and asked you a whole bunch of
12 questions. He's asked you these questions before, right?

13 A For the most part, yes.

14 Q Okay. So you knew what questions were coming today.

15 A Yes, sir.

16 Q And in one of the interviews that you had with them
17 in preparation for your testimony today, you told them
18 that George and Cook would like for you to take an active
19 role in whipping Ivan's ass.

20 A Not that I remember. Because I've never...

21 Q No?

22 A No.

23 Q And that's not when you then thought about Stokes
24 who lived around the corner and liked to get high, and
25 he, quote, wasn't right in the head.

1 A Yes, sir.

2 Q You now remember telling them that?

3 A Not the active role, but I remember going to get
4 David before that.

5 MR. MARCHANT: Well -- Judge, may we approach?

6 THE COURT: Yeah.

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

8 MR. MARCHANT: Please the Court.

9 BY MR. MARCHANT:

10 Q All right. Mr. Smith, I'm going to read to you an
11 email that these two prosecutors sent to me on Saturday,
12 September 7, at 4:16 p.m.

13 A Yes, sir.

14 Q Today's the 20th.

15 A Yes, sir.

16 Q Okay. Quote, on another note, when we spoke to
17 Bobby Smith, he told us that he felt that George and Cook
18 would like him to take an active role in, quote, whipping
19 Ivan's ass. Smith didn't necessarily want to be the one
20 who actually laid hands on Ivan, so he thought of Stokes,
21 parentheses, who lived around the corner and liked to get
22 high, knew he wasn't, quote, right in the head and was
23 easily riled up. Smith went to pick him up thinking at
24 least in part Stokes could be the one to actually do the
25 dirty work, particularly since Smith didn't know what

1 extent George and Cook wanted to take it.

2 MR. FRETWELL: That's correct, Judge.

3 THE WITNESS: Yes, sir.

4 BY MR. MARCHANT:

5 Q So what that means is that is exactly -- by his
6 commentary, that is exactly what you told them?

7 A That is -- that is what I said to them.

8 Q Oh, now you remember since he's ---

9 A Yeah. Being worded different, yes, sir.

10 Q Now, you were on the phone with Ivan that night
11 trying to get ahold of him, weren't you?

12 A He had called me and we -- there had been several
13 phone calls back and forth.

14 Q Well, what are y'all talking about on those phone
15 calls?

16 A About him bringing the car back and everything.

17 Q Why do you care whether or not Ivan brings Audrea
18 Cook her car back?

19 A Trying to help her get her car back.

20 Q You're trying to get your money.

21 A That, too.

22 Q You wanted to get him over there so you could get
23 your money back. You don't care about Audrea Cook, do
24 you?

25 A I thought she was a friend at the time.

1 Q Well, she probably thought the same about you,
2 right?

3 A Yes, sir.

4 Q She wanted your help just like you wanted hers.

5 A Yes, sir.

6 Q Prosecutors asked you a whole bunch of questions
7 about you pleading guilty to this charge and that charge.
8 You were charged with murder.

9 A Yes, sir.

10 Q Carries a life sentence, right?

11 A Yes, sir.

12 Q You've only met with these two officers over here
13 one time, right?

14 A Yes, sir.

15 Q Never went and sat down and had another interview
16 with them and told them that you lied to them the time
17 that you met them.

18 A No, sir.

19 Q Right?

20 A Yeah.

21 Q You then had further conversations with these two
22 gentlemen preparing for trial today, and you told them a
23 whole different version of events than what you told law
24 enforcement the day you were arrested.

25 A Yes, sir.

1 Q Okay. You told them all you saw was Ivan getting
2 the shit kicked out of him, right?

3 A Yes, sir.

4 Q You told them Ivan was in the kitchen. David, Jeff
5 and Isaac went to beating on Ivan. That's what you told
6 those two investigators in your interview; isn't that
7 right?

8 A Yeah. If I'm not mistaken, yes.

9 Q You told them that the three, David, Jeff, and
10 Isaac, right? That's what you told them.

11 A All right.

12 Q You later tell them that this (indicating) man never
13 put a hand on Ivan, right?

14 A That's right.

15 Q Never heard it. The only person you saw harm Ivan
16 was your friend David Stokes who you brought over to
17 Audrea Cook's house that night, right?

18 A Yes, sir.

19 Q And you went up there and you picked him up with
20 this weapon ---

21 A Yes, sir.

22 Q --- and this other. You knew that he had these two
23 things in the car when you brought him back to Audrea's
24 house; isn't that right?

25 A Yes, sir.

1 Q And they've let you plead to something less than
2 murder, right?

3 A Yes, sir.

4 Q Do you feel that you are not responsible for murder
5 because you didn't lay hands on Ivan?

6 A No, sir.

7 Q Well, you don't think you should go to jail for
8 murder because you didn't really do anything to him,
9 right?

10 A No, sir.

11 Q Right. I mean, you didn't harm him. You didn't
12 keep him there. I need you to answer verbally.

13 A No, sir.

14 Q Right. So you didn't lay hands on him, you didn't
15 make him stay, so you shouldn't be responsible for his
16 death. May be responsible for something else, but not
17 the death.

18 A Yes, sir.

19 Q Is that right?

20 A Yes, sir.

21 Q Fair statement?

22 A Yes, sir.

23 Q You also didn't tell law enforcement about your
24 child's mother and her boyfriend that you had brought
25 over to Audrea's house that night when you were

1 interviewing with them, did you?

2 A Not at first, but I did eventually.

3 Q The deleted messages, were those on your cell phone
4 or your Facebook?

5 A Both.

6 Q Are those messages recoverable, meaning can you go
7 back in and undelete them?

8 A Not that I know of.

9 Q Okay. How many messages did you delete?

10 A Just a few. It was messages from Audrea and me,
11 David and me and Ivan and me.

12 Q Probably some critical information in those messages
13 since you deleted them, aren't there?

14 A Not really. But...

15 Q Not nothing inculpatory?

16 A Not that I can remember.

17 Q But we'll never know because you deleted them.

18 A Yes, sir.

19 Q You told law enforcement when you were being
20 interviewed that night that Isaac was the one that was
21 helping them and preventing them from leaving. He's the
22 one that blocked the door.

23 A Yes, sir.

24 Q What is Isaac -- and do you even know if that's the
25 right name?

1 A I'm not positive on the name.

2 Q What does he look like?

3 A That's been five years. I don't exactly remember.

4 Q Well, did law enforcement ask you to describe what
5 Isaac looked like that night five years ago?

6 A If I'm not mistaken, Investigator Garrett did.

7 Q Okay. What did you tell him?

8 A Probably about my height, probably about 150, 160
9 pounds. I'm wanting to say he had darker hair, probably
10 mid-twenties.

11 Q The people that came with Ivan, you knew them all,
12 too, right?

13 A I knew Micco and Zay.

14 Q You knew Zay? So you know what Zay looks like.

15 A Yes, sir.

16 (WHEREUPON, Defendant's Exhibit Number 13 was marked for
17 identification.)

18 BY MR. MARCHANT:

19 Q I'm showing you what's been marked as
20 Defendant's 13. Can you take a look at that picture and
21 see if you recognize that individual?

22 A That's him.

23 Q That's him? Okay. This is the guy that was
24 with ---

25 A If I'm -- if I'm not mistaken, it is.

1 Q --- with Ivan?

2 A If I'm not mistaken, it is.

3 Q Right?

4 A Can I see it again?

5 Q Yep.

6 A (Reviews exhibit) I think it is.

7 Q The guy that was with Ivan.

8 A Yes, sir.

9 Q This is Zay.

10 A If I'm not mistaken, yes.

11 MR. MARCHANT: Move State's 13 into evidence.

12 MR. FRETWELL: No objection.

13 MR. MARCHANT: Excuse me. Defendant's 13 into
14 evidence.

15 THE COURT: So entered without objection.

16 (WHEREUPON, Defendant's Exhibit Number 13 was admitted
17 into evidence.)

18 BY MR. MARCHANT:

19 Q That's the other guy that was with Ivan and Micco
20 and Janice, right?

21 A Yes, sir.

22 Q And you know him how?

23 A Doing drugs, through people.

24 Q Just running the streets in the dope gang?

25 A Yes, sir.

- 1 Q And his name's Isaiah Culbreth, right?
- 2 A Yes, sir. In fact, I think that's what it was.
- 3 Q All right. So you get over to Audrea's. You're
- 4 having conversations with Ivan knowing he's coming,
- 5 right?
- 6 A Yes, sir.
- 7 Q You're having conversation with Micco knowing he's
- 8 coming.
- 9 A Yes, sir.
- 10 Q Y'all are communicating either over Facebook or your
- 11 cell phones.
- 12 A Yes, sir.
- 13 Q Those are the messages that have been deleted.
- 14 A Yes, sir.
- 15 Q When they get there, you're present, right?
- 16 A Yes, sir.
- 17 Q And you say you go outside ---
- 18 A Yes, sir.
- 19 Q --- to the car to get some electronics?
- 20 A Yes, sir.
- 21 Q And who all from the car comes inside the house?
- 22 A All of them.
- 23 Q The female?
- 24 A The female, Micco and Zay.
- 25 Q Nobody stays outside in the car.

1 A No, sir.

2 Q Does anybody from the car bring anything into the
3 house?

4 A I think Ivan had a book bag with him.

5 Q A book bag. Did the book bag ever get opened in the
6 house?

7 A Not that I recall.

8 Q You never saw the book bag get opened.

9 A I know it went -- got through after the fact.

10 Q By who?

11 A Everybody.

12 Q So you put your hands into that book bag?

13 A They handed me a couple things out of it, yes, sir.

14 Q All right. What do they hand you out of it?

15 A I do not remember.

16 Q You told law enforcement that night you saw Ivan get
17 hit with a baseball bat.

18 A Yes, sir.

19 Q Who hit him?

20 A David.

21 Q How many times?

22 A Three or four.

23 Q Are you sure about that?

24 A As best as I can remember.

25 Q Would you be surprised if you told law enforcement

1 he only got hit once that night with a baseball bat? "I
2 seen him get hit once with a baseball bat, something she
3 had in her room." You think it's three or four times
4 now?

5 A Now thinking back on it, yes, sir.

6 Q Do you remember at the end of your interview
7 deputies step out and they're going to do whatever
8 they're going to do, you were feeling pretty good about
9 yourself at that time, weren't you?

10 A No, sir.

11 Q You seemed to be pretty comfortable to me. You sit
12 down -- lay down on the floor, get comfy.

13 A I was scared out of my freaking mind.

14 Q Well, if you were so scared out of your freaking
15 mind, why tell law enforcement anything?

16 A Because I knew it was the only way I could get any
17 kind of help out of this.

18 Q That's right. Investigator Garrett told you,
19 "You're in a pretty unique situation. You're in a group
20 with other people who have all done something," right?

21 A Yes, sir.

22 Q "You're in a unique position because you don't look
23 like everybody else. You're educated, you work every
24 day." And he's telling you you've got an opportunity to
25 help yourself, right?

1 A For the most part.

2 Q Okay. But the most important thing he says is, "All
3 right. Tell me how everything went. You've just got to
4 be completely honest because if we catch you in one
5 little lie, it's going against your case," right?

6 A Yes, sir.

7 Q Okay. So you pled guilty on March 8, 2023.

8 A Yes, sir.

9 Q Right?

10 A Yes, sir.

11 Q When you met with the prosecutors, that was in
12 September of 2024, this month, right?

13 A Yes, sir.

14 Q You've already pled guilty and you've already got
15 your deal from them.

16 A Yes, sir.

17 Q Right?

18 A Yes, sir.

19 Q They're not prosecuting you for murder.

20 A Yes, sir.

21 Q But you lied to law enforcement when they
22 interviewed you when you got arrested, right?

23 A Yes, sir.

24 Q And now you're coming in here and telling new
25 information that you did not tell law enforcement, that

1 you did not put forth at your plea, right?

2 A Yes, sir.

3 Q They can't do anything about it now. They can't

4 prosecute you for murder, can they?

5 A I don't know. As far as I know, no.

6 Q Well, you didn't plead to murder.

7 A No.

8 Q What's going to happen with the murder charge?

9 A I don't know.

10 Q You think they're going to come back and prosecute

11 you?

12 A I have no earthly idea.

13 Q All right. You went and picked your buddy up, David

14 Stokes, who's known as Crazy Dave, right?

15 A Yes, sir.

16 Q Because you knew doggone good and well he'd do

17 whatever you told him to do, right?

18 A He was easily riled up, yes.

19 Q That's your boy, right?

20 A Yes. He was a friend of mine.

21 Q Good friend of yours.

22 A For the most part, yeah.

23 Q Well, either he was or he wasn't. It's not for the

24 most part. He was a good friend of yours.

25 A Yes, sir.

1 Q And you knew that he was easily manipulated, right?

2 A Yes, sir.

3 Q Knew that we wasn't right in the head.

4 A Yes, sir.

5 Q He's living in a trailer that's probably got no
6 electricity, no running water, right?

7 A He had -- the trailer didn't have any electricity or
8 running water, but the camper did.

9 Q Ain't got much to his name.

10 A No, sir.

11 Q You go pick him up knowing -- you and Joe Foster,
12 right?

13 A Yes, sir.

14 Q Right? Your child's mother's boyfriend who you're
15 hanging out with.

16 A Yes, sir.

17 Q The two of y'all go get Crazy Dave.

18 A No, sir. Not -- Dave was already at Audrea's when
19 Joe got there.

20 Q You already picked Dave up.

21 A Yes.

22 Q But then you and Joe ---

23 A No.

24 Q --- and Dave leave and go back to Dave's house.

25 A Audrea wanted Joe's car parked at Dave's house, so

1 David got in the car with Joe to show him where he lived.

2 Q And so you went and picked them up and brought them

3 back.

4 A Yes, sir.

5 Q But you had already been at Audrea's house.

6 A Yes, sir.

7 Q Already been talking with her.

8 A Yes, sir.

9 Q And you let Dave -- or you instructed Dave to bring

10 this stuff back.

11 A No, I did not.

12 Q No.

13 A I did not instruct him to bring nothing back.

14 Q But you knew that he got in your car with that

15 stuff.

16 A I didn't know -- realize what he had in the bag

17 until we got out of the car.

18 Q At Audrea's?

19 A Yes, sir.

20 Q What did you tell him? Yeah, come on. Bring that

21 in the house. Everything's going to be A-okay. Nobody's

22 going to get hurt.

23 A No.

24 Q Why not?

25 A I wasn't thinking.

1 Q You were thinking. You knew he was the one that was
2 going to be able to inflict harm to Ivan. That's why you
3 went and picked him up in the first place.

4 A I went and picked him up to scare Ivan to give me my
5 money.

6 Q So there never was a plan for Ivan to get seriously
7 hurt or killed, was there?

8 A Not between me and David.

9 Q You never told David to stop hitting Ivan, did
10 you?

11 A I did.

12 Q You did. You testified a minute ago Audrea was the
13 one.

14 A Audrea's the one that told him to stop. That's when
15 he stopped. But I did holler at him to stop.

16 Q So she's the one that got him to stop.

17 A Yes.

18 Q After you took Joe and Kayla away, you went home to
19 your house?

20 A I went back to the house, went back to Audrea's
21 house.

22 Q For what purpose?

23 A Hoping I could stop him from doing anything crazy.

24 Q Okay. What did you do to stop him from doing
25 anything crazy?

1 A There wasn't no stopping them.

2 Q Well, you keep using the word "them." Let's be real
3 clear. Jeff George never laid a hand on him that you
4 saw.

5 A Not that I saw.

6 Q It was the guy that you brought over there ---

7 A Yes, it was.

8 Q --- knowing that he would do the damage.

9 A Yes, sir.

10 Q You never saw anybody touch Ivan other than
11 Stokes.

12 A I saw the young guy at the back door hit him when
13 Ivan tried to go for the back door.

14 Q Who's the young guy?

15 A Isaiah, Isaac, or whatever his name was. The one
16 you asked me to describe a minute ago.

17 Q Okay. And law enforcement asked you to pick him out
18 of a lineup?

19 A They didn't -- they didn't have a picture of him,
20 and I don't know who he is.

21 Q You know who he is now?

22 A No.

23 Q No? Would you be able to pick him out if you saw
24 him again.

25 A Maybe. I don't know.

1 Q Probably not? First time you'd ever seen him?

2 A Yeah.

3 Q All right. So you take Joe and Kayla away. You
4 come back to the house, right?

5 A Yes.

6 Q You never told law enforcement initially that you
7 came back to the house, did you?

8 A No, sir.

9 Q Trying to keep yourself out of this, right?

10 A Yes, sir.

11 Q You knew you were in a world of hurt because you
12 were -- you were and you are wrapped up in this.

13 A Yes, sir.

14 Q So where did you go after you left the last time?
15 You went home?

16 A Home.

17 Q Directly home?

18 A (Nods head affirmatively.)

19 Q Have your cell phone with you?

20 A Yes, sir.

21 Q Need a verbal answer.

22 A Yes, sir.

23 Q Had your cell phone with you. It was on?

24 A I'm not positive. I turned it off. I don't know
25 when I turned it back on.

1 Q Why did you turn your phone off?

2 A Just because.

3 Q You didn't want law enforcement to go back and track
4 your location?

5 A Yes, sir.

6 Q Where were you living at the time?

7 A 1045 Holly Springs Church Road.

8 Q How far is that from C and S Drive?

9 A Maybe four or five miles, if that. Not far.

10 Q You came back over to Audrea's house after that,
11 didn't you?

12 A Yes, sir.

13 Q Smoked dope over there some more?

14 A Yes, sir.

15 Q You're aware that Ivan ran women to make money,
16 didn't you?

17 A No, sir.

18 Q No?

19 A I had heard hearsay about it, but I didn't know for
20 a fact.

21 Q But you heard that.

22 A Yes.

23 MR. MARCHANT: No further questions.

24 THE COURT: Redirect?

25 MR. FRETWELL: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. FRETWELL:

Q All right. Mr. Smith, Mr. Marchant asked you about \$500 and that was about a week's wage to you back then.

A Yes, sir.

Q You testified on direct examination that you wanted your money.

A Yes, sir.

Q Is that a lot of money to you?

A Yes, sir.

Q What happens if you killed the man that owes you \$500?

A You don't get no money.

Q Mr. Marchant asked you in his original question whether Audrea Cook ever told you or Audrea Cook or Jeff George ever told you, quote, said they wanted you to play an active role. Did either of them say that to you?

A No, sir.

Q And what he read to you from my email, was that -- you felt that way; is that correct?

A Yes, sir.

Q Is that the truth?

A Yes, sir.

Q Mr. Marchant asked you a couple of times at least

1 about whether you feel like you're responsible because
2 you didn't actually kill or lay a hand on Ivan Gula. And
3 you said that that was the case. This gentleman right
4 here, Mr. Richey, he's your lawyer.

5 A Yes, sir.

6 Q Did he explain to you the concept of the hand of one
7 is the hand of all?

8 A Yes, sir.

9 Q Did he explain to you that you're guilty of murder
10 under South Carolina law?

11 A Yes, sir.

12 Q Do you know this lady back here?

13 A I have met her once or twice in the last couple
14 of ---

15 Q Do you know who she represents?

16 A If I'm not mistaken, David.

17 Q David Stokes?

18 A Yes, sir.

19 Q You know this gentleman over here? Do you know who
20 he is?

21 A That's Audrea's lawyer.

22 Q Okay. Mr. Brehm?

23 A Yeah. I don't know his name.

24 Q Mr. Marchant asked you about an individual you
25 described to law enforcement as Isaac or Isaiah; is that

1 correct?

2 A Yes, sir.

3 Q Do you recall being shown a photograph in our
4 office?

5 A Yes, sir.

6 Q Do you recall identifying somebody in that
7 photograph?

8 A Ivan.

9 Q Do you recall identifying anybody else in that
10 photograph?

11 A The other individual is there, but I can't -- he was
12 the other individual that was there, but I can't make out
13 his face.

14 Q Let me show you. Let me first of all show you
15 what's marked as State's 224. Does that appear to look
16 like the photograph that you were shown initially?

17 A Yes, sir.

18 Q Were you also shown that photograph on like a ---

19 A Laptop?

20 Q Yeah. A laptop?

21 A Yes, sir.

22 Q If you look at that photograph right there, could
23 you say who you identified that individual right over
24 there to be?

25 A That's the other guy that was there, but...

1 Q What guy? Tell us more about him.

2 A Isaiah or Isaac, whatever his name is.

3 Q The younger guy?

4 A Yeah. The younger guy.

5 Q All right. Mr. Marchant asked you about some
6 conversation you had in your interview with Investigator
7 Garrett telling you you were in a unique situation and he
8 got -- and in answer to one of Mr. Marchant's question,
9 you said you wanted to get some help by telling these
10 investigators what you knew about that situation; is that
11 right?

12 A Yes, sir.

13 Q Mr. Marchant also asked you about a ride from, I
14 guess, Spartanburg County with Maser Deputy Arrowood,
15 correct?

16 A That was a very long, uncomfortable ride.

17 Q And during that ride, Deputy Arrowood wasn't very
18 talkative, was he?

19 A No, sir.

20 Q Who was?

21 A Me.

22 Q And you started talking about this incident back
23 then; is that correct?

24 A Yes, sir.

25 Q Before you'd ever met Investigator Garrett; is that

1 correct?

2 A Yes, sir.

3 Q You told Master Deputy Arrowood you admitted to

4 being there, didn't you?

5 A Yes, sir.

6 Q At the house where this man was killed.

7 A Yes, sir.

8 Q Before you'd ever met Investigator Garrett.

9 A Yes, sir.

10 Q You know a guy named Kurt Knutson?

11 A Yes, sir.

12 Q He doesn't like you very much.

13 A No, he doesn't.

14 Q Do you have any idea why he'd tell law enforcement

15 Bobby Smith's your guy, he'll tell you everything?

16 A I don't know. I know ---

17 Q You're not the kind of person that's known to keep

18 his mouth shut, are you, sir?

19 A No, sir.

20 Q You went up to Mr. Stokes's house twice that night,

21 first to get him, a second to take him up there. I guess

22 he rode up there with Joe Foster and you brought him

23 back. The first time you went up there, who went with

24 you, sir?

25 A Nobody.

1 Q You said you came back to Audrea Cook's house after
2 all of this and you smoked dope with her. Anybody else
3 there?

4 A There was always somebody there.

5 Q Did you come back that same morning, smoke some dope
6 the morning of December 2nd, the morning right after this
7 happened that night?

8 A If I'm not mistaken, yes.

9 Q Who else was there?

10 A David.

11 Q David Stokes.

12 A The young man.

13 Q Yeah.

14 A And I don't remember anybody else. I can't remember
15 if Jeff was still there or not.

16 Q Who told you Ivan Gula ran women?

17 A I had heard it from my ex.

18 Q And who did you hear about it -- who did you hear
19 talk about it that night?

20 A Jeff.

21 Q Who else?

22 A Audrea.

23 MR. FRETWELL: No further questions, Judge.

24 MR. MARCHANT: Judge, I have one in response to one
25 of Mr. Fretwell's questions.

RECROSS EXAMINATION

BY MR. MARCHANT:

Q Make sure I heard you correctly, Mr. Smith. You're telling this jury that when you went to pick up David Stokes the first time, the first time you went up to Stokes's house, nobody was with you.

A That's right.

Q Right?

And the person that rode back in the car with you when you picked up Stokes was only Stokes, right?

A Yes, sir.

Q So it would be surprising to hear that when you met with law enforcement on the night that you were arrested, you told this investigator, "I got David from Cripple Creek and Jeff rode with me."

A No, I did not.

Q You didn't tell them that?

A Not that I recall.

Q But if you did tell them that, it was a lie, right?

A Yeah.

MR. MARCHANT: Thank you.

MR. FRETWELL: No questions, Judge.

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

Ladies and gentlemen of the jury, we're going to pause for an abbreviated lunch break. I would want you

1 back in your jury room by 2:20. 2:20, that's close to an
2 hour. By 2:20. Please, ma'am, please, sir, I'll try to
3 be on time so we can move this along.

4 Do not talk to anybody about the case. Don't talk
5 to anybody. I'll see you back -- and don't do any
6 research or anything of that nature. I'll see you back
7 in your jury room at 2:20. We'll get started very
8 promptly at that time.

9 (WHEREUPON, the jury exits the courtroom at 1:22 PM.)

10 THE COURT: Can I see the lawyers for a second?

11 (WHEREUPON, a bench conference was held off the record,
12 and a recess is taken at 1:26 PM.)

13 THE COURT: Everybody ready to go?

14 MR. FRETWELL: Yes, sir.

15 THE COURT: Okay. Bring the jury in.

16 (WHEREUPON, the jury entered the courtroom at 2:26 PM.)

17 THE COURT: All right. We're back on the record,
18 Madam Court Reporter.

19 All right. Call your next witness.

20 MR. WILLIAMS: Thank you, Your Honor. The State
21 calls David Stokes.

22 THE COURT: Okay.

23 THE CLERK: Please pause here at the bench. Put
24 your left hand on the Bible, raise your right hand.

25 ///

1 WHEREUPON,

2 DAVID STOKES

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: David Jeffrey Stokes.

7 DIRECT EXAMINATION

8 BY MR. WILLIAMS:

9 Q Mr. Stokes, do you see the defendant sitting over
10 there?

11 A Yes, sir.

12 Q Do you know who that is?

13 A Yes, sir.

14 Q Who is it?

15 A Jeff George.

16 Q Prior to December 1, 2019, when Ivan Gula was
17 killed, did you know Jeff George?

18 A No, sir.

19 Q Okay. Did you know someone named Bobby Smith?

20 A Yes, sir.

21 Q How did you know Bobby Smith prior to December 1st?

22 A Just from around. He's come, hang out sometimes.

23 Q How long had you known Bobby Smith?

24 A Probably maybe a year, if that long.

25 Q Would you say you considered him to be a good

1 friend?

2 A Yes, sir.

3 Q And on December 1, 2019, where were you living?

4 A At [REDACTED] Creek Road.

5 Q Could you tell us a little bit about that area?

6 A It's just up a long driveway out in the woods in a
7 trailer.

8 Q Is that in Greer?

9 A Yes, sir.

10 Q Did Bobby Smith contact you that day?

11 A Yes, sir.

12 Q Tell us what he said.

13 A He just wanted me to come. Wanted to know if I
14 wanted to come hang out with him and some people right up
15 the street. And I told him yeah.

16 Q When you say "hang out," what did that mean to you?

17 A Get a party, you know, do some drugs and stuff.

18 Q What kind of drugs?

19 A Just all of them. Meth, coke, heroin, weed.

20 Q Okay. Did Bobby Smith come and pick you up?

21 A Yes, sir.

22 Q Do you know -- do you have any idea about what time
23 it was?

24 A It was dark. I couldn't tell you. It was before
25 midnight.

1 Q So where did you go when Bobby picked you up?

2 A Over to Audrea Cook's house.

3 Q Was anybody with Bobby when he picked you up?

4 A Yeah. Jeff was.

5 Q He was? And that was the first time you ever met
6 Jeff?

7 A Yes, sir.

8 Q Where did you go?

9 A Just right up the road to her house. It wasn't very
10 far from where I lived.

11 Q Who's house?

12 A Audrea Cook's.

13 Q Audrea Cook? Okay. Had you ever met Audrea Cook
14 before?

15 A No, sir.

16 Q Who do you remember being there when you got there?

17 A Audrea was there, this dude named Isaiah. I'm not
18 positive that's his name, but like I ain't never met
19 anybody until that night. And this dude named Patrick
20 Poole. And there may have been a couple more people that
21 I didn't -- didn't know.

22 Q What did you do when you got there?

23 A Started hanging out.

24 Q All right. And what does hanging out entail?

25 A Doing drugs and just partying.

1 Q Who was doing drugs?

2 A Everybody.

3 Q What kind of drugs?

4 A Meth, heroin, coke, weed. About all of them.

5 Q Okay. Where were you guys doing these drugs at in
6 the house?

7 A In her bedroom.

8 Q In Audrea's bedroom?

9 A Yes, sir.

10 Q What was the discussion about?

11 A After I'd been there about an hour or so, she
12 started talking about how this Russian dude had stole her
13 car and raped her a night or two before. And they were
14 all scared of him, and they asked me would I mess him up
15 for her.

16 Q What did you say?

17 A I said yes.

18 Q Who's "they"? Who asked you?

19 A Audrea and Billy -- or Bobby Ray and Jeff.

20 Q And what did you say?

21 A I said yes.

22 Q Okay. Had you brought anything with you?

23 A No, sir.

24 Q When you left, you just came with the clothes on
25 your back?

- 1 A Yes, sir. Maybe a lighter and a pack of cigarettes.
- 2 Q Did you decide to go back to your residence?
- 3 A Yes, sir.
- 4 Q Why did you decide to go back to your residence?
- 5 A To go get a machete.
- 6 Q Who went with you when you went back?
- 7 A Jeff and Bobby Ray.
- 8 Q What did you do when you got back to your house?
- 9 A Just got the machete, and we loaded back up and went
- 10 back to her house.
- 11 Q Do you remember getting anything else at that time?
- 12 A No, sir.
- 13 Q When you got back, what did you do?
- 14 A Just commence to hanging out again. And then she
- 15 said he was on his way over, so we stayed in her room and
- 16 waited on him because she had a video surveillance system
- 17 at her house so we could see what was going on.
- 18 Q You said y'all stayed in her room. Who all stayed
- 19 in her room at that time?
- 20 A Me and Jeff and Bobby. And I think Patrick Poole
- 21 may have. I don't remember if he was in there or not.
- 22 Q And y'all were still doing drugs that whole time?
- 23 A Yes, sir.
- 24 Q Would you say you were pretty high?
- 25 A Yes, sir.

1 Q Were you upset?

2 A I was upset, yes.

3 Q Why were you upset?

4 A Because I don't like it when dudes lay hands on a
5 female.

6 Q Now, this person that she was talking about, this
7 Russian, did you have any idea who this person was?

8 A No, sir.

9 Q Never met him before?

10 A No, sir.

11 Q Did she give his name or anything like that?

12 A She may have said Ivan.

13 Q Did Ivan show up that night?

14 A Yes, sir.

15 Q Tell us about that.

16 A He -- they got there, and Audrea told us to wait in
17 the bedroom. And she went out there and was talking to
18 him. Then Jeff went out a little bit after her and
19 pulled his gun out and told him to get on the floor. So
20 he did.

21 Q He pulled his gun out. Do you remember what kind of
22 gun he had?

23 A It was a pistol. I don't know what kind it was.

24 Q Some kind of pistol. He pulled it out?

25 A Yes, sir.

1 Q Did he point it at Ivan?

2 A Yes, sir.

3 Q What did you do?

4 A I was still in the back bedroom.

5 Q Okay. Did you end up coming out of the back
6 bedroom?

7 A Yes, sir.

8 Q What did you do when you came out of the back
9 bedroom?

10 A I hit him with the machete a few times.

11 Q Did you say anything to him?

12 A I told him I was sorry.

13 Q You hit him with a machete. Can you describe to the
14 jury where you hit him and how you hit him?

15 A Okay. I was swinging it, and he had his arms up so
16 I was hitting him in the arms mostly. And he may have
17 threw his foot up, and I hit it, I think, too.

18 Q Put his arms up like this (demonstrating)?

19 A Yeah.

20 Q And where was this going on in the trailer?

21 A In the living room and kitchen area.

22 Q Okay. Did you notice any other people who'd come
23 with him?

24 A Yeah. There was like three or four other people he
25 had brought with him.

1 Q Did you know any of those people?

2 A No, sir.

3 Q Do you know about how many times you hit him?

4 A No. I couldn't be sure.

5 Q Do you remember also having a meat cleaver with you?

6 A Yes, sir. I did.

7 Q What happened with that? Did you hit him with that?

8 A It flew out of my hand and went behind the couch.

9 Q Okay. So you never actually hit him with that one.

10 A No, sir.

11 Q But you got some hits in with the machete?

12 A Yes, sir.

13 Q Is that the machete?

14 A Yes, sir.

15 Q Was that the meat cleaver that you brought?

16 A Yes, sir.

17 Q While you were hitting him with a machete, was Jeff

18 George still holding that gun on him?

19 A I don't remember. I wasn't really watching him.

20 Q Okay. You were just concentrating on ---

21 A Yes, sir.

22 Q Okay. So did you stop at some point?

23 A Yeah. Audrea told me to stop, and I stopped.

24 Q Okay. What happened then?

25 A Then she -- she started talking about how her father

1 or grandfather was a SLED agent and nobody better fuck
2 with her, you know. He'll get him or something.

3 Q Did she accuse Ivan of anything at that point?

4 A Yes. She pulled out her cell phone and showed a
5 message talking about he was going to abduct her into sex
6 trafficking.

7 Q Okay. What did Ivan do at that point? Anything?

8 A He started apologizing.

9 Q Did he -- at any point when you were attacking him,
10 did he try to fight back or anything?

11 A No, sir.

12 Q Just tried to defend himself?

13 A Yes, sir.

14 Q About how long did that attack go on initially?

15 A Not long. Maybe a minute or two.

16 Q Okay. Did anyone try to help Ivan?

17 A No. Not until it was over with.

18 Q Okay. And who tried to help him?

19 A This girl that had came with him. I don't know who
20 she was.

21 Q What did she try to do?

22 A She took her sock off and started wiping blood off
23 his arm.

24 Q Was he pretty bloody?

25 A A little bit.

1 Q A little bit?

2 A Yes, sir.

3 Q Did he seem like he was in pain at that point to
4 you?

5 A A little bit, yes, sir.

6 Q What did the other people that had come with Ivan do
7 at that point?

8 A They were all just standing in the kitchen.

9 Q Was there a time when the people who came with Ivan
10 left?

11 A Yeah. It was after she told me to stop. And her
12 and Patrick Poole left with all the people, said they
13 were taking them home or something. I didn't really ask
14 where they were going.

15 Q Were you instructed at that point by anybody to do
16 anything as they were leaving?

17 A Audrea said to finish up and clean up.

18 Q Finish up and clean up.

19 A Yes, sir.

20 Q So who was still in the house when Audrea and Poole
21 and Ivan's friends left?

22 A Me, Jeff, Bobby Ray and Isaiah.

23 Q Who was Isaiah?

24 A I don't really know who he was. He was just this
25 young kid that was there the whole time I was.

1 Q What happened after they had already left the
2 trailer?

3 A Ivan went for the door, and Bobby Ray hit him a
4 couple of times with the baseball bat. And Isaiah hit
5 him a couple times with his machete and he went to the
6 floor. And then Jeff said, "My girlfriend's got some
7 good pussy, don't she?" And then he stabbed him twice to
8 the back with his machete.

9 Q Jeff said that?

10 A Yes, sir.

11 Q You said he stabbed him with his machete.

12 A Yes, sir.

13 Q He brought his own machete?

14 A Yes, sir.

15 Q What kind of machete did he have?

16 A It was different looking than the one I've got. It
17 was more like smaller. Like it was the same length, but
18 it was like a smaller blade. It wasn't as fat as that
19 one.

20 Q It wasn't as fat?

21 A No, sir.

22 Q A thinner blade?

23 A Yes, sir.

24 Q Would you compare it to a sword in a way?

25 A Yes, sir. More like a sword than that machete

1 there, yes, sir.

2 Q So he said -- he said that. Did you know who he was
3 referring to?

4 A Yeah. Audrea.

5 Q And he stabbed him twice in the back?

6 A Yes, sir.

7 Q Where was Ivan when this happened?

8 A In the kitchen floor on his knees.

9 Q What happened at that point?

10 A Ivan went down and for like the next 45 minutes they
11 were asking me to finish him off, finish him off, but I
12 told him I wouldn't do it.

13 Q Who was they?

14 A Jeff and Bobby Ray.

15 Q And why wouldn't you do it?

16 A Because it didn't seem right.

17 Q Okay. So you said you think it was about 45 minutes
18 this was going on?

19 A Maybe. Maybe that long, yes, sir.

20 Q How was Ivan doing at this point? What was he
21 doing?

22 A He was just laying there, I think. He may have
23 already been dead. I'm not sure.

24 Q Not sure. Did you hear any breathing or anything?

25 A It seemed like he was struggling to breathe there

1 for a few minutes.

2 Q Okay. So after about 45 minutes, what happened?

3 A Jeff took his machete and stabbed him down the neck
4 one time.

5 Q Down the neck?

6 A Yes, sir.

7 Q Like this (demonstrating)?

8 A Yeah.

9 Q And he did that with his machete?

10 A Yes, sir.

11 Q What happened at that point?

12 A Me and Bobby went back to my house and got a tarp
13 and some fabric to wrap him up in.

14 Q Fabric?

15 A Yes, sir.

16 Q What kind of fabric?

17 A Like -- it's like pool table felt.

18 Q Did it have any kind of a pattern on it?

19 A It had a floral pattern on one side, a cheetah print
20 on the other.

21 Q So after you got that tarp and cheetah or whatever
22 print, floral print, what did you do at that point?

23 A Went back to Audrea's house and wrapped up a body.

24 Q You did?

25 A Yes, sir.

1 Q Okay. Showing you State's 17. Does that look
2 familiar to you?

3 A Yes, sir.

4 Q What is that?

5 A That's the body.

6 Q Is that the way you wrapped him?

7 A Yes, sir.

8 Q That print, that cheetah print there?

9 A Yes, sir.

10 Q Used some duct tape, I see.

11 A Yes, sir.

12 Q Was it Shurtape?

13 A I don't know what kind it was. It was just some I
14 had laying around.

15 Q Okay. So you wrapped him up there. What did you do
16 at that point?

17 A Bobby said that he was leaving, so he got -- he
18 left. And Jeff and I loaded it up in his truck and took
19 it to my house.

20 Q Where did you load Ivan's body?

21 A In the back of Jeff's truck behind Audrea's house.

22 Q Behind it? Behind her house?

23 A Yes, sir.

24 Q How did you get it into the truck?

25 A Carried it.

1 Q Carried it? Where was his truck positioned when you
2 put the body in?

3 A It was in the back of the house.

4 Q Was it kind of pulled up to that back deck area?

5 A Yes, sir. It was pulled up to the back deck.

6 Q Where did you put the body in the truck?

7 A Just in the bed of the truck.

8 Q The bed of the truck.

9 It was just you and Jeff at that point?

10 A Yes, sir.

11 Q And you said Bobby had left. Do you know what Bobby
12 was driving?

13 A I think it was an Outback, a Subaru Outback.

14 Q Subaru Outback.

15 Did he leave before you loaded Ivan's body into the
16 truck?

17 A Yes, sir.

18 Q So you got the body in the truck. What did you do
19 at that point?

20 A We took it to my house. And Jeff and I were
21 unloading it, and he just dropped it and said he had to
22 leave. So I was just standing there holding it.

23 Q Where did you put it?

24 A I took it over to the side of the house and stashed
25 it.

1 Q When you were wrapping the body or when you were
2 transporting it with Jeff, did Jeff saying anything to
3 you? Did he make any threats?

4 A He said if anybody says anything, he's going to kill
5 them.

6 Q He said that to you?

7 A Yes, sir.

8 Q Were you afraid?

9 A Yes, sir.

10 Q So after Jeff leaves, the body's at your house, what
11 did you do at that point?

12 A I stashed it and I went back to Audrea's house.

13 Q Why did you go back to her house?

14 A Because she called me and said she was scared and
15 she wanted me to help her clean up and stuff.

16 Q Clean up. What did "clean up" mean?

17 A Wipe up blood cut out a little bit of the carpet.

18 Q Okay. Did you actually cut out the carpet?

19 A Yes, sir.

20 Q How did you cut it out?

21 A With a knife.

22 Q Where was that carpet at?

23 A In the living room.

24 Q I'm showing you State's Exhibit 63. Does that look
25 familiar to you?

1 A Yes, sir.

2 Q What is that?

3 A That's the floor under the carpet.

4 Q Is that what you cut out?

5 A Yes, sir.

6 Q Why did you cut that out?

7 A Because it had blood on it.

8 Q Really?

9 A Yes, sir.

10 Q What did you do with that section of carpet that you
11 cut out?

12 A We burned it in the back yard at a bonfire.

13 Q I'm showing you State's 50. Does that look like an
14 area where that would have occurred in her backyard?

15 A Yes, sir.

16 Q You buried it -- you burned it in a bonfire.

17 A Yes, sir.

18 Q Did you burn anything else in that bonfire?

19 A Everything he brought with him -- Ivan had brought
20 with him.

21 Q Now, you said that she said she was scared, Cook.
22 Did she indicate why she was scared?

23 A She just said she was afraid Jeff was going to hurt
24 her.

25 Q She said she was afraid Jeff was going to hurt her.

1 A Yes, sir.

2 Q So you cleaned up. You said you were wiping blood.

3 What did you use to wipe that up?

4 A Just rags and stuff, paper towels.

5 Q Okay. And did you burn some of that material as

6 well?

7 A Yes, sir.

8 Q After that, after you're done cleaning up, you're

9 done with the bonfire, what did you do at that point?

10 A Hung out for a little while until the next day. And

11 then I went back to the house.

12 Q Back to your house?

13 A Yes, sir.

14 Q How did you get there?

15 A I walked.

16 Q How long of a walk?

17 A It's ten minutes.

18 Q Right around the corner about a quarter-mile?

19 A Yes, sir.

20 Q What did you do when you got back to your house?

21 A I went out in the woods and started to dig a hole to

22 bury him in.

23 Q Out in the woods.

24 A Yes, sir.

25 Q Okay. Did Kurt Knutson come out?

1 A He just -- yeah. He just came dragging the body
2 while I was digging the hole, asked me if I needed any
3 help. I told him I didn't.

4 Q And who was Kurt Knutson?

5 A Just this dude that was staying up at my house that
6 I've known since middle school.

7 Q So he asked you if he could help you.

8 A Yes, sir.

9 Q What did you say to him?

10 A I said yes.

11 Q So what did you do?

12 A We buried his body.

13 Q After you buried his body, did you talk to Kurt
14 about what had happened?

15 A Not really. Not a lot. Just a little, you know,
16 here and there. He knew -- he knew what happened.

17 Q He knew what happened?

18 A Yes, sir.

19 Q So you did tell him then?

20 A I told him, yes, sir.

21 Q Had he been at your house the whole night when that
22 -- when the murder was occurring?

23 A Yeah. He was in the camper out in front of my
24 house.

25 Q Did he come out, do you remember?

1 A He came out when I came back to get the fabric and
2 the tarp. And I told him that he -- better just to stay
3 in the trailer -- or the camper for the rest of the night
4 if I was to come back because he wouldn't want to get
5 involved with what I was doing.

6 Q So after you had buried the body, did you do
7 anything to cover up the burial spot?

8 A Drug a little bit of -- a couple of branches over or
9 something. I even threw a cinder block or two on it.

10 Q Did you stay there at Cripple Creek after that?

11 A I ended up staying up at Audrea's house for about
12 the two weeks after that until they arrested us.

13 Q Why did you go over there and stay there?

14 A She said she was scared something was going to
15 happen to her.

16 Q Really. And did she indicate where that fear came
17 from at that point?

18 A She just said she was scared of Jeff.

19 Q Scared of Jeff.

20 Now, Mr. Stokes, I'm showing you State's
21 Exhibit 219. Is that you right there?

22 A Yes, sir.

23 Q Is that what you looked like in December of 2019?

24 A Yes, sir.

25 Q Also showing you State's 43. Do you recognize that?

1 A Yes, sir.

2 Q What is that?

3 A That's the back of Audrea's house.

4 MR. WILLIAMS: And would you indicate where
5 Mr. George's white truck was located when you loaded
6 Ivan's body?

7 In fact, Your Honor, if you'll permit, I'd like him
8 to step down.

9 THE COURT: All right.

10 BY MR. WILLIAMS:

11 Q On the TV and indicate.

12 A It was right here (indicating).

13 Q Okay. Thank you. You can have a seat.

14 In the two weeks that you were at Audrea's house, do
15 you remember leaving a note for her, State's 54? Did you
16 write that?

17 A Yes, sir.

18 Q What does it say?

19 A Just that I had lost my phone and that I had a
20 backup phone number for her to call.

21 Q Did you have a nickname for Cripple Creek?

22 A The pirate ship.

23 Q Why did you call it the pirate ship?

24 A Just because. Just picked up that name somewhere.

25 Q Do you like pirates?

1 A Yes, sir.

2 Q Is that what you enjoy?

3 You like knives?

4 A Yes, sir.

5 Q I'm showing you State's 154. Do you recognize that?

6 A Yes, sir.

7 Q Did you write that?

8 A No, sir.

9 Q Who wrote that?

10 A This girl I had staying up there for a little while.

11 Q What about that?

12 A She wrote that, too.

13 Q Did she write that because that was the nickname of

14 your place?

15 A Yes, sir.

16 Q Were you charged with any crime?

17 A Yes, sir.

18 Q What were you charged with?

19 A Murder and kidnapping.

20 Q Do you remember being arrested a couple of weeks

21 after this happened?

22 A Yes, sir.

23 Q Did you meet with law enforcement? Did you

24 interview with them?

25 A Yes, sir.

1 Q Do you remember that interview?

2 A Yes. Vaguely.

3 Q Did you tell them the whole truth in that?

4 A No, sir.

5 Q What did you lie about?

6 A About all -- almost all of it, just trying to save
7 my own ass, I guess.

8 Q Do you remember telling them that you had left, that
9 he was ---

10 A Yes, sir.

11 Q --- you left when Ivan was still alive? Do you
12 remember telling them that?

13 A Yes, sir.

14 Q You had no idea how that body would have got at your
15 house?

16 A Yes, sir.

17 Q And I believe you just said you were trying to save
18 yourself.

19 A Yes, sir.

20 Q All right. So you weren't being truthful.

21 A No, sir.

22 Q Did you, after that interview at some point, plead
23 guilty?

24 A Yes, sir.

25 Q What did you plead guilty to?

1 A Murder and kidnapping.

2 Q Do you know what the penalty range is for murder?

3 A 30 to life, isn't it?

4 Q Is that day for day?

5 A I think so, yes.

6 Q So does that mean that no matter what your sentence

7 is, it will be no less than 30 years?

8 A Yes, sir.

9 Q After you plead guilty, did you give another

10 statement, recorded statement?

11 A Yes, sir.

12 Q In that statement, did you correct some of the -- or

13 all of the lies that you told on your original ---

14 A Yes, sir, I did.

15 Q And you told your full involvement?

16 A Yes, sir.

17 Q You told the involvement of the defendant, Jeff

18 George, as well?

19 A Yes, sir.

20 Q Were you honest in that interview?

21 A Yes, sir.

22 Q Completely?

23 A Yes, sir.

24 Q Has law enforcement promised you anything?

25 A No. Nobody's promised me anything.

1 Q Have I or Mr. Fretwell promised you anything?

2 A No, sir.

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

4 THE COURT: All right. Cross-examination,

5 Mr. Marchant?

6 CROSS EXAMINATION

7 BY MR. MARCHANT:

8 Q Mr. Stokes, I'm going to work backwards a little bit
9 on you.

10 A Yes, sir.

11 Q You're in custody at the moment, right?

12 A Yes, sir.

13 Q Hasn't always been that way, though, has it?

14 A No, sir.

15 Q When you were arrested, you made bond in this case.

16 A Yes, sir.

17 Q And you pled guilty to murder and kidnapping.

18 A Yes, sir.

19 Q Even though you have pled guilty to murder and were
20 facing a minimum of 30 years in the penitentiary, you
21 were allowed to remain out on home incarceration, right?

22 A Yes, sir.

23 Q And home incarceration includes an ankle monitor.

24 A Yes, sir.

25 Q Right? And at some point in time, you made some

1 Facebook posts that the solicitor and law enforcement got
2 ahold of, right?

3 A Yes, sir.

4 Q That they deemed to be threatening in nature, right?

5 A Yes, sir.

6 Q And you had to have a bond revocation hearing, and
7 the judge revoked your bond.

8 A Sure did.

9 Q And then ---

10 A Ever since, been locked up, yes, sir.

11 Q About two years.

12 (WHEREUPON, Defendant's Exhibit Number 14 was marked for
13 identification.)

14 BY MR. MARCHANT:

15 Q And when you were arrested -- I'm showing you
16 Defendant's 14. When you were arrested -- do you
17 recognize those items?

18 A Yes, sir.

19 Q How is it that you recognize them?

20 A They're mine.

21 Q You had them when you got arrested?

22 A Yes, sir.

23 MR. MARCHANT: Move Defendant's 14 into evidence.

24 THE COURT: Any objection?

25 MR. WILLIAMS: No objection, Your Honor.

1 THE COURT: All right.

2 (WHEREUPON, Defendant's Exhibit Number 14 was admitted
3 into evidence.)

4 BY MR. MARCHANT:

5 Q You're out on bond for murder, right?

6 A Yeah.

7 Q After having pled to murder, you get arrested and
8 you've got these with you, don't you?

9 A Yes, sir.

10 Q You knew that the condition of your bond was that
11 you were not supposed to have things like that, right?

12 A I didn't pay any attention.

13 Q Didn't care, right?

14 A I didn't say that.

15 Q Didn't pay any attention to the terms of your bond.
16 Did you know that your bond also prevented you from
17 smoking methamphetamine?

18 A Yes, sir.

19 Q But you continued to use methamphetamine even after
20 you pled guilty to murder, right?

21 A Yes, sir.

22 Q So you're sitting in jail after your plea. And so
23 we're clear, you pled guilty on February 10, 2022, right?

24 A Yep.

25 Q And you were represented by Ms. Byford who's sitting

1 back here in the ---

2 A Yes, sir.

3 Q --- pink garnet pullover.

4 And then you told the Court by way of a written
5 letter that you wanted to terminate her services, right?

6 A Yeah. That was a mistake.

7 Q You filed a motion to have ---

8 A Somebody else did that for me.

9 Q But you filed it, right? It's got your name on it.
10 It was what you wanted to happen.

11 A Yeah.

12 Q Okay. You wanted Ms. Byford relieved from
13 representing you, right?

14 A Yeah.

15 Q Because you're upset that she wasn't doing
16 everything she needed to do in your best interest.

17 A Yes, sir.

18 Q Right? And you were really particularly upset that
19 she couldn't get you back out on house arrest.

20 A Yes, sir.

21 Q Because your parents were ill.

22 A Yes, sir.

23 Q And you needed to be home with them?

24 A Yeah.

25 Q You're still upset with Ms. Byford because you pled

1 guilty to something you didn't do, right?

2 A No, sir, no, sir.

3 Q You didn't kill Ivan, did you?

4 A No.

5 Q You did not. But you pled guilty to it.

6 A Yes, sir.

7 Q You met with Investigator Garrett and Investigator
8 Bailey, those two gentlemen sitting over there, the day
9 you were arrested right?

10 A Yes, sir.

11 Q Were you high on methamphetamine that day?

12 A Yes, sir.

13 Q How were you getting the funds? How were you
14 getting money to buy methamphetamine?

15 A Doing odd jobs.

16 Q What sort of jobs?

17 A Cutting grass, stuff like that.

18 Q Electrical work?

19 A Yes, sir.

20 Q You've been an electrician a long time, haven't you?

21 A Yeah.

22 Q Pretty good tradesman, aren't you?

23 A I'm not real good at it, no, sir.

24 Q Not real good?

25 A (Shakes head negatively.)

1 Q The solicitor showed you some pictures a minute ago,
2 and I believe you said in referring to State's -- looking
3 at State's 17, you used a roll of electrical tape or duct
4 tape, right?

5 A Yeah. I think that's for heating and air work.

6 Q That you got from your house, though.

7 A Yeah.

8 Q Right? And that's -- looking at State's 147, that's
9 that roll?

10 A Yes, sir.

11 Q Okay. So let's look at that one more time. What's
12 the numbers written on that roll of tape?

13 A 857.

14 Q 857.

15 Where'd you get the tape?

16 A I just had it. Probably got it at a yard sale.

17 Q Why would you buy HVAC tape at a yard sale if you're
18 an electrician?

19 A Because it was cheap and it's good to have.

20 Q Everybody's got tape like that around the house?

21 A Yes, sir.

22 Q Let's look at 43. This is, you said, a picture of
23 the back of Ms. Cook's residence, right?

24 A Yes, sir.

25 Q And the truck you claim was parked and pulled up to

1 the back door?

2 A Yes, sir.

3 Q Get you a couple of different angles. That's a
4 picture of the front of the house?

5 A Yes. Yes, sir.

6 Q All right. And so these are the steps to the front
7 door, right?

8 A Yes, sir.

9 Q Looking at the picture this way, you wouldn't be
10 able to see the truck if you pulled it to the back --
11 pulled it up to the back steps, would you?

12 A No, sir.

13 Q Okay. And distance of the truck from here to the
14 end of the house (indicating), you agree that it would be
15 blocked from the street?

16 A Yes, sir.

17 Q Okay. So you couldn't tell -- you couldn't tell
18 from standing in this (indicating) area or being in this
19 area, because this driveway goes around the street,
20 right?

21 A It stops right there on it, pretty much, the
22 driveway does.

23 Q The driveway's not circular?

24 A No, sir.

25 Q Okay. So if you stopped and pulled up to the house

1 around this (indicating) area, you wouldn't be able to
2 see that truck, would you?

3 A If it was behind the house, no, sir.

4 Q Okay. And you certainly couldn't see it if you were
5 parked right here (indicating), could you?

6 A No, sir.

7 Q Okay. Mr. Stokes, I hate to get into this, but
8 you've got some mental issues, don't you?

9 A Yes, sir.

10 Q Tell us about those.

11 A What do you want to know?

12 Q Well, do you have an official diagnosis of any kind?

13 A I've got PTSD.

14 Q What from?

15 A I was stabbed and people jumped me and beat me with
16 baseball bats one time.

17 Q How long ago was that? If this event happened in
18 December of 2019 ---

19 A Probably 2010.

20 Q Okay. Was anybody charged in that?

21 A Yes, sir.

22 Q Who has diagnosed you with PTSD?

23 A My doctor I used to have. I forget his -- the name.

24 Q Okay. Did he prescribe you medication for that?

25 A Yes, sir.

1 Q Do you remember what the medication is?

2 A It was Adderall and Klonopin.

3 Q Okay. Did you take that regularly?

4 A Yes, sir.

5 Q Were you taking it the night all this happened?

6 A No, sir.

7 Q When is the last time you took that before ---

8 A I quit seeing the doctor because I couldn't afford
9 to see him anymore.

10 Q At some point in time, were you committed for any
11 treatment?

12 A I have been, yes, sir.

13 Q How long ago was that?

14 A I honestly don't remember. It's been a while.

15 Q Okay. Well, if this happened in 2019, December of
16 2019, do you think it was a year before this happened?
17 two years? five years? ten years?

18 A Maybe five years.

19 Q So you were involuntarily committed to a mental
20 health facility, right?

21 A Yes, sir.

22 Q And then they subsequently let you back out.

23 A Yes, sir.

24 Q When you got back out, did you start taking your
25 medication?

1 A No, sir. I couldn't afford to see that doctor
2 anymore.

3 Q Began using illegal drugs?

4 A Yes, sir.

5 Q Self-medicating.

6 How are you paying for the drugs?

7 A Doing odd job.

8 Q Buying drugs from your buddy Bobby Ray Smith, right?

9 A I was buying drugs from whoever I could.

10 Q Whoever you could.

11 A I didn't really ever buy anything from Bobby Ray.

12 Q Did he give it to you?

13 A Yeah. Sometimes.

14 Q I mean, y'all go back a long way.

15 A We don't go back a very long way.

16 Q I thought you said you went to middle school with
17 him.

18 A No. That's Kurt Knutson.

19 Q Kurt. Okay. Kurt give you drugs?

20 A Sometimes.

21 Q You give him drug sometimes?

22 A Sometimes.

23 Q The night this all happened, he came outside when
24 y'all brought the body back up?

25 A No. It was before we brought the body back up.

1 Q Before.

2 And you told him, Knutson, that he probably don't
3 want to be around, right?

4 A Yeah.

5 Q Because you knew Ivan was going to get killed.

6 A Because Ivan was already dead at her house.

7 Q He was already dead when you went back.

8 A Yeah.

9 Q And who were you with when you went back to your
10 house and you saw Knutson?

11 A Bobby Ray.

12 Q Bobby Ray took you to your house.

13 A Yeah.

14 Q To get what?

15 A The tarp and some fabric.

16 Q Let me make sure I was clear on what I heard about
17 the timing and sequence of things. You testified that
18 Jeff and Bobby Ray went to your house to pick you up.

19 A Yes, sir.

20 Q So you'd never met Jeff George before.

21 A No, sir.

22 Q He shows up at your house with Bobby Ray, right?

23 A Yes.

24 Q And is it at that point in time you take these two
25 machetes with you?

1 A No.

2 Q No? Okay. So you go to Cook's house.

3 A Yeah.

4 Q And then you go back ---

5 A Yes, sir.

6 Q --- to your house with who?

7 A Jeff and Bobby Ray.

8 Q Jeff and Bobby Ray.

9 A Yes.

10 Q So both times Jeff George is in the car with Bobby

11 Ray when he comes to your house.

12 A Yes, sir.

13 Q And on the second time is when you get the two

14 machetes?

15 A Yes, sir.

16 Q Okay. You didn't bring tarp with you.

17 A No, no.

18 Q Okay. So whatever happens inside the house happens.

19 A Yeah.

20 Q You then go back to your house and get the tarp.

21 A Yes, sir.

22 Q And the fabric.

23 A Yes, sir.

24 Q And who's with you?

25 A Bobby Ray.

1 Q You did not see Knutson at that time.

2 A I saw him when we went back to get the tarp.

3 Q You remember that pretty clearly, don't you?

4 A Yeah.

5 Q So you were relatively clearheaded that night.

6 A I was -- I was -- I was there, yes, sir.

7 Q You were there. You knew what was going on.

8 A Yeah.

9 Q You weren't in some mental state such that you

10 didn't ---

11 A No, sir.

12 Q --- weren't able to control yourself or your

13 actions.

14 A No, sir.

15 Q Even though you had done methamphetamine, correct?

16 A Yes, sir.

17 Q Smoked some pot ---

18 A Yes, sir.

19 Q --- meaning marijuana, right?

20 A Yes, sir.

21 Q Did some cocaine.

22 A Yes, sir.

23 Q And did some heroin.

24 A Yes, sir.

25 Q How did you ingest the heroin?

1 A Snorted.

2 Q How did you ingest the meth?

3 A Smoked it.

4 Q How did you ingest the cocaine?

5 A Snorted it.

6 Q And these are drugs that Bobby Ray supplied that

7 evening?

8 A No. They were just there at the place. I don't

9 know who had what.

10 Q You were really intoxicated.

11 A I was really intoxicated, yes, sir.

12 Q I think you even told law enforcement, "I was fucked

13 up."

14 A Yeah. Probably did.

15 Q But you remember these details that clearly.

16 A I do, yes, sir.

17 Q Let's go back and talk about the investigation, the

18 interviews that you had with these two officers the night

19 you got picked up. You tell them I have no idea what's

20 going on, right?

21 A Yeah.

22 Q You had not stayed at Cripple Creek in a couple

23 months.

24 A That's probably what I said, yes.

25 Q Were you -- you were intoxicated at the time you

1 gave this interview, right?

2 A Yeah.

3 Q You were high on methamphetamine?

4 A Yes.

5 Q Did you tell them you had smoked any drugs that
6 night?

7 A I don't remember if I did or not. Probably not.

8 Q Do you think they asked you that before they began?

9 A I don't remember. I don't remember.

10 Q You don't remember. Don't remember because you were
11 high.

12 A I guess.

13 Q You didn't know anybody by the name of Ivan, right?

14 A Yeah.

15 Q And you told law enforcement that Audrea Cook needed
16 you to come stay with her to protect her.

17 A Yes, sir.

18 Q And that's why you had been over at her house,
19 right?

20 A Yes, sir.

21 Q She didn't know and she didn't say any names and
22 didn't say much, though, right?

23 A No, sir.

24 Q You tell law enforcement you're known as Crazy Dave.

25 A Yep.

1 Q Had a lot of shady cats coming over to that house is
2 what you said.

3 A Yes, sir.

4 Q Some fellow by the name of Daniel Sweat she was
5 getting heroin from.

6 A I don't know who that is.

7 Q That's what you told law enforcement.

8 A I didn't tell them the name Daniel Sweat because
9 I've never heard that name before.

10 Q Okay. Do you recall -- do you know that your
11 interview was recorded, video recorded? Did you know
12 that?

13 A I guess it was. But I'll tell you now that I did
14 not say Daniel Sweat.

15 Q Without question.

16 A Without question.

17 Q Bet your freedom on it?

18 A Yeah.

19 Q You would? All right.

20 MR. WILLIAMS: Your Honor, may we approach?

21 THE COURT: Yes, sir.

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

23 BY MR. MARCHANT:

24 Q You further told those two investigators, "I don't
25 know what's going on. That's the God's honest truth."

1 A Yeah.

2 Q Right?

3 A I probably said that.

4 Q And then there was some additional discussions going
5 on. And you finally come around a little bit with the
6 investigators and tell them you jumped on some dude.

7 A Yeah.

8 Q "Had a machete but I didn't kill anyone," right?

9 A Yes.

10 Q "I know what I did and did not do, but I cannot tell
11 you step-by-step what happened," right?

12 A I guess. That's been four years ago.

13 Q "Seems like there were 20 fucking people there."

14 A That sounds right.

15 Q "I'm not trying to hold anything back from y'all. I
16 whipped his ass and then I left." That's what you told
17 them.

18 A That could be what I said, yes, sir.

19 Q "I beat him up. I wasn't trying to kill nobody."

20 A I guess. Yes, sir.

21 Q "I was just trying to get fucked up."

22 A I guess.

23 Q Told them. And then told them, "I took about five
24 shots of liquor, walked out the door, walked into Cripple
25 Creek." Do you remember that?

1 A I don't remember exactly what I said, but it sounds
2 right.

3 Q And then you tell them you went to your buddy JP's
4 house.

5 A Yeah. That was a lie.

6 Q John Paul Garrett? That is a person, is it not?

7 A Yes, sir.

8 Q You told him you could walk to his house, right?

9 A No. I told him to come and pick me up, I think. I
10 didn't walk to his house.

11 Q Where is his house?

12 A About four miles away from mine or so.

13 Q And then Investigator Garrett over there tells you,
14 "Well, we found the body and he ended up in hole -- in a
15 hole at your house."

16 A Yes, sir.

17 Q And you have the expression like you don't know what
18 the heck is going on.

19 A Yes, sir.

20 Q "What?" I believe is your response. "What?"

21 A Yeah.

22 Q You had some weapons that you got picked up when you
23 were arrested in December, not the ones we just saw,
24 right?

25 A Probably.

1 Q You had different ones. Different ones than these
2 right here.

3 A Yeah. Probably.

4 Q You told law enforcement you had a machete but it's
5 not the same ones I'm carrying right now.

6 A I don't remember saying that, but that's probably
7 what I said.

8 Q Okay. Well, the things that you got arrested with
9 that night are not the things that you're saying that you
10 hit Ivan with, right?

11 A Right.

12 Q You're saying this is -- this is the one. State's
13 148, this is what you hit Ivan with?

14 A Yes, sir.

15 Q Okay. Did you draw this red stuff on here?

16 A Yes, sir.

17 Q You were going to cut this out ---

18 A Yep.

19 Q --- and modify this blade, right?

20 A Yep.

21 Q So it cannot be recognize or identified ---

22 A Yes, sir.

23 Q --- as a murder weapon.

24 Just let me finish my question. She's got to take
25 everything down, okay, before you respond.

1 And then after you were going to modify this, you
2 were going to give it to Kurt Knutson, weren't you?

3 A No, sir.

4 Q You weren't?

5 A (Shakes head negatively.)

6 Q Are you sure?

7 A I don't know why I would.

8 Q After Ivan got killed, you had some backpacks of
9 items, right?

10 A Yes, sir. I had one.

11 Q You had -- you didn't have three?

12 A No.

13 Q Did you give that backpack to Kurt Knutson?

14 A Yes, sir.

15 Q You did give it to him. What was in it?

16 A I don't remember anything being in it.

17 Q Just a regular school backpack?

18 A Just a backpack, yes, sir.

19 Q Nothing in the backpack. There's just one backpack.

20 A Yes, sir.

21 Q Where did the backpack come from?

22 A I guess he brought it with him.

23 Q Meaning Ivan?

24 A Yes, sir.

25 Q So he brings the backpack into the house and there's

1 nothing in it?

2 A I mean, they -- they burned everything. We burned
3 everything that he had on him other than the backpack. I
4 decided to keep it.

5 Q What were the items that were burned?

6 A I don't remember what all it was. I know there was
7 this phone and some other stuff. I don't really remember
8 what all it was.

9 Q Did you burn those items outside Cook's house or
10 your house?

11 A At her house.

12 Q Her house.

13 Do you remember telling law enforcement that night
14 that you told Ivan to get up and Ivan came at you?

15 A No. I don't remember telling them that, but I
16 probably did.

17 Q And that's when you got into a scuffle with him and
18 you grabbed the machete.

19 A That's probably what I said, yes, sir.

20 Q You told them when you left, Ivan was talking and
21 was upright.

22 A Yes, sir.

23 Q You were not trying to hurt him, I just wanted to
24 put the fear of God in him.

25 A Yes, sir.

1 Q You told those investigators, "I'm trying to be
2 completely up front and honest. I do not want to
3 bullshit you."

4 A I probably said that.

5 Q You also told law enforcement that Ivan had on some
6 kind of weighted vest like a bulletproof vest.

7 A Yes, sir.

8 Q Where did that go?

9 A It was burned.

10 Q You didn't take the vest back to your house?

11 A I don't think so. No, sir.

12 Q You told law enforcement, "I was just trying to
13 scare your boy," meaning Ivan. "He bowed up, came at me.
14 We threw hands a little bit, and I picked up a machete
15 and swatted him two or three times."

16 A That's probably what I said, yes, sir.

17 Q And then Audrea Cook said, "That's enough," right?

18 A Yeah.

19 Q Nobody else told you to stop except Audrea Cook.

20 A Nope.

21 Q Right? Bobby Ray Smith didn't tell you to stop.

22 A Not that I remember, no, sir.

23 Q So you got over to Cook's house because of Bobby
24 Ray, right?

25 A Yeah.

- 1 Q You didn't know anybody else in this whole thing.
- 2 A No, sir.
- 3 Q You didn't know this guy sitting over here. Didn't
- 4 know Cook even though y'all live just a couple hundred
- 5 yards apart.
- 6 A Didn't know her.
- 7 Q Right? Didn't know the dude in the back, Isaiah.
- 8 A Isaiah, didn't know him.
- 9 Q And Isaiah, you testified a minute ago Isaiah
- 10 struck ---
- 11 A Yes, sir.
- 12 Q --- Ivan several times with a machete.
- 13 A A couple of times, yes, sir.
- 14 Q What did that machete look like?
- 15 A It was a small little Gerber machete.
- 16 Q What's a Gerber machete? We've heard that term a
- 17 few times. What is that?
- 18 A It's a brand of machete.
- 19 Q What does it look like, though?
- 20 A It looks like a regular machete. It doesn't look
- 21 like that one right there.
- 22 Q This is not a regular machete?
- 23 A And it's got the fat end on it.
- 24 Q This has a fat end on it?
- 25 A Yes, sir. The other ones had skinnier ---

1 Q Much skinnier?

2 A Yes, sir. About this (gesturing) big.

3 Q Well, I'm going to have to get you to explain this a
4 little bit better to me. So this has got ---

5 A They go into a point. That one goes up. They come
6 straight down like this into a point, not like that
7 (gesturing).

8 Q So it would be more like this.

9 A Yes, sir.

10 Q And Isaiah is the one that used a Gerber machete on
11 Ivan?

12 A Yes, sir.

13 Q You told law enforcement you had no idea how Ivan
14 got to your house.

15 A He wasn't at my house. Oh, well, yeah. After, yes,
16 sir.

17 Q Found in the yard, right?

18 A Yes, sir.

19 Q And you put more than just one or two cinder blocks
20 on him, didn't you?

21 A Probably.

22 Q Let me show you what law enforcement uncovered at
23 your home. Showing you State's 126. That's what law
24 enforcement dug out of that hole before they pulled that
25 body out. That's more than one or two cinder blocks,

1 ain't it?

2 A It's a few cinder blocks, yes, sir.

3 Q You told law enforcement that night during your
4 interview, "I'm telling you, man. I'm God's honest
5 serious with you now."

6 A I probably did, yes, sir. I was trying to go home.

7 Q "I was fucked up when I left and I walked to the
8 house. That's all I remember."

9 A That's probably what I said.

10 Q Law enforcement steps out of the room to go do
11 whatever it is they were going to do. They leave you
12 with your thoughts for a few minutes. Do you remember
13 that?

14 A Yeah.

15 Q You're the only one in the room. You say, "Used my
16 fucking carpet? Are you kidding me?" Do you remember
17 that?

18 A Yeah.

19 Q "They set me the fuck up."

20 A I still believe they did.

21 Q "They really killed that guy and buried him?"
22 Remember that?

23 A Yeah.

24 Q So we're going fast-forward. You get the lawyer
25 Ms. Byford. She reviews the evidence with you, right?

1 A Yes, sir.

2 Q You have discussions with her about what do we do.

3 Do we plead or do we go to trial, right?

4 A Yes, sir.

5 Q Okay. And you end up pleading guilty on May --

6 February the 10th of 2022, right?

7 A Yes, sir.

8 Q And then on May 26, 2022, you end up sitting down

9 with Mr. Williams, Mr. Fretwell, and Investigator

10 Garrett.

11 A Yes, sir.

12 Q And your lawyer. And that's when you told them the

13 truth, right?

14 A Yes, sir.

15 Q Told them you didn't know anybody other than Bobby.

16 A That's right.

17 Q Right? Did a whole bunch of drugs, meth, pot,

18 heroin, cocaine, right?

19 A Yeah.

20 Q Didn't know Ivan. Never met him.

21 A Right.

22 Q I was really intoxicated. Never told them that

23 there was a plan to harm Ivan, right? You're at Cook's

24 house, right?

25 A Yes, sir.

1 Q Y'all are doing a boatload of drugs, right?

2 A Yes, sir.

3 Q Y'all are not sitting around talking about killing
4 Ivan, right?

5 A Not the whole time, no, sir.

6 Q Right. If there was any discussion, you're talking
7 about scaring him, right?

8 A Yes, sir.

9 Q So somehow you now say that Cook is the one that's
10 trying to convince you to harm Ivan.

11 A Yes, sir.

12 Q It was also Bobby Ray.

13 A Bobby Ray, Jeff and Audrea. It's all of them.

14 Q Why does Bobby Ray want to hurt Ivan?

15 A I have no idea.

16 Q Bobby Ray said come on, Crazy Dave, we've got to
17 mess this guy up.

18 A Yeah.

19 Q I need you to do it for me. I'm your boy, right?

20 A That ain't exactly what he said, but something ---

21 Q I'm your buddy, right? You and Bobby Ray are
22 friends.

23 A Yeah. We were friends.

24 Q At some point in time, the people that had come over
25 there with Ivan leave.

1 A Yes, sir.

2 Q And there's another fellow charged in this case,

3 Patrick Poole.

4 A Yes, sir.

5 Q Do you know him?

6 A I didn't until that night.

7 Q Until that night.

8 He didn't do anything, did he?

9 A No, sir.

10 Q Not one lick on Ivan.

11 A No, sir.

12 Q Didn't prevent Ivan from leaving.

13 A Not that I'm aware of, no, sir.

14 Q Didn't threaten him.

15 A (Shakes head negatively.)

16 Q Even though he's charged with murder.

17 A I don't know anything about that. That's not my

18 case.

19 Q You didn't know he was charged with murder and

20 kidnapping just like you.

21 A Yes, sir.

22 Q So let Patrick Poole and Audrea leave and take the

23 other three people home, right?

24 A Yes, sir.

25 Q And you know those other two people, the other two

1 guys that had come in with Ivan?

2 A No.

3 Q Never met or seen them before?

4 A No.

5 Q Don't know their names?

6 A No, sir.

7 Q Know anything about them?

8 A Not a thing.

9 Q Well, let's talk about when you started attacking
10 Ivan. You're in the kitchen area, right?

11 A Yeah.

12 Q Pretty much everybody's in the kitchen area
13 according to your testimony, right?

14 A Yes, sir.

15 Q Okay. Let's take a look at State's 56. Do you see
16 that okay?

17 A Yes, sir.

18 Q This door that's open right here (indicating), does
19 it go to the backyard or to the front?

20 A Front.

21 Q That goes to the front. Where -- see this right
22 here (indicating)? Where is the back door? Do you see
23 it in that picture?

24 A Yeah. It's right there where the light's coming
25 through it.

1 Q Right here (indicating)?
2 A No. Over. Right there.
3 Q Right there (indicating).
4 A Yeah.
5 Q Right here (indicating).
6 A Yep.
7 Q Okay. What door did Ivan and them come in through?
8 A The back door.
9 Q Okay. You saw them come in?
10 A Yes, sir.
11 Q You weren't in the back room when they came into
12 the ---
13 A She had a surveillance system set up and I could see
14 it on the monitor.
15 Q Okay. And you say in the back room was you, Jeff
16 George ---
17 A Yep.
18 Q --- Bobby Ray ---
19 A Bobby Ray.
20 Q --- Patrick Poole ---
21 A Patrick Poole.
22 Q --- and the other guy whose name we think is Isaiah,
23 right?
24 A Yes, sir.
25 Q The five of you are in the bedroom when Ivan comes

1 through the door; is that right?

2 A Yes, sir. Bobby and Patrick go into the kitchen
3 with Audrea when he gets there.

4 Q So you're saying it's just you and Jeff in the back
5 bedroom.

6 A Yes, sir. And Isaiah.

7 Q And you do what you do and you say what Jeff and
8 Isaiah do. And then, at some point in time, Bobby Ray
9 hits him on the head two or three times with a baseball
10 bat.

11 A Yes, sir.

12 Q And Bobby Ray and Cook and Poole take him away from
13 the house, the other people you don't know that came with
14 Ivan.

15 A Yeah.

16 Q So just the people left in the house now, is it you?

17 A Yes.

18 Q Bobby Ray Smith?

19 A Yes.

20 Q Isaiah?

21 A Isaiah.

22 Q Jeff George?

23 A And Jeff.

24 Q Just the four of you.

25 A Yes, sir.

1 Q Did you know that there were other people in the
2 home that evening?

3 A No, I did not.

4 Q Never saw anybody else.

5 A No, sir.

6 Q So the four of you are left in the house. Did you
7 Stay in this den/kitchen area the whole time or did you
8 go back in the bedroom?

9 A I think I stayed in the den/kitchen area the whole
10 time.

11 Q So you stand right there with Ivan.

12 A Yes, sir.

13 Q He's sitting on the couch? Or where is he? Where's
14 Ivan?

15 A He's on the floor.

16 Q Where?

17 A In the kitchen area.

18 Q Well, let me show you State's 56. Does that help?

19 A Yes, sir. He was in the kitchen right here
20 (indicating).

21 Q I'm going to need you to step down, sir, show the
22 jury where. We're looking at State's 56.

23 A He was in the kitchen right here (indicating), right
24 over here (indicating).

25 Q Kind of next to this counter?

1 A Yeah.

2 Q Is he standing up?

3 A No, sir.

4 Q He was down on the ground?

5 A Yes, sir.

6 Q Were you still standing over him with the machete?

7 A What time?

8 Q When he's in the kitchen.

9 A Yeah.

10 Q And so you stayed there the entire time.

11 A I was in the kitchen and the living room the whole

12 time, yes, sir.

13 Q Never went back to the back bedroom.

14 A Not that I remember.

15 Q Never left the house.

16 A No, sir, I did not.

17 Q So when is it that Bobby Ray struck him in the head

18 with this baseball bat?

19 A When he was running to the back door.

20 Q Was that before or after Cook takes these people

21 home?

22 A After.

23 Q So there's nobody in the house except the four of

24 you that you're aware of that we talked about.

25 A Yes, sir.

1 Q You, Bobby Ray Smith, Isaiah, Jeff George.

2 A Yes, sir.

3 Q And Bobby Ray Smith takes a baseball bat and hits
4 Ivan two or three times in the head?

5 A Yes, sir.

6 Q And after that, that's when you thought Ivan was
7 dead.

8 A No. That's when he went to the floor.

9 Q The floor. And then did Isaiah stab him after that?

10 A No. Bobby -- Bobby Ray and Isaiah hit him about the
11 same time. Then when he went to the floor on his knees,
12 that's when Jeff said, "My girlfriend's got some good
13 pussy, don't she?" and he stabbed him in the back.

14 Q Where was this bulletproof vest that Ivan ---

15 A I don't -- I don't remember.

16 Q He still had it on, right?

17 A No, he didn't.

18 Q Who took it off?

19 A He took it off.

20 Q He came in the house and took off his bulletproof
21 vest?

22 A They asked him to take it off. We asked him to take
23 it off.

24 Q So was the -- do you remember what color shirt he
25 was wearing?

1 A He wasn't wearing a shirt.

2 Q He had no shirt on.

3 A No, sir.

4 Q When you say that Ivan is down on the ground, he
5 does not have a shirt on.

6 A No, sir.

7 Q Do you remember what color pants he had on?

8 A I think he had on blue jeans.

9 Q Blue jeans. But no shirt.

10 A Not that I remember, no, sir.

11 Q No jacket.

12 A No, sir.

13 Q No bulletproof vest?

14 A No, sir.

15 Q Okay. And so he's being stabbed in the back you say
16 by Mr. George without -- he's shirtless.

17 A Yes, sir.

18 Q Bobby's asking you for some period of time to finish
19 him off.

20 A Yes, sir.

21 Q But you don't know why Bobby wants Ivan dead.

22 A No, sir.

23 Q I mean, Bobby must be a good, good friend.

24 A I was taking it on Audrea's word that he had raped
25 her and was going to sell her to sex trafficking.

1 Q So you're just going to kill some guy you don't
2 know.

3 A I didn't kill him.

4 Q You pled to murder.

5 You're going to kill some guy you don't know off the
6 word of some girl you just met.

7 A Like I said, I didn't kill him.

8 Q But you go back up to your house and you talk to
9 Knutson before you bring the body up there, right?

10 A Yes, sir.

11 Q And you tell Knutson don't come outside because you
12 knew when you came back you were probably going to be
13 bringing a body with you.

14 A Yes, sir.

15 Q Tell us about the other assault that you had on a
16 fellow by the name of Wayne Beasley.

17 A We were at my house and he was in a -- he was in an
18 altercation with a female. And I told him he needed to
19 calm down. He picked up a 4x4 and hit me with it so I
20 hit him with the machete.

21 Q Did you call law enforcement?

22 A No. He did.

23 Q There was a report made against you?

24 A I guess.

25 Q Anything ever happen with that case?

1 A No, sir.

2 Q So after all of these events at the house, you end
3 up going back down and staying with Ms. Cook.

4 A Yes, sir.

5 Q Right?

6 And how long were you down there with her?

7 A About two -- two weeks or so.

8 Q And then you get arrested on this. Did you get
9 arrested at her house? Or where did you get arrested?

10 A I was at a gas station.

11 Q Who were you at the gas station with?

12 A I don't know the guy's name.

13 Q How did you meet him and how did you get to the gas
14 station with him?

15 A He drove me. He was with this girl named Regina
16 Edge. They came over to my house.

17 Q One more question for you, Mr. Stokes. Your
18 interview with law enforcement on the day you got
19 arrested, you told them you were trying to be a good
20 Samaritan, weren't you?

21 A I don't remember saying that, but I probably did.

22 MR. MARCHANT: Thank you. I've got no further
23 questions.

24 THE COURT: Redirect?

25 MR. WILLIAMS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q Mr. Stokes, you told Mr. Marchant that you believed you'd been set up.

A Yes, sir.

Q Who do you believe set you up?

A I believe they all set me up.

Q Who's "they"?

A Jeff, Bobby and Audrea.

Q Jeff, Bobby and Audrea?

A Yes, sir.

Q Why do you think that Jeff, Bobby and Audrea set you up?

A Because I was the only one that was seen striking him with the machete, and then after everybody left, then that's when they got involved with it.

Q You were the only one seen by who?

A The people that he brought with him.

Q And then after the people that Ivan brought with him left the trailer, who else got involved in this?

A That's when Bobby Ray and Jeff and Isaiah...

Q I'm going to show you State's Exhibit 27. You said you thought his shirt was off?

A Yes, sir.

Q Is it possible that, during some of the stabbings of

1 Ivan, his shirt was on?

2 A Yes, sir.

3 Q Mr. Marchant -- did you put his shirt back on him?

4 A No, sir.

5 Q Okay. Now, Mr. Marchant asked you about killing
6 Ivan.

7 A Yes, sir.

8 Q And you said you didn't kill him.

9 A Yes, sir.

10 Q Can you explain what you mean by that?

11 A I didn't -- I didn't kill him.

12 Q You mean you didn't finish him?

13 A I didn't finish him off. I didn't stab him. I just
14 hit him with the machete a few times.

15 Q What do you mean you didn't stab him?

16 A I didn't stab him through the back or down his neck.

17 Q Okay. Now, you pled guilty to murder and
18 kidnapping, right?

19 A Yes, sir.

20 Q Even though you didn't finish him, you pled guilty.

21 A Yes, sir.

22 Q Are you familiar with the concept of the hand of one
23 is the hand of all?

24 A Yes, sir.

25 Q Did your attorney, Ms. Byford, explain to you ---

1 A Yes, sir.

2 Q --- that when two people combine to commit a
3 criminal act together, then each person is criminally
4 responsible for the natural and probable consequence of
5 that criminal act ---

6 A Yes, sir.

7 Q --- to include murder? She explained that to you?

8 A Yes, sir.

9 Q Is that part why you decided to plead guilty to
10 murder and kidnapping?

11 A Yes, sir.

12 Q Even though you weren't the person that finished
13 him.

14 A Yes, sir.

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

16 THE COURT: Mr. Marchant?

17 MR. MARCHANT: Briefly, Your Honor.

18 RE CROSS EXAMINATION

19 BY MR. MARCHANT:

20 Q The timing of this, Mr. Stokes, December of 2019 is
21 when you sit down with law enforcement and tell them a
22 bogus story.

23 A Yeah.

24 Q You then meet with your lawyer. You see all the
25 evidence and see that there's only one person that has

1 been identified as striking Mr. Gula, right?

2 A Yes, sir.

3 Q And that's you. And you plead guilty. And then you
4 meet with these two guys about 60 days after you plead
5 guilty, and that's when you tell them that Mr. George
6 finished him off.

7 A Yes, sir.

8 MR. MARCHANT: Thank you.

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

10 Ladies and gentlemen, we're going to take about a
11 ten minute break, ten, 12 minute break. Please, ma'am,
12 please, sir, don't talk about the case to each other and
13 I'll bring you back in shortly.

14 (WHEREUPON, the jury exits the courtroom at 3:39 PM.)

15 THE COURT: Mr. Fretwell, Mr. Marchant, tell me
16 where we are witness-wise.

17 MR. FRETWELL: Judge, we are in actually really good
18 shape. We have three witnesses remaining. I have two of
19 them here at the courthouse. The last witness is
20 extremely brief, and he is on standby and will be here as
21 soon as we need him.

22 THE COURT: All right. Mr. Marchant, should the
23 Court rely on your witness list or have you talked with
24 the defendant regarding his participation?

25 MR. MARCHANT: Judge, I have talked with him

1 concerning whether or not he wants to testify. I told
2 him we would need to make that decision after the State
3 rested ---

4 THE COURT: Okay.

5 MR. MARCHANT: --- given that I don't know what else
6 may or may not be put up. But he is aware of his rights,
7 gone through that thoroughly with him more than one time.
8 So we would probably just need five minutes so I can step
9 out in the conference room.

10 THE COURT: We'll revisit that.

11 Are there any other witnesses other than him being a
12 potential witness that you might call?

13 MR. MARCHANT: Depending on what Investigator
14 Garrett says may ---

15 THE COURT: Trigger. Okay.

16 MR. MARCHANT: --- trigger a need to recall
17 somebody.

18 THE COURT: All right. I just want to get an idea
19 of where we were.

20 All right. We'll be down for about ten, twelve
21 minutes.

22 MR. FRETWELL: Thank you, Judge.

23 (WHEREUPON, a recess is taken at 3:40 PM; the jury
24 entered the courtroom at 3:57 PM.)

25 THE COURT: Okay. Yes, sir. State's ready to call

1 its next witness?

2 MR. WILLIAMS: Thank you, Your Honor. The State
3 calls Jim Perry.

4 THE COURT: Good to see you Mr. Perry. How are you
5 doing?

6 THE WITNESS: Good to see you.

7 WHEREUPON,

8 JAMES PERRY

9 After having been duly sworn, testified as follows:

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

12 THE WITNESS: It's James Philip Perry.

13 DIRECT EXAMINATION

14 BY MR. WILLIAMS:

15 Q Mr. Perry, what do you do for a living?

16 A I'm an investigator with the Greenville County
17 Sheriff's Office.

18 Q How long have you worked there?

19 A I've been in law enforcement for 42 years, and I've
20 been with the sheriff's office 29.

21 Q What do you do for the sheriff's office?

22 A I do -- I work out of the Computer Crimes Unit.
23 We're part of the ICAC which is Internet Crimes Against
24 Children task force with the attorney general's office.
25 We also do cell phone and computer forensics.

1 Q Cell phone forensics, could you explain to the jury
2 what that entails?

3 A What it entails is when we get a cell phone,
4 depending on whether we have a passcode for it or not
5 will determine how we attack that phone. But once we are
6 able to, we'll connect it to our forensic software
7 program, run an extraction which is an image of the
8 phone. Once we get that image, then we upload it to
9 another computer at which -- at that time I load it into
10 another program called UFED Physical Analyzer. And once
11 I do that, then I can go in and actually look at the data
12 that's on that phone.

13 Q You can actually look at whatever data is in the
14 phone.

15 A Correct.

16 Q Are you talking text messages? pictures? phone
17 calls? Anything else?

18 A Yeah. And each phone, depending on the make and
19 model, what operating system they're using depends on
20 what type of data we can get. We don't get the same data
21 off every phone that we're able to get into.

22 Q What kind of technology do you use to crack into
23 these phones?

24 A We have two programs that we mainly use. One is
25 Cellebrite and the other is called GrayKey.

1 Q Okay. And do you use both of those programs?

2 A We use both of them now. Back during this time when
3 this was happening, we only had Cellebrite. We didn't
4 have GrayKey that we do have now.

5 Q Okay. And idea how many cell phone data extractions
6 you've done in your life, ballpark?

7 A Since I know my spreadsheet shows since 2017 about
8 2,600.

9 Q So you've seen a few of these.

10 A I've seen a few phones.

11 Q Were you asked to do a cell phone data extraction of
12 the defendant's phone, JG-2?

13 A I was.

14 Q Did that take place in November of 2023?

15 A It did.

16 Q Was that pursuant to a search warrant?

17 A It was.

18 Q And then after completing that cell phone data
19 extraction, did you later -- actually, was that done on
20 Cellebrite?

21 A That was done on Cellebrite.

22 Q Do you have the ability to go in there after a dump
23 has been completed and actually redact items out?

24 A Yes. You can redact pictures out, depending on what
25 type of case it is and what kind of pictures and stuff

1 like that.

2 Q Did you create a redacted cell phone data extraction
3 of the defendant's cell phone in order to comport with
4 evidentiary and court rules?

5 A I did.

6 MR. WILLIAMS: Showing you State's -- Your Honor, I
7 think we have a matter we need to take up outside the
8 presence of the jury.

9 THE COURT: All right. Ladies and gentlemen of the
10 jury, I'm going to send you back to your jury room just
11 for a minute or so. Please, ma'am, please, sir, do not
12 talk about the case with each other and I'll bring you
13 back in here as quickly as I can.

14 (WHEREUPON, the jury exits the courtroom at 4:02 PM.)

15 MR. WILLIAMS: Your Honor, I understand this cell
16 phone data extraction has basically the text messages and
17 the picture that we intend to introduce -- well, the
18 picture is standalone, but the text messages are the same
19 text messages that are included in the exhibit we
20 created. I understand Mr. Marchant has an objection to
21 that, so...

22 THE COURT: All right. Mr. Marchant?

23 MR. MARCHANT: Yes, Your Honor. I don't have an
24 objection to what Investigator Perry has done in his
25 capacity. He's going to tell the Court he's gone through

1 the exercise of pulling this data off of Jeff George's
2 phone. The problem I have is the information the State
3 is attempting to introduce. The information is redacted
4 in -- according to what they're telling me is on this
5 disk is redacted and they say they've taken out certain
6 information that is not appropriate or relevant to the
7 case. I'm not trying to put words in Mr. Williams's
8 mouth. And they have prepared this 98 page demonstrative
9 exhibit that has ballpark 20 lines of text on each page.

10 What is contained in here is not all relevant to
11 this case. There is information in this document that
12 does not pertain to what we are here for. There are
13 conversations between Mr. George and witnesses that have
14 not been called and do not appear to be called by the
15 State. And some of the content of those discussions
16 should be inadmissible under 403 because they are
17 prejudicial.

18 Further, I think some of the messages would also be
19 inadmissible under 404. Specifically -- and I can go
20 through each page and each line if we need to, Judge, but
21 there is some discussion between Mr. George and somebody,
22 I don't know who the person is because it's not a witness
23 name, there's a nickname or a handle associated with
24 whoever they're talking or texting with about assaulting
25 someone else. So ---

1 THE COURT: And I do remember us discussing that a
2 little briefly at the outset and we knew this was coming.
3 But my question is, how do you fix it? I mean, how do
4 you fix the problem?

5 MR. WILLIAMS: Your Honor, our position is it's all
6 relevant and that the fact is that the defendant's
7 Facebook records have been authenticated and the
8 certificate of authenticity has been accepted by Your
9 Honor as well as the phone dump itself is going to be
10 authenticated and admitted, we believe. And so
11 therefore, we've actually -- as we mentioned during
12 pretrial, Your Honor, we've actually cut this way, way
13 down. And that includes we've even, since Monday, cut it
14 down, cut all of the drug references out of the exhibit
15 as well.

16 THE COURT: Mr. Marchant mentioned that there was
17 something in there about an alleged assault by Mr. George
18 at somebody else.

19 MR. WILLIAMS: Your Honor, it does relate. It does
20 relate to this crime because it's our position that the
21 defendant believed himself to be saving women from human
22 trafficking. And the conversation he's having about --
23 is about saving a woman who he believed to be friends
24 with and in human trafficking business with a guy named
25 John Rickson and he had saved this girl from him or so he

1 thought. And that's where he's talking about I'll kill
2 that guy, I'll do all that sort of thing. And that
3 conversation relates directly to Ivan because Ivan is
4 actually brought up in those text messages and Facebook
5 messages. So we would say it absolutely goes to the
6 heart of this case and the heart of his motivation for
7 wanting to kill Ivan.

8 THE COURT: So your position is that all the
9 messages in that exhibit relate to the case.

10 MR. WILLIAMS: We would say that they do, Your
11 Honor.

12 THE COURT: And you're saying that some of them
13 absolutely do not.

14 MR. MARCHANT: Correct.

15 And right on point, on page 2, there's a
16 conversation between George and Queen R. Don't know who
17 Queen R is.

18 THE COURT: But you're not going to ask this witness
19 a question about every one of those things, are you?

20 MR. WILLIAMS: I am.

21 THE COURT: Because I think you talked about it
22 earlier. Just limit it to a few questions about certain
23 text messages, not the whole thing.

24 MR. WILLIAMS: Yes, Your Honor.

25 MR. MARCHANT: But, Judge, they're going to

1 attempt ---

2 THE COURT: To get it in.

3 MR. MARCHANT: --- to put this demonstrative piece
4 of evidence in, and there is information that is not
5 admissible under 403 or 404. It's highly prejudicial.
6 And they are putting in messages with zero explanation
7 from the other party.

8 THE COURT: Let me ask you this. That's why I made
9 the statement a minute ago how you fix it, because if
10 you're just going to ask questions about -- you said 20
11 or so?

12 MR. WILLIAMS: What's that?

13 THE COURT: You're going to ask questions about 20
14 or so?

15 MR. FRETWELL: I don't know if you understood -- saw
16 me stand up a second ago. Because I think the way that
17 we had intended to present this evidence, Your Honor, is
18 that the actual exhibit itself which includes not only
19 the information that Investigator Perry pulled from this
20 defendant's cell phone, but also the information you'll
21 recall that Lieutenant Bailey testified to was recovered
22 from Facebook records, that all of that information has
23 been compiled ---

24 THE COURT: Into that.

25 MR. FRETWELL: --- into this exhibit. Judge, that

1 exhibit was sent to Investigator Perry to review. He
2 compared the information that he had pulled off the cell
3 phone belonging to Mr. George and made sure that was
4 accurate and authentic. Investigator Perry also took the
5 Facebook information as a double-check for Investigator
6 Garrett who will testify next.

7 THE COURT: Okay.

8 MR. FRETWELL: And he verified that all the
9 information on this exhibit, in fact, sent us back some
10 corrections, is accurate and properly and accurately
11 reflects the Facebook record with one exception, Judge.
12 That exception is we have gone through -- we prepared two
13 documents, Judge. And as I told you in chambers when we
14 started this case, didn't know how far we'd get into
15 drugs. And I believe probably we could make a pretty
16 good argument to put everything in there that relates to
17 these events that are going to be unfolded in these next
18 few witnesses and in our closing argument, that we can
19 make a pretty good case for including all of the drug
20 evidence.

21 But what we did is we listened to the former Chief
22 Justice, don't gild the lily. So we pulled all of the
23 drug references, to my knowledge, all of them out of that
24 document. We're using the redacted document that
25 literally -- the references that we -- with the

1 assistance of Investigator Garrett who you recall has
2 14 years of narcotics experience, if there were
3 references to things called boy, girl, water, this, that
4 and the other, we pulled those out of this document so
5 that the document that comes before the jury would not be
6 accurate in the sense of describing the lengthy history
7 and dealings that this defendant has had with drugs, but
8 instead we're going to have them focus on truly the
9 motive and the motives that we've uncovered in these
10 messages for why this defendant personally -- personally
11 wanted Ivan Gula dead and killed him.

12 THE COURT: Let me ask you this. I think -- if my
13 memory serves me correct, I think at the pretrial you
14 said that originally it was about 2,000 pages and there
15 was significant more and you reduced it to that amount?
16 I might be a little bit off on what you said.

17 MR. FRETWELL: We have reduced this document several
18 times, Judge. The final versions, I believe, were
19 something in the neighborhood of 104 or 105 pages with
20 the drug references. When we took the drug references
21 out, we are left with what has been marked as
22 Exhibit 226-B, which is a total of 94 pages. So there
23 was approximately ten or so pages of however many lines
24 as the Court sees on these individual pages.

25 THE COURT: What's the highlight? Some of them are

1 highlighted. What does that mean?

2 MR. FRETWELL: Those are highlighted, Judge. And
3 those are some of which -- and there's a lot of pages in
4 this document, Judge, but some of these highlights are
5 what Investigator Garrett is going to testify to with
6 respect to his investigation and the investigation that
7 law enforcement took on. And then the other highlights
8 are some that as a group -- there's a lot of these that
9 Mr. Williams can group in a group for themes that he has
10 in his closing argument with respect to why this
11 defendant had multiple motives for the murder of Ivan
12 Gula.

13 THE COURT: Well, let me ask this, Mr. Fretwell. If
14 that document is given to the jury, how would they
15 interpret highlighting -- those highlights? How would
16 they -- you anticipate they will interpret? Because some
17 of it's highlighted and some it's not. So how would they
18 not be misled by the highlighted portions?

19 MR. FRETWELL: That's a great question, Judge. And
20 that's what Investigator Garrett is here to talk about in
21 his testimony in part is to why these are highlighted.
22 He's not going to go through every single one.

23 THE COURT: Right.

24 MR. FRETWELL: But if it stood out to either law
25 enforcement or to the prosecutor's office in this

1 demonstrative exhibit, which is a compilation as the
2 Court correctly identified early on in this case of all
3 of Facebook and all of the cell phone records of
4 Mr. George. Now, just Mr. George. Nobody else's records
5 are included in this.

6 THE COURT: So the information that's not
7 highlighted, what are they? Because everything in there
8 is not highlighted.

9 MR. FRETWELL: No, sir.

10 THE COURT: So the information that's not
11 highlighted, what's their -- composed of?

12 MR. FRETWELL: It's relevant evidence that explains
13 to some degree the highlighted portions. The highlighted
14 portions are like taking a picture that you put up. That
15 picture has everything from the scene, but you want to
16 draw somebody's attention to this area right here.
17 That's basically it, Judge.

18 THE COURT: Okay. All right. So, obviously, your
19 examination of this witness is obviously not going to be
20 every single page that's in that document.

21 MR. WILLIAMS: No, it's not, Your Honor.

22 MR. FRETWELL: His examination, Judge, is, in fact,
23 not going to get into any lines whatsoever. My
24 examination, which is the only reason I stood up ---

25 THE COURT: Through Garrett.

1 MR. FRETWELL: Yes, sir. And certainly not every
2 page, but a fair number of pages to develop the themes
3 that the State has in this case derived from the
4 defendant's Facebook messages and his cell phone.

5 THE COURT: Right. Okay. I understand now.
6 Mr. Marchant?

7 MR. MARCHANT: Did I understand that there are no
8 references to drugs in this document?

9 MR. FRETWELL: In the document you have, there are
10 references to drugs.

11 MR. MARCHANT: So I don't have the document that
12 you're attempting to put into evidence.

13 MR. FRETWELL: You have a document that contains
14 everything that we have in this document, but we reduced
15 it to eliminate about ten pages worth of references to
16 drug activity between Ms. Cook, Mr. George, anything that
17 we could find. I believe Mr. George and Ms. Simons,
18 maybe some other people in there, but there were a lot of
19 references to drugs that we just took out, Judge.

20 THE COURT: Is this the same information that
21 Mr. Brehm in the pretrial there was some arguing back and
22 forth that he was not provided this information? Do you
23 remember what ---

24 MR. FRETWELL: He has all of this information.

25 THE COURT: He has the same thing that Mr. Marchant

1 has.

2 MR. FRETWELL: He has all of the universe in
3 statistical language of everything. What we didn't send
4 Mr. Brehm is the specifics of an exhibit ---

5 THE COURT: That one.

6 MR. FRETWELL: --- that we would use specifically
7 against Mr. George, because Mr. George's conversations
8 with other people would not be admissible in Ms. Cook's
9 trial. Ms. Cook's trial will be her messages with other
10 people, not Mr. George's.

11 THE COURT: All right. So Mr. Marchant has the
12 whole thing. In discovery he was sent everything.

13 MR. FRETWELL: Absolutely, Judge. Absolutely.

14 THE COURT: And we're just redacting as it relates
15 to these messages.

16 MR. FRETWELL: So we started with giving him all of
17 the Facebook records that law enforcement could get on
18 everybody. That included the smaller subset of all of
19 the Facebook references of his client.

20 THE COURT: I've got you.

21 MR. FRETWELL: We took and combined that with what
22 you've just heard this investigator talk about. The
23 records from the cell phone, we combined them together in
24 this exhibit, initially a very long exhibit.

25 THE COURT: Okay.

1 MR. FRETWELL: We reduced that exhibit, at some
2 point, sent that copy to Mr. Marchant now I guess three
3 weeks ago as a demonstrative, which we didn't have to
4 provide but we wanted to. And now what we've decided to
5 do over the last -- the course of the last week that
6 we've been trying this case is we're just going to follow
7 the former Chief Justice's advice and we're not going to
8 put in drug evidence that I think I can make an argument
9 to the Court why we should be allowed to. We just took
10 them out because I think it's not necessary.

11 THE COURT: Mr. Marchant, anything?

12 MR. MARCHANT: I just want to make sure I
13 understand. Mr. Fretwell is telling me and telling the
14 Court that in this exhibit -- which the only thing
15 they've sent me is 98 pages. I don't know anything about
16 104 pages or ten pages. I got one email with one exhibit
17 that's 98 pages. I'm looking at page 47. Two-thirds of
18 the way down the page, "Because I was going to make \$70
19 on two sells that I sold twice and couldn't go serve
20 because they had my car. By the time I got home, they
21 already got it from someone else. Then I could have
22 gotten \$10 off a \$20 bag." Is that single example not
23 drug evidence?

24 MR. FRETWELL: It is drug evidence. And if you'll
25 look in this -- what I've handed you, that's the ---

1 MR. MARCHANT: This is different than what you had
2 previously provided me?

3 MR. FRETWELL: This is reduced from what we've
4 already provided you.

5 And while he's looking at that, Judge, I want to
6 point out the number disparity.

7 THE COURT: Okay.

8 MR. FRETWELL: The reason he got 98 pages in his
9 document is he doesn't have a title line at the top of
10 every single page that says "from," "to," "date," "time."
11 That little header line that's printed on every single
12 page ended up making this 98 page document 104 page
13 document. When we took all the drug references out, it
14 took it back to 94. That's where we are. That's the
15 document I've handed him. That's the one that's marked
16 as evidence in this case.

17 THE COURT: Do you see in there the same thing that
18 you just read a minute ago in that stuff that you were
19 just given? Do you see anything -- I know -- is that the
20 first time you've seen that, that folder?

21 MR. MARCHANT: This?

22 THE COURT: Uh-huh.

23 MR. MARCHANT: I did not know this existed until
24 about six, eight minutes ago in the format that they are
25 attempting to introduce. So I've not had the opportunity

1 to read this to see if, one, there's any drug language in
2 here, two, if there's any language that I believe is even
3 more prejudicial than if there was drug language in
4 there.

5 THE COURT: Mr. Fretwell, is there any reason why
6 Mr. Marchant wasn't given that before six or eight
7 minutes ago?

8 MR. FRETWELL: He was given, Judge, the copy that
9 has not only everything that's in there, but it has ten
10 pages more of drug evidence. We were literally debating
11 until last night which version we would put in. And I
12 was prepared to make an argument to the Court as to why
13 the entire document that we sent to Mr. Marchant should
14 come in based on, in large part, the conversations and
15 cross-examinations that Mr. Marchant has had with these
16 witnesses about the pervasive and rampant drug activity
17 of all of these people in which Mr. George was included.

18 THE COURT: I understand that, Counsel. My concern
19 was that Mr. Marchant has indicated that the State has
20 given him a document that he just got, and he doesn't
21 have an opportunity to go through it. And that's -- you
22 know, I just think that that's why I'm having a little
23 concern. Because I think that he -- he has the right to
24 be able to look at a document before right now. I mean,
25 you just gave it to him. I mean, if you had it and you

1 just passed it to him five or six minutes ago, maybe I'm
2 -- tell me where I'm off on that.

3 MR. FRETWELL: I don't think you're off, Judge. My
4 thought process on this was we had given him every bit of
5 this and more, the drug references in that 98 page
6 document. What we did from the time two, now three weeks
7 ago is we subtracted every drug reference from that. And
8 we have a separate exhibit now prepared that's basically
9 the same thing, Judge, as if you had come in today, we
10 had tried to introduce the 98 page document and you said
11 take all the drug references out.

12 THE COURT: So what he has now that you just gave
13 him has no drug references.

14 MR. FRETWELL: To my knowledge as an officer of the
15 Court, it has no drug references in it.

16 THE COURT: To your knowledge.

17 MR. FRETWELL: Yes, sir.

18 THE COURT: Mr. Marchant, he says that document has
19 no drug references. So that was the concern.

20 MR. MARCHANT: I'm sorry?

21 THE COURT: He says it doesn't have any drug
22 references so I'm just trying to take counsel at his
23 word. Or should I?

24 MR. MARCHANT: And that's fine. I'm not sure we got
25 a good answer to your question of why I'm just now

1 receiving this document because you see I've got a number
2 of flags in here that really doesn't highlight every
3 single area of objection that I would have if this
4 document was attempting to be introduced. Okay.

5 I really wasn't overly concerned so much with the
6 drug information as I was with some of these other
7 messages where it appears or could be interpreted by the
8 jury that my client has some other business going on with
9 somebody else where there might be some fights or
10 scuffles or things like that. Okay. And that's my
11 concern about the 404 evidence of some prior bad acts
12 coming in that are not relevant. They are extremely
13 prejudicial.

14 The solicitor is now telling you, and got to take
15 him at his word ---

16 THE COURT: Yeah.

17 MR. MARCHANT: --- but I have a duty to represent
18 this man. I was appointed, and I have done everything
19 that I could do thus far even though this was given to me
20 two weeks ago. We've been in here all week. There are
21 2,000 lines of evidence, give or take, that may have come
22 from a cell phone or may have come from Facebook. I
23 don't know which it came from because it doesn't identify
24 on each line where it came from.

25 I cannot tell this court that I do not have the

1 Facebook information or the cell phone information from
2 the solicitor. They gave it to me. Most of the Facebook
3 pages that they have provided are a thousand pages in
4 length. The cell phone stuff, and Investigator Perry can
5 probably chime in if need be, is probably more lengthy
6 than that.

7 There are multiple cell phones, there are multiple
8 Facebook pages. I was operating off this to a large
9 degree. I now have this that may or may not have taken
10 out items that I have an issue with that I believe needs
11 to be addressed by the Court. I now have -- it's 4:30
12 almost, Friday afternoon, Day 5 of trial. I have
13 94 pages that I believe I need to review so that I can
14 determine in this document what objections I have.

15 I'm asking Your Honor for a continuance until next
16 week so that I can review this information over the
17 weekend.

18 MR. FRETWELL: Judge, let me address this exact
19 issue. First of all, Mr. Marchant has told you with
20 respect to the drug references that we've taken out,
21 that's not his greatest concern which will tell the Court
22 that the difference between what I've provided him and
23 what I'd like to introduce, he doesn't essentially have a
24 problem. What he has a problem with is that he had
25 marked some things that he wants to address and now the

1 page numbers are different.

2 And, Judge, I'll point out to this. Every single
3 line of this exhibit has a date and a time. Those
4 haven't changed. We can still address whatever concerns
5 he has.

6 And as Mr. Williams addressed a few minutes ago,
7 there are other things referenced in this exhibit that
8 relate to this defendant's motive to kill Mr. Gula
9 separate and apart from the motivation provided to him by
10 his what he believed to be girlfriend, Audrea Cook, at
11 the time.

12 That's what we have here, Judge.

13 THE COURT: First of all, let me address
14 Mr. Marchant's request for a continuance. I don't think
15 that's going to be possible and let me tell you why.
16 Monday and Tuesday I won't be here. I'll be here on
17 Wednesday, Thursday and Friday. That's the first thing.

18 Second thing, more importantly, there is a juror,
19 we've already utilized two alternates. We've got
20 12 people sitting over there. One juror by -- I think
21 during jury qualification indicated that she, I think,
22 was going out of the country next week, Monday, and Judge
23 Morgan made a note of that. So you're not going to have
24 that juror.

25 So, gentlemen, you don't have a choice. We've got

1 to push this train tonight, afternoon, tonight. It's
2 going to be left up to you how long you push it, but
3 we've got to push this train tonight. And then if need
4 be, we've got to push it tomorrow morning. But -- and so
5 that's where we are.

6 Let's go off the record, Madam Court Reporter.

7 (Off the record.)

8 THE COURT: Your continuance request, Mr. Marchant,
9 is not -- it's just not feasible. We can't do it, not
10 necessarily for just what I indicated, but also because
11 of a juror situation. We don't -- I think you're going
12 to have to -- you know, at some point, counsel is going
13 to have to trust one another. You're just going to have
14 to trust one another. Mr. Fretwell's been in this game a
15 long time. You've been in this game a long time. So
16 we're just going to have to see if we can push this
17 along.

18 MR. MARCHANT: Judge, regardless, I understand your
19 ruling. Okay. My objection to the -- well, my request
20 for a continuance is on the record, right?

21 THE COURT: Yes, yes. It's on the record.

22 MR. MARCHANT: Okay. It's been denied.

23 All right. I understand where we are.

24 THE COURT: Yeah.

25 MR. MARCHANT: I still have problems with the

1 content of the items in this document that the solicitor
2 is attempting to elicit from a witness on the stand. For
3 example, here on page 2 ---

4 THE COURT: That's the new document?

5 MR. MARCHANT: This is the new one.

6 THE COURT: The one he just gave me. Okay.

7 MR. MARCHANT: It is a conversation between George
8 and Queen R 17th of November 2019, 1:50 p.m. "I can see
9 where the f, asterisk, asterisk, asterisk you were at and
10 I will track him down and f asterisk, asterisk, asterisk,
11 asterisk, asterisk, asterisk shoot him." If the jury
12 looks at that one line that I have no idea if it has
13 anything to do with Ivan or not, that is evidence of his
14 character, it is potentially evidence of some other bad
15 acts, and the inference the jury is going to draw on that
16 is not permissible under 404. He's not been charged with
17 anything. There's nobody up here testifying to some
18 other act that he did or did not do. But that text
19 message is -- I don't know if it's a text message or
20 Facebook, but there's no context to it. And that is just
21 one example of items in here that are not permissible.
22 It is prejudicial, and it should not be admitted under
23 403, and 404.

24 And I had the same thoughts Mr. Fretwell did about
25 gilding the lily. And this right here is exactly what

1 the Chief Justice was talking about.

2 MR. FRETWELL: Judge, if I can have this just to be
3 able to show the Court a little bit about not only the
4 line that Mr. Marchant is referring to, but other lines
5 that are going to help. And I'm actually now, Judge,
6 using the book that Mr. Marchant just placed on our
7 table. It's marked State's Exhibit 226-B. I believe he
8 was -- can you see that, Judge?

9 THE COURT: I can.

10 MR. FRETWELL: Okay. If I move this out where you
11 can't see that, if you'll just let me know because I'm
12 going to be concentrated on the page itself.

13 I believe the line that he just read to the Court is
14 -- can you see my pen?

15 THE COURT: I can.

16 MR. FRETWELL: Right here (indicating) from the
17 defendant, Mr. George, to an individual identified in the
18 Facebook records as Queen Cush Red, which Investigator
19 Garrett will testify is related to an individual by the
20 name of Alyssa Simons who is on Mr. Marchant's witness
21 list ---

22 THE COURT: Right.

23 MR. FRETWELL: --- and a good friend who was living
24 with Mr. George at the time.

25 This is the conversation where Ms. Simons is talking

1 to Mr. George about an individual she identifies as John
2 saying that she can wait. He makes this comment to her
3 that Mr. Marchant just read into the record, "I can see
4 where the f you were and I will track him down and f'g
5 shoot him."

6 It goes back down, Judge. I want to call your
7 attention to this line right here at 155. "We at the
8 road way inn I jus flipped out n saying that he gonna
9 bring me now but he on the phone with the Iran dude."

10 Judge you're going to see that that's a typo because
11 on the next page -- can you see that?

12 THE COURT: I can.

13 MR. FRETWELL: November 17th at 2 p.m., she says,
14 "He is waiting on this Ivan guy."

15 Judge, this is the first reference in the Facebook
16 records of a connection among Alyssa Simons, a guy named
17 John, which we know the last name of, but a guy named
18 John and a guy named Ivan. At the conclusion of this
19 litany of texts, Mr. George is going to tell somebody
20 else, "Lyssa almost got sex trafficked today, but I saved
21 her."

22 Later on, the night this happens, Judge, you heard
23 Bobby Smith testify that when he returned, Mr. George was
24 taking a picture of Ivan Gula who he in these messages
25 put earlier that day he'd been asking anybody know a

1 janky-ass Russian named Ivan? He sent that picture,
2 which we've had marked and the Court hasn't had the
3 benefit of seeing it, but the Court would have in just a
4 few minutes because this investigator found it on this
5 defendant's cell phone. But that's a picture of Ivan
6 Gula taken from Mr. George's cell phone at 9:34 p.m. the
7 night he was killed. Two minutes later he texts the same
8 lady, Queen Cush Red, Alyssa Simons, and says, "Is that
9 the guy? Is that him." Ten minutes later, or
10 approximately if I'm -- hour later, he tells her to
11 delete that photo.

12 And, Judge, this is a photo taken of Ivan Gula. But
13 I'll call to the Court's attention, this is the original,
14 this is the enhanced that Investigator Perry will testify
15 to.

16 Judge, if you'll look at that shirt, and you'll zoom
17 in on that shirt, you can see "rust" from "trust me a
18 Jedi I am." This is Ivan Gula in the kitchen at the
19 trailer of Audrea Cook, a photo taken at 9:34 p.m. by
20 this defendant who you'll hear through his statement to
21 law enforcement to Investigator Garrett said I was there,
22 but I was in the back room with Audrea the whole time,
23 that he sent it, as Bobby Smith testified, to someone,
24 and he told the people that were there that this
25 individual had been trying to traffic his friend and his

1 daughter Kayla, that this individual -- he sent a picture
2 and said, "Is that him?" An hour later, "Delete that
3 photo."

4 You'll recall that Mr. Stokes testified that he was
5 hesitant. He didn't want to do it, though Mr. George and
6 others were telling him he needed -- they needed to
7 finish him off. And you'll recall in the interview that
8 Ms. Velichko said she says it seems like somebody on the
9 other end of the line was hesitant. And he testified,
10 Mr. Stokes, just last witness, that when he was there, he
11 couldn't get -- he couldn't do it himself. This
12 defendant took his own machete that he brought, stabbed
13 him twice in the back, made the comment something about
14 Audrea Cook being a good lay, let's just say for a
15 paraphrase, and then he stabbed him in the neck. That
16 comports with the evidence. That is the State's
17 alternative and equally as important motive in this case
18 for why this defendant, once Ms. Cook had rounded
19 everybody up and taken them away, he didn't send that
20 message to Ms. Simons who Ms. Cook didn't get along with
21 until Ms. Cook left the place with those witnesses and
22 said, "Is that him?"

23 You're going to find in this same exhibit, Judge,
24 that there are messages later on where he's talking with
25 Ms. Simons and says something to the effect of, "I can't

1 protect you. I don't know who John might sell you to
2 now. Might be the blonde girl or it might be Jan."
3 Remember Janice Velichko who came in here and testified.

4 All of this, Judge, is a province for the jury to
5 understand the facts of this case, to establish the facts
6 of this case. These records go directly to the heart of
7 motive and the central issue in the State's case why this
8 defendant, not anybody else, why this defendant had a
9 motive himself separate and apart from anything Audrea
10 Cook had to kill this individual.

11 THE COURT: All right. And your position is still
12 the same, Mr. Marchant; is that correct?

13 MR. MARCHANT: Yes, Judge. I mean, we can go back
14 and forth about this all night, but ---

15 THE COURT: Yeah. I think -- yeah. Go ahead.

16 MR. MARCHANT: The point, and I think I put this on
17 the record, just so it's clear is that this is
18 prejudicial information that cannot be verified, the
19 content of which cannot be verified because there is
20 nobody here to talk about those types of things or who
21 these people are. And there's a lot of information
22 Mr. Fretwell has given you that I don't know if any of
23 that comes into evidence or how it comes into evidence.

24 But this is ---

25 THE COURT: Well, the thing that's before me is the

1 admissibility of that document.

2 MR. MARCHANT: Well, yeah.

3 THE COURT: And I'm going to allow it subject to
4 your objection. Your objection is noted for the record.

5 All right. Let's bring the jury back.

6 (WHEREUPON, the jury entered the courtroom at 4:39 PM.)

7 THE COURT: All right. Yes, sir.

8 MR. WILLIAMS: Thank you, Your Honor.

9 BY MR. WILLIAMS:

10 Q Mr. Perry, I'm not quite sure where we left off, but
11 did you complete a cell phone data extraction of the
12 defendant's phone labeled as law enforcement Item JG-2?

13 A I did.

14 Q Okay. And was that done in November of 2023?

15 A I'm sorry. What date?

16 Q Was it in November of 2023?

17 A It was.

18 Q Subject to a search warrant?

19 A That's correct.

20 Q Did you, at the request of our office, actually
21 create a redacted version of that cell phone dump in
22 order to take out irrelevant information and information
23 that did not comport with rules of evidence?

24 A I did.

25 Q I'm showing you State's Exhibit 223. Do you

1 recognize this?

2 A Yes this is a flash drive that contained the report.

3 Q Is that the redacted report that you created?

4 A It is.

5 Q How do you know that?

6 A Because I put my initials on it.

7 Q And is that redacted report, does it accurately
8 reflect what you extracted from the defendant's phone?

9 A It did.

10 MR. WILLIAMS: Your Honor, at this time, the State
11 would move Exhibit 223 into evidence.

12 THE COURT: All right. Subject to your objection?

13 MR. MARCHANT: Yes, Your Honor.

14 THE COURT: All right.

15 (WHEREUPON, State's Exhibit Number 223 was admitted into
16 evidence.)

17 BY MR. WILLIAMS:

18 Q Now, Mr. Perry, this is through Cellebrite, I
19 believe you said?

20 A That's correct.

21 Q I'm a little confused by this so I'm going to ask
22 you to walk me through it if I could.

23 All right. So what should I do now? I'm going to
24 open this.

25 A All right. You want to click on the one that says

1 "Cellebrite reader." It may take a few minutes for that
2 to load or longer.

3 Q Just click the "activate later" button; is that
4 correct? And then it says "device's time zone was
5 detected New York."

6 A Go ahead and -- no. Go to "automatically adjust
7 time zone." There you go.

8 Q Okay. Does that mean it's putting it all in our ---

9 A Time zone.

10 Q All right. Well, tell me how to navigate this
11 thing.

12 A I'm sorry?

13 Q Tell me how to navigate through this report.

14 A Okay. Go to where it says "analyze data" on the
15 left -- far left tabs. Okay. Now what would you like to
16 go to?

17 Q Messages?

18 A Messages. Okay. Click on "messages." Go down and
19 click on that one. Okay.

20 Q So what does this tell us right here? What does
21 that tell us right there on that first line?

22 A What -- I'm sorry?

23 Q What are we looking at on that first line there?

24 A That's just a message from that phone number, Lyssa,
25 with a question mark.

1 Q That's from this person Lyssa to the defendant?

2 A Correct.

3 Q And what time does it say on there?

4 A You're going to have to -- well, yeah. That was at
5 6:12 p.m. on December 18th.

6 Q Right there?

7 A Correct.

8 Q December 18, 2019.

9 All right. Now how would we go to images?

10 A Images, you're going to have to hit the little
11 button at the top there and open -- come down. No. Go
12 over. Go up. Right there. All right. Click back on
13 "analyze data."

14 Q Okay.

15 A Okay. Now up at the top there, go up, go up, up, up
16 one more. All right. You see those two little arrows?
17 There you go. All right. Now go to "media" right there.
18 Click on that, then "images." And if you'll come over to
19 "table view" up at the top. There you go. Go down to
20 156.

21 Q 156.

22 A I'm not used to not driving.

23 Q This one?

24 A Correct.

25 Q Okay. What can you tell me? Where would we go to

1 find out when that picture was created?

2 A Okay. You're going to have to go back to "images"
3 at the top. No. Up at the top right there. Okay. Over
4 here on the right-hand side it shows that it was created
5 on 12/1/2019 at 9:34 p.m.

6 Q How do you know that that's when that picture was
7 created?

8 A Well, that's the metadata that the phone captured.
9 Because it tell you the make of the phone, Samsung, and
10 then it gives you the model which is what his phone is.
11 That's the model number of his phone.

12 Q So that photo with that time stamp means that that's
13 when that picture was taken or created.

14 A Correct.

15 Q Okay. You go back to the photo, can you zoom in on
16 this? Is it possible to zoom in?

17 A Yeah. You can zoom in on it. Over there there's a
18 little scroll bar. There you go.

19 Q Okay. Interesting. So that photo was created at
20 9:34 p.m. on 12/1/2019?

21 A Correct.

22 Q Taken by the defendant.

23 A His phone.

24 Q Or at least by his cell phone.

25 A It was by his cell phone.

1 Q Now let's say someone took that picture, the
2 picture's captured in the images on their phone, and then
3 they'll say that they take a text message and add that
4 picture into a text message or a Facebook message and
5 send it to someone else, and then after they send the
6 text message, let's say they don't delete the picture but
7 they do delete the text message ---

8 A Correct.

9 Q --- does deleting the text message delete the
10 picture from the phone?

11 A No, it does not.

12 Q Mr. Perry, were you supplied with the defendant's
13 Facebook records in this case?

14 A I was.

15 Q Did you review those Facebook records?

16 A I did.

17 Q Were you also supplied with an exhibit created by
18 law enforcement by the solicitor's office that included
19 relevant Facebook messages and phone calls along with the
20 phone dump that you completed of the defendant's cell
21 phone that included text messages? So basically, text
22 messages and Facebook messages, were you supplied with a
23 document like that?

24 A I was.

25 Q Did you review that document?

1 A I did.

2 Q Did you review it for accuracy?

3 A I did.

4 Q Did it accurately reflect what was in the
5 defendant's Facebook records as well as the cell phone
6 data extraction that you completed?

7 A It did.

8 Q Okay. Now, first of all, before we get to that, I'm
9 going to show you a couple other items. I'm showing you
10 State's 224 and 225. Do you recognize those two
11 documents?

12 A I do.

13 Q Could you tell us what they are?

14 A It's the picture from the phone that we're looking
15 at right here. And it's kind of hazy, so I took it and
16 just edited a little bit and tried to enhance it a little
17 bit to be able to view better.

18 Q How were you able to enhance a photo?

19 A Just Photoshop.

20 Q Photoshop. Okay.

21 Is that an accurate depiction of what was pulled
22 from the defendant's phone?

23 A It is.

24 MR. WILLIAMS: Your Honor, at this time, the State
25 would move Exhibits 224 and 225 into evidence.

1 THE COURT: Subject to your objection?

2 MR. MARCHANT: The defendant objects to 225. We
3 heard this 225 has been photoshopped, so it is not a true
4 reflection of what Investigator Perry says was pulled off
5 of the phone.

6 THE WITNESS: I've got one -- a correction on that.
7 Photoshop was ---

8 THE COURT: Hold on a second.

9 Go ahead.

10 MR. WILLIAMS: Your Honor, if I may, I will ask him
11 a couple more questions.

12 THE COURT: Go ahead.

13 BY MR. WILLIAMS:

14 Q You said you used Photoshop specifically ---

15 A No. Correction on that. It wasn't Photoshop. It
16 was Paint where you just can go in and do some
17 highlighting and, you know, reducing the brightness and
18 add color and stuff like that.

19 Q Is this something you do in your normal course of
20 business?

21 A I mean, we do it occasionally. Not every day or
22 anything, but, you know, it's what we do.

23 Q But you've done this numerous times before.

24 A Yeah. Oh, over the years I've done it. I've done
25 it with personal photos of my own.

1 Q But you've also done it with photos pulled from cell
2 phones that you've investigated?

3 A Sure absolutely.

4 Q And how exactly did you do that?

5 A With it's a program that's on pretty much every
6 computer, Paint.

7 Q Paint. Okay.

8 A Yeah.

9 Q Is there anything specifically that you did to touch
10 this photo up?

11 A Specifically, no. Just changing different clarity
12 and light and things of that nature.

13 Q In order to take some of the haze, if you will, off
14 the original?

15 A Yeah.

16 MR. WILLIAMS: Your Honor, at this time, we'd move
17 both exhibits in.

18 THE COURT: All right. Mr. Marchant?

19 MR. MARCHANT: Same objection, Your Honor.

20 THE COURT: All right. I'll let it in subject to
21 your objection. So noted for the record.

22 (WHEREUPON, State's Exhibit Numbers 224 and 225 were
23 admitted into evidence.)

24 MR. WILLIAMS: Your Honor, if we can switch over to
25 the projector now. Thank you, Your Honor.

1 BY MR. WILLIAMS:

2 Q So this is the photo before you touched it up a
3 little bit; is that right? State's 224?

4 A Yes.

5 Q And then this is 225, the photo that you enhanced;
6 is that correct?

7 A Correct.

8 Q Is that correct? That's the photo that you
9 enhanced?

10 A Yes. That's the one.

11 Q And I was just asking you earlier if you looked at
12 an exhibit that created -- that reflected accurately the
13 defendant's Facebook records as well as the extraction
14 that you did on his cell phone?

15 A Correct.

16 Q And you did review that?

17 A I did.

18 Q Was it accurate?

19 A It was.

20 Q Showing you State's 226-A and 226-B. Can you
21 identify those?

22 A This was the document I went through and compared.
23 And then this is the flash drive that I put the report
24 on.

25 Q Okay. Is this flash drive the same thing as the

1 paper, it's just digital?

2 A Correct.

3 Q And then accurate, fully accurate?

4 A It was.

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

6 THE COURT: Cross-examination?

7 CROSS EXAMINATION

8 BY MR. MARCHANT:

9 Q Investigator Perry, you testified about the model
10 number and the type of phone that this information comes
11 off of.

12 A Correct.

13 Q Okay. I think you said it was a Samsung. I don't
14 recall the model number.

15 A SM-S767V1.

16 Q So is that model number like -- I've got to use the
17 analogy of an iPhone because that's what I've got -- an
18 iPhone 12? Is that what that model number's referring
19 to, that it's a Samsung?

20 A Correct. It's a Samsung SM. That's the particular
21 model what that phone is.

22 Q Okay. So that model number is not necessarily like
23 a serial number to that phone.

24 A No.

25 Q Okay. So there are umpteen thousand Samsung Model

1 X?

2 A Correct.

3 Q Okay. So the picture that was shown a moment ago to
4 State's 225 you say comes off the phone, right?

5 A Correct.

6 Q Are you able to testify that that phone captured
7 that picture?

8 A Yes, sir.

9 Q Not just the name and the model number.

10 A Correct. If it had been pulled into the phone like
11 somebody had sent it to him and then he put it into his
12 camera roll, then it would not have showed up with the
13 metadata that's listed on there.

14 Q Is there no way to send a photo with the metadata?

15 A You can send a photo with metadata, but on the
16 Cellebrite report, it's not going to show up as being in
17 the camera roll with that information being displayed
18 like it is.

19 Q So you're a hundred percent sure that that phone
20 took that picture.

21 A Yes, sir.

22 Q You talked about some messages that had been
23 deleted. The solicitor was asking some questions about
24 the messages that had been deleted from the phone.

25 A No. I think he's asked me if a text message was

1 deleted, would the photo still be on the phone.

2 Q Okay. So do you know from your investigation that
3 that photo was sent via text message to someone?

4 A No, I do not.

5 Q But this is you simply analyzing the phone.

6 A Correct.

7 Q There's another way to go get this information,
8 isn't there? You can go to the subscriber, T-Mobile,
9 Verizon, AT&T, and they would be able to give you a list
10 of text messages that were sent.

11 A AT&T or any of the carriers will -- can give us data
12 that a text message was sent or a phone call, any of
13 that, FaceTime if it's an iPhone. It will not give you
14 the text message or a photo if a photo was sent. They do
15 not store that information. So that's why the cell
16 phones are so vital to law enforcement investigation is
17 because that information is not available.

18 Q You're saying a cell phone provider would not
19 provide you a list of text messages that were sent and
20 received?

21 A They would tell you that a text message was sent and
22 received on a particular date. That would not be the
23 content.

24 Q Okay. So I take a picture, I text it to you, okay?
25 I then delete the text.

1 A Correct.

2 Q Okay. You could go to the cell phone provider, and
3 we could see that I sent a text to you, correct?

4 A Correct.

5 Q Even though I deleted it off my phone.

6 A Correct.

7 Q Same can be done for calls, correct?

8 A Correct.

9 Q Okay. I call you. I go to my call history, delete.

10 A It's going to be on the -- it's going to be on your
11 cell phone records.

12 Q Okay. We've only talked about one phone. That's
13 all you analyzed in this case?

14 A No. I analyzed several others.

15 Q Tell me about what else you analyzed.

16 A I analyzed 11 SIM cards. Off a SIM card all you're
17 going to get is -- the phone number is the only
18 information that's going to be on a SIM card.

19 I analyzed the iPhone 7+, LG model LML212VL. I
20 analyzed a flip phone from Alltell, a Samsung SM-G550T1,
21 I analyzed another Samsung SM-367BL. I re-examined the
22 iPhone 7+ plus a couple years later along with the LG
23 LML212 and the -- I didn't -- the flip phone. Then
24 that's when the next phone was the defendant's phone that
25 I only did the one time. And then later after that, I

1 had two other phones come in, a Samsung SD-260, but it
2 didn't have a battery, a SIM card. The screen was
3 totally smashed. They had mud all stuffed up in the
4 charging port. And then I had another Samsung SM-7367VL,
5 but when powered on, the screen froze and was never able
6 to get an extraction off it.

7 Q Okay. Let's talk about the Apple iPhone. You
8 analyzed that twice?

9 A Correct.

10 Q Why?

11 A Did it in 2019 and did it again in 2023 just because
12 of the increase in technology. The programs that we run
13 have updates and there's times that they can get possibly
14 additional information.

15 Q Whose phone is that?

16 A I have no idea.

17 Q Do y'all keep track of -- how do you keep track of
18 the phone you analyze?

19 A I can give you the item number.

20 Q Okay. What's the item number?

21 A The iPhone 7 was Item SJ-1.

22 When the phones are given to me, they're not
23 necessarily told who it necessarily belongs to. I just
24 am running an analysis on a phone and then I give that --
25 all these reports were given to -- made available to the

1 investigators for their investigation.

2 Q Okay. When did you run the iPhone and all this
3 other stuff the first time?

4 A The first three I ran 20 December 2019.

5 Q 12/20/2019. And you said that was the first three
6 phones?

7 A That was the iPhone 7, the LG and the Alltell.

8 Q When did you run what you're saying is Mr. George's
9 phone?

10 A I ran his in November 28, 2023.

11 Q When did law enforcement come into possession of his
12 phone?

13 A You will have to ask them.

14 Q You're law enforcement, ain't you?

15 A Well, I mean, I -- I don't know when they actually
16 have possession of them. I go to ---

17 Q Did they not -- your colleague not ask you to run it
18 until November of 2023?

19 A It was a rerun by -- from somebody else. It had
20 previously been run by another investigator.

21 Q Okay. Not you. Somebody else.

22 So you ran three phones December 20, 2019, as well
23 as analyzed 11 SIM cards.

24 A Correct.

25 Q And all of that was given to Investigator Garrett or