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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JUSTIN TYLER ELLAREE HOPKINS,

APPELLANT

APPELLATE CASE NO. 2022-001567

RECORD ON APPEAL

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2 County of Lexington) Eleventh Judicial Circuit

3

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6 vs.) 2022-GS-32-00250A
7) 2022-GS-32-00251A
Justin Tyler Hopkins,) 2022-GS-32-00260A
8) 2022-GS-32-00261A
9 Defendant.)

8

October 24th - 28th, 2022

9

Lexington, South Carolina

10

11 B E F O R E:

12 The Honorable Debra R. McCaslin; and a Jury

13

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

15 Samuel R. "Rick" Hubbard, III, Solicitor
16 Suzanne Mayes, Deputy Solicitor
17 Bruce H. Norton, II, Assistant Solicitor
On behalf of the State

17

18 David M. Mauldin, Esquire
19 Sarah H. Mauldin, Esquire
On behalf of the Defendant

19

20

21 Reported by: Stacy S. Johnson, RPR
22 Circuit Court Reporter

22

23

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1 (The following proceedings were held October 24,
2 2022, beginning at 10:10 AM.)

3 THE COURT: We are about to begin the trial of the
4 State of South Carolina versus Justin Hopkins.

5 Solicitor, you can call your case.

6 MS. MAYES: Your Honor, may it please the Court?

7 THE COURT: Yes, ma'am.

8 MS. MAYES: Your Honor, before you is Indictment
9 Number 2022-GS-32-251A. The State of South Carolina
10 versus Justin Hopkins. This indictment is for burglary
11 in the first degree.

12 Indictment Number 2022-GS-32-260A. The State of
13 South Carolina versus Justin Hopkins. This indictment
14 is for murder as to victim Duwan Williams.

15 Indictment Number 2022-GS-32-250A. The State of
16 South Carolina versus Justin Hopkins. This indictment
17 is for murder regarding victim Sheldon Livingston.

18 MS. MAYES: Indictment Number 2022-GS-32-261A. The
19 State of South Carolina versus Justin Hopkins. This
20 indictment is for murder as to victim Branton Booker.

21 Your Honor, the State is ready for trial in this
22 case. The defendant is present in the courtroom and
23 represented by counsel.

24 THE COURT: Thank you, Ms. Mayes.

25 Mr. Mauldin, how does Mr. Hopkins plead?

1 MR. MAULDIN: He pleads not guilty, Your Honor.

2 THE COURT: Thank you.

3 All right. Ladies and gentlemen, before we select
4 the jury, there are several questions which I will ask
5 you. If you need to answer any of these questions,
6 I'm gonna ask you to stand and I will call on you
7 individually. Please do not blurt out an answer. I'm
8 gonna tell you again. If you need to answer and you
9 stand, I will call on you and I will ask the questions.
10 Please do not blurt out an answer until I ask it.

11 All right. I'm gonna let the attorneys for the
12 State introduce themselves and anyone else assisting in
13 the prosecution of this case.

14 MR. HUBBARD: Thank you, Your Honor.

15 THE COURT: Mr. Hubbard.

16 MR. HUBBARD: My name is Rick Hubbard. I'm the
17 Solicitor for the Eleventh Circuit, which includes
18 Lexington County. It also includes Edgefield, McCormick
19 and Saluda counties, and I'll let my colleague introduce
20 herself and our team.

21 MS. MAYES: My name is Suzanne Mayes. I'm Deputy
22 Solicitor here in the Eleventh Judicial Circuit. The
23 Eleventh circuit includes Lexington County, Saluda County,
24 McCormick and Edgefield County. As solicitors, we
25 prosecutes criminal cases on behalf of law enforcement.

1 Also present in the courtroom, in addition to
2 Solicitor Hubbard, is Assistant Solicitor Bruce Norton.

3 MR. NORTON: Good morning. I'm Assistant Solicitor
4 Bruce Norton.

5 MS. MAYES: Paralegal, Kaitlyn Clarke. Eleventh
6 Circuit investigator, John Bishop. Sergeant Adam Creech
7 with the Lexington County Sheriff's Department. And also
8 possibly present in the courtroom, Heather Clamp. Yes,
9 there she is. Heather Clamp, victim advocate with the
10 Lexington County Solicitor's Office.

11 THE COURT: Thank you.

12 All right. Now let me ask the defense attorneys to
13 introduce themselves, their client, and also anyone else
14 that's here to assist you in this case.

15 MR. MAULDIN: I'm David Mauldin. I'm representing
16 Mr. Hopkins. With me as an attorney is Sarah Mauldin,
17 representing Mr. Hopkins. This, of course, is Mr. Justin
18 Hopkins. I do have a paralegal, Gail Etheridge. She is
19 not present in the courtroom today, but will be assisting
20 throughout the trial.

21 THE COURT: All right. Let me ask the panel has any
22 member of the jury panel ever been represented by any of
23 the attorneys involved in this case or their law firms?
24 If so, please stand.

25 Is any member of the jury panel related by blood

1 selection or anything I told the jury?

2 MS. MAYES: Nothing regarding jury selection.

3 THE COURT: Anything from the defense?

4 MR. MAULDIN: No, Your Honor.

5 THE COURT: Okay. Now let's decide how we're gonna
6 do our schedule. Do you-all want to go ahead and start
7 motions now? Do you-all need a little bit? Do you want
8 to start after lunch?

9 MS. MAYES: That would be preferable, Your Honor.

10 I believe we have cut these down. We can go ahead
11 and inform the defense. The Solicitor and I have been
12 talking over the past few minutes. I believe as to the
13 Jackson v. Denno motion, I believe we're in position to
14 not offer a statement in our case in chief. Now there
15 will be a statement that was made by the defendant that
16 will be part of the pre-trial presentation, and that is
17 during the traffic stop he is gonna acknowledge that there
18 is a weapon inside the bag, so there may be something
19 stated in that regard, but we are not intending at this
20 stage to offer any statement made by Justin Hopkins as
21 part of the State's case in chief. If he were to testify,
22 at that point we could determine the voluntariness of any
23 prior statement.

24 THE COURT: So we don't need to have a Jackson v.
25 Denno?

1 MR. MAULDIN: No, we don't. Not on that.

2 THE COURT: That's perfect.

3 Okay. Then what motion do we have next?

4 MS. MAYES: Your Honor, also they indicated a motion
5 regarding Bruton. We're not offering any statement made
6 by Jeremy Cornish with the exception of potentially the
7 statement that is sent by text message, and that is
8 subject to the State's motion regarding statements made
9 by co-conspirators.

10 Now with that said, Your Honor, that is the one and
11 only statement that is made by Jeremy Cornish that would
12 potentially implicate Justin Hopkins, is the text message
13 from Cornish to Hopkins saying "make sure you clean those
14 tools off" and "erase these messages".

15 We don't need to address that until or unless the
16 State is ready and planning to offer those text messages.
17 Right now we're just not sure that our case in chief will
18 include that.

19 THE COURT: Okay. Then I don't see a Bruton issue
20 unless there's something else, Mr. Mauldin?

21 MR. MAULDIN: I don't --

22 THE COURT: And she's saying it's not Bruton, she's
23 saying it's in furtherance of a co-conspirator statement.

24 MR. MAULDIN: Right, under 801(d)(2).

25 THE COURT: Uh-huh.

1 MR. MAULDIN: Yes, Your Honor. We just want to
2 make sure these things are cleared up before we start
3 proceeding.

4 THE COURT: Okay. So let me just get this straight.
5 No -- we're not gonna have a hearing on the text messages
6 unless the State decides they're gonna use -- I think
7 there's two of them. "Erase these" and "clean the tools"
8 or something.

9 MS. MAYES: That's correct, Your Honor. And it was
10 the subject of the State's motion. We filed two motions
11 regarding supportive evidence pursuant to 801(d)(2)(E),
12 statements in furtherance of the conspiracy, one, we filed
13 in the case of State versus Cornish and then we filed a
14 separate motion regarding State versus Hopkins, and those
15 texts were enumerated in that particular motion.

16 Other than that, Your Honor, we're gonna have some
17 Facebook messages that were sent by Justin Hopkins, but
18 certainly it's -- those are gonna be statements made by
19 the defendant himself by Facebook.

20 THE COURT: All right. Then any other motions?

21 MS. MAYES: Your Honor, also they had a request
22 for a Biggers hearing. We do not anticipate needing
23 the Biggers hearing. It related solely to the witness,
24 Dale Galloway, and our understanding is that he's
25 recovering from heart surgery and we do not believe he

1 will be called in the State's case in chief either.

2 THE COURT: Is that the bicycle man?

3 MS. MAYES: Your Honor, he actually was inside of
4 his residence and saw a person that he identified as
5 Justin Hopkins in a photo lineup coming from the area
6 right behind [REDACTED] Butternut Lane.

7 MR. MAULDIN: He didn't testify at the last trial,
8 but his testimony was basically elicited through hearsay
9 by, I think, both parties in the -- in the trial and no
10 one objected, but...

11 MS. MAYES: We don't -- we don't foresee that in
12 this particular case, Your Honor.

13 THE COURT: Okay.

14 Ms. MAYES: Now with that said, we will be offering
15 testimony from law enforcement that they reviewed video
16 footage from area businesses such as KJ's and the DMV and
17 they will be testifying that they recognize the person
18 depicted in video surveillance as Justin Hopkins. With
19 that said, it's completely different than a photograph.
20 That would require a Biggers hearing.

21 THE COURT: Are you in agreement, Mr. Mauldin?

22 MR. MAULDIN: Well, Your Honor, after watching the
23 last trial, I was a little bit mortified by the way that
24 the officers were narrating the video and inserting their
25 opinions into it. There are two cases; State v. Fripp

1 and State v. Hurell. They regard -- and Fripp is 396
2 S.C. 434 and Hurell 424 S.C. 341.

3 THE COURT: Wait a minute. Tell me that again.

4 MR. MAULDIN: 424 S.C. 341. Those were cases where
5 somebody who wasn't at the scene or in the place where
6 the video was taken was allowed to identify a defendant,
7 but those were people that had -- like they were like
8 relatives or people that had constant contact with them
9 to be able to identify them, and I don't think the
10 officers have the basis of knowledge to be identifying
11 Mr. Hopkins off of those videos, in particular, the DMV
12 videos where, if Your Honor recollects, the people are
13 way in the back of the screen, you don't see features of
14 people. They're saying well, you don't see a band-aid
15 here, but you might see it somewhere. They're inserting
16 their opinion about whether or not the person has
17 something on their face or whether it's a band-aid, and
18 I think that's improper under 701 and 702.

19 MS. MAYES: And we can properly lay that foundation,
20 Your Honor. I believe the testimony was regarding the
21 DMV video that the persons appear to be Cornish and
22 Hopkins, appear to be, and then there's also gonna be
23 DMV records that correspond with them being at that
24 location on that particular day.

25 With that said, as for the KJ's video, Your Honor,

1 we believe that that is self-evident. We have very,
2 very good photos showing Mr. Hopkins as he enters that
3 location. Both Sergeant Creech and Captain Laintz have
4 had face-to-face dealings with Justin Hopkins on more
5 than one occasion and would certainly be able to make
6 that identification.

7 THE COURT: Yeah, the KJ's, I remember the --

8 MR. MAULDIN: The KJ's was a grocery store, Your
9 Honor --

10 THE COURT: Right.

11 MR. MAULDIN: -- and it was a lot clearer and the
12 person is a lot bigger. But, again, I think the videos
13 should speak for themselves and we should not substitute
14 law enforcement's judgment for the jury's judgment as to
15 who's exactly on the videos.

16 THE COURT: Okay. I'll be prepared to hear that
17 after lunch.

18 MS. MAYES: Yes, Your Honor.

19 THE COURT: What other motions do we have?

20 MS. MAYES: And on that matter, Your Honor, I'll
21 also state that when the witness is identifying a
22 particular person who appears to be wearing a bandage,
23 of course, that's self-evident and the jury can make
24 that determination --

25 THE COURT: Well, it's something they saw.

1 MS. MAYES: -- but that is an observation that I
2 believe any witness could make about what they're seeing
3 in a photograph or in a video. If they believe that it's
4 there and they testify to that, the jury ultimately can
5 make that determination.

6 The next motion, Your Honor, is regarding the
7 traffic stop and we will have witnesses regarding that
8 matter this afternoon.

9 THE COURT: Okay.

10 MR. MAULDIN: And after watching the trial last
11 week and doing prep last night and this morning, obviously
12 one of the things I wanted to exclude on the vehicle
13 stop was the DNA and they have recently done a second DNA
14 pull and in reviewing that search warrant I have a motion
15 about the sufficiency of that search warrant as far as
16 the Register factors needed, and then I started looking
17 at other search warrants and I think there's some issues
18 with the sufficiency of the search warrant for the
19 defendant's Facebook records, for his phone records from
20 Verizon and for his apartment, and it's just based on
21 the face of the search warrant, Your Honor.

22 MS. MAYES: All right. So this would be the first
23 time we've been noticed on those particular motions.
24 As the Court is aware, there was a request for motions
25 to be submitted and they were. There was nothing

1 submitted regarding any of those search warrants, so
2 that is something we can work on this afternoon, Your
3 Honor, but we don't have any witnesses available or --
4 or scheduled to be here regarding those particular
5 motions.

6 THE COURT: Are those written motions?

7 MR. MAULDIN: No, Your Honor. And, like I said,
8 it was from taking my notes --

9 THE COURT: I mean, come on, Mr. Mauldin. You know,
10 I do this and ask people to give motions even so I can
11 get prepared and know what's going on. I'm very familiar
12 with this case. As you know, I tried it last week.

13 What is the basis for the warrants then so we can
14 give the State sufficient notice and the Court?

15 MR. HUBBARD: And, Your Honor, we would ask
16 specifically which search warrants because there's a lot
17 in this case and I just want to make sure --

18 THE COURT: That's right.

19 MR. MAULDIN: Well, I listed them. There's the DNA
20 of the defendant. Both of them.

21 MS. MAYES: Both search warrants?

22 MR. MAULDIN: Yes.

23 THE COURT: I heard Facebook.

24 MR. MAULDIN: The defendant's Facebook records,
25 the defendant's Verizon records, and the defendant's

1 apartment.

2 MS. MAYES: And that's for lack of probable cause?

3 MR. MAULDIN: Well, it's the sufficiency of the
4 affidavit. On the search warrants for the buccal swabs,
5 there is --

6 THE COURT: Exactly what is the problem? Tell me
7 what the sufficiency is so I --

8 MR. MAULDIN: Well, that's -- I was getting ready
9 to do that, Your Honor.

10 THE COURT: -- so I'll know what to look for.

11 MR. MAULDIN: In all the affidavits for the search
12 warrants for the buccal swabs for the defendant and
13 co-defendant, there's nothing in the affidavit -- although
14 they said they took swabs from the scene, there's nothing
15 in the affidavit regarding a profile being developed that
16 would merit taking their sample from the defendant to test
17 against. If they can't develop a profile, they can't test
18 it against somebody else, and that fact is not alleged in
19 any of the search warrants regarding the buccal swabs.
20 Just that swabs were taken, but nothing about a profile
21 being developed.

22 THE COURT: Okay. And what about the Facebook?

23 MR. MAULDIN: Also on the -- let's see, search
24 warrants -- Facebook records. There is an issue of --
25 there's a conclusory statement just saying we gathered

1 evidence that says the defendant is a suspect. It does
2 not say why the defendant is a suspect at all. It just
3 says that a murder happened, we gathered evidence that
4 the defendant's a suspect and, therefore, we get to go
5 get his Facebook records. It's a conclusory statement.

6 THE COURT: Okay. Is that the same with Verizon?

7 MR. MAULDIN: Let's see. Let me make sure. I
8 didn't have anything on the Verizon. I apologize, Your
9 Honor.

10 THE COURT: Okay. So Verizon's not part of it.

11 All right. And the apartment search, what is the --

12 MR. MAULDIN: Number one, in the affidavit it says
13 something about him living in Landmark Apartments, but it
14 does not say the specific building or apartment number,
15 that he lived in 27A, which was the premises to be
16 searched.

17 THE COURT: Okay.

18 MR. MAULDIN: In addition, the search warrant is
19 absent stating anything in particular why it would --
20 fruits of a crime being found at this place rather than
21 another place. I think the other thing they had was
22 somebody who had heard from somebody who had supposedly
23 heard from Justin Hopkins that a gun was for sale. A
24 phone call was made to Hopkins. There's a little talk
25 back and forth of it, but there's no evidence from that

1 that any fruits of the crime would have been at this
2 particular place in regards to any other place.

3 THE COURT: Okay. And do you have any other
4 outstanding motions that I'm gonna need to rule on?

5 MR. MAULDIN: Those are all I know of at the
6 present time, Your Honor. My brain kind of keeps kind
7 of working.

8 THE COURT: Okay. And can you just tell me for
9 the -- because basically all I have is just an e-mail.
10 I don't have any typed formal motions. Just an e-mail.

11 MR. MAULDIN: Well, I think the vehicle stop was
12 kind of a several paragraph formal motion in there
13 citing the case law and the facts supporting it.

14 THE COURT: I assume that's Paragraph Number 4.
15 The -- no, Number 5.

16 MR. MAULDIN: Well, 4 and 5 are a little bit more
17 detailed than you need.

18 THE COURT: Okay. It's ten till twelve. Do you-all
19 want to start back at 1:30?

20 MS. MAYES: Yes, Your Honor.

21 THE COURT: Will that give you enough time for the
22 search warrants?

23 MR. HUBBARD: We should be able to, Your Honor. If
24 we have any issues, we can just raise those with Your
25 Honor, but we should have time.

1 THE COURT: All right. I'm gonna ask, you know,
2 because I don't -- I don't have a file. There's not a
3 file I can get my hands on.

4 Mr. Norton, can you get me the search warrant for
5 the DNA and the apartment?

6 MR. MAULDIN: I've got court copies for all of
7 those.

8 THE COURT: And the Facebook.

9 Okay. Perfect. Just so I can have a copy.

10 MR. MAULDIN: And the apartment. These are all
11 non-underlined, none noted copies.

12 THE COURT: Gotcha. Okay.

13 All right. Then court's in recess. We'll start
14 back at 1:30.

15 MS. MAYES: Thank you, Your Honor.

16 (Whereupon, a luncheon recess was taken at
17 11:55 AM.)

18 (Back on the record at 1:30 PM.)

19 (Court's Exhibit Numbers 1 through 17 were marked
20 for identification for pretrial purposes.)

21 BAILIFF: Keep your seats. Court will now come to
22 order.

23 THE COURT: All right. I might be doing these
24 a little out of order, but I'm trying to get the easy
25 ones.

1 Where's Ms. Mayes?

2 MR. HUBBARD: She's working on the motions
3 concerning the search warrants and what I've got is
4 the traffic stop, and I've got my officers here, so.

5 But if Your Honor wants to take a different order,
6 we'll do what you'd like to do.

7 THE COURT: All right. Let me hear the bases on
8 the traffic stop. We'll do the traffic stop first.

9 MR. HUBBARD: Would you like to hear the witnesses
10 and then the legal argument?

11 THE COURT: Yeah, but first I want to hear what
12 Mr. Mauldin's bases are so I can watch out for what he
13 claims is wrong with the traffic stop.

14 MR. MAULDIN: Thank you, Your Honor.

15 On December 21st of 2019, the State had obtained a
16 search warrant to search the Landmark Apartments --

17 THE COURT: Right.

18 MR. MAULDIN: -- where they assert Mr. Hopkins was
19 residing. They had people conducting surveillance at
20 the apartments to see if people are going in or out.
21 They observed a white dually truck drop off who they
22 believed to be Mr. Hopkins at the apartment. A white
23 dually truck drove off. They then saw another car come
24 and pick up Mr. Hopkins and leave the apartment complex.
25 At that point in time, some decision was made after he

1 was leaving or as he was leaving that they were gonna do
2 a traffic stop on the vehicle. The vehicle proceeded, I
3 think, to Mrs. B's Soul Food, which I Googled mapped
4 from the way they said he left the apartment complex and
5 about a mile way when they were pulled over, and it is
6 our contention that that detention and any evidence
7 resulting from that detention are unlawful under the
8 Fourth Amendment and the fruit of the poisonous tree
9 as the -- the detention cannot be done as part of the
10 search warrant.

11 And I cited the case Bailey v. U.S., in my e-mail,
12 a U.S. Supreme Court case that is relatively similar
13 except in that case the evidence that the police had
14 involved on-going drug transactions at the residence.
15 They observed them leave the residence and then they
16 stopped the car about a mile away from the residence.
17 Some evidence was suppressed on that and that was
18 remanded to a lower court for another proceeding about
19 whether or not the Terry stop could apply to that
20 situation.

21 So our contention is the stop violated the Fourth
22 Amendment in that regard and there are no other avenues
23 the State could assert, such as a Terry stop, to justify
24 the stop as I believe a Terry stop is based on reasonable
25 suspicion that a crime is afoot. Afoot means happening

1 or about to happen and they're investigating a crime
2 that had happened four days prior, but there was no
3 -- I don't think there's any indication that a crime
4 was happening or about to happen where they needed to
5 detain Mr. Hopkins without a warrant. He was not under
6 arrest at that time. He was placed in detention. The
7 determination to make an arrest of him was not made
8 until after they had gotten the statement from him and
9 his co-defendant and decided since those two didn't
10 jive together that they had probable cause to arrest
11 Mr. Hopkins.

12 THE COURT: Okay.

13 MR. NORTON: And, Judge, just to kind of telegraph
14 our argument before we profer witness testimony, we
15 think Bailey does apply. Bailey is specifically about
16 justifying a Fourth Amendment seizure without having one
17 of the two prongs of reasonable suspicion or probable
18 cause to stop a vehicle. Bailey is specific for when a
19 search warrant's about to be executed can law enforcement
20 detain someone in the vicinity.

21 THE COURT: While they get a search warrant.

22 MR. NORTON: While they're getting a search warrant
23 or in the process of gearing up to serve it. I mean,
24 here factually they've already gotten the search warrant
25 when Mr. Hopkins is stopped. They're just preparing to

1 execute that search warrant.

2 We believe Bailey clearly applies. One of the
3 concerns that the Court notes in Bailey that wasn't
4 even a factual issue, but the Supreme Court goes out
5 of its way to note its concerns about destruction of
6 evidence. Mr. Hopkins was seen leaving with bags from
7 the residence that's about to be searched. It's very
8 clearly a legitimate law enforcement concern with regard
9 to destruction of evidence, but even to the extent
10 Bailey doesn't apply, and it's our contention it does,
11 but to the extent it doesn't, reasonable suspicion was
12 absolutely present to justify the stop and the subsequent
13 Terry frisk and search of the vehicle.

14 And I've got case law on that when Your Honor's
15 ready. I think we'd prefer to proffer some witness
16 testimony before we go into arguments any further, but
17 just to give Your Honor kind of an idea of where we're
18 going with it.

19 THE COURT: Okay.

20 All right. Well, let me hear from the witnesses
21 and then, Mr. Norton, I'll come back to you on the case
22 law.

23 MR. HUBBARD: Thank you, Your Honor.

24 The State calls Lieutenant Jonathan Brock.

25 (Whereupon, Jonathan Brock was duly sworn by the

1 Clerk of Court.)

2 THE CLERK: If you'll have a seat, please.

3 State your name and spell your last, please, for the
4 record.

5 THE WITNESS: Jonathan Brock, B-R-O-C-K.

6 MR. HUBBARD: I'm gonna ask you to pull that
7 microphone up just a little bit so we can all hear you.

8 THE WITNESS: Yes, sir.

9 JONATHAN BROCK,

10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION (In-Camera)

12 BY MR. HUBBARD:

13 Q. Lieutenant Brock, back in December of 2019, what
14 division or what section of the sheriff's department were
15 you working with?

16 A. So in December of 2019, I was assigned to the
17 narcotics -- or the Lexington County Multi Agency Narcotics
18 Task force as an investigator. I was also a task force
19 officer with the ATF at that time as well.

20 Q. Were you apprised along with other officers in your
21 agency about the triple homicide that had occurred at
22 [REDACTED] Butternut Lane?

23 A. Yes, sir.

24 Q. Were you aware of the -- there being a white truck
25 involved and that an individual who was later identified --

1 positively identified getting into that truck?

2 A. Yes, sir. I aware that there was a white dually
3 that was seen leaving and that also that Mr. Hopkins was
4 positively identified in a photo lineup.

5 Q. Had you seen that photo lineup?

6 A. No, I had not seen that photo lineup.

7 Q. Had you seen any pictures of Mr. Hopkins?

8 A. Yes, sir. I had seen Mr. Hopkins' DMV online photo,
9 as well as some social media photos that our intel group
10 was looking through.

11 Q. So you were aware of his appearance, size, height,
12 weight, things of that nature?

13 A. Yes, sir.

14 Q. Do you recall on December 21st of 2019 being asked to
15 go to Landmark Apartments and take over surveillance?

16 A. Yes, sir. Sergeant Burt asked me to go take up
17 surveillance since Detective Pratt left.

18 Q. Were you aware of why Detective Pratt had left that
19 surveillance?

20 A. Yes, sir. I was told that he had seen a white dually
21 leave the apartment and he had conducted a traffic stop on
22 that vehicle.

23 Q. Okay. And about how long did it take you to get from
24 headquarters to -- to Landmark?

25 A. So at that time the Interstate was like one lane and

1 not some place you'd want to go in the middle of the night
2 trying to get somewhere quickly, so I drove across through
3 town and across the dam. It probably took fifteen, twenty
4 minutes to get over there.

5 Q. And did you locate the apartment, 27A?

6 A. Yes, sir, I did.

7 Q. And did you -- what were you driving to do that
8 surveillance?

9 A. I was driving a red Chevrolet pick-up truck.

10 Q. Did it have any markings or anything to show that you
11 were with law enforcement?

12 A. No, sir. It's got the undercover package, so the
13 lights are kind of hidden. I don't have a whole lot of
14 lights in the front of my vehicle, none on the side, and
15 just two -- two in the back windows.

16 Q. Did you notice at some point a vehicle involving
17 Mr. Hopkins or somebody you thought might involve
18 Mr. Hopkins?

19 A. Yes, sir. While we were sitting there, a vehicle
20 pulled up facing us where we were sitting backed into our
21 parking space. I observed an individual get out of that
22 vehicle and go into Apartment 27A a pretty relatively short
23 time later. Now I communicated that to the detectives that
24 were sitting down the street that somebody had just entered
25 the apartment, but I couldn't see who that individual was

1 just because of the nighttime hours that it was and also I
2 had these headlights that are pointing straight in my eyes,
3 but shortly thereafter that -- an individual exited 27A and
4 this time instead of getting onto his side of the vehicle,
5 he went past the front headlights and so I was able to see
6 more of a descriptive of that person's height and weight
7 and that he was carrying two bags, one in each hand, and
8 then he went around to the -- I'm sorry, I've got to think
9 in my head. It's backwards. So he went around to the far
10 side as he crossed it, which would be the driver's side,
11 and then got into the passenger -- the back passenger right
12 -- the back passenger seat.

13 Q. So let me back you up. This individual, do you
14 remember what he was wearing?

15 A. I remember that he was wearing a red hoodie. Again,
16 you can't see a whole lot with the lights, but I could see
17 him as he passed, the hint of red.

18 Q. Could you tell if the individual that walked across
19 those -- in front of those headlights if -- if he bore any
20 resemblance at all to the -- Justin Hopkins, that -- the
21 description you had for Justin Hopkins?

22 A. Yes, sir, he did. His height and weight were pretty
23 discernable.

24 Q. And you mentioned two bags. Let me ask you this.
25 When you first saw an individual get out of the car to go

1 into 27A, did you see anybody carrying anything?

2 A. I didn't. He didn't have anything that I could see.

3 Q. Okay. But coming out of 27A, you say -- what could
4 you see?

5 A. I could just see that -- again, because of the light
6 from the headlights, all I can see is kind of like bags.
7 I can't tell what they are, what color they are, anything
8 about them because of the way the light's in my eyes, but
9 I could definitely tell he had something in his hands.

10 Q. Were you aware that there was a search warrant that
11 had been signed and they were just waiting to execute it
12 for 27A?

13 A. Yes. That was communicated to me.

14 Q. Do you remember what time that search warrant was
15 signed?

16 A. 8:30.

17 Q. Let me ask you this. That car that you saw, did it
18 remain in the parking lot or what happened with that car?

19 A. No, sir. So as soon as Mr. Hopkins got in the
20 driver's side rear, the car backed up and it turned and
21 went back out towards St. Andrews Road.

22 Q. And let me ask you this. If you had been in a marked
23 unit, would you have stopped that vehicle before it ever
24 got out of the complex?

25 A. Yes, sir, I would have.

1 Q. Why didn't you?

2 A. So, again, it being -- it's at nighttime and I'm in
3 an unmarked vehicle and I -- I've worked narcotics for a
4 while and the best practices when you're stopping a car
5 late at night, what I want people to know is that this is
6 an actual cop that's stopping you. If I'm in the driver's
7 seat and I'm wearing jeans, I'm probably wearing something
8 like a long-sleeved shirt, some sort of civilian attire
9 because I -- again, I'm in narcotics. That's how we dress.
10 I do have a black vest on, but that's not a whole lot.
11 What I want is I want a billboard on the side that says
12 sheriff's department, I want a light bar on top to let
13 people know that hey, this is actually the police that
14 are stopping me, so it's just best practice to have a fully
15 marked vehicle to stop you.

16 Q. Is that a security issue?

17 A. Absolutely. It's both for the citizens and for me as
18 well just to let them know they can feel more comfortable
19 knowing who's stopping them.

20 Q. And at this point in the investigation of this triple
21 homicide, were you aware if any weapons had been recovered
22 thus far?

23 A. To my knowledge, no weapons had been recovered.

24 Q. But you were aware there was a triple homicide, a
25 triple murder?

1 A. Yes, sir.

2 Q. And was that a concern when you're stopping this
3 vehicle as well?

4 A. Yes, sir. Absolutely. There are two people in my
5 vehicle. I know the individual that I believed that was
6 in the car had just murdered three individuals and we're
7 about to stop him and no firearms had been recovered, so
8 it was my belief at that time that he was armed.

9 Q. Is that what you have to presume for your own safety?

10 A. Yes, sir, I have to.

11 Q. When you mentioned two people, is it you and another
12 officer in your truck?

13 A. Yes, sir. Detective Youmans. He works for Cayce
14 Public Safety assigned to the NET Team.

15 Q. And let me ask you this, too. You mentioned that
16 Pratt had gone to stop this white truck. Was there an
17 issue or a concern also as a law enforcement officer about
18 possible communication to Justin Hopkins?

19 A. Absolutely, and that's why Sergeant Burt with urgency
20 told us that we need to get over there and get eyes on the
21 house because that was a concern, that whoever -- whoever
22 this might be in that white dually might communicate to any
23 other co-defendants or Mr. Hopkins himself and so we might
24 lose some evidence because of that.

25 Q. So there's some exigency to this?

1 A. Yes, sir, there was.

2 Q. I'm gonna show you some photographs.

3 MR. HUBBARD: And, Your Honor, I believe these came
4 in as Court's exhibits and as exhibits, but two of them I
5 have not marked, but I'll show them to Your Honor as well.

6 BY MR. HUBBARD:

7 Q. Do you see the vehicle that was stopped that night?

8 A. Yes, sir, I do.

9 Q. And do you see -- who is that in this second picture?

10 A. Sergeant Burt.

11 Q. Sergeant Nick Burt?

12 A. Nick Burt, yes.

13 Q. And this final one, which is Court's Exhibit Number 4,
14 what do you see there?

15 A. So those are the two bags that were in the back seat
16 of that car that was stopped.

17 MR. HUBBARD: Okay. Your Honor, I'm gonna offer
18 these as Court's Exhibits 1 and 2, and then Court's
19 Exhibit 4 from previous --

20 THE COURT: What is 1 and 2?

21 MR. HUBBARD: Court's 1 and 2.

22 THE COURT: That's just the car at the stop?

23 MR. HUBBARD: Yes, Your Honor.

24 THE COURT: Thank you.

25 (Court's Exhibit Number 1, 2 and 4, photographs,

1 were admitted into evidence for pre-trial purposes.)

2 BY MR. HUBBARD:

3 Q. Sergeant, looking at -- I mean, Lieutenant, looking
4 at Court's Exhibit 2, that's the silver car that you-all
5 stopped?

6 A. Yes, sir, it is.

7 Q. And let me ask you, who -- who actually -- when this
8 vehicle was stopped -- let me -- I'm jumping ahead of
9 myself. Who came in a marked unit to assist you?

10 A. So Sergeant Aaron Poole.

11 Q. Okay. And you said you would have stopped it but for
12 your security concerns. Where about did this stop occur;
13 do you recall?

14 A. It was on St. Andrews Road and Mrs. B's like was
15 stated earlier.

16 Q. Okay. I want to show you what's been in as Court's
17 Exhibit 14, and we see -- right here do you see Mrs. B's
18 Southern Soul Food?

19 A. Yes, sir.

20 Q. What's right here?

21 A. That's Landmark Apartments there.

22 Q. Okay. So the stop, when it took place at Mrs. B's,
23 why did it -- why was the stop made there as opposed to
24 somewhere closer into this apartment complex?

25 A. Well, specifically, one, that's where the driver

1 ended up pulling over. Now it takes a little while for
2 people to realize that police are behind them and to find
3 a place to park, so his lights were activated a little
4 bit further back. So the way the driver left Landmark
5 Apartments and also in relation to where -- oh, I have one.
6 I'm sorry, sir.

7 Q. That's all right. I'll take this one.

8 A. So the detectives were all gearing up down here. They
9 wanted to be far enough away that nobody would see from the
10 apartment here. So the detectives were here. Sergeant
11 Poole was with them to respond as a marked unit and to turn
12 on blue lights for the search warrant. We're here at the
13 Landmark. The driver exited here, went to this road and
14 went to the stoplight right here, and that's -- Sergeant
15 Poole came down St. Andrews Road and then turned -- made a
16 U-turn and then came up behind us and was able to -- so not
17 for him having to drive past us, make a u-turn, get in
18 between me and the driver of that silver vehicle, and then
19 finally -- the final resting location was Mrs. B's, but the
20 attempt to stop was well before that as well. And as soon
21 as they started to leave and he got in the car, I was
22 already requesting a marked vehicle to stop that car.

23 Q. Okay. That request was made while you were over there
24 at Landmark?

25 A. Yes. I was still in my car and parked.

1 Q. And, again, if the marked vehicle had made it to
2 Landmark or if it had been closer in, would the stop have
3 been made there?

4 A. It would have been made as soon as that marked vehicle
5 could have gotten to us, yes, sir.

6 Q. Okay. And then Court's Exhibit 2 shows the vehicle
7 that was stopped; is that correct?

8 A. Yes, sir.

9 Q. And I want to show you Court's Exhibit 1. Who do we
10 see approaching the rear driver's side door?

11 A. That's Sergeant Nick Burt.

12 Q. About what time was this stop made?

13 A. Around 8:59.

14 Q. All right. So the search warrant had already been
15 signed at you said 8:30?

16 A. Yes, sir. 8:30.

17 Q. Using Court's Exhibit Number 1, what side of this
18 vehicle did you approach?

19 A. I approached the passenger side of the vehicle, so
20 I'm on the completely opposite side of Sergeant Burt.

21 Q. Are you on the front or back passenger?

22 A. The back passenger.

23 Q. Why did you focus on the back passenger side?

24 A. Because Mr. Hopkins -- two things. One, I believed
25 that he just murdered three individuals and I believed at

1 that time based on my knowledge of the case that he was
2 still armed with a firearm and they're -- everybody's
3 focussed on Sergeant Poole and Sergeant Burt who are on
4 that driver's side and with all the lights and everything
5 there, that's why I went to that side so I could see
6 inside the vehicle and basically watch Mr. Hopkins while
7 he's in that vehicle because of the safety concerns which
8 ultimately I ended up having to address with him.

9 Q. Let me start -- back you up a little bit.

10 A. Yes, sir.

11 Q. This photo, is this coming from a body cam?

12 A. Yes, sir, it is.

13 Q. Whose body cam?

14 A. That's Sergeant Poole's body camera.

15 Q. So we see the driver's side door. So he's standing
16 in front of the driver's side door?

17 A. Yes, sir, he is.

18 Q. And you've got Sergeant Nick Burt coming in the back
19 passenger side. You're on the opposite side of the vehicle
20 from Nick Burt?

21 A. Yes, sir, I am.

22 Q. And your focus was there because that's where the
23 suspect was?

24 A. Yes, sir.

25 Q. When the vehicle was stopped and you went over there,

1 what did you do?

2 A. So I tried to see into the back passenger to see where
3 Mr. Hopkins was at. His hands were a concern because they
4 were -- his hands were going down. I opened the door, told
5 him to raise his hands, you know, put your hands up, put
6 your hands up. At that point, that's when Sergeant Burt
7 opens the door on his side and I tell Mr. Hopkins to follow
8 the commends and I point to Sergeant Burt, follow the
9 commands of that deputy over there, and that's when
10 Mr. Hopkins looks at Sergeant Burt and then complies with
11 him.

12 Q. When you're giving those commands to Mr. Hopkins, is
13 that when Sergeant Burt starts to open up the other side
14 of the door of the car?

15 A. Yes, sir. When they can hear my voice and they can
16 hear me say put your hands up, put your hands up, that
17 raises a concern for everybody else there, yes, sir.

18 Q. And what did you see Mr. Hopkins doing with his hands?

19 A. So Mr. Hopkins is sitting in the back. You can see --
20 on that picture, you can see the top of his hoodie there
21 with the flashlight, but he has bags that are laying almost
22 like in between his feet and his hands go down towards that
23 bag. When everybody else in the vehicle has their hands up
24 because Sergeant Poole had already given those -- said that
25 instruction, and Mr. Hopkins' hands were going down towards

1 that bag, that's when I opened the door up and made sure
2 that Mr. Hopkins can see me there and try to change his
3 behavior.

4 Q. And when you opened up the door, were you able to make
5 face contact with Mr. Hopkins?

6 A. Yes, sir, I was.

7 Q. Were you able to identify if he was, in fact, Justin
8 Hopkins just from his appearance?

9 A. Yes, sir. The tattoo on -- I'm sorry. The tattoo on
10 his cheek.

11 Q. What kind of tattoo and which side do you recall it
12 being on?

13 A. It's on -- this is my right side. Sorry. If I can
14 point to it, this is my right side. He's got a cross
15 tattoo on his right side.

16 Q. And you were able to identify that when you opened the
17 door?

18 A. It looked exactly the same as the photos I'd seen
19 previously of him.

20 Q. I want to show you Court's Exhibit Number 4. I need
21 to focus this. Court's Exhibit 4, what are we seeing here?
22 What vehicle is this at?

23 A. That's the same vehicle the traffic stop was conducted
24 on.

25 Q. And what are we seeing in the back seat of this

1 vehicle?

2 A. Those are two bags that were located in the back seat
3 with Mr. Hopkins.

4 Q. Could you see -- were the bags positioned in a certain
5 way or do you recall how they were positioned?

6 A. So I don't remember specifically whether it was --
7 looked exactly like that -- that photo or not. What I do
8 know is that Mr. Hopkins had a bag between his legs and I'm
9 focussed completely on his hands as they were going down
10 towards the bag between his legs and that was a concern of
11 mine at the time.

12 Q. Okay. And obviously Mr. Hopkins is no longer in the
13 vehicle. Who removed him from the vehicle?

14 A. Sergeant Burt and Mr. Hopkins helped remove himself as
15 well.

16 Q. Okay. And, again, going back to the stop, if you had
17 been in a marked unit, I know you were on -- you're keeping
18 surveillance, but if you had had a marked unit would you
19 have stopped him? Going back to Court's Exhibit Number 4,
20 you're at Landmark Apartments, would that stop have
21 occurred earlier?

22 A. Yes, sir. I was able to catch up to that vehicle
23 before they were actually at the turnoff out onto that
24 secondary road before they hit St. Andrews Road. I would
25 have conducted the stop right then and there, but I just

1 wanted that marked unit for everybody's safety concerns.

2 Q. Okay.

3 MR. HUBBARD: Thank you. I beg the Court's
4 indulgence.

5 I think that's all we have at this time, Your Honor.

6 Please answer any questions the defense has.

7 THE WITNESS: Yes, sir.

8 THE COURT: Mr. Mauldin.

9 MR. MAULDIN: Hey, Rick, sorry to interrupt. Are
10 you making that overhead map a Court's Exhibit, too, or
11 are you leaving it as 14?

12 MR. HUBBARD: They're all courts exhibits right now.

13 MR. MAULDIN: I didn't know if these were gonna be
14 different.

15 MR. HUBBARD: This is from the trial from last week.
16 That's why.

17 THE COURT: They're in this trial now.

18 MR. HUBBARD: Yeah. Right. So you've got Court's
19 Exhibit 14, 4, 1 and 2.

20 MR. MAULDIN: Okay. I just wanted to make sure
21 before I started using or referring to them.

22 (Court's Exhibit Number 14, an aerial map, was
23 admitted into evidence for pre-trial purposes.)

24 CROSS-EXAMINATION (In-Camera)

25 BY MR. MAULDIN:

1 Q. All right. So you were called out to assist with
2 surveillance because Pratt had left the scene; is that
3 right?

4 A. Yes. I was asked by Sergeant Burt to pick up that
5 surveillance.

6 Q. And he had left the scene because a white dually had
7 dropped off Justin Hopkins at the apartments?

8 A. I didn't know that. I didn't know anything about
9 that. All I know is that the dually was seen leaving the
10 apartment and that he went to do a traffic stop and nobody
11 was watching the apartment anymore.

12 Q. All right. You prepared a report regarding this case;
13 is that right?

14 A. Yes, I wrote a supplemental report.

15 Q. You wrote a supplemental?

16 A. Yes, sir.

17 Q. Have you reviewed that supplemental report before
18 today?

19 A. Probably last week or the week before.

20 Q. If you reviewed that supplemental report, would it
21 refresh your memory as to whether or not you knew a white
22 truck had dropped off Mr. Hopkins?

23 A. It could.

24 Q. (Handing.)

25 A. Okay.

1 Q. So you had been called out because Pratt was out with
2 the white dually that had dropped Justin Hopkins off at the
3 apartment; is that right?

4 A. Yes, sir.

5 Q. Okay. And it took you about twenty minutes to get
6 there?

7 A. I honestly --

8 Q. Fifteen to twenty?

9 A. Somewhere around there, yes.

10 Q. I'm -- I'm not buttonholing, but it took longer than
11 ten?

12 A. Right.

13 Q. Fifteen to twenty for you to get there. And so the
14 white dually would have left fifteen to twenty minutes at
15 least prior to you getting there; is that right?

16 A. Yes.

17 Q. And you're conducting surveillance and you see a
18 vehicle pull up; is that right?

19 A. Yes, sir.

20 Q. And somebody gets out of that vehicle and goes into
21 Apartment 27A?

22 A. Yes, sir.

23 Q. And you couldn't tell who that person was because of
24 the lights; is that right?

25 A. Correct.

1 Q. Were there other people conducting surveillance?

2 A. Yes. Well, there was my passenger, Austol Youmans.

3 Q. Well, I meant prior to you getting there.

4 A. Yes. Detective Pratt.

5 Q. Do you know if any of them saw Mr. Hopkins leave the
6 apartment in a car and come back in the same car?

7 A. I did not talk to Detective Pratt. He was on the
8 traffic stop.

9 Q. Because, you know, I'm a little confused. Fifteen
10 to twenty minutes prior to you getting there Hopkins gets
11 dropped off and then there's another car and a person gets
12 out and goes into the apartment. That's a little confusing
13 to me. I just didn't know if you could clear that up. But
14 you're saying the person that came out of the apartment
15 that you saw was Mr. Hopkins as far as your recollection
16 from the DMV photos and social media and whatnot; is that
17 right?

18 A. What -- what I know is I saw an individual get out of
19 the apartment that got into the back seat of the vehicle.
20 I followed it all the way to where the traffic stop was
21 conducted. I got in the back seat with Mr. Hopkins with
22 my flashlight in his face, I saw him, he was detained.
23 There was no loss of sight of him between me putting my
24 flashlight in his face and him going into handcuffs with
25 Sergeant Burt. So absolutely I know 100 percent that the

1 guy that came out of that apartment was Mr. Hopkins.

2 Absolutely.

3 Q. But you don't know who the person who went into the
4 apartments was?

5 A. Correct. No idea who went into the apartment.

6 Q. And after the person exited that vehicle that you saw
7 and went into the apartments, it was ten minutes before
8 Justin Hopkins left the apartment; is that right?

9 A. Ask that question again so I can follow your timeline.

10 Q. Okay. You saw the individual get out of the car. You
11 couldn't see who it was in the lights. They went into the
12 apartments.

13 A. Uh-huh.

14 Q. And then it was ten minutes later that Mr. Hopkins
15 left the apartments to get in the car?

16 A. I never said it was ten minutes.

17 Q. Okay. Well, would looking at your report refresh your
18 memory?

19 A. Yes. Yes. I told you it's been a couple of weeks.

20 Q. That's fine. I kind of have to do it on a case by
21 case basis.

22 A. Okay.

23 Q. I didn't want to give you a script to read.

24 A. So it says after less than ten minutes. So it was
25 anywhere under ten minutes.

1 Q. Okay. And the advice on the radio about the search
2 warrant being signed, was that before the cop -- car
3 dropped this person off or after the car dropped the person
4 off? Do you know when that occurred?

5 A. Are you talking about the car or are you talking about
6 the truck?

7 Q. The car that you saw.

8 A. The car that I saw?

9 MR. HUBBARD: What was the question again?
10 I'm sorry.

11 MR. MAULDIN: Did the -- his knowing that a search
12 warrant had been signed and in hand, when did that occur
13 in all this.

14 THE COURT: For the car?

15 MR. MAULDIN: Right. Did it happen before the car
16 dropped this individual that you saw walk into the
17 apartment.

18 THE COURT: Well, are you talking about the search
19 warrant for the apartment? Now you've got me confused.

20 MR. MAULDIN: I'm sorry. The apartment.

21 THE COURT: Because the search warrant for the
22 apartment --

23 MR. MAULDIN: Not the car. The apartment. The
24 search warrant for the apartment.

25 THE COURT: The apartment was signed at 8:30.

1 MR. MAULDIN: Yes, ma'am.

2 THE COURT: I think he testified to that.

3 Now go ahead. I'm caught up with you.

4 MR. MAULDIN: Yes, ma'am. I was mixing up car and
5 apartment. Sorry.

6 THE COURT: And I was thinking okay, I missed the
7 boat.

8 THE WITNESS: So chronologically, the way I -- I
9 wrote it, that I saw him -- the vehicle pull up to the
10 right side of the apartment and then Detective Hendrix
11 advised on the radio the search warrant for the residence
12 was signed and in hand.

13 BY MR. MAULDIN:

14 Q. Okay. And then Justin Hopkins leaves the apartment
15 just under ten minutes later; is that right?

16 A. Somewhere around there. I didn't have a stopwatch.
17 It wasn't more than ten minutes.

18 Q. Now you were in an unmarked unit in that red truck; is
19 that correct?

20 A. Yes, sir.

21 Q. And you said it had some kind of light package. What
22 kind of light package were you talking about?

23 A. It's got the lights right where the flip down visor is
24 and it's got two little tiny bulbs that are in the grill
25 and I then have two lights that are in my back window.

1 Q. So using those lights you could pull over a car if you
2 wanted to?

3 A. I absolutely could.

4 Q. Okay. But you chose not to in this instance. You
5 chose to radio ahead and have somebody else do it; is that
6 correct?

7 A. That is correct. I chose to --

8 Q. I understand you have your reasons --

9 A. Right.

10 Q. -- but you could have done it if you'd wanted to?

11 A. Yes.

12 Q. And because you were in an unmarked car, the
13 defendant did not know police were present at his apartment
14 complex I reckon until Sergeant Poole turns his lights on.
15 I mean, I guess you can't put him there, but your car would
16 have given him no indication that police was there; is that
17 correct?

18 A. I can't speak to what the defendant knew or didn't
19 know, sir. I'm sorry.

20 Q. Okay. But you were in an unmarked car and blue lights
21 didn't come on until Sergeant Poole attempted to pull them
22 over on St. Andrews Road; is that correct?

23 A. Correct. He was the first one to activate his blue
24 lights.

25 Q. And this is Landmark Drive; is that right?

1 A. Yes, sir.

2 Q. And so the car didn't come out Landmark Drive to
3 St. Andrews Road, it went around to the Sidney Road; is
4 that right?

5 A. Yes, sir. It exited off that road right there.

6 Q. And went here to the red light and then went all the
7 way down and was pulled over at Mrs. B's; is that right?

8 A. Yes.

9 Q. Okay. And that would be about a mile, wouldn't it?

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

11 Q. Do you believe in Google Maps?

12 A. I do believe in Google Maps just like everybody else.

13 MR. MAULDIN: I'd like to make this a Court's
14 exhibit, if I could.

15 THE COURT: Sure.

16 MR. MAULDIN: I ran a Goggle Maps of it. I don't
17 know what number to would put it since we're --

18 THE COURT: We can put you at Number 5. What is it?

19 MR. MAULDIN: It's a Goggle Maps of the distance
20 between Apartment -- I put 17A because they'd misdone it
21 on the thing, but --

22 THE COURT REPORTER: We've already marked a lot of
23 Court's exhibits.

24 THE COURT: Okay. You-all tell me what number
25 you've got.

1 MR. HUBBARD: 18.

2 THE COURT: 18. How about 18 for our Goggle Map?

3 (Court's Exhibit Number 18 was marked for
4 identification.)

5 THE COURT: Okay. I've got it down.

6 BY MR. MAULDIN:

7 Q. Unfortunately, I have it down it as 17A, but roughly
8 what would the distance be?

9 A. According to Google, one mile.

10 Q. Okay. And give or take an apartment building or two,
11 give or take a mile or less -- I mean, a tenth of a mile or
12 so or less; is that right?

13 A. Somewhere around a mile.

14 Q. All right. And these hands moving down, they were a
15 concern of you, but were they enough of a concern for you
16 to draw your firearm?

17 A. My flashlight is attached to my firearm, so, yes, my
18 gun was in your client's face.

19 Q. Okay. Was that out at the beginning?

20 A. As soon as I exited my door, my gun was out, yes.

21 Q. Okay. I was trying to get was it a quick movement, a
22 slow movement, the hands going down?

23 A. Are you talking Mr. Hopkins?

24 Q. Yes.

25 A. He was paying attention to Sergeant Poole, he was

1 looking toward them, and his hands were moving down towards
2 the bags.

3 Q. Okay.

4 MR. MAULDIN: All right. No further questions,
5 Your Honor.

6 MR. HUBBARD: A few follow-ups.

7 THE COURT: Absolutely. Go ahead.

8 REDIRECT EXAMINATION (In-Camera)

9 BY MR. HUBBARD:

10 Q. You say you saw somebody getting in the silver car
11 that we see in Court's Exhibit 2 and they were wearing a
12 red hoodie?

13 A. Yes, sir.

14 Q. When you got in the back seat with Mr. Hopkins, what
15 was he wearing?

16 A. He was wearing a red hoodie.

17 Q. And looking at State's -- I mean, Court's Exhibit
18 Number 1, can you see that red hoodie through the window?

19 A. Yes, sir. Right -- right underneath the flashlight
20 reflection.

21 Q. As far as the search warrant is concerned, did that
22 go out over the radio?

23 A. Yes, sir, it did.

24 Q. Okay. That's how you were informed that it was at
25 8:30 or -- or that it had been signed?

1 A. That's how I was informed. That it came out over the
2 radio that a search warrant was signed.

3 Q. When you-all stopped this vehicle, this silver car
4 with Mr. Hopkins in it, what, if anything, did you notice
5 as far as an odor when the doors were opened?

6 A. So as soon as I opened the door, obviously not my
7 primary concern, but there was the odor of marijuana coming
8 from that vehicle.

9 Q. So even at that point you had probable cause to go
10 into that vehicle?

11 A. Yes, sir.

12 Q. Okay.

13 MR. HUBBARD: No further questions at this time.

14 MR. MAULDIN: Nothing further, Your Honor.

15 THE COURT: Okay. May I let the officer down?

16 MR. HUBBARD: Yes, Your Honor.

17 (Witness excused.)

18 MR. HUBBARD: The State calls Sergeant Nick Burt.

19 (Whereupon, Nick Burt was duly sworn by the Clerk
20 of Court.)

21 THE CLERK: If you-will have a seat, please. State
22 your name and spell your last for the record.

23 THE WITNESS: Nick Burt, B-U-R-T.

24 NICK BURT,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION (In-Camera)

2 BY MR. HUBBARD:

3 Q. Nick, where do you work now?

4 A. Thompson Industrial Services.

5 Q. Okay. So you're no longer with the sheriff's
6 department?

7 A. I am not.

8 Q. Back in December of 2019, were you a sergeant with the
9 sheriff's department?

10 A. I was.

11 Q. December 21st of 2019, were you involved in helping
12 prepare for the search warrant of Apartment 27A --

13 A. I was.

14 Q. -- at Landmark?

15 A. (Nods head.)

16 Q. Were you aware at this point of many of the details
17 involving a triple homicide at [REDACTED] Butternut Lane?

18 A. There had been briefings throughout the week. I was
19 on nightshift that week, so when this first happened we
20 weren't heavily involved until about the 20th. So there
21 was briefings where got a picture and information would
22 have been developed.

23 Q. Did some of that information include a white dually
24 in the parking lot or leaving that parking lot with another
25 individual at [REDACTED] Butternut Lane?

1 A. It was.

2 Q. Did that information also include a heavyset male with
3 a bandage on his face getting into that white dually and
4 leaving?

5 A. That was shared as well.

6 Q. And were you aware of a positive ID that had been
7 made on a Justin Hopkins being an individual seen at
8 [REDACTED] Butternut Lane at or about the time of these murders?

9 A. Yes, it was one of my -- my detectives that got a
10 positive ID.

11 Q. Who was that?

12 A. Detective Pratt.

13 Q. Did he do a photo lineup in this case?

14 A. He did. It was obtained from SLED.

15 Q. And Mr. Hopkins was picked out?

16 A. He was.

17 Q. Based on all that information, was a search warrant
18 being prepared for 27A at Landmark Apartments?

19 A. So we came in at nights again, so it would have been
20 in the afternoon, and then I conferred with Sergeant Creech
21 and that's when the process to obtain the search warrant
22 began.

23 Q. Did you-all have an Investigator Zylstra who was a
24 courtesy officer out at Landmark Apartments?

25 A. We did.

1 Q. Was he the individual based on the information that
2 was shared that had given the apartment number, 27A, as
3 being Justin Hopkins?

4 A. He did confirm that.

5 Q. What, if anything, else did you-all also get from him
6 about the apartment complex?

7 A. We were looking for a sample template, like a layout,
8 brochure, I guess, to see what the apartment looked like on
9 the inside.

10 Q. While you-all were -- and is that for security
11 reasons, too, but also just to know what areas you needed
12 to navigate?

13 A. Yeah, both.

14 Q. Okay. While you-all were preparing this search
15 warrant or getting ready to execute it, Investigator Pratt,
16 what, if anything, did he notify you of?

17 A. So he was sent to the apartment complex while we
18 were all at headquarters. He called me and said that he
19 observed a white dually pull up and a subject that he
20 believed to be Hopkins going into the apartment.

21 Q. And, again, Pratt had been the one who had done a
22 photo lineup earlier in the day?

23 A. Correct.

24 Q. And got a positive ID?

25 A. Correct.

1 Q. Okay. What, if anything, did you direct Investigator
2 Pratt to do?

3 A. To find a reason to stop the truck because at this
4 point we didn't know who that was or if it was involved --
5 well, that specific truck was involved.

6 Q. Okay. With Pratt leaving Landmark Apartments, was
7 anybody else there to conduct surveillance on 27A?

8 A. No, he had been out by himself.

9 Q. Who did you direct to take over that surveillance?

10 A. Lieutenant Brock.

11 Q. And was Youmans also with him at that time?

12 A. He was and they were both at headquarters where the
13 rest of us were.

14 Q. Were you aware that Investigator Brock, now Lieutenant
15 Brock, was in an unmarked vehicle?

16 A. I was.

17 Q. Is that one of the things you need when you're
18 conducting surveillance?

19 A. Yes.

20 Q. Okay. Having sent him there and having known that a
21 white dually had left, did that up your timeline or affect
22 your timeline on getting this search warrant executed?

23 A. It did. We were trying to make plans to do
24 everything, but things just kept happening, so we move
25 from headquarters and went to meet up at Badcock Furniture,

1 I believe is the name of the business, on St. Andrews Road,
2 in that parking lot. Myself or Sergeant Creech would have
3 requested a marked unit to be available per our policy.
4 When we're going to do a search warrant, we always want to
5 have a marked unit.

6 Q. And why is that?

7 A. So that they know that we're the police when we show
8 up. If we show up in, you know, ten unmarked units, we
9 could be wearing vests, but a lot of us are wearing
10 plainclothes per se and we always want to have a marked
11 unit so there's an indication we are who we are when we get
12 there.

13 Q. Is that a security issue?

14 A. It is.

15 Q. And it's also policy?

16 A. Yes.

17 Q. While Brock was keeping an eye on 27A, did he advise
18 you about anything that he had seen about another vehicle?

19 A. So he came on the radio and was requesting another --
20 our marked unit to conduct a traffic stop because the
21 description of a suspect was seen getting into that vehicle
22 and leaving.

23 Q. Were you aware from Agent Brock at that time about
24 that suspect also having bags with him?

25 A. I don't recall at that moment if that's what he said

1 before then, but, like I said, we -- we didn't even have
2 everybody at the parking lot yet, we were still trying to
3 get all the personnel in one place, and things just kept
4 happening as we were trying to get up there.

5 Q. Per your office policy, was Brock allowed to stop that
6 vehicle by himself in an unmarked vehicle?

7 A. So our policy is you can make traffic stops in
8 unmarked vehicles, but it's not encouraged.

9 Q. Okay. And, again, why is that?

10 A. It's safety for both the officer and the civilian.
11 Marked units are generally what's used to conduct traffic
12 stops so everyone knows who you are.

13 Q. And the time of this traffic stop, was it day or
14 nighttime?

15 A. Nighttime.

16 Q. And it's December?

17 A. Yes.

18 Q. So it's -- and let me ask you, was this sometime after
19 8:30?

20 A. The traffic stop?

21 Q. Yes.

22 A. Yes.

23 Q. So the search warrant had been signed at 8:30, you
24 know it's dark and he's in an unmarked vehicle?

25 A. Yes.

1 Q. And also were all your officers aware that the
2 individual that they're gonna be stopping or that your
3 focus is on may be very much involved in a triple murder?

4 A. Yes, he had been identified earlier that day and still
5 no firearms were recovered in the case.

6 Q. So who was -- who went in a marked unit to assist
7 Officer Brock?

8 A. Aaron Poole. Or Sergeant Aaron Poole.

9 Q. Do you know if it was you that directed him or was it
10 somebody else on your team that directed him to -- to make
11 that stop?

12 A. Brock called for the stop. He would have advised it
13 on his own as soon as he heard that come across his radio
14 being in the intelligence unit because, again, either
15 myself or Sergeant Creech would have been in contact with
16 him since he would have been the supervising sergeant on
17 duty in a marked unit to let him know what was going on and
18 to get prepared for what we needed.

19 Q. Okay. So in order to make the stop though Agent Brock
20 had to wait on Sergeant Poole -- or on Deputy Poole?

21 A. Yeah. It was Sergeant Poole.

22 Q. Okay. Now I don't know if you have a pointer, do you
23 see a Mrs. B's Southern Soul Food? Is that where that stop
24 was actually made?

25 A. That's where the car pulled into to complete the stop.

1 Q. I want to show you Court's Exhibit Number 2. Is that
2 the vehicle?

3 A. It is.

4 Q. Court's Exhibit Number 1, who is that coming to the
5 driver's side rear passenger door of that vehicle?

6 A. That's me.

7 Q. When that is happening, where is Agent Brock?

8 A. He's directly across from me on the passenger side.

9 Q. Do you recall Agent Brock saying anything to
10 Mr. Hopkins?

11 A. He said something about hands, I don't remember
12 specifically, but it was -- at that moment when I heard
13 that is when I went to open the door because in my mind if
14 he's saying something about hands, it's sounds to me he's
15 either doing something or not complying and in my mind I
16 want to get him detained.

17 Q. Did Agent Brock have his gun drawn at that point?

18 A. He did.

19 Q. Sergeant Poole, whose body cam is taking this, was his
20 gun drawn at that point?

21 A. I don't know if it was here, but it was right after.
22 He drew his gun as well.

23 Q. And we see you opening this door in Court's Exhibit
24 Number 1. What did you do in relation to Mr. Hopkins?

25 A. So as soon I opened the door, Brock was across, told

1 him the same thing, keep your hands up, I took ahold of his
2 hands, told him to get out, and he complied. And then --

3 Q. You took hold of his hands?

4 A. Yeah, when he was sitting in the seat and then Creech
5 -- that probably would have been his left hand and wrist.
6 Sergeant Creech was there at that point, came up behind me,
7 and we both put him in handcuffs.

8 Q. And in the back seat, do you recall seeing any items
9 with Mr. Hopkins?

10 A. So after we got him out and got him detained, going
11 back to the car there were two bags and a large jacket.

12 Q. Court's Exhibit Number 4. Does that show the bags and
13 the jacket?

14 A. Yeah, that's one bag and I believe that's the large
15 jacket that's over the top of the other bag.

16 Q. Okay. I'm gonna show you some more photos. I know
17 you've already seen these, but Court's Exhibit 16, what are
18 we seeing there?

19 A. So this is after I got the search warrant signed.
20 That's the back of my unmarked Tahoe.

21 Q. Well, let me ask you this. About those bags, what,
22 if any, information did you obtain from Sergeant Creech in
23 relation to those bags?

24 A. That he had been informed by Mr. Hopkins that he had a
25 firearm in one of them, I don't know which one, but he had

1 a firearm.

2 Q. So what did you do with those bags?

3 A. I photographed them as they were in the back of the
4 car, collected them and then obtained a search warrant.

5 Q. So the photograph we see in Court's Exhibit 4, that's
6 what you took?

7 A. Yes.

8 Q. And then you seized the bags?

9 A. (Nods head.)

10 Q. What, if anything, else did you do before going into
11 those bags?

12 A. I obtained a search warrant prior to going into the
13 bags.

14 Q. Okay. And looking at Court's 16, once you had that
15 search warrant, where is this bag that we're seeing right
16 now, this camo bag?

17 A. It's in the back of my unmarked Tahoe. Like the hatch
18 is up and it's laying right in the bag.

19 Q. Court's Exhibit 17. Do you see a firearm?

20 A. It's the Glock 9-millimeter that was just right in --
21 basically the top of the bag underneath -- I don't know
22 what kind of -- it was pants or some type of shirt sitting
23 right at the top.

24 Q. And Court's Exhibit Number 6, does that also show a
25 little clearer view of that Glock?

1 A. Same gun. I just pulled it out a little further to
2 get a better picture of it.

3 Q. And this is all out of the camo bag?

4 A. Yes.

5 Q. Now the information, again, from Hopkins to Creech to
6 you was there was a gun in one of the bags?

7 A. I believe he had said it was a different caliber. Can
8 I refer to my report?

9 Q. Sure.

10 A. Yeah, he said he -- he told during the interview that
11 he had a Hi-Point handgun. A different make.

12 Q. Okay. And we'll get to that in just a minute. Also
13 in that camo bag, Court's Exhibit 12, did you find
14 Mr. Hopkins' ID?

15 A. I did.

16 Q. His body weight at 300 pounds and his height at
17 five-nine?

18 A. Yes.

19 Q. Now that's the camo bag, but you said there was a
20 separate bag, too, a black bag?

21 A. It was a black bag with the American Red Cross logo
22 on it.

23 Q. Looking at Court's Exhibit 3, is this that Hi-Point
24 pistol that you found in that bag?

25 A. It is. It's a Hi-Point 380.

1 Q. 380. Did you also find -- I'll show you Court's
2 Exhibit Number 8, some unfired rounds in that bag as well?

3 A. Yes, it's three .38's and one 9-millimeter.

4 Q. I want to show you Court's Exhibit 11. Is that a
5 little closer view of those rounds?

6 A. It is.

7 Q. And, again, a little bit closer?

8 A. It is.

9 Q. So what -- were these .38 rounds and a .9 round or do
10 you recall?

11 A. Yeah, three .38's and a 9-millimeter.

12 Q. Okay. Did you find a .38 caliber pistol in either
13 bag?

14 A. No.

15 Q. And the only 9-millimeter was which gun?

16 A. The Glock.

17 MR. HUBBARD: Court's Exhibit 19, Your Honor.

18 THE COURT: Okay.

19 (Court's Exhibit Number 19 was marked for
20 identification.)

21 BY MR. HUBBARD:

22 Q. Also in that black bag it seemed to look like there's
23 some rubber gloves there?

24 A. Yes.

25 Q. And in Court's Exhibit Number 7, is that that same set

1 of gloves with you pulling them out?

2 A. It is. It was two baggies, individually packaged
3 baggies, that were within those rubber gloves that looked
4 like heroin.

5 Q. Did you do a field test on those?

6 A. I didn't do the test, but I was present when it was
7 done. They were field tested and one came back as heroin
8 and the other one was heroin with a mixture of either
9 Fentanyl or Fentanyl and methamphetamine.

10 Q. But a heroin base?

11 A. Yes.

12 Q. Court's Exhibit Number 9. Are these other items from
13 those bags?

14 A. It is. We -- or Agent Brock after they were done
15 doing the search warrant, he had come back and joined me.
16 We were going through -- inventorying now. This is now
17 back in the sheriff's department in our evidence room, so
18 we're taking an inventory of everything and I'm getting
19 ready to log it into evidence.

20 Q. Do you see in this photograph, which is Court's 9,
21 several white T-shirts?

22 A. Yes.

23 Q. Up here, way up here, are those two .38 casings?

24 A. They are.

25 Q. And Court's Exhibit 10, is that the camo bag again?

1 A. It is.

2 Q. And, again, the casings up here in 10?

3 A. They are.

4 Q. And the white T-shirts?

5 A. Yes.

6 Q. Going back to that stop, do you remember -- when the
7 car door was opened, do you remember any kind of odor
8 coming out of the vehicle as well?

9 A. As soon as I opened the door, you could smell the odor
10 of marijuana.

11 Q. Okay.

12 A. And we did find like a -- like a cigarillo cigar in
13 the -- later in the search of the car in the front.

14 Q. Okay.

15 MR. HUBBARD: I beg the Court's indulgence.

16 THE COURT: Take your time.

17 MR. HUBBARD: I believe that's all I have at this
18 time, Sergeant Burt. Thank you.

19 THE COURT: Mr. Mauldin.

20 MR. MAULDIN: Thank you.

21 CROSS-EXAMINATION (In-Camera)

22 BY MR. MAULDIN:

23 Q. When you went to Mrs. B's parking lot, did you come
24 from the Badcock parking lot to go there?

25 A. I did.

1 Q. Okay. And Sergeant Creech had come from the Badcock
2 parking lot to go there?

3 A. He either -- like I said, we weren't all there yet.
4 We were meeting there. He had either just pulled in and
5 pulled right back out behind us or came later. I just know
6 that after the stop he was in there behind me.

7 Q. So you got there after Poole had pulled them over?

8 A. So what happened was we were pretty much seeing each
9 other and we kind of all just pulled in there.

10 Q. Okay.

11 MR. MAULDIN: No further questions.

12 MR. HUBBARD: No follow-up.

13 THE COURT: May I let Officer Burt down?

14 MR. HUBBARD: Yes, please. Thank you, Your Honor.

15 (Witness excused.)

16 MR. MAULDIN: Could we take a short break, Your
17 Honor, for a restroom break? Just a short one.

18 THE COURT: Absolutely. We sure can.

19 (Recess taken at 2:31 PM.)

20 (Back on the record at 2:36 PM.)

21 THE COURT: All right. Anything else to the stop?

22 MR. HUBBARD: Not from the State, Your Honor. We
23 do have argument.

24 THE COURT: Okay. Let me ask, was he arrested that
25 night?

1 MR. HUBBARD: Yes, Your Honor. Initially I think
2 unlawful possession of weapon was the initial charge.

3 THE COURT: Because when they stopped him, they
4 find the gun, heroin, and they go ahead and arrest him.

5 MR. HUBBARD: Right.

6 THE COURT: Was he not supposed to have a gun?

7 MR. HUBBARD: That I don't recall.

8 MR. NORTON: Your Honor, it's in a -- it's in a bag
9 in the car, which I think would constitute an unlawful
10 carry regardless.

11 MR. MAULDIN: Your Honor, he doesn't have any
12 convictions that would preclude him from having a gun.
13 Whether the officers knew the gun was not properly
14 carried is speculative, but as far as if he was a felon
15 and shouldn't have had one or was convicted --

16 THE COURT: That was what I was asking.

17 MR. MAULDIN: -- that -- that is not the case.

18 THE COURT: Okay.

19 All right. Let me talk to you, Mr. Norton, because
20 I've read Bailey and it appears to me like they kind of
21 left it open --

22 MR. NORTON: Uh-huh.

23 THE COURT: -- to say if you're off the vicinity
24 of the place that's going to be searched, the detention
25 must be justified by some other rationale. And -- and

1 I understand the argument that it appears from the
2 testimony that the search warrant was going to be
3 executed because it had been signed. This guy comes
4 up, he's there ten minutes, he walks in with no bag and
5 he's carrying bags out. So, you know, I can easily see
6 destruction of evidence and anything else that crosses
7 their mind and I also understand the safety issue of being
8 in an unmarked car and it being late at night and -- and
9 they possibly could be armed and dangerous on three counts
10 of murder. Perfectly reasonable to me.

11 And then it says something about Terry, but the
12 Courts seem to leave it open and it didn't say Terry's
13 like your only aspect. In fact, the case that they sent
14 it back to remand on they found that while they did a
15 pretty good Terry stop, they kind of overreached their
16 boundaries on arresting him.

17 Did you read that?

18 MR. NORTON: Your Honor, I did, and -- and so the
19 critical distinction there, Judge, is when that car is
20 stopped. So in this case when that silver car is stopped,
21 they immediately smell marijuana. So they would have
22 been entitled then to search the entire car, they would
23 have found the handgun, found the heroin. He would have
24 been lawfully arrested at that point. So all we have
25 to justify necessarily is the stop, the temporary

1 seizure of that vehicle, because they immediately smell
2 the marijuana and Mr. Hopkins makes a statement that
3 there was a gun in the vehicle. So the ultimate evidence
4 uncovered from the car is entirely justified because the
5 stop itself was justified because the officers testified
6 they immediately smelled the marijuana emanating from the
7 vehicle.

8 Under Bailey, Your Honor, it's a specific analysis
9 as to people in the vicinity of the search warrant
10 fleeing the scene, leaving the scene, possibly with
11 evidence. One distinction from Bailey that's present in
12 this case is Bailey is not seen leaving with any bags.
13 He is seen walking out of his apartment. He is stopped
14 by law enforcement. They take keys out of his pocket
15 and go unlock his apartment. That is not what happened
16 here. Here you have him leaving the scene with bags.
17 He is a specific suspect in a specific crime. They've
18 identified the getaway vehicle that was seen at the
19 apartment earlier immediately beforehand. A search
20 warrant has been signed for that apartment, a neutral
21 and detached judge has found there's probable cause of
22 evidence of a crime in that apartment, and an individual
23 matching Mr. Hopkins' description who's identified as
24 Mr. Hopkins is seen leaving with bags he did not bring
25 in.

1 So I think there's absolutely an exigency. And,
2 in fact, in Bailey, Your Honor, the Court goes out of
3 its way to note that that is one of -- one of the very
4 legitimate law enforcement concerns regarding destruction
5 of evidence. But even if Bailey doesn't apply, even if
6 the specific holding of Bailey regarding the temporary
7 detention of individuals in an area about to be searched
8 doesn't apply here, there is an abundance of reasonable
9 suspicion separate pursuant to Terry to justify this stop.
10 The same facts that we put just up on the stand, Judge,
11 came out of the same facts we would rely on to justify
12 reasonable suspicion for the stop.

13 I know Mr. Mauldin made a note that there may --
14 there was an allegation he was actively involved in
15 criminal activity at the time. That's not what
16 reasonable suspicion is, Judge. As Your Honor knows,
17 reasonable suspicion is specific and articulable facts
18 that criminal activity is afoot and that one of the
19 occupants is involved in criminal activity, not that he
20 is actively presently engaged in committing a crime. If
21 an officer sees someone actively committing a crime,
22 that's probable cause.

23 THE COURT: And makes their jobs a whole lot easier.

24 MR. NORTON: Reasonable suspicion is simply specific
25 facts that would lead an officer to believe that one of

1 the occupants in that vehicle is involved in criminal
2 activity, and we have that in spades, Judge. I mean,
3 you have him leaving the apartment that is about to be
4 searched, that a judge has said there is probable cause
5 to believe there is evidence in that apartment and
6 stuff's being taken out that apartment. I mean, that
7 is the definition of reasonable suspicion to stop that
8 vehicle.

9 And, Your Honor, I have a case to that effect.
10 Just simply that it doesn't have to be -- a temporal
11 aspect to reasonable suspicion isn't necessary. I'm
12 sorry. It's State v. Lesley, Judge. It was just a
13 temporary traffic stop regarding a shooting that had
14 occurred two days prior and that law enforcement
15 officers were justified in stopping a vehicle.

16 If I could approach?

17 THE COURT: Sure.

18 MR. NORTON: So, Your Honor, our position is that
19 Bailey applies and the vicinity to the stop, while it may
20 have been a mile down the road, Your Honor, I think law
21 enforcement is more than justified in waiting on the basis
22 of officer safety with that unmarked car, so I think the
23 stop is fully justified under the specific holding of
24 Bailey, but even if it's not there is an abundance of
25 reasonable suspicion to stop that vehicle and once the

1 vehicle is stopped it very quickly turns into a probable
2 cause stop. Officers smelled marijuana. Mr. Hopkins
3 admits that he has gun in the vehicle, but officers don't
4 stop there. They get a search warrant for those exact
5 bags they see him leaving the house with. I mean, from
6 a constitutional perspective officers donned velvet
7 gloves to make sure that Mr. Hopkins' constitutional
8 rights are protected here.

9 There is a litany of reasons, Judge, why both under
10 Bailey and under Terry, reasonable suspicion, this stop
11 is wholly justified and I think that's been more than
12 established based on the testimony you've heard here
13 today.

14 THE COURT: All right. Let me hear from you,
15 Mr. Mauldin.

16 MR. MAULDIN: Thank you, Your Honor.

17 Obviously these motions are being made under the
18 Fourth Amendment to the U.S. Constitution and Article 1,
19 Section 10 of the South Carolina Constitution. In
20 looking at the Bailey case, obviously in that case they
21 remanded it. They found the stop was not -- was unlawful,
22 but they remanded it for the review of the Terry issue.

23 THE COURT: Right.

24 MR. MAULDIN: I would say that this case is almost
25 exactly like it except for the underlying facts which led

1 the police to encounter the defendant. In that case, it
2 was multiple buys made at a residence, a drug basically
3 case and this one is involving this homicide case, and
4 Bailey basically says that the State, you know, detaining
5 people at or near a residence, you have to look at
6 Michigan v. Summers.

7 THE COURT: No need to outline it because I've read
8 it.

9 MR. MAULDIN: Okay. Well, the three aspects.
10 Officer safety, if they're away from the apartment,
11 there's no danger to the officers. Facilitate completion
12 of the search. If they're away from the apartment,
13 they're not gonna interfere with the officers' search.
14 And the preventing flight, preserving the integrity of
15 the search, again, if they're away, they testified that
16 there were no marked police vehicles, there was not a
17 flight because of police, no idea that they were going
18 to do a search of the apartment, Your Honor, so it's our
19 belief that the stop itself is unlawful in that regard.

20 Reasonable suspicion. Terry is about a crime being
21 afoot and it has to be somewhat contemporaneous with the
22 detention; otherwise, an officer can go along and say
23 well, I know Joe Blow drug deals, I have reasonable
24 suspicion he was gonna be involved in criminal activity,
25 I can stop him at any time and search him for drugs, and

1 it doesn't work that way and I think there's --

2 THE COURT: And you don't think it's contemporaneous
3 that he's walking out of the apartment and they're all
4 sitting out there under surveillance waiting on a search
5 warrant to search it?

6 MR. MAULDIN: Well, what crime is he committing at
7 that point in time, Your Honor? Reasonable suspicion
8 that a crime --

9 THE COURT: That they're scared he's gonna destroy
10 evidence.

11 MR. MAULDIN: Well, that's a -- I would say that's
12 speculative and would not be a reasonable suspicion.

13 THE COURT: Okay.

14 MR. MAULDIN: If he had no idea the police were
15 around, I would say that would not rise to the level of
16 reasonable suspicion, Your Honor.

17 And in looking at the Lesley case that I was
18 handed, again, the contemporaneous issue is up. The
19 lady reported a shooting two days earlier, but she had
20 called that evening saying that two black males had
21 driven by her home, pointing fingers at her, and that
22 made her scared. That call was made that night and
23 police pulled the car over that night. That was
24 contemporaneous. It wasn't because of the report two
25 days earlier, it was a report that day.

1 So I do believe that reasonable suspicion a crime
2 is occurring has to be contemporaneous or at least
3 somewhere close in time and not four days previous,
4 Your Honor. And, again, Fourth Amendment, U.S.;
5 Article 1, Section 10, South Carolina.

6 MR. NORTON: And, Judge, to Mr. Mauldin's point,
7 pointing fingers isn't a crime in and of itself. They're
8 investigating a shooting when they pull the guy over in
9 Lesley. It's a specific analysis of whether the facts
10 presented would give officers reason to believe that one
11 of the occupants is involved in criminal activity.

12 THE COURT: And it was right in the middle of a
13 triple homicide investigation.

14 MR. NORTON: Yes, Your Honor.

15 THE COURT: With permission on a search warrant
16 signed and the guy's leaving -- the suspect that they've
17 developed is leaving with two bags in his hands.

18 MR. NORTON: After having been dropped off in the
19 getaway car --

20 THE COURT: That's right.

21 MR. NORTON: -- which is another point.

22 And that -- to that extent, Judge, officers had
23 already pulled over that vehicle so there was an
24 additional concern, Judge, that information could be
25 relayed from Mr. Cornish back to Mr. Hopkins that he

1 had been pulled over, that there was an even greater
2 risk of any potential evidence being destroyed on that
3 basis, but I think it's more than clear, Judge, that
4 there was reasonable suspicion and once that car is
5 stopped it simply becomes a probable cause search based
6 on odor of marijuana in the car and Mr. Hopkins' own
7 admission that he was in possession of a handgun at that
8 time.

9 THE COURT: Well, I've read Bailey and I've just
10 looked at the Lesley case. I think there was reasonable
11 suspicion. I heard the testimony of the two officers on
12 the stand. It's late at night, they've got a search
13 warrant. They've had this search warrant cleared before
14 they saw him. It was signed at 8:30. They stopped the
15 other co-defendant first. This guy -- this defendant
16 comes, gets dropped off by the co-defendant's vehicle,
17 who they've been searching for to start with and
18 described, just happens to drive up at that time. This
19 individual goes in the apartment, ten minutes later he
20 comes out with two bags and he's leaving again. There's
21 been testimony that due to officer safety, this was a
22 homicide case that involved three different individuals,
23 he didn't know if this defendant was armed, dangerous.
24 That's how he considered him. Didn't want to stop him
25 in an unmarked car, radios ahead to get a marked car to

1 stop him, follows him out to the main road. All of this
2 is within less than a mile, and I don't know -- it would
3 probably be a whole lot less once he left the apartment
4 complex, and so for safety reasons that's why they did
5 that should distance concern the Court. I think it was
6 all just for safety reasons. I'm gonna allow it based
7 on those reasons.

8 MR. HUBBARD: Thank you, Your Honor.

9 THE COURT: Okay. So there's the traffic stop.
10 Let me get back to my notes.

11 The apartment search. The search of the apartment.
12 I was looking at the affidavit. I must be missing
13 something because I can't find anything wrong with it.
14 It says ■ Landmark Apartments. The room to be searched
15 is 27A. If I remember, ■ Landmark is the road name or
16 something and the apartment is 27A.

17 MR. MAULDIN: Your Honor, that's not the affidavit.
18 That's the description of the place to be searched and
19 the reason for the affiant's belief, which I would
20 consider the affidavit, it doesn't say anything about
21 27A.

22 THE COURT: I think it says pretty clear where
23 they're wanting to go.

24 MR. MAULDIN: Well, the defense's position, in the
25 description of the property searched, it does have the

1 proper address, but --

2 THE COURT: You're telling me they've got to turn
3 around and repeat that in the affidavit?

4 MR. MAULDIN: Yes. Yes, Your Honor.

5 THE COURT: All right. Ms. Mayes.

6 MS. MAYES: Yes, Your Honor.

7 The judge's signature is denoted there on page 3.
8 We see his initials where it clearly states that the
9 room to be searched is 27A after being previously
10 identified as [REDACTED] Landmark Drive, Landmark Apartments,
11 and then it says the letter A is in black on the white
12 door, Building Number 27 in black letters also on the
13 building, and that is, as I stated, on page 3 where the
14 judge initialled. Then we see, again, on page 5 with
15 the judge's initials, once again, the description of the
16 premises known as [REDACTED] Landmark Drive, Landmark Apartments,
17 the room to be searched is 27A and, once again, sets
18 forth.

19 So, Your Honor, we think it's absolutely clear from
20 the search warrant itself and knowing here that the
21 judge's signature is on each and every page that he was
22 fully aware and presented with information regarding
23 the location of the property sought and the place and
24 premises to be searched.

25 THE COURT: Mr. Mauldin.

1 MR. MAULDIN: Your Honor, it's our position that
2 they need to put the reason for the affiant's belief
3 that the property sought was on the subject premises,
4 that it needs to say in there that Mr. Hopkins resides
5 at 27A for them to be able to search 27A. I think
6 that's more the reasons why the search and there's no
7 reason why they would search 27A under that subsection,
8 and that's going from page 3 to 4.

9 I don't know if you made your copies according to
10 the end of all this. The ones I gave you, Your Honor.

11 THE COURT: Yes.

12 MR. MAULDIN: Okay. That would be good because I
13 didn't make another copy. But basically, Your Honor,
14 we don't think it's sufficient, we object under Article
15 -- I mean, Fourth Amendment U.S., Article 1, Section 10
16 South Carolina, and the search warrant statute, 17-13-140.

17 MS. MAYES: Your Honor, the affidavit itself sets
18 forth that they did obtain Landmark Apartment records and
19 through the information gathered through social media,
20 Landmark Apartments being --

21 THE COURT: Mr. Hopkins. I underlined that. They
22 even reference Landmark Apartments in there.

23 MS. MAYES: Yes. And that he also had a phone number
24 listed with Landmark Apartments as well. I think that
25 makes it more than apparent to any reasonable person,

1 including the issuing judge, that he was, in fact, a
2 resident of Landmark Apartments.

3 THE COURT: Well, when I read it, that's what I
4 thought. Just a plain simple reading it of. I'm gonna
5 allow it. It is clear in the description to be searched
6 with the judge's signature. It referenced in the
7 affidavit itself Landmark Apartment records, what all
8 they did to identify Justin Hopkins and where he lived.
9 And, again, it's in the description of the property that
10 has also been initialled by the judge.

11 So the apartment search I find is sufficient and
12 that's my ruling.

13 Now I'm gonna tell you the Facebook warrant, I'd
14 like to hear from you on the Facebook warrant because
15 that -- that warrant is concerning to me.

16 MR. HUBBARD: Your Honor, we may need a little time
17 just because we're trying to get some of those witnesses
18 and some of the folks that --

19 THE COURT: Okay. We'll hear on that later.

20 MR. HUBBARD: Okay.

21 THE COURT: And the same with the DNA.

22 Now you-all -- Mr. Mauldin, you gave me three
23 search warrants. One of them is for Jeremy Cornish.
24 I'm hoping you didn't mean to give that to me because --

25 MR. MAULDIN: Although I'm not allowed to object

1 under the Fourth Amendment or Article 1, Section 10,
2 there's case law saying I can object to any evidence
3 being offered against Mr. Hopkins if it's obtained by
4 a search warrant based on the statute 17-30-140, and
5 the case saying that I can do that is State v. McKnight,
6 291 S.C. 110.

7 If the evidence is obtained by a search warrant and
8 used against the defendant at trial, he has -- he doesn't
9 have traditional standing under constitutional grounds,
10 but he does have standing under the statute, so we object.

11 THE COURT: Are you using it against him or are
12 you-all just saying that this other guy's DNA was in the
13 apartment?

14 MR. MAULDIN: Well, Your Honor, I think they're
15 saying they're together and that guy's DNA is in the
16 apartment, so Justin must have been in the apartment,
17 too. I think that's part of their case.

18 THE COURT: Will you give me the case site on
19 McKnight?

20 MR. MAULDIN: It's an older case, Your Honor.

21 THE COURT: It seems like I've read that case.

22 MR. MAULDIN: 291 S.C. 110.

23 THE COURT: It seems like I've read that case.

24 MR. MAULDIN: I think it's a Cottingham case.

25 Where he was the trial judge.

1 THE COURT: No wonder.

2 All right. So the Facebook, I've got to give them
3 time.

4 On the DNA -- are you-all ready on the DNA?

5 MS. MAYES: Your Honor, just to clarify, we are
6 proceeding on the search warrant dated September 23,
7 2022, regarding the DNA swabs on Justin Hopkins. That
8 is the same date that DNA swabs were also collected on
9 Mr. Cornish.

10 THE COURT: Right.

11 MS. MAYES: That is the DNA that we are proceeding
12 on and that is the same report that we've also heard
13 from in reference to Mr. Cornish's trial. I believe
14 that is the SLED report dated September, 2022, so I just
15 wanted to clarify that.

16 THE COURT: Does that make any difference to you,
17 Mr. Mauldin?

18 MR. MAULDIN: Let's see. No, Your Honor.

19 THE COURT: Okay. All right. It doesn't matter to
20 him which one. He's still objecting to it.

21 MS. MAYES: All right. My understanding is that
22 his objection was based on the Register factors, so just
23 to go back in time a little bit, Your Honor, Register
24 was a case from, I believe, 1991 or 1992 that dealt with
25 blood draws and blood draws were looked at with a more

1 stringent requirement by the Court. We're still following
2 those same requirements, but I do want to note for the
3 record that we are dealing with buccal swabs. Buccal
4 swabs which have been upheld by the Court on numerous
5 occasions as less invasive --

6 THE COURT: Intrusive and everything. Absolutely.

7 MS. MAYES: And most recently, the United States
8 Supreme Court case in Maryland v. King, Your Honor,
9 where our U.S. Supreme Court now says that even the act
10 of being arrested alone --

11 THE COURT: Is good enough to get DNA. I've read
12 it.

13 MS. MAYES: -- without any individual suspicion
14 or meeting the Register factors or anything in that
15 regard; that that alone is sufficient to take a buccal
16 swab standard because it is recognized as minimally
17 invasive, especially in comparison with the old blood
18 draw standards that were taken.

19 So with that said, Your Honor, in this very case
20 Justin Hopkins' DNA was already taken and in CODIS as a
21 result of this arrest. This arrest alone puts him into
22 CODIS. And I mention that because ultimately what our
23 DNA evidence is in this case is he is found in possession
24 of a white shirt. That white T-shirt that's in his bag
25 ends up going to the State Law Enforcement Division for

1 analysis. They find a bloodstain on it. They analyze
2 that bloodstain. It turns out to be the victim in our
3 case, Duwan Williams.

4 Let's say hypothetically we never even had a
5 standard from him at all. The State's position is that
6 that alone knowing that we have a victim's bloodstain
7 on an item of evidence, we would then request entry
8 into CODIS if we had no other means to do a comparison
9 analysis. So let's say that that shirt had just been
10 found somewhere else near the crime scene and we didn't
11 know whose DNA to even request a standard from, if it
12 turned out to have our victim's blood on it, we'd then
13 do the ownership swabs to determine who may have been
14 wearing the shirt. So certainly we believe from the
15 standpoint of CODIS we have inevitable discovery
16 regardless regarding that shirt.

17 With all of that said, Your Honor, when this search
18 warrant was prepared for the examination of the -- or
19 for the collection of the buccal swabs to be examined
20 by comparison analysis to other evidence from the scene,
21 the affidavit specifically sets forth that touch DNA
22 swabs from areas in the apartment that the suspects may
23 have had contact with were among the trace evidence
24 collected by crime scene investigators at the original
25 scene of [REDACTED] Butternut Lane and other physical evidence

1 items obtained in this case. It is reasonably believed
2 that DNA standards obtainable from the defendants are
3 relevant to compare against the samples. And, again,
4 we're comparing for purposes of inclusion as well as
5 exclusion as they could establish their presence at the
6 incident location or association with other physical or
7 trace evidence located outside of the initial scene.
8 And then, of course, it also has the language that was
9 initially required by Baccus, and Baccus is another blood
10 draw case, not a buccal swab, but the method used to
11 collect such standards is known to be medically safe
12 and reliable and not overly intrusive pursuant to the
13 Fourth Amendment. The method involves orally collected
14 cheek swabs and may be collected without injury or
15 further invasion of the person and then it is signed by
16 the judge below that.

17 My understanding, Your Honor, is that counsel was
18 not challenging the probable cause set forth in the
19 search warrant, they were merely challenging whether or
20 not the factors as set forth in Register and Baccus were
21 met, which is that there is a clear indication that there
22 would be evidence for comparison analysis. As stated in
23 the affidavit, Your Honor, touch DNA swabs from areas
24 within the apartment that the suspects may have had
25 contact with were among the trace evidence collected by

1 the crime scene investigators at the original scene and
2 then it mentions as well that other physical evidence
3 items were obtained in this case.

4 THE COURT: And when was -- the T-shirt with the
5 blood on it, when was that discovered?

6 MS. MAYES: So, Your Honor, that was actually seized
7 pursuant to the collection of those items there. We see
8 it's gonna be one of those white T-shirts that's shown
9 right there.

10 THE COURT: Which is on the 21st?

11 MS. MAYES: That is, Your Honor. That was --

12 THE COURT: Which is two days before -- or after --
13 well, before he did this DNA test?

14 MS. MAYES: Yes, Your Honor. And ultimately once
15 those items go to SLED, they're doing the serological
16 analysis of it and so as we heard from Courtney Thompson
17 during the -- the proceeding last week, she does a visual
18 examination and she's able to identify the presence of
19 blood. That would have occurred regardless and once that
20 blood came back to Duwan Williams, then ultimately it's
21 gonna be compared to every buccal swab standard that we
22 have obtained in this case.

23 THE COURT: Right.

24 MS. MAYES: So where we are, Your Honor, is that we
25 did collect a new set of buccal swabs pursuant to this

1 search warrant, the one that I just noted, laid out the
2 full probable cause that included touch DNA swabs being
3 collected from the crime scene, as well as other evidence
4 being collected in this case, and that it was reasonable
5 to believe that the DNA standards obtained from the
6 defendant would then be relevant to compare against the
7 samples and could establish the presence either at the
8 incident location or association with other physical or
9 trace evidence located outside of the initial scene,
10 which, of course, would cover the T-shirt.

11 With all of that said, Your Honor, I believe based
12 on the statement put on the record earlier the defense's
13 contention is that we would have to have every item of
14 evidence submitted to SLED and then have them develop a
15 DNA profile and for purposes of judicial economy, Your
16 Honor, that is simply impractical and impossible in --
17 in every case.

18 I mean, we have not only dozens of murder cases
19 here in Lexington County, but we have SLED processing
20 crime scenes across the state that aren't just murders,
21 but criminal sexual conduct cases, burglary cases. We
22 know that they simply cannot analyze every crime scene,
23 every item of evidence and then develop DNA profiles and
24 only then could the State pursue either a search warrant
25 or a Schmerber hearing. That's not practical, it's not

1 judicial economy, and we don't believe that that is the
2 standard set forth by the Court.

3 Now in the Baccus case and Register, sure, they
4 already had a profile in those cases, so that's mentioned
5 in the case opinion, but that is not the requirement
6 that is set forth. It merely says a clear indication
7 that relevant or material evidence may be found and as
8 noted in our search warrant, Your Honor, we already had
9 a very thorough processing of that crime scene. We had
10 touch DNA swabs collected from multiple locations. The
11 deadlock, the door frame, inside the patio door, outside
12 the patio door. We had a firm and clear indication
13 already that there would be relevant evidence, Your
14 Honor, for comparison analysis as set forth in the -- in
15 the affidavit.

16 In addition to that, as noted, there were other
17 physical evidence items collected from the scene. Where
18 we are right now in DNA is because there have been so
19 many advancements, advancements far beyond Register,
20 which was a semen case, or Baccus, which was a blood to
21 blood type comparison. We're now advised in 2022 where
22 touch DNA alone can be matched and compared based on the
23 buccal swab standards that we get from a defendant. So
24 any time a physical item of evidence is recovered, such
25 as a duffle bag, a T-shirt, shoes, even the outside of

1 a cell phone or the outside cellophane wrapper of heroin,
2 all of that potentially can be matched just by touch DNA
3 alone and so knowing that touch DNA swabs -- that knowing
4 that touch DNA science is available to us and that we
5 have physical items of evidence for comparison analysis,
6 we believe that is sufficient alone, Your Honor.

7 But with all that said, if all we had was one touch
8 DNA swab from the scene, hypothetically if we even had
9 only one from the scene, that alone is enough to support
10 the buccal swab standard from the defendant, Justin
11 Hopkins, for the purpose of inclusion or exclusion;
12 either puts him at the crime scene or it doesn't.

13 And the same with the co-defendant. Because if we
14 have two, we have to compare the both of them. We have
15 to know whether it's a mixture, whether one's included,
16 whether the other's excluded, and so the State's position
17 is that one touch DNA swab from the scene alone supports
18 the collection of these buccal swabs, but we had far more
19 than that. And as the affidavit sets forth, Your Honor,
20 touch DNA swabs, plural, from areas, plural, in the
21 apartment that the suspects may have come in contact
22 with were among the trace evidence items collected by
23 crime scene investigators at the scene of [REDACTED] Butternut
24 Lane and it is reasonably believed that DNA standards
25 obtainable from the defendants, both of them, are relevant

1 to compare against these samples as they would establish
2 their presence at the incident location or association
3 with other items of physical evidence. So, again, it
4 makes it clear to either include or exclude, but it
5 is material, and the affidavit does include a clear
6 indication that relevant evidence will be found and
7 there's going to be something there to compare their
8 sample to.

9 THE COURT: Okay. I'd be glad to hear from you,
10 Mr. Mauldin.

11 MR. MAULDIN: Going to be something there to compare
12 their swab to, but exactly what it doesn't say in the
13 affidavit of the search warrant.

14 The solicitor made a lot of remarks about excluding.
15 Obviously I wouldn't be objecting to evidence if it was
16 excluding Mr. Hopkins, and, again, objections to search
17 warrants regarding him are Fourth Amendment, Article 1,
18 Section 10 South Carolina, and the 17-13-140 statute,
19 and the statutory basis is the only basis I would object
20 to the co-defendant on.

21 I might be old-fashioned, but I think that the
22 Fourth Amendment outweighs SLED regulations and judicial
23 economy. They said that they -- we know how this works.
24 They swab a scene, they send the swabs in, the defendant's
25 profile is collected and compared to a profile and they

1 have things where they don't have a profile. If they
2 didn't have a profile, it wouldn't be the defendant's DNA
3 because there's nothing to compare it to. Just because
4 they took swabs doesn't mean that there's a clear
5 indication that material evidence of the defendant's
6 guilt is there unless they've developed a profile in
7 order to compare his DNA to and none of these mention
8 -- none of these search warrants mention that a profile
9 was developed.

10 I understand that there's a lot of cases and
11 judicial economy and all that, but I think to satisfy
12 that prong to get the search warrant they need to put
13 in there that they've developed a profile. I just think
14 the Fourth Amendment outweighs the judicial economy
15 argument -- or the SLED regulation argument I mean.

16 THE COURT: Okay. Anything else?

17 MS. MAYES: Your Honor, I'll just say that before
18 we had DNA, we only had blood types. And I was a
19 prosecutor back then when we didn't have definitive DNA
20 and we might be going off a blood type. It might be
21 type A at the crime scene matches a suspect with type A.
22 And, again, those were blood draws which were far more
23 invasive, but as noted in some of our case law that's
24 gonna go back to Snyder on this subject, as well as, I
25 think, a couple of the other cases that have been

1 mentioned, and even Schmerber itself, for example, those
2 are all cases where there was never going to be anything
3 more definitive than perhaps a blood match to a blood
4 match.

5 Now we have touch DNA. And as the Court noted in
6 Maryland v. King, the reason that buccal swabs are
7 approved by the Court is that DNA science is considered
8 far more reliable than even fingerprint evidence and it's
9 considered very specific. And so here we have that touch
10 DNA swabs were collected from the crime scene. That's a
11 clear indication that there's gonna be something to match
12 it to. It does not require absolute certainty of a
13 100 percent profile developed from those touch DNA swabs.
14 There are many, many cases where we only develop a partial
15 profile, but even with a partial profile we can still
16 ultimately make some type of comparison analysis. If that
17 were the requirement, that it had to be absolute, then the
18 Court wouldn't use language like a clear indication that
19 relevant or material evidence can be found or can be
20 compared to, it would outright tell us that we're required
21 to develop a full DNA profile and then from that DNA
22 profile we would then have to make a showing that we could
23 match the suspect's standard to it. It would also use
24 words like absolute certainty instead of a clear
25 indication.

1 THE COURT: I don't know. I haven't read any case
2 law that says you've got to have somebody's clear DNA
3 profile sitting there before you can do a buccal swab
4 on somebody.

5 MR. MAULDIN: Your Honor, if I may, I have a brief
6 -- brief retort. I would be happy even it said a
7 partial profile was developed, but it doesn't say any
8 kind of profile was developed in order to compare his
9 DNA to it. Not a full profile, not anything. They just
10 said they took swabs. That's all it said on there.

11 THE COURT: I don't know of any case law that says
12 you've got to have partial. I mean, I really don't.
13 Partial or full.

14 MR. MAULDIN: Okay.

15 THE COURT: I think the bottom line is, is that
16 you've got to have something that's relevant evidence
17 to compare it to. I don't think that you can think that
18 DNA's gonna be developed overnight and you have your
19 result. That doesn't happen either. You know, sometimes
20 it takes a month, sometimes it may take three months. We
21 could be sitting here waiting on --

22 MR. MAULDIN: Well, Your Honor, they got his DNA
23 last month.

24 THE COURT: Okay.

25 MR. MAULDIN: So talk about waiting, but if -- they

1 have the profile. They just didn't put it in the search
2 warrant.

3 THE COURT: I read the Maryland case and today the
4 moment that you're arrested they do a DNA swab on you,
5 just the moment you're arrested, and then they run it
6 through the whole database and compare it to whatever
7 they want to. So, I mean, I'm not real sure that I'm
8 sold on the idea I need some partial or a full profile
9 before we do that. I think they did have items to
10 compare. I think it was relevant evidence. All of it
11 came from the murder scene, the T-shirt with the blood
12 on it, I think that is sufficient, so I'm going to allow
13 that search warrant.

14 So now I'm stuck with the Facebook. You-all want
15 to do Facebook in the morning?

16 MR. HUBBARD: We can do that.

17 THE COURT: Because I've got witnesses.

18 MR. HUBBARD: We might be able to do it this
19 afternoon if we have a break.

20 THE COURT: Yeah, we can do that.

21 MR. HUBBARD: Twenty or thirty minutes maybe.

22 THE COURT: I'm trying to think. Now let me go
23 over this with Mr. Mauldin. You're withdrawing Jackson
24 v. Denno unless something happens that they produce and
25 then you can certainly have it.

1 MR. MAULDIN: Similar with Neil v. Biggers.

2 THE COURT: Same with Biggers.

3 MR. MAULDIN: And I think similar with the
4 co-defendant's statements, as well --

5 THE COURT: The co-defendant's statements. You
6 call it Bruton, I call it co-conspirator's statements.

7 MR. MAULDIN: Right.

8 THE COURT: Unless they bring in those --

9 MR. MAULDIN: Yes.

10 THE COURT: -- they're keeping them out. The
11 apartment search I'm letting in, the traffic stop I'm
12 letting in, and the DNA I'm letting in.

13 MR. MAULDIN: I think I had mentioned on an
14 e-mail the two guns that were found in the traffic stop
15 are not connected with this murder. I think they were
16 tested ballistically and found not to be relevant to the
17 case.

18 MS. MAYES: We don't intend to offer either one of
19 those firearms, but the ammunition that we found with,
20 Your Honor, we can connect to the crime scene, we do
21 believe is relevant and probative; that being, I believe
22 there is one Winchester 9-millimeter unfired round that
23 was in his possession, as well as two fired shell casings
24 that are .38 caliber that are also a match to the evidence
25 from the crime scene. We do intend -- we do intend to

1 offer that. And two .38 unfired rounds as well.

2 THE COURT: All right.

3 MR. MAULDIN: Well, that's fine then, just so that
4 the irrelevant guns are kept out that were found.

5 THE COURT: Right.

6 MR. MAULDIN: And the case I quoted was a PCR case
7 for failing to object to something like that.

8 THE COURT: Yeah, I don't think any of the guns came
9 in last week. Did they?

10 MS. MAYES: Your Honor, I believe that the defense
11 brought that out because they were showing that
12 Mr. Hopkins had a strong attachment to firearms and was
13 in possession of multiple firearms. They elected to
14 bring that out. The State did not.

15 THE COURT: And neither one of them were the murder
16 weapons --

17 MS. MAYES: That's correct, Your Honor.

18 THE COURT: -- I think was their big thing.

19 MR. MAULDIN: Okay.

20 MS. MAYES: And also, Your Honor, the State filed
21 identical motions in State versus Hopkins, as we did in
22 State versus Cornish, regarding the admission of excited
23 utterance evidence testimony from Donnovin Haynes, as
24 well as the statement that is the dying declaration of
25 Duwan Williams.

1 THE COURT: Do you have any objections to those
2 two?

3 MR. MAULDIN: So Duwan Williams' statement is "I
4 don't know who shot me because I was asleep".

5 THE COURT: Yes. Is this the same thing --

6 MR. MAULDIN: I don't know if that's really
7 probative of anything if he didn't know who shot him
8 because he was asleep.

9 MS. MAYES: It's absolutely probative to the fact
10 that he's shot while sleeping, which goes to the element
11 of malice.

12 THE COURT: Malice. You didn't play the video in
13 the last. You won't play it in this trial.

14 MS. MAYES: I believe, Your Honor, we would -- the
15 State's position would be to present the same -- to
16 present evidence in the same format as -- as the last
17 trial.

18 THE COURT: Okay. They didn't play -- they've got
19 a video.

20 MR. MAULDIN: I know. I was there. I saw that,
21 Your Honor, and that -- that would be fine with me.

22 THE COURT: Okay. So we're going just with the
23 dying declaration. Don't open any doors, Mr. Mauldin.

24 MR. MAULDIN: I'll try not to, Your Honor.

25 THE COURT: And then we've got excited utterance

1 from Mr. Haynes.

2 MR. HUBBARD: Part of that also is on audio as
3 well. That's from the first responding officer. You
4 have Purdy talking to him.

5 MR. MAULDIN: Does it develop to the point where
6 there's a question and answer? Because I would object
7 to anything that starts becoming an interrogation.

8 MR. HUBBARD: No, as he --

9 THE COURT: Well, this is where he jumped out the
10 window, he called 9-1-1, there's a 9-1-1 tape --

11 MR. MAULDIN: Right.

12 THE COURT: -- and then he talks to the officer.
13 And you can tell he's kind of out there explaining about
14 how he ran around the building and why he ran.

15 MR. HUBBARD: Right, Your Honor, because he's also
16 asked the door's locked, do you know anything about
17 that --

18 THE COURT: That's right.

19 MR. HUBBARD: -- no, I went out the window.

20 MR. MAULDIN: Okay. But it's everything's like,
21 you know, five, ten minutes later or something.

22 THE COURT: Right.

23 MR. HUBBARD: And everything's close in time.

24 THE COURT: It is. It was very close in time.

25 MR. HUBBARD: Everything, again, goes back to

1 Officer Purdy, who's gonna say this guy's pretty excited
2 at this point and panicky.

3 THE COURT: Right.

4 MR. HUBBARD: The only other thing we have is the
5 two voices, too, that he hears from within -- while
6 he's in the closet. He brings that up as well. He
7 can't identify those, but we would be eliciting that
8 information from him as well.

9 THE COURT: Right. Well, all that -- all that came
10 out of the excited utterance, I think, that I ruled in
11 the prior trial.

12 If you have any argument, I'm --

13 MR. MAULDIN: I have no argument as long as they
14 lay the proper foundation.

15 THE COURT: Okay. Great.

16 Also I think another argument was a mention of gang
17 members.

18 MS. MAYES: That's correct, Your Honor.

19 MR. MAULDIN: I'm not going there, Your Honor.

20 THE COURT: Okay. Thank you. I'd prefer that
21 nobody go there is my ruling. Unless you've got some
22 evidence of something that I'll be glad to hear from
23 you, I am not allowing gang testimony in this courtroom.
24 So I think you-all agree on that. Let's don't open the
25 door.

1 What else do we have?

2 MR. HUBBARD: There was one other thing that we did
3 not get into in the last trial. That's the automatic
4 or semiautomatic rifle that was found at the premises
5 that was taken from that premises and some ammunition.

6 Right now at this point in time we don't plan to be
7 going into that. If we did, we would be attributing the
8 theft of it to Mr. Hopkins. We're not gonna go there,
9 but obviously if anything is brought up about unfired
10 rounds or anything like that found in the premises, that
11 kind of opens the door, so I just want to let defense
12 know we're not gonna go there right now. If we decide
13 we're going to, we'll bring it to the Court's attention.

14 THE COURT: And the reason being is I think there
15 was some ammunition found in the apartment that could be
16 fired by this rifle, gun.

17 MR. MAULDIN: I think I saw some in some photos
18 laying next to it. That's something --

19 THE COURT: They're willing to keep the gun out,
20 but if you say something about the bullets, then you're
21 gonna open the door to the rifle.

22 MR. MAULDIN: Yes, ma'am.

23 THE COURT: Are you in agreement with that?

24 MR. MAULDIN: Yes, ma'am.

25 THE COURT: Okay. Let's don't open the door then.

1 Do I have anything else, Ms. Mayes?

2 MS. MAYES: Your Honor, that's all we have for the
3 moment. I think we had gone through all of the
4 photographs and the Court had ruled about the admission
5 of three photographs that Mr. Swerling had objected to.
6 We have not received any specific objections from defense
7 counsel for Mr. Hopkins regarding the photographs. Our
8 intent would be to offer the same set of photographs.

9 MR. MAULDIN: I just have to take a look at them.
10 I didn't know --

11 THE COURT: And I'll tell you, Mr. Mauldin, we went
12 over those photographs. You can look at them and let me
13 know if you have any objection.

14 MR. MAULDIN: Well, I'll just object under 403.

15 THE COURT: It's just those three. One is cropped.
16 We even considered putting them in black and white, but
17 that did not -- you just couldn't see anything. It made
18 the whole picture black. You couldn't distinguish
19 anything. And obviously they've got the burden of proving
20 they've got three deceased people. I let in those three
21 photos, but I'll be glad to hear your objections on them
22 once you look at them.

23 MR. MAULDIN: Yes, ma'am. Yes, ma'am.

24 THE COURT: Anything else besides this Facebook?

25 MR. MAULDIN: I think I had put in my motion along

1 with the guns that didn't match up, I think the heroin
2 may not be relevant unless somebody testifies it was
3 taken from the house. I think Donnovin Haynes said that
4 they didn't sell -- they didn't even sell marijuana in
5 the house and they didn't have any hard drugs in the
6 house.

7 THE COURT: They sold marijuana.

8 MR. MAULDIN: But he never said that they had heroin
9 that went missing.

10 THE COURT: Yeah.

11 MR. HUBBARD: Your Honor, if we're gonna try to put
12 the heroin in, we'll lay a foundation for that as well,
13 which would involve probably another witness outside the
14 trial that we had last week. Right now our approach --
15 we're looking at not even doing that in this case.

16 THE COURT: Okay.

17 MR. HUBBARD: So some of the stuff I brought out
18 today in this hearing I might not even be bringing out.
19 Like the pistols that were found and the heroin. If that
20 changes though, I'll let the defense know and Your Honor
21 know so that we can have a quick hearing. We're kind of
22 playing that one by ear, Your Honor.

23 MR. MAULDIN: That's fine by me.

24 THE COURT: We'll hear it, David, and go from there
25 if they decide to do it.

1 MR. MAULDIN: Yes, ma'am.

2 And, of course, sequestration of witnesses, but I
3 understand Creech stays in and the --

4 THE COURT: Evidence custodian. Please let her
5 stay.

6 MS. MAYES: That may change on a daily basis, Your
7 Honor, and I believe technically they're all in our --
8 they're all on our witness list, each one of the evidence
9 custodians, but we've got to have them in order to --

10 THE COURT: Well, Sandy Black is the only one that
11 has substance other than --

12 MS. MAYES: They're all listed, but Sandy Black is
13 -- you know, we don't expect her to testify. Who knows.
14 We may need her for some reason, but with that said we've
15 got to have an evidence custodian in the courtroom.

16 MR. MAULDIN: Well, I didn't object to that. I said
17 I understand you-all need them.

18 MS. MAYES: Okay.

19 MR. HUBBARD: Okay. Perfect.

20 THE COURT: All right. Well, let's take a quick
21 break and let's see where we are on Facebook and let me
22 know if you-all are you're gonna get some witnesses.

23 MR. HUBBARD: Thank you, Your Honor.

24 (Recess taken 3:23 PM.)

25 (Back on the record at 3:42 PM.)

1 THE COURT: Okay. Are we ready on the Facebook?

2 MR. HUBBARD: Yes, Your Honor.

3 THE COURT: All right. Let me hear from you.

4 The defense has moved, I guess, to quash the search
5 warrant.

6 MS. MAYES: Your Honor, we have met and in
7 discussion we're not pursuing admission of any of the
8 Facebook records or their contents. We do want to
9 revisit, however, from earlier today, we addressed the
10 statements of the co-conspirator, being the Jeremy
11 Cornish statements, via text message.

12 THE COURT: These are "clean the tools" and "erase
13 these messages"?

14 MS. MAYES: That is correct, Your Honor. We do
15 intend to offer those two text messages. They are on
16 the date of the murders. They are sent at approximately
17 1:03 PM and 1:04 PM, so roughly two hours after the
18 murders occur. They are sent from a known phone number
19 for Jeremy Cornish to the known phone number of Justin
20 Hopkins. The State does maintain that they are truly
21 statements in furtherance of the conspiracy because it
22 is one co-conspirator -- alleged co-conspirator, who's
23 now been convicted, speaking to another alleged
24 co-conspirator as we've maintained specifically about
25 getting rid of evidence of the crime, which would be in

1 advance of the conspiracy. We offer that, Your Honor,
2 pursuant to Rule 801(d)(2)(E).

3 THE COURT: Mr. Mauldin.

4 MR. MAULDIN: I watched the last trial. If
5 they lay the proper foundation, they lay the proper
6 foundation during the trial, Your Honor.

7 THE COURT: Right, and I do believe they're
8 co-conspirators in furtherance of the conspiracy.

9 MR. MAULDIN: So we'll see how they do it at trial.

10 THE COURT: Yes. Lay a proper foundation, they
11 come in.

12 All right. Does that mean we're done?

13 MR. HUBBARD: I believe so, Your Honor.

14 We just -- and just so Your Honor knows, we just
15 showed the photographs that you admitted in the last
16 trial with the victims.

17 THE COURT: The three photos?

18 MR. HUBBARD: Three photos, one being cropped,
19 showing two -- two casings that were of relevance. So
20 I don't know if Mr. Mauldin want to address them now or
21 just wait until we present them.

22 MR. MAULDIN: Sometimes I wish they'd take
23 pictures when the bodies are removed, Your Honor, so
24 there wouldn't be bodies in the pictures, so I'd just
25 object under 403 on that basis.

1 THE COURT: Right.

2 MR. MAULDIN: That they could have established it
3 some other way.

4 MR. HUBBARD: Of course, these were taken by
5 actually the first responders --

6 THE COURT: Right.

7 MR. HUBBARD: -- and the relevance being how they
8 were found because that goes to malice. That these guys
9 were shot while sleeping --

10 THE COURT: While they were sleeping.

11 MR. HUBBARD: -- and the way they were treated.

12 THE COURT: I understand and I'm letting them in.
13 Your objection, however, is noted for the record.

14 MR. MAULDIN: Yes, Your Honor.

15 MR. HUBBARD: Your Honor, I said malice. I should
16 also say it's evidence of a burglary as well, particularly
17 as to Mr. Booker, the way he is found with everything --

18 THE COURT: Everything covering him up.

19 MR. HUBBARD: -- upended onto him.

20 THE COURT: Right.

21 MR. HUBBARD: Thank you.

22 THE COURT: Okay. I feel like I'm missing something.

23 All right. Now let me just ask -- my law clerk was
24 reminding me there was gonna be like -- I guess you-all
25 are gonna play the videos of the DMV. The testimony of

1 the officer saying well, that's him in it.

2 Let me hear from you. What are your bases,
3 Mr. Mauldin?

4 MR. MAULDIN: 701 and 704, and it's also intruding
5 into the province of the jury. I had cited those cases
6 earlier. I'll have to find them again.

7 THE COURT: I think I've got them. State v. Hurell
8 and State v. Fripp?

9 MR. MAULDIN: Yes. Those are cases where it was
10 allowed, but the people that they allowed to testify to
11 identify people off the video I think had a closer
12 relationship with those people than just an officer that
13 encountered them upon an arrest or anything and they
14 would be in a more position to identify somebody off of
15 a video.

16 THE COURT: Okay. So your objection is while they
17 can play the video, they believe that's who it is, you
18 just don't want them to say that they know that's who it
19 is.

20 MR. MAULDIN: Right. It just seemed like there's
21 Justin Hopkins and he's moving to the left and there's
22 Jeremy Cornish behind him and he's wearing such and such.
23 I mean, it was just like narrating a movie or something
24 for a blind person and their opinions were being inserted
25 the whole time during the last trial and I just don't --

1 they can say that they think it is maybe -- no, no, not
2 even they think according to those cases, but I would
3 just -- I think the videos should speak for themselves.
4 We obtained the videos.

5 THE COURT: Okay.

6 MS. MAYES: Your Honor, where the DMV video is
7 concerned, I do anticipate that the witness will say
8 this appears to be Mr. Hopkins, this appears to be
9 Mr. Cornish, and then there will be some DMV paperwork
10 showing that both were there on that particular day.

11 Now as the KJ's video is concerned, for example,
12 Sergeant Creech has had face-to-face contact with Justin
13 Hopkins on numerous occasions. He had face-to-face
14 contact with him at the traffic stop on the night of the
15 21st. He has no problem identifying Justin Hopkins in
16 that KJ's video, which is as good as standing three or
17 four feet away from him. It is well lit. It is easily
18 decipherable that that is Justin Hopkins. So if there's
19 gonna be an objection to that, maybe we do need some
20 type of pre-trial hearing. I don't think it would be a
21 standard Biggers hearing, but we can certainly lay the
22 foundation as to how he --

23 THE COURT: And I think, Ms. Mayes, the difference
24 with the DMV, while it is grainy, there was also a
25 statement by Mr. Cornish who said he went to the DMV,

1 not once, but twice. I guess we're not gonna have a
2 statement in this case.

3 MS. MAYES: That's correct, Your Honor, although we
4 will have paperwork showing that Mr. Hopkins was at the
5 DMV on the 17th.

6 THE COURT: Right. And I guess the jury can decide
7 whether that's him in the tape or not, but clearly,
8 Mr. Mauldin, have you seen the zippy mart tape? I call
9 it the zippy mart.

10 MR. MAULDIN: The KJ's tape. Your Honor, if they
11 lay a better -- I mean, they can lay it before they show
12 to him, I mean, that he had an opportunity to view and
13 be able to identify him. But definitely the DMV tape
14 has gone beyond the pale as far as being speculative.
15 And the tape will be introduced into evidence, but the
16 people are in the very far back at the screen that's
17 like the other side of the room from the camera and it's
18 very difficult to make out facial features as far as I
19 can tell and I was looking at both the screen and the
20 high definition TV there. But, like I said, those videos,
21 I think, should speak for themselves.

22 THE COURT: Yeah, I think -- I think this case is a
23 little different than the other case because he gave a
24 statement stating that he was at the DMV on top of the
25 stuff being found in his truck that was from the DMV and

1 I guess he even gave a statement saying Mr. Hopkins was
2 there. That's not in this case.

3 MR. MAULDIN: Yes, ma'am.

4 THE COURT: So this case is a little bit different,
5 but unless you're gonna object I think they can lay a
6 foundation for the zippy mart photo. It looked -- I've
7 just called them zippy marts since I was a little girl,
8 but that's pretty clear to me.

9 MS. MAYES: So we have both Captain Laintz and
10 Sergeant Creech who have certainly indicated that they
11 have had prior contact or face-to-face opportunities to
12 view Mr. Hopkins face-to-face, including bond hearings
13 and things of that nature, and can make that
14 identification.

15 With that said, I think traditionally Biggers is
16 in place to prevent any type of police action which may
17 potentially taint a citizen. This would be members of
18 law enforcement recognizing a suspect from video
19 surveillance that they have had face-to-face contact
20 with, so I don't think a traditional Biggers hearing
21 would be required, but we will certainly lay that
22 foundation.

23 THE COURT: Okay. Are you asking them to lay that
24 foundation?

25 MR. MAULDIN: Well, it's not under Biggers because

1 that involves an eyewitness that was at the scene and
2 that's why I cited these two cases that did involve
3 people identifying people off the videos that weren't at
4 the scene.

5 THE COURT: Right, but we're talking about the
6 zippy mart photos.

7 MR. MAULDIN: Right. That they were people that
8 had dealt with the guy over and over again, and I forgot
9 the second, something similar involving girlfriends or
10 relatives or something along that nature where they had
11 experience seeing the defendant over and over again.

12 THE COURT: Well, I think the officer can testify
13 to the zippy mart video. I'm not so sure about the DMV.

14 MR. HUBBARD: Your Honor, we're not offering that
15 right now, but here's the thing. If we get to that
16 point, we would lay a foundation that Your Honor would
17 rule on at that time and then --

18 THE COURT: Okay.

19 MR. HUBBARD: We understand it is different, but we
20 would lay a foundation if we're doing that.

21 THE COURT: Okay.

22 MS. MAYES: And most likely, Your Honor, any
23 testimony regarding the DMV video is gonna be this
24 appears to be a person similar to the physical description
25 of Mr. Cornish and Mr. Hopkins. Now Mr. Hopkins has the

1 unique identifying feature of a band-aid on his face and
2 what we would anticipate the officer will testify to is
3 that there is one meeting the physical description of
4 Hopkins also with a band-aid visible on the face and
5 then showing where that band-aid is. We also have still
6 shots. It's ultimately the jury's determination from
7 there, but it is certainly visible to us. It's a good
8 faith representation on the record and we think that the
9 officer can testify in that regard.

10 THE COURT: The Court agrees.

11 Okay. Anything else?

12 If they put in the DMV, we're gonna have a hearing,
13 Mr. Mauldin. They'll lay a foundation for the other.

14 MR. MAULDIN: All right. We'll get to it when we
15 get to it I reckon for both of them.

16 THE COURT: Anything else?

17 MR. HUBBARD: No, Your Honor.

18 THE COURT: I totally feel like I'm missing
19 something after I just spent three days -- three and a
20 half days in motions two weeks ago.

21 MR. MAULDIN: I think we did more in this half a
22 day than we did in three.

23 THE COURT: I think we did, too. It helps to be
24 familiar with the case.

25 MR. HUBBARD: It does.

1 THE COURT: All right. So court's adjourned. I'll
2 see you-all at 9:30.

3 (Whereupon, the proceedings were concluded for
4 October 24, 2022, at 4:07 PM.)

5 (The following proceedings were held October 25,
6 2022, beginning at 9:26 AM.)

7 BAILIFF: All rise. Court is now in session. The
8 Honorable Judge Debbie McCaslin presiding.

9 THE COURT: Please be seated.

10 We're still waiting.

11 MR. HUBBARD: She's here. She just got here, so
12 I'll let her know.

13 THE COURT: Have we got David?

14 MS. MAULDIN: Judge, he went out for a moment.
15 He'll be back in a minute.

16 (Pause in proceedings.)

17 (State's Exhibit Numbers 1 through 211 were marked
18 for identification.)

19 THE COURT: All right. When I bring the jury in --
20 there's not anything else we need to go over, is there?

21 MS. MAYES: Your Honor, there is one matter. We're
22 just waiting for Mr. Mauldin.

23 THE COURT: All right. I see Mr. Mauldin is here.

24 All right. Does the State have anything before I
25 call the jury in?

1 MS. MAYES: Your Honor, we did just want to place
2 on the record, I know we discussed this yesterday, but
3 wanted to make sure that we were going forward without
4 objections on these matters or that if there were
5 objections they could be resolved at this time prior to
6 having to send the jury out for any reason, and that is
7 the State's motion that was filed in this case regarding
8 evidence of excited utterance and the dying declaration,
9 both pursuant to the rules of evidence.

10 As for the excited utterance, Your Honor, that is
11 Rule 803(2). That is the statement made by Donnovin
12 Haynes to Scott Purdy, who will be one of the witnesses
13 this morning. I believe part of that statement is
14 captured on body cam footage and then an additional
15 portion of it was testified to in the previous trial at
16 which Mr. Mauldin was present and observing, but he did
17 give a verbal summary of the remaining portion of that
18 statement made by Donnovin Haynes.

19 In addition, Your Honor, there is the dying
20 declaration that is offered pursuant to 804(b)(2). That
21 is a statement made perceiving while death is imminent.

22 The case that the State submitted pre-trial in that
23 is State versus McHoney, which is fully supported in this
24 case by the body cam footage in which Mr. Williams states
25 that he believes he is dying. That is all going to be

1 contemporaneous with Deputy Donnelly asking him if he
2 knows who shot him and he states "no, not at all, I was
3 asleep". And, again, all of that was proffered in the
4 previous trial at which Mr. Mauldin was present.

5 I believe yesterday there are was no objection to
6 having that statement come in through Officer Donnelly
7 without playing or offering the actual body cam footage
8 in which the statement was made, but we also wanted to
9 protect the record regarding the excited utterance
10 statements made by Donnovin Haynes to Scott Purdy.

11 THE COURT: Okay. That was my recollection on the
12 dying declaration. We weren't gonna play the video
13 itself, but I think the defense agreed to the statement.

14 Is that correct, Mr. Mauldin?

15 MR. MAULDIN: Right, as long as they lay the proper
16 foundation.

17 THE COURT: As long as they lay the foundation.

18 I think it was the same for the excited utterance
19 of Mr. Haynes. I think we talked about that earlier.
20 This is like moments after he jumped out of window. I
21 think the police were there in a short period of time.
22 He describes what he did and what he heard. I believe
23 there was no objection to that either.

24 Is that correct, Mr. Mauldin?

25 MR. MAULDIN: As long as they lay the proper

1 foundation, I won't object to it.

2 THE COURT: Lay the foundation and I don't think
3 we'll have a problem, Ms. Mayes.

4 All right. Let me -- are we ready to bring the jury
5 in?

6 MS. MAYES: Yes, Your Honor.

7 MR. MAULDIN: Yes, Your Honor.

8 THE COURT: All right. Let me tell everybody in
9 the gallery I don't allow cell phones in the courtroom.
10 The deputy should have stopped you if you had a cell
11 phone. If not, I'm gonna tell you if I catch you with
12 a cell phone I'm keeping it and I will donate it to
13 Sister Care.

14 The only people that are allowed to have cell
15 phones would be the State, the defense team, and any
16 police officers that I have, and I would ask that those
17 phones be put on silent. That's just my rule.

18 Okay. Let's bring the jury in.

19 (Whereupon, the jury enter the courtroom at
20 9:40 AM.)

21 THE COURT: All right. Mr. Foreman, do we have
22 everybody?

23 FOREPERSON: Yes, ma'am.

24 THE COURT: Okay. I'm gonna get the clerk to swear
25 you in right quick before you're seated.

1 (Whereupon, the jury was duly sworn by the Clerk
2 of Court.)

3 THE CLERK: Please respond by saying I do or I
4 affirm.

5 (Jury responds.)

6 THE CLERK: Thank you.

7 THE COURT: Okay. You can be seated.

8 All right. Let me ask the jury, have you heard
9 anything about this case, has anyone approached you
10 about this case, have you read, done any research, seen
11 anything on the Internet, radio or TV? If so, please
12 raise your hand.

13 Very good.

14 All right. Before we begin the actual trial of the
15 case, I thought it might be helpful if I explained to you
16 basically how a trial proceeds. First, the State will
17 make an opening statement. An opening statement is not
18 evidence. It is simply an outline to help you understand
19 what that party expects the evidence will show. The
20 defendant may, if he wishes, present an opening statement,
21 but he does not have to for reasons that I will explain
22 later.

23 Following the opening statements, you will hear
24 testimony and evidence in the case. This will consist
25 of testimony from the State's witnesses, as well as any

1 physical exhibits which will be introduced into evidence.

2 Following the completion of the testimony, the
3 attorneys will, again, have an opportunity to make what
4 is called a closing statement or a summarization of their
5 case. Again, these arguments are not evidence.

6 Following the closing statements by the attorneys,
7 I will instruct you on the law of South Carolina as it
8 pertains to the issues that have arisen in the case.
9 When I have completed my instructions to you, you will
10 then be permitted to begin your deliberations in order
11 to reach a verdict.

12 Ladies and gentlemen, you are now the jury in
13 this case and I want to take a few minutes to tell you
14 something about your duty as jurors and to give you some
15 instructions. At the end of the trial, I will give you
16 more detailed instructions, and those instructions will
17 control your deliberations. It will be your duty to
18 decide from the evidence what the facts are. You and
19 you alone are the judges of the facts. You will hear
20 the evidence, decide what the facts are, and then apply
21 those facts to the law which I will give to you. That
22 is how you will reach your verdict.

23 In doing so, you must follow the law whether you
24 agree with it or not. The evidence will consist of the
25 testimony of witnesses, documents, and other things

1 received into evidence as exhibits and any facts on
2 which the lawyers agree or which I may instruct you
3 to accept. You should not take anything I say or do
4 during the trial as indicating what I think of the
5 evidence or what your verdict should be.

6 Where's my indictments? Can I have the indictments?

7 THE CLERK: (Handing.)

8 THE COURT: Thank you.

9 This is a criminal case brought by State of South
10 Carolina against Justin Hopkins and charges him with
11 three counts of murder and one count of burglary in the
12 first degree. The charges against the defendant is
13 contained in the indictments. The indictment is not
14 evidence of anything. It is simply the description of
15 the charge made by the State against the defendant.

16 The defendant has pled not guilty to the charge
17 and is presumed innocent unless and until proven guilty
18 beyond a reasonable doubt. Proven beyond a reasonable
19 doubt is proof that leaves you firmly convinced of the
20 defendant's guilt. A defendant has the right not to
21 testify and never has to prove his innocence or present
22 any evidence. The burden of proof is always upon the
23 State of South Carolina.

24 The following things are not evidence and you must
25 not consider them as evidence in deciding the facts of

1 this case. Statements and arguments of the attorneys,
2 questions and objections of the attorneys, and testimony
3 that I instruct you to disregard.

4 Evidence may be direct evidence or circumstantial
5 evidence. Direct evidence is testimony by a witness
6 about what that witness personally saw, heard or did.
7 Circumstantial evidence is indirect evidence; that is,
8 proof of one or more facts from which one can find
9 another fact. You are to consider both direct and
10 circumstantial evidence. The law permits you to give
11 equal weight to both, but it is for you to decide how
12 much weight you give any evidence.

13 There are rules of evidence which control what can
14 be received into evidence. When a lawyer asks a question
15 or offers an exhibit into evidence and the lawyer on the
16 other side thinks that it is not permitted by the rules
17 of evidence, that lawyer may object. If I overrule the
18 objection, the questions may be answered or the exhibit
19 may be received. If I sustain the objection, the
20 questions cannot be answered or the exhibit cannot be
21 received. Whenever I sustain an objection to a question
22 or deny a motion to admit an exhibit into evidence, you
23 must ignore the question or the existence of the exhibit
24 and you must not guess what the answer would have been or
25 what the exhibit would have shown.

1 Sometimes it may be necessary for me to request
2 that you leave the courtroom while I discuss with the
3 attorneys legal questions that come up. If this occurs,
4 you should not speculate about our discussions or the
5 reason that you were asked to leave the room. This is
6 simply a procedure that the law requires when certain
7 legal issues arise.

8 There also may be occasions where I ask the
9 attorneys to approach the bench so we can discuss a
10 legal issue in private. I will do this as often as
11 possible so you will not be required to leave the
12 courtroom more than is absolutely necessary. Again, if
13 I ask the attorneys to step up to the bench or if I ask
14 you to leave the courtroom, please don't think that
15 anybody is trying to hide anything from you or keep any
16 evidence from you. This is simply a procedure used by
17 all lawyers and by all courts to determine and decide
18 legal questions.

19 In deciding the facts of the case, you may have to
20 decide which witness to believe and which witness not to
21 believe. You may believe everything a witness says, only
22 part of it or none of it. In deciding what to believe,
23 you may consider a number of factors, including the
24 following. The witness's ability to see, hear, or know
25 the things testified to, the quality of the witness's

1 memory, the witness's manner while testifying, whether
2 the witness has an interest in the outcome of the case
3 or any motive, bias or prejudice, whether the witness
4 was contradicted by anything the witness said or wrote
5 before the trial or by other evidence, how reasonable
6 was the witness's testimony when considered in the light
7 of other evidence which you believe.

8 Until I advise you to begin your deliberations, you
9 must not discuss this case with anyone, including your
10 fellow jurors, friends, family members or anyone involved
11 in this case. This includes discussions face-to-face,
12 those by telephone, e-mail, texts, blogs, Twitter,
13 Facebook, Google or any other method of communication.
14 You may not use a computer, a cell phone or other
15 electronic device with communication capabilities at any
16 time while in the courtroom or during your deliberations.
17 During your breaks for meals you may use these devices;
18 however, you may not at any time use these devices to
19 get or send information about the case. This includes
20 information about a party, a witness, an attorney or a
21 court officer, news accounts about the case, research on
22 any topics raised or any topics you may think would be
23 helpful in deciding the case or any testimony presented
24 by any witness.

25 During the trial, do not read, listen to or watch

1 any news reports about the case. This includes anything
2 that may be in the newspapers, on the Internet, radio,
3 television. You must not consider anything you may have
4 read or heard about the case outside of this courtroom
5 whether before or during the trial.

6 After the case is submitted to you, you must discuss
7 it only in the jury room with your fellow jurors. The
8 attorneys and parties I told you yesterday are not
9 allowed to speak with you. Make sure everyone wears
10 their juror badge. They're not being unfriendly, they're
11 just following my orders. They're not allowed to speak
12 to you.

13 It is important that you keep an open mind and not
14 decide any issue in the case until all of the evidence
15 has been presented, the parties have made their closing
16 arguments and I have instructed you on the law in this
17 case.

18 It is your sole responsibility to determine the
19 guilt or innocence of the defendant and your verdict
20 must be based solely on the evidence as it is presented
21 to you in this trial and on the law as I instruct you
22 during and at the close of trial.

23 It is your added duty, Mr. Foreman, to preside in
24 the jury room and you will be the jury's spokesperson
25 here in court. It will also be your duty to write the

1 verdict, but I will give you further instructions about
2 that later on.

3 All right. In order to preserve everyone's rights,
4 I'm gonna give the parties the opportunity to object to
5 anything I've said.

6 Any exceptions by the State?

7 MS. MAYES: None from the State, Your Honor.

8 THE COURT: Any from the defense?

9 MS. MAULDIN: No, Your Honor.

10 THE COURT: Okay. Are we ready for openings?

11 MS. MAYES: Yes, Your Honor.

12 THE COURT: All right.

13 Am I having Ms. Mayes or Mr. Hubbard or Mr. Norton?

14 MR. HUBBARD: Ms. Mayes.

15 THE COURT: Ms. Mayes.

16 MS. MAYES: May it please the Court?

17 THE COURT: Yes, ma'am.

18 MS. MAYES: Good morning.

19 When you arrived yesterday for jury duty, you may
20 have wondered what type of case you may be selected to
21 serve on. Probably the furthest thing from your mind
22 was that it would be a murder case, and as you heard
23 when the State called the indictments yesterday, this
24 is three counts of murder.

25 You will hear testimony and evidence in this case

1 that this defendant, Justin Hopkins, along with a
2 co-defendant, Jeremy Cornish, brutally killed three men
3 in cold blood. Those three men were inside their own
4 home exactly where they had a right to be. They are
5 Sheldon Livingston, Branton Booker and Duwan Williams.
6 Those three men are the men who were brutally killed by
7 his hand, by his choices, and by the malice in his heart
8 and mind.

9 So the facts of this case are as bad as it gets,
10 so I want to lay that out right now. You're gonna be
11 hearing some things this week that are gonna be hard to
12 listen to, but they're absolutely necessary facts and
13 evidence as proof of the murder and malice in this case.

14 So what we have are those three men just before
15 11 AM in their own home, and it's at the Woodland Village
16 apartments in the St. Andrews area of Lexington County,
17 there's a knock or a noise at the door. Branton Booker,
18 who lives there, goes to the door and there he is
19 ambushed. He's shot right as he opens the door. The
20 evidence will show he takes two shots to the chest, to
21 the shoulder. There's a struggle at that door. There's
22 no doubt, I submit, the evidence will show Branton Booker
23 does what he can to keep the intruders out, but he can't.
24 He's been shot and there's gonna be massive blood loss
25 right there at the entryway to his home.

1 Justin Hopkins forces his way in and once he's
2 inside, there's a killing spree. You're gonna hear
3 testimony that everyone else in his eyesight and that
4 of that co-defendant, Jeremy Cornish, are shot to death.

5 So when we talk about burglary, which is one of
6 the charges before you, it does not matter that Branton
7 Booker went and opened that door when he heard a knock
8 or heard a noise. Burglary occurs when there's an
9 entry without consent with the intent to commit a crime
10 therein. There is no question the evidence will show in
11 this case that when they came in they came to steal, and
12 that is the cold, hard, unavoidable truth in this case.

13 It all comes down to one thing pure and simple.
14 Greed. They wanted what was in that house and what was
15 in that house was marijuana and cash, and that's it. He
16 executed three men to take their weed and take their
17 cash. And I implore you the fact that marijuana, drugs,
18 were in that house in no way changes the severity of this
19 case, nor does it change the value of human life. This
20 is cold-blooded murder.

21 You're gonna hear that there was a fourth victim
22 in that house who also lived there. Donnovin Haynes.
23 Donnovin is in the master bedroom with his door closed.
24 He had worked late that night just like Duwan, who was
25 asleep on the couch, and as Donnovin is in his bedroom

1 he wakes to the sound of gunfire all around him. He can
2 hear his friends being murdered just outside his bedroom
3 door and you're gonna hear that when he takes cover in
4 his bedroom closet in fear for his life he hears his
5 bedroom door getting kicked in. They've already killed
6 Branton, they've killed Duwan and they've killed Sheldon,
7 and now they're coming for Donnovin.

8 You're gonna hear testimony and evidence that the
9 intruder who kicks in the bedroom door of Donnovin Haynes
10 and then tries to kick in the closet door where Donnovin
11 Haynes is hiding and fighting for his life, is that man.
12 It's Justin Hopkins who kicks in that door. It's Justin
13 Hopkins who then tries to kick in the closet door.

14 You'll hear that Donnovin could hear the intruders
15 talking amongst themselves. You will hear evidence of
16 what he heard them say, and there's no doubt in the mind
17 of Donnovin Haynes that there were two intruders, and he
18 hears one of them say "I've got it", and then they retreat
19 just as quickly as they came in. They got what they were
20 looking for.

21 Donnovin escapes through that bedroom window and as
22 he goes out that bedroom window he can see where his
23 bedroom door's been kicked in and he can see a body on
24 the floor. He doesn't know it, but that's Branton, a
25 friend of his for many years, laying in the hallway with

1 all types of clothing and other items strown on top of
2 him because after they shot and killed Branton they
3 rummaged the house. They went through a linen closet
4 just beside Branton and pulled everything out of it on
5 top of his body as he lay dying. Donnovin sees that as
6 he goes out the window.

7 You'll also hear evidence that as he's in that
8 closet that he can hear the sound of heavy breathing,
9 heavy, labored breathing. He doesn't know it, but
10 that's Duwan, who was dying on the couch, and as he was
11 struggling to breathe you'll hear evidence that first
12 responders arrive and that one of those first responders,
13 Detective Donnelly, is able to talk to Duwan just before
14 he takes a last breath and he says "Do you know who shot
15 you?". Duwan says "No, not at all. I was asleep."

16 And, again, that's what this case comes down to. A
17 defenseless man shot four times on the living room couch
18 while he was sleeping.

19 I've already talked about Branton Booker, who took
20 those two gunshot wounds right when he opens the door,
21 and he's ambushed. You're also gonna hear about Sheldon
22 Livingston. Where was Sheldon? Sheldon was also asleep
23 in his bedroom in this apartment when the intruders come
24 into that house. Sheldon Livingston is found right by
25 his bed still wrapped in bedding. He never had a chance.

1 He's shot twelve times. Twelve gunshots.

2 Now some of the most important evidence that you're
3 gonna hear in this case is about Duwan and ultimately
4 it's the evidence that's gonna tell the story in this
5 case. It's the evidence that will light the path,
6 crime scene evidence, and you will hear from crime scene
7 investigators, but you'll also hear from the pathologist,
8 and the pathologist is the doctor that performs autopsies,
9 and he'll tell you about the autopsy of Duwan. Duwan is
10 the young man that I told you about that was asleep on
11 the couch when he was shot four times. You'll hear
12 testimony from that pathologist that when he removed
13 the bullets from Duwan's body he's been shot by two
14 different calibers. Two different guns. One's gonna
15 be a 9-millimeter round, the other, two rounds recovered
16 from his body, are gonna be .38 rounds, and I submit to
17 you the evidence will show those .38 rounds were fired
18 by a gun consistent with a .38 revolver, a completely
19 separate gun than the gun you'll hear about that's the
20 Glock 9-millimeter that also shoots Duwan while he's
21 asleep on the couch, and that 9-millimeter is the gun
22 that's gonna shoot Sheldon Livingston twelve times and
23 Branton Booker twice.

24 The evidence will show you that Justin Hopkins and
25 Jeremy Cornish acted together in their participation of

1 this crime. Now these are separate trials, completely
2 separate trials as to Justin Hopkins and Jeremy Cornish,
3 but where Justin Hopkins is concerned under the law is
4 a principal that we call the hand of one is the hand of
5 all. And, in essence, what that means is that when two
6 or more people join together and act together and
7 participate in a crime, both are equally responsible
8 under the law for the consequences of that crime. And
9 we know we have two intruders with two guns and we know
10 that both of those guns were fired during this murder
11 spree.

12 And so when we talk about the hand of one is the
13 hand of all, it does not matter under the law whether
14 one or both people pulled the trigger. Even if only
15 one person had pulled the trigger, when acting together
16 both are equally responsible under the law for these
17 crimes.

18 I know I mentioned crime scene evidence and you're
19 gonna hear specifically from our CSI officers in this
20 case and it's gonna be a lot like what you've probably
21 seen and heard about on TV when it comes to crime scene
22 evidence, what crime scene evidence is. DNA, latent
23 prints or fingerprints can be crime scene evidence, but
24 also footwear impressions, and in this case that's gonna
25 be the proof.

1 And so you're gonna hear testimony specifically
2 about the types of evidence recovered from the crime
3 scene. You're gonna hear that there's a DNA swab that's
4 taken from inside that crime scene that's gonna place
5 the co-defendant, Jeremy Cornish, directly at that crime
6 scene. That's the co-defendant of Justin Hopkins. You'll
7 hear evidence of what they did that day. That they're
8 friends, that they've been friends for a period of time,
9 but especially in December of 2019 when these crimes
10 occurred. You'll hear evidence that they start out
11 together that day, you'll hear evidence that they end up
12 at Woodland Village Apartments, and then immediately
13 after these crimes they flee Woodland Village Apartments
14 in the white work truck of Jeremy Cornish, and you'll
15 hear that less than fifteen minutes after these murders
16 Justin Hopkins is seen on video surveillance at a local
17 grocery store just about a mile from the crime scene in
18 St. Andrews called KJ's Grocery, and you'll see and hear
19 that he's getting out of that white work truck of Jeremy
20 Cornish, and it's only the two of them, and I submit the
21 evidence will be clear that it was only the two of them
22 who committed this crime.

23 So that DNA evidence I spoke about that places the
24 co-defendant, Jeremy Cornish, at the crime scene, you'll
25 hear that it's from a dead bolt lock inside the home.

1 It's on the inside of the door. And the reason that's
2 important is because when the intruders come in, when
3 Justin Hopkins and Jeremy Cornish come in, one of the
4 first things that occurs is Jeremy Cornish locks that
5 dead bolt from the inside. Why? So that none of the
6 neighbors in those nearby apartments can render aid or
7 intervene to the sound of gunfire. You'll hear that
8 the intruders then flee out of a patio door after these
9 murders.

10 But it doesn't stop there. You'll hear about DNA
11 evidence that links Justin Hopkins directly to this
12 crime scene in the form of a white T-shirt, a plain white
13 T-shirt. You'll hear that on that video surveillance,
14 and you'll see it for yourself, that video surveillance
15 I spoke about just a little while ago that's just fifteen
16 minutes after the murders, Justin Hopkins goes in to
17 KJ's Grocery and he's wearing a white T-shirt. Four
18 days later when he's apprehended and arrested by law
19 enforcement in this case, in his belongings is a white
20 T-shirt, a plain white T-shirt. You'll hear that that
21 white T-shirt goes to the State Law Enforcement Division
22 for analysis. On that white T-Shirt is the blood of
23 Duwan Williams. Undeniable evidence that that bloodstain
24 is the DNA of Duwan Williams. He has the victim's blood
25 on his shirt.

1 And about that boot print I mentioned, you'll hear
2 that when that bedroom door got kicked in when Donnovin
3 Haynes was hiding, taking refuge in that closet, he can
4 hear that bedroom door getting kicked by an intruder
5 who's on a rampage and looking to kill, that it left a
6 boot impression on the door. You will hear that that
7 boot impression matches in size and shape and the tread
8 pattern, the outer sole design, it matches the boot of
9 Justin Hopkins that was taken from his apartment during
10 the execution of a search warrant. But not only that,
11 it's gonna be the same boot he's seen wearing on that
12 KJ's video at the same time he's wearing that white
13 T-shirt that's gonna have the blood of Dewan Williams
14 on it.

15 And finally you'll hear about some text messages
16 in this case. You'll hear exactly what that's about and
17 how that links him to this crime, but most importantly
18 it will show that he and Jeremy Cornish were together
19 that day acting together, participating together. The
20 hand of one is the hand of all.

21 Finally, about the law, the law in this case.
22 Murder in South Carolina is actually very simple. It's
23 not like other states where there's all these levels
24 of murder and then you might have a certain amount of
25 premeditation that's required. None of that in South

1 Carolina. In South Carolina, murder is the killing of
2 a another person with the malice aforethought.

3 So what do we mean by that? Malice aforethought.
4 First, malice means hatred, ill will or hostility. In
5 this case, to come into a home for the purpose of
6 stealing with that evil intent is malice. Malice
7 aforethought. What does aforethought mean? So it's
8 not like other states where there's any level of
9 premeditation that's required. We don't have to show
10 that it's a day or even an hour or even two minutes.
11 What malice aforethought means is that there is malice,
12 that evil intent, in one's heart and mind at the time
13 and just before the trigger is pulled, and I submit to
14 you that evidence of malice aforethought will be
15 overwhelming in this case because the evidence will
16 show Branton Booker's attacked at that door, Sheldon
17 Livingston is killed as he lay in bed, shot twelve times.
18 Malice each and every time that trigger is pulled. And,
19 finally, Duwan Williams, sleeping on the couch exactly
20 where he should be in his own home, shot four times.
21 There could be no greater evidence of malice than that.

22 After all is said and done, I submit the State will
23 meet its burden of proof and that is proof beyond a
24 reasonable doubt, proof abundantly that Justin Hopkins
25 committed these crimes; burglary in the first degree,

1 the murder of Branton Booker, the murder of Sheldon
2 Livingston, and the murder of Duwan Williams.

3 Thank you.

4 THE COURT: Thank you, Ms. Mayes.

5 Ms. Mauldin.

6 MS. MAULDIN: Thank you, Your Honor. May it
7 please the Court?

8 THE COURT: Yes, ma'am.

9 MS. MAULDIN: You've heard the accusations in this
10 case and that's what they are. They're accusations.
11 Justin Hopkins has entered a plea of not guilty and
12 that's because he is innocent. Justin Hopkins is
13 twenty-four years old. You'll hear that he's from
14 Columbia. He was doing brick masonry work.

15 These allegations arose in 2019. It's been almost
16 three years that this case has been pending. Justin
17 Hopkins has been waiting for his day in court for almost
18 three years. His family has been waiting for his day in
19 court for almost three years. Your verdict matters to
20 him and it matters to his family.

21 This is going to be a long trial. You're gonna
22 hear from a number of witnesses. You're gonna see a
23 lot of physical evidence. The prosecution may call
24 some witnesses who talked to the police and changed
25 their stories about what happened. They may call some

1 witnesses who left things out. I ask you to use your
2 common sense and evaluate their testimony carefully and
3 consider why they may be saying the things that they've
4 said.

5 There were many, many police officers involved in
6 this case. You'll hear about their work on the case.
7 You'll hear about items they collected, where they
8 collected the items, how they collected the items and
9 how the items were analyzed, but at the end of this case
10 when you put everything together, the witness testimony
11 and the evidence that's been collected, is not going
12 to give you a picture of what happened in this case.
13 They're not gonna give you a complete picture of what
14 happened in the apartment back then.

15 In a criminal trial, the prosecution has the burden
16 of proof beyond a reasonable doubt. First, that means
17 that it's their job to prove that a defendant is guilty.
18 A defendant never has to prove his innocence. Second of
19 all, that means that they have to prove the acts that
20 were committed. They have to prove that Justin Hopkins
21 did what the allegations say. They also have to prove
22 intent. For them to prove that he was guilty of these
23 charges, they would have to prove his mindset, what's in
24 a person's mind. For murder, they would have to prove
25 malice aforethought; for the burglary charge, they would

1 have to prove that he had entered this home with the
2 intent to commit a crime inside.

3 At the end of the trial, Judge McCaslin will
4 explain to you much more fully about the law of the case
5 and you'll have a chance to go back to your jury room to
6 deliberate and consider all of the evidence.

7 This is a very serious case. There are three men
8 who are dead, and that's a very, very serious thing, but
9 I ask that you don't let the seriousness of the case let
10 you lose sight of what the prosecution has to prove.
11 When you examine all of the evidence and all of the
12 witness testimony in the case, you will find that they
13 haven't proved what happened in that apartment, they will
14 not have met their burden, which is a very high burden.
15 When you evaluate this case and consider all of the
16 evidence carefully, you'll find that Justin Hopkins is
17 not guilty.

18 THE COURT: Thank you, Ms. Mauldin.

19 Is the State ready to call their first witness?

20 MS. MAYES: Yes, Your Honor. May it please the
21 Court? The State calls Angie Gunter.

22 (Whereupon, Angela Gunter was duly sworn by the
23 Clerk of Court.)

24 THE CLERK: If you'll have a seat over there,
25 please. If you'll state your name and spell your last,

1 please, for the record.

2 THE WITNESS: Angela Gunter, G-U-N-T-E-R.

3 ANGELA GUNTER,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. MAYES:

7 Q. Tell us a little bit about yourself, Ms. Gunter.

8 Where are you employed?

9 A. Lexington County Communications.

10 Q. All right. And what I'm gonna do is --

11 MS. MAYES: Your Honor, if I may approach?

12 THE COURT: You may.

13 MS. MAYES: I'm just gonna move this a little bit
14 closer to you.

15 THE WITNESS: Okay.

16 BY MS. MAYES:

17 Q. Now, Ms. Gunter, once again, where are you employed?

18 A. Lexington County Communications.

19 Q. All right. And what type of work do you do there?

20 A. I'm the deputy chief of the communications center. I
21 monitor the floor, make sure it's staffed, make sure the
22 calls are being handled appropriately.

23 Q. All right. When we talk about the Lexington County
24 Communications Center, what do you-all do there?

25 A. We're the 9-1-1 center. We answer emergent numbers

1 and calls for service and dispatch them out appropriately.

2 Q. Now how do you go about keeping and preserving 9-1-1
3 calls that are made?

4 A. All of our phone calls are recorded and we keep them
5 on file for about ninety days.

6 Q. All right. And in this particular case, can you tell
7 us whether or not you were able to preserve the 9-1-1 call
8 associated with this event on December 17, 2019?

9 A. Yes, ma'am. Uh-huh.

10 Q. All right. What I'm gonna do right here is just put
11 the date. And, again, we're talking December 17th of 2019?

12 A. Yes, ma'am.

13 MR. MAULDIN: Suzanne, can you move that a little
14 forward so I can see the witness?

15 MS. MAYES: Yes.

16 MR. MAUDLIN: Or backward, please. It's in the way.
17 Thank you.

18 BY MS. MAYES:

19 Q. And, Ms. Gunter, can you see that from where you are?

20 A. I can.

21 Q. Okay. So December 17, 2019, I'm gonna ask you whether
22 or not you were able to preserve a call in association with
23 this case involving State versus Justin Hopkins?

24 A. Yes.

25 Q. All right. I'm gonna show you an item and ask you

1 whether or not you recognize it. It is marked as
2 State's 71.

3 A. Yes, ma'am, I do.

4 Q. How do you recognize that?

5 A. Because I initialled and dated it right there.

6 Q. And you had an opportunity to listen to this audio
7 recording?

8 A. Yes, ma'am.

9 Q. Can you tell us whether or not this audio recording
10 is a true and accurate copy of the original 9-1-1 call made
11 in this case?

12 A. It is, yes.

13 Q. And a little bit more information about that. What is
14 the time that the 9-1-1 call is received in this case?

15 A. At 10:59 AM.

16 Q. And what is the address in which 9-1-1 services are
17 requested?

18 A. It's [REDACTED] Butternut Lane.

19 Q. Now what type of services were requested and
20 dispatched in this particular case?

21 A. This was -- the nature was a home invasion, which was
22 law, and then they also had fire service and it looks like
23 EMS as well responded.

24 Q. All right. So the nature of the call was a home
25 invasion?

1 A. Yes, ma'am.

2 Q. As noted in your records?

3 A. Correct.

4 Q. Now are your records maintained contemporaneously with
5 the call as it comes in?

6 A. Yes, by a CAD report.

7 Q. Okay. Specifically, just to clarify, you have a
8 dispatcher who's taking notes as the calls come in?

9 A. We do. That's correct.

10 Q. All right. So it's noted to be a home invasion. Let
11 me ask you this. What is the name of the caller?

12 A. Donnovin.

13 Q. Donnovin. And can you tell us what type of services
14 were sent out after receiving this call from Donnovin at
15 10:59 AM?

16 A. Law enforcement was sent out immediately.

17 Q. Okay. So law enforcement goes and in this particular
18 case, can you tell us which agency that was?

19 A. That was Lexington County Sheriff's Department.

20 Q. All right. Lexington County Sheriff's Department.
21 Can you tell us whether or not EMS was also sent?

22 A. Hang on one second for me. Yes, they were.

23 Q. All right. So the Lexington County Sheriff's
24 Department and EMS are sent to the scene?

25 A. Correct.

1 Q. Do you have the time that the first officer with the
2 Lexington County Sheriff's Office arrived there at the
3 scene?

4 A. 11:03 AM.

5 Q. 11:03 AM?

6 A. Correct.

7 Q. So roughly four minutes after that 9-1-1 call is first
8 received?

9 A. Correct.

10 Q. And what is the name of that first officer who arrived
11 at the scene?

12 A. Scott Purdy.

13 Q. Okay. Scott Purdy with the Lexington County Sheriff's
14 Department?

15 A. Yes, ma'am.

16 MS. MAYES: I beg the Court's indulgence.

17 THE COURT: Take your time.

18 MS. MAYES: Your Honor, at this time the State will
19 offer 71, being the audio of the 9-1-1 call, to be
20 published at a later time.

21 THE COURT: Any objection?

22 MR. MAULDIN: No, Your Honor.

23 THE COURT: It's admitted.

24 (State's Exhibit Number 71, a 9-1-1 call, was
25 admitted into evidence.)

1 BY MS. MAYES:

2 Q. And this particular audio recording, State's 71, can
3 you tell us whether it's maintained in the ordinary course
4 of your business?

5 A. Yes.

6 MS. MAYES: 71 for evidence, Your Honor.

7 Nothing further of the witness at this time.

8 THE COURT: And I've admitted it.

9 Mr. Mauldin.

10 CROSS-EXAMINATION

11 BY MR. MAULDIN:

12 Q. So the call came in around 10:59; is that right?

13 A. That's correct.

14 Q. And the police were dispatched around 11:00?

15 A. They were dispatched at 11:00, correct.

16 Q. What time was EMS dispatched?

17 A. Stand by one second for me, please. They were on --
18 well, that's when they were on-scene. They were dispatched
19 en route about 11:09.

20 Q. So that would be, according to the records, about six
21 minutes after Officer Purdy arrived; is that correct?

22 A. Yes.

23 MR. MAULDIN: No further questions.

24 THE COURT: Thank you.

25 Any redirect, Ms. Mayes?

1 MS. MAYES: Nothing from the State, Your Honor.

2 THE COURT: May I let Ms. Gunter be excused?

3 MS. MAYES: Yes, Your Honor.

4 THE COURT: Ms. Gunter, thank you.

5 THE WITNESS: Thank you ma'am.

6 (Witness excused.)

7 THE COURT: All right. Let me -- Mr. Foreman,
8 ladies and gentlemen of the jury, the next witness is
9 gonna be a little long. Would you-all like to take a
10 break or are you ready to go forward?

11 FOREPERSON: Yes. We're good.

12 THE COURT: Thank you.

13 MR. HUBBARD: The State calls Officer Scott Purdy.

14 THE CLERK: Raise your right hand, please.

15 (Whereupon, Scott Purdy was duly sworn by the Clerk
16 of Court.)

17 THE CLERK: If you'll have a seat, please. State
18 your name and spell your last for the record.

19 THE WITNESS: Scott Purdy, P-U-R-D-Y.

20 SCOTT PURDY,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. HUBBARD:

24 Q. Officer Purdy, where do you work?

25 A. I work at the Lexington County Sheriff's Office.

1 Q. How long have you been with the sheriff's department?

2 A. I've been with this sheriff's department a little over
3 ten years.

4 Q. And prior to the sheriff's department, were you in law
5 enforcement somewhere else?

6 A. Yes, sir. I worked for Richland County for a couple
7 of years and I also worked in Florida for about four.

8 Q. Okay. What are your current duties with the sheriff's
9 department?

10 A. I'm currently assigned to our Crime Reduction Unit.

11 Q. So being part of that unit, you get to wear facial
12 hair and wear civilian clothes?

13 A. Yes, sir. It's a -- it's a plainclothes unit, so I
14 get to look not like police.

15 Q. Okay. Very good. But back in December of 2019, what
16 was your role then?

17 A. At that time I was a road sergeant, so I worked the
18 road answering calls and supervising a shift.

19 Q. I want to take you back to December 17, 2019. Do you
20 remember responding to a call at [REDACTED] Butternut Lane?

21 A. Yes, sir.

22 Q. And just to be clear, I want to show you State's 212.
23 This is a calendar from that time period.

24 A. Okay.

25 MR. HUBBARD: Your Honor, I offer 212 into evidence.

1 MR. MAULDIN: No objection.

2 THE COURT: It's admitted.

3 (State's Exhibit Number 212, a 2019 calendar page,
4 was admitted into evidence.)

5 BY MR. HUBBARD:

6 Q. Detective Purdy, looking at this calendar, December
7 the 17th is on what day?

8 A. Tuesday.

9 Q. All right. And what was your -- what was your role
10 with the sheriff's department at that time?

11 A. I was a road sergeant.

12 Q. All right. And do you remember the call that went out
13 at [REDACTED] -- for [REDACTED] Butternut Lane?

14 A. Yes, sir.

15 Q. What was the nature of that call?

16 A. So it was toned out as a home invasion in progress,
17 possible people shot on-scene.

18 Q. And did you go to that complex?

19 A. I did. Yes, sir.

20 Q. Were you the first officer at that complex?

21 A. I was.

22 Q. Do you remember the name of that apartment complex?

23 A. Yes, at the time it was called Woodland Village
24 Apartments.

25 Q. Is that in Lexington County?

1 A. It is. Yes, sir.

2 Q. About what time do you remember getting that dispatch?

3 A. It was right at 11:00.

4 Q. What time did you get there?

5 A. 11:03.

6 Q. When you arrived, did you have a partner or are you by
7 yourself?

8 A. I was the first one on-scene and I did not have anyone
9 else with me at the time.

10 Q. I want to show you what's been marked State's 49. Is
11 that an aerial of that apartment complex?

12 A. Yes, it is.

13 MR. HUBBARD: I offer 49 into evidence.

14 THE COURT: Any objection?

15 MR. MAULDIN: No objection, Your Honor.

16 THE COURT: It's admitted.

17 (State's Exhibit Number 49, an aerial map, was
18 admitted into evidence.)

19 BY MR. HUBBARD:

20 Q. Now, Officer Purdy, do you have a laser pointer up
21 there? I believe it's on. Can you point out the apartment
22 complex you went to on that day?

23 A. Yes. It's all the same complex, but this building
24 here is -- is the building that I respond to.

25 Q. Was there a particular side of that building that this

1 particular call pertained to?

2 A. Yes, sir. It was for Apartment [REDACTED]. So the way that
3 these buildings are laid out is that it's kind of split in
4 the middle and there's apartments off of each side, so [REDACTED]
5 would encompass the ground floor of this whole side of the
6 building.

7 Q. Is it a one-story or two-story?

8 A. Two stories.

9 Q. And you're looking at the first floor?

10 A. First floor. Yes, sir.

11 Q. When you arrived, who do you recall meeting when you
12 got there at that apartment complex?

13 A. When I arrived, there was a black male standing out
14 front I later found out was the caller, Mr. Haynes.

15 Q. Mr. Haynes?

16 A. (Nods head.)

17 Q. Can you describe him or how he presented when you
18 arrived there on the 17th?

19 A. Yeah, so when I arrived on-scene, he was standing out
20 in front of the apartment on a common -- like the stoop
21 right here in front, and it was cold, it was December, it
22 had been raining, and he was just wearing a pair of like
23 jogging pants or pajama pants or whatever, no shoes, no
24 shirt, no nothing. Just out in the cold.

25 Q. I want to show you State's 63. Do you recognize the

1 people in that photograph?

2 A. Yep.

3 Q. Who's that?

4 A. That is me and the caller, Mr. Haynes.

5 MR. HUBBARD: I offer 63 into evidence.

6 THE COURT: Any objection?

7 MR. MAULDIN: No objection, Your Honor.

8 THE COURT: It's admitted then.

9 (State's Exhibit Number 63, a photograph, was
10 admitted into evidence.)

11 BY MR. HUBBARD:

12 Q. It's kind of dark here, Officer Purdy, but right here
13 is that you and Mr. Haynes?

14 A. Yes, sir. That's us talking in front of the building
15 when I first got there or I had been there a few minutes at
16 that point.

17 Q. Now the picture that is taken, where does this photo
18 come from?

19 A. So it's a still shot from the second officer on-scene,
20 Officer Barber, had a body camera on, so when his camera
21 came on, that's him walking towards us, and it's a still
22 shot from that feed.

23 MR. HUBBARD: If I may, Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. HUBBARD:

1 Q. Since it's hard to see, but that's you talking to
2 Mr. Haynes, who's wearing the red pants?

3 A. Yes, sir.

4 Q. And, again, it's wet, it's December, and that's how
5 you found him?

6 A. Yes, sir.

7 Q. He was standing outside waiting for you?

8 A. Correct.

9 Q. How did he appear, I guess, emotionally?

10 A. So he was -- to me, he appeared super upset, kind of
11 flailing all about and in a panic.

12 Q. And did you try to talk to him?

13 A. Well, yes, sir. I got there and I said, you know,
14 what's going on, can you tell me what's happening, he said
15 I think someone shot my friends, and I said well, why would
16 you think that, he said -- and he just repeated I think
17 someone shot my friends. So I said well, where. He said
18 in my apartment. So I said okay, where's your apartment,
19 and he just kind of pointed to the door, which we're
20 standing in front of in that picture, and said it's [REDACTED].

21 Q. All right. So when he talks about I think someone
22 shot my friends, you asked him that question, he just
23 repeats that again?

24 A. Correct.

25 Q. I think someone shot my friends?

1 A. Uh-huh.

2 Q. Do you ask him anything about, you know, how he knew
3 this?

4 A. So --

5 Q. Or what does he say where he was when this happened?
6 Let me ask you that.

7 A. So we kind of went into it real briefly, but he told
8 me that he was sleeping. He said he was asleep and he woke
9 up to hearing what sounded like people talking and then
10 what thought sounded like gunshots. He told me that he
11 got up and he looked out of his bedroom door and saw what
12 looked like somebody laying in the hallway and then he went
13 and hid in the closet.

14 Q. And while he was telling you this, is that when Deputy
15 Barber showed up?

16 A. That's right.

17 Q. And Deputy Barber, again, had the body-worn video
18 camera?

19 A. That's right.

20 Q. When Deputy Barber got there, what did you and Barber
21 do?

22 A. We kind of directed the caller to the side and we --
23 we just confirmed again that, okay, so you're telling me
24 that you think someone's shot in your apartment, they could
25 still be in there, and we went inside to find out.

1 Q. When you started to go inside and you go in this
2 entryway that you just mentioned --

3 A. Uh-huh.

4 Q. -- is that a common entryway or does that -- does that
5 lead right into [REDACTED]?

6 A. So, no, that's a doorway into like the hall, common
7 hall. It has four doors on each floor for the four
8 apartment -- oh, I don't know how many doors it has, but
9 it's a common stairway for all of the apartments that open
10 into that doorway.

11 Q. Okay. And which side, again, was [REDACTED] on?

12 A. So [REDACTED] would be the ground floor, so this whole --
13 this whole section of the building on the first floor. So
14 I guess there would be four doors; two on the first floor
15 and two on the second floor from that hallway.

16 Q. When you went to the door at [REDACTED], were you able to
17 open it?

18 A. I was not. It was locked.

19 Q. Did you ask Mr. Haynes why his door's locked?

20 A. Well, I did because, you know, I'm thinking you just
21 came out this door, you know, you ran away, so when I went
22 to try the door, it was locked and it wasn't -- the knob
23 was open, but the dead bolt had been locked. So I asked
24 him for a key. I said, you know, your door's locked and he
25 said it is? And I said yeah, do you have the key? No. I

1 said well, how did you come out the door and lock it and
2 not have the key, and he said no, I jumped out my bedroom
3 window, so that kind of -- I was kind of like oh, okay.

4 Q. Did you ask him again about who might be inside?

5 A. Well, yeah, because I knew at that point the only way
6 we were gonna get in was to break the door down and so just
7 kind of one more time before I broke the apartment door
8 open, you know, I said so there are people inside that are
9 shot and he said yes, I think so. So that was when we
10 decided to kick the door open.

11 Q. Was this captured on Deputy Barber's body-worn cam?

12 A. That part was, yes, sir, with the conversation about
13 the door being locked and us going in.

14 Q. I want to show you what's marked as State's 72 and see
15 if you recognize this?

16 A. Yes, sir.

17 Q. Is that the video clip of that?

18 A. Yes.

19 MR. HUBBARD: Your Honor, I offer 72 into evidence.

20 THE COURT: Any objection?

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: It's admitted.

23 (State's Exhibit Number 72, Barber body cam video
24 clip, was admitted into evidence.)

25 (State's Exhibit Number 72 was played.)

1 BY MR. HUBBARD:

2 Q. Officer Purdy, were you the one that actually kicked
3 the door open?

4 A. Yes, sir.

5 Q. When you initially kicked that door open, what, if
6 anything, did you see?

7 A. So just inside the door there was a small area that's
8 not carpeted that, you know, I guess you'd put your muddy
9 shoes on or whatever when you come in, and there was blood
10 all over it.

11 Q. And that's what you were saying there on the video?

12 A. Yes. You could hear right after I kicked I said
13 there's blood and then the video stops.

14 Q. Once you got that door open, what did you and Deputy
15 Barber do?

16 A. So at this point we don't know whose inside, we don't
17 know good guys, bad guys, whatnot, so we cleared the
18 apartment. And it's kind of a methodical thing. It's a
19 two-man team. We go in and we check each room and make
20 sure that there isn't anybody in there that we need to
21 address as far as suspects or bad guys.

22 Q. So your primary focus when you're going in is if
23 there's any -- the intruders are still there?

24 A. Correct.

25 Q. Okay. How do you and Deputy Barber go about that and

1 can you explain what you actually did and what you saw?

2 A. Sure. So, like I said, we kicked the door.

3 Immediately there's blood on the floor, so I kind of
4 -- you know, it brings it to -- it's real. This is
5 something, it's real, it's not -- you know, this is
6 definitely happening.

7 Immediately in that first room is a living room. To
8 the left is a sectional sofa and I could hear somebody
9 gasping, trying to breathe, struggling, and so we kind of
10 move to that couch first and I saw a gentleman wrapped up
11 in blankets like he'd been sleeping on the couch, a good
12 amount of blood, but couldn't really tell from where at
13 that point, but it obviously wasn't a bad guy, you know,
14 we need to keep moving to make sure that there isn't
15 anybody else in the apartment still getting shot or that's
16 gonna shoot at us.

17 So we pass by the living room and it comes to a
18 right-hand turn that's like a T, so to the right is a
19 kitchen, to the left is a zigzag hallway towards the
20 bedroom, so we put a gun down the hallway and a gun to the
21 kitchen, and it was a fairly open kitchen, you could tell
22 that there wasn't anyone in there unless, you know, they
23 were hiding in the refrigerator or something. But -- so
24 we move on, we turn left down the hall and, again, it kind
25 of makes like a Z. On the left there's an open closet. It

1 appears to be where your washer and dryer and linen closet
2 would be. Those doors were all open and everything from
3 the closet is pulled out and piled up on the floor, so we
4 kind of have to crawl over this pile of clothes and a
5 vacuum cleaner and a laundry basket and whatnot, and then
6 that comes to another hallway and to the right is a hallway
7 bathroom, to the left are two other bedrooms.

8 So we kind of climb up on the pile. Scott has his
9 gun in the bathroom, I've got my gun down the hallway, and
10 we're trying to see what we can see we. At that point we
11 could see down the hall that there was another person that
12 had been shot that was laying on the floor next to his bed
13 in the open bedroom door, and then while we're standing
14 there looking Scott tells me from behind me that there's
15 actually somebody underneath the pile as well, that you
16 could see a leg sticking out, so at that point we realized
17 there was another victim that we were actually standing on
18 at that point because we didn't even know he was there
19 because of all the junk that had been piled up on top of
20 him.

21 So we've moved off of him, Scott went in and cleared
22 the bathroom, checked to make sure that there's nobody
23 hiding in the bathtub. We moved down the hall. He covered
24 the extra bedroom that I was there. When I went into the
25 bedroom where I could see the gentleman that was down, he

1 checked the closet real quick, came back out, checked the
2 last bedroom. This was like the master bedroom. It had --
3 there was a bedroom area and then an attached bathroom and
4 closet. So we cleared that room, we down to the bathroom,
5 made sure there was no one in the bathroom, and there was
6 a master closet there and we checked in there, there wasn't
7 anyone in there.

8 So now, you know, we know that there isn't any bad
9 guys left, so now we kind of backtrack and now we start
10 checking on people. We go back into the first bedroom
11 that we had just left. A gentleman's laying there, eyes
12 open, didn't appear to be breathing, not responding to any
13 kind of talking or stimuli or whatnot. We back up and
14 start pulling all the stuff off the pile to get down to
15 the other gentleman that was laying in the hallway. Same
16 thing. Eyes open, not breathing, staring at the ceiling,
17 tried to talk to him, no response, shake him, sternal rub,
18 nothing. Go back out to the gentleman on the couch who is
19 still laboring, try to talk to him for a few minutes and
20 meanwhile I'm also on the radio and I'm calling for CSI to
21 come and EMS and fire and major crimes and just everyone we
22 can get at that point honestly to come help.

23 Q. Officer Purdy, I want to ask you, the layout of
24 this apartment complex where you found people, are those
25 depicted in State's 61?

1 A. Yes.

2 Q. And this is -- is this a drawing or a diagram or is
3 this a photograph?

4 A. It looks like a computer diagram -- computer-aided
5 diagram.

6 Q. Does it, although not to scale, fairly and accurately
7 show the layout of the apartment?

8 A. Yes.

9 Q. Does it also show where at least two of those victims
10 are?

11 A. Yes.

12 MR. HUBBARD: Your Honor, I offer 61 into evidence.

13 THE COURT: Any objection?

14 MR. MAULDIN: No objection, Your Honor.

15 THE COURT: Okay. It's admitted.

16 (State's Exhibit Number 61, a diagram, was admitted
17 into evidence.)

18 BY MR. HUBBARD:

19 Q. Officer Purdy, looking at Exhibit 61, can you tell us
20 where the entranceway is into this apartment?

21 A. Yes, sir. So with the photograph we had earlier, so
22 we'd be standing like kind of out here. This is the front
23 of the building. So we came in this front entrance here,
24 which was that common door. There would be an apartment
25 door here and here and then again upstairs, but this is the

1 door to Apartment [REDACTED] right here.

2 Q. All right. And when you first came in you had
3 mentioned blood. Is this where we see that blood?

4 A. Yes, sir.

5 Q. You mentioned the sectional sofa and someone laboring
6 breathing?

7 A. Yes.

8 Q. Where was that person?

9 A. So he was laying right here; head at this end, body
10 this way on this part of the sofa.

11 Q. All right. Is that the one thing that's different
12 about this diagram, that individual was still there when
13 you came in?

14 A. That's right.

15 Q. As you checked him, how did you and Barber proceed
16 through this apartment complex -- or apartment room?

17 A. So, again, we came in this door here. I could hear
18 him trying to breathe, but I couldn't see him at that
19 point, so I came up this way so that I could still keep an
20 eye down this open hallway. I came over here, saw what I
21 saw, saw the gentleman there. No one else appeared to be
22 on the floor over here, so then we came back around, made
23 our way up this way, we stopped here. Again, one covers
24 this way while the other one does a quick kind of peek down
25 this hall into this kitchen where we could see that there

1 wasn't anyone there. We moved our way this way. This is
2 that zigzag hall where you've got to kind of move in this
3 way. We stopped here so we could have coverage down this
4 hallway and into this open bathroom, and that was when we
5 realized that, again, he was laying underneath us.

6 Q. And the closet that you had mentioned that looked like
7 stuff had been pulled out, can you show the jury where that
8 is?

9 A. Yes, sir. So that would be right here. This was kind
10 of an open linen closet and I believe right here was like a
11 washer and dryer. It was kind of like a little area to do
12 laundry, I guess. So then Scott went in here to check this
13 bathroom.

14 Q. And that's the hall bath?

15 A. Yes, sir. That's, yes, a hall bathroom. While I
16 stood here and covered down and, again, while I was
17 standing here I could see into this room and see this
18 gentleman here, and then we moved together. He stayed in
19 this doorway to cover while I went into this room and
20 checked this closet, came back out, we went in this room
21 together, I broke off this way, he covered this way, and
22 then we came down here together and checked the bathroom
23 and the closet.

24 Q. Let me ask you. There's a window right over here.
25 When you went in, could you tell if that was open or

1 closed?

2 A. It was open. That's the window that the caller would
3 have gone out. You could tell because the drapes and the
4 curtains and everything from inside the window were out and
5 then in the weather out against the wall on the outside of
6 the building.

7 Q. Let me ask you this and if you remember or not. This
8 bedroom door, it was already open?

9 A. Yes, we didn't have to open any doors except for the
10 one we kicked.

11 Q. Could you tell if that one had been forcibly opened or
12 were you even looking at that at that point?

13 A. I couldn't tell you. I wasn't even noticing. We were
14 looking in the rooms.

15 Q. That's not where your attention was?

16 A. Correct.

17 Q. Okay. Now once you made calls to -- for EMS, CSI and
18 all these other groups that needed to come to this scene,
19 what did you start doing at that time?

20 A. Well, again, so at this point I was supervisor, so I
21 needed to make sure that the crime scene was gonna be
22 secured. I started telling people to put up crime scene
23 tape. We started a crime scene log, which is just a list
24 of everyone that comes in and what time they're there and
25 how long they stayed, you know, for stuff like today so we

1 know who we need to get in touch with. Again, made sure
2 that the detectives were coming, made sure that at this
3 point the coroner's office was coming, and just kind of
4 move into more of a supervisory mode at that point.

5 Q. Did you at any point in time start also taking some
6 photographs?

7 A. I did. So once I called EMS and had them coming, I
8 grabbed my phone, my county phone, and just started
9 snapping pictures as best I could because, unfortunately,
10 you know, I knew what was about to be going on in that
11 apartment, I knew that several fire and EMS were gonna be
12 in there moving things and moving people and, you know,
13 sometimes they walk through blood or they track stuff
14 around or whatever, so I wanted to try and at least get as
15 best as I could before all that happened.

16 Q. And while you were doing that, did they actually
17 arrive and start working?

18 A. They did. Yes, sir.

19 Q. And did you continue to take some photographs?

20 A. I did.

21 Q. I want to show you a series of photographs and see if
22 you recognize these?

23 MR. HUBBARD: And, Your Honor, these are -- they're
24 not in order. State's 50, 52, 51, 53, 65, 66, 54, 55, 56.
25 I was making sure I hadn't already called those.

1 THE COURT: No. You're good. I'm checking them off.

2 MR. HUBBARD: Okay. 57 and 58.

3 THE WITNESS: Yes, sir.

4 MR. HUBBARD: Your Honor, I move these into evidence.

5 THE COURT: Mr. Mauldin, any objection?

6 MR. MAULDIN: No objection.

7 THE COURT: They're admitted.

8 MR. HUBBARD: Thank you, Your Honor.

9 (State's Exhibit Numbers 50, 51, 52, 53, 54, 55,
10 56, 57, 58, 65, 66, photographs, were admitted into
11 evidence.)

12 BY MR. HUBBARD:

13 Q. Officer Purdy, going back, and I'm gonna use this
14 diagram off and on to show where your photos are.

15 A. Okay.

16 Q. But going to the threshold here of the apartment and
17 looking at State's 50, is that -- what vantage point are we
18 looking at right here?

19 A. So that is a picture of the door from the inside of
20 the apartment. The main entry door. So you can kind of
21 see this is the sidewalk outside, that's the door to the
22 apartment across the hall or the other half of the
23 building. This is where we kicked coming in. This here
24 is the blood I was talking about that was on the wooden
25 entryway and there appears to be blood on the wall there,

1 too.

2 Q. Okay. And this piece here, is that part of the door?

3 A. That's part of the door frame that -- where the dead
4 bolt had been engaged.

5 Q. And, again, you mentioned the door handle, but it was
6 the bolt that was actually locked?

7 A. Correct.

8 Q. When you go into this apartment and you look from the
9 threshold over to the left, do you see the sectional sofa?

10 A. Yes.

11 Q. You took photos of that as well?

12 A. Yes.

13 Q. Looking at State's 52, is -- what part of the sofa is
14 this?

15 A. So, again, that's gonna be like the L, if you would.
16 The sectional goes off this way. The gentleman that was
17 there that had been shot was laying with his head down
18 at this end, his feet this way, and you can kind of see
19 unfortunately like I mentioned, the EMS has been here and
20 obviously he's been removed, but like this pillow was under
21 him and then this is all like trash from whatever EMS
22 opened, gauze and, you know, stuff like that while they
23 were tending to him.

24 Q. And is this some of the clothing that individual was
25 wearing that was on the sofa? Do they remove clothing when

1 they're looking for wounds and things of --

2 A. Typically if they don't know where the person's shot,
3 they just start cutting everything off of you. I don't
4 remember what he was wearing, but I would imagine that's
5 what that is.

6 Q. But at this point obviously he's been removed by EMS?

7 A. That's right.

8 Q. And then you mentioned this pillow over here. I want
9 to focus on this door. Was that the way it was when you
10 got there?

11 A. Yes.

12 Q. Other than the pillow being there, looking at 51, that
13 was how the sliding glass door was?

14 A. Yes, sir.

15 Q. Then looking at the other side of this same sofa in
16 State's 53, you see some of the first responders there?

17 A. Yes.

18 Q. What portion, again, was this individual laying on the
19 sofa?

20 A. So this is kind of -- where that last photo was of
21 the door, this is kind of now standing there and taking a
22 picture back into the room, so this is that section of the
23 sofa now and he would have had his head at this end and his
24 feet that way.

25 Q. Okay. And when you mentioned somebody gasping for

1 air, this is the individual you were talking about?

2 A. Yes.

3 Q. Now as you made your way down the hallway and you came
4 to this linen closet, once you-all cleared this apartment
5 and you start checking, did you do anything to remove some
6 of the clothing to get to that individual?

7 A. Yes, we had to basically un-bury him. I mean, we had
8 to take handfuls of stuff off of him to get to -- even to
9 him to see that he was even under there besides just the
10 one limb sticking out when we first had found him.

11 Q. Looking at State's 65, is this that linen closet?

12 A. Yes.

13 Q. And is this the individual that you found?

14 A. Yes. And then like this -- almost this entire pile
15 here is what we took off of him to get to him.

16 Q. And is this that -- another bedroom back here?

17 A. Yes, that's the opening -- that's the open door to the
18 master bedroom.

19 Q. And when you checked this individual, there's no signs
20 of life?

21 A. Correct.

22 Q. Going back to 61, as you round this corner here,
23 there's another bedroom?

24 A. Yes.

25 Q. But not the master bedroom?

1 A. No.

2 Q. There's only two bedrooms in this apartment?

3 A. Yes.

4 Q. And in that bedroom you found someone else?

5 A. Yes.

6 Q. Looking at State's 66, is that a photograph you took?

7 A. It is.

8 Q. From what vantage point did you take that photograph?

9 A. So that's standing in the doorway. You can see the
10 door frame here and the open door here, so that's just
11 outside in the hallway taking a picture into the room.

12 Q. And this is the individual as you found him?

13 A. Yes.

14 Q. And his bed?

15 A. Yes.

16 Q. Now looking at this photograph right here in the
17 threshold of the door, what, if anything, do you see?

18 A. It's a shell casing.

19 Q. Looking at State's 54, did you take another photograph
20 of that?

21 A. I did.

22 Q. What is a shell casing?

23 A. So when you fire a gun, if it's a semiautomatic gun,
24 as the next round is chambered it will eject the last round
25 out to the side and that's the shell casing. So after a

1 projectile's been fired, it's just what's left over.

2 Q. Okay. Going back to 61, the chart, right here, which
3 bathroom am I pointing to on State's 61?

4 A. That's the hallway bathroom.

5 Q. I'll show you State's 55. Is this how you found it?

6 A. Yes.

7 Q. Drawers open?

8 A. Yes.

9 Q. Then as you get down to the master bedroom, this room
10 with the love seat, did you take photos there as well?

11 A. Yes, sir, I did.

12 Q. I want to show you State's 56. Is that that love seat
13 we were talking about?

14 A. Yes.

15 Q. Do you see a bed?

16 A. Uh-huh. Yes.

17 Q. Using that photograph, I want to show you State's 57,
18 which is a pretty dark photograph. He had the lights off?

19 A. I believe so.

20 Q. Okay.

21 A. He was sleeping.

22 Q. Where this bed is, is this the window you were talking
23 about?

24 A. Yes, sir.

25 Q. And that's how you found that window?

1 A. It is.

2 Q. It was open?

3 A. Open, yeah.

4 Q. And the drapes we see here, were they flowing on the
5 inside or outside?

6 A. They were outside when we got there.

7 Q. Then the master bathroom right here that's connected
8 to this master bedroom, is that depicted in State's 58?

9 A. Yes.

10 Q. Now to the left is that where a closet is?

11 A. Yes, sir.

12 Q. Okay. You didn't take the photo right there of that
13 in this particular photo?

14 A. No.

15 Q. Okay. Now, Officer Purdy, when you had everybody
16 there once you've taken these photographs, did you go back
17 out at some point and see Mr. Haynes or direct anybody to
18 deal with Mr. Haynes?

19 A. Yes, sir. I did not see him again. When the third
20 officer arrived on-scene, who was, I believe, Donnelly, I
21 asked him -- I said go ahead and take Mr. Haynes and put in
22 the Tahoe and then I believe as more deputies arrived
23 on-scene because Donnelly was inside with us helping, he
24 was moved into a different Tahoe with someone that could
25 stay out there with him.

1 Q. What was the purpose of putting him in a Tahoe?

2 A. I mean, it's December, it's raining, he's not really
3 wearing anything, he's probably in shock, you know, so it's
4 just a way to just kind of make him more comfortable and to
5 keep an eye on him and know where he's at and that he's
6 secured.

7 Q. Was he allowed to go back into his apartment?

8 A. No.

9 Q. And you mentioned -- what were you-all putting up
10 around that apartment?

11 A. We put crime scene tape up around the apartment just
12 to keep everybody out.

13 Q. I want to show you two photographs, State's 60 and 59.
14 In State's 60, do you see Mr. Haynes?

15 A. Yes, sir.

16 Q. Was that before he was placed in the Tahoe?

17 A. Yes.

18 Q. In 59, who do we see in that photograph?

19 A. That is me.

20 Q. And what portion of the apartment are we looking at?

21 A. It's the back of the apartment. You can see that same
22 window, again, with the drapes out of it.

23 Q. Is this on the outside?

24 A. Yes.

25 MR. HUBBARD: Your Honor, I move 59 and 60 into

1 evidence.

2 THE COURT: Any objection?

3 MR. MAULDIN: No objection, Your Honor.

4 (State's Exhibit Numbers 59 and 60, photographs,
5 were admitted into evidence.)

6 BY MR. HUBBARD:

7 Q. Officer Purdy, looking at State's 60, who do we see
8 sitting on the stoop?

9 A. That's Mr. Haynes.

10 Q. And, again, is that where you-all made entry
11 initially?

12 A. Yes. So I would imagine that's probably Donnelly's
13 body camera. He would have been there third, so we had
14 told him, you know, stay here, sit down, we're inside
15 clearing the apartment at this point, and that's Donnelly
16 arriving and coming in to help.

17 Q. Did Mr. Donnovin comply with everything you asked him
18 to do?

19 A. Yes.

20 Q. Looking at State's 59, it's kind of dark, but who is
21 this we see right here?

22 A. That is me. Bald spot and all.

23 Q. And what is this yellow that we see in this
24 photograph?

25 A. So that's the crime scene tape that's being put up

1 around the building.

2 Q. This photograph, it's dark, but what window are we
3 looking at right here?

4 A. So that's the outside picture of that master bedroom
5 window.

6 Q. That showed the window was open?

7 A. Yes.

8 MR. HUBBARD: If I may, Your Honor, since it's so
9 dark.

10 THE COURT: You may.

11 BY MR. HUBBARD:

12 Q. And, again, that's how you found it when you went
13 outside?

14 A. Yes.

15 Q. Once you had secured the scene and gotten major
16 crimes, CSI, EMS and everybody out there and made sure that
17 Mr. Haynes was secured, what did you do?

18 A. At that point the scene's just turned over to them.

19 Q. Okay. You were a first responding officer so now you
20 turn it over to others?

21 A. Correct.

22 MR. HUBBARD: I beg the Court's indulgence.

23 THE COURT: Take your time.

24 BY MR. HUBBARD:

25 Q. Out of all the doors in that apartment, did you kick

1 any of those doors open inside the apartment?

2 A. No, sir, just the one front door.

3 Q. Just the front door?

4 A. Uh-huh.

5 Q. That's the only door you kicked in?

6 A. Yes.

7 MR. HUBBARD: Nothing further at this time, Your
8 Honor.

9 THE COURT: Thank you, Mr. Hubbard.
10 Mr. Mauldin.

11 MR. MAULDIN: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MAULDIN:

14 Q. Now when you kicked in that door, you didn't notice
15 that there had been prior forced entry, did you?

16 A. No, I --

17 MR. HUBBARD: Your Honor, I want to object to
18 relevance. To relevance, 401.

19 (Proceedings held at the bench; not reported.)

20 MR. HUBBARD: I'm fine with that, Your Honor.

21 THE COURT: Okay. Mr. Mauldin.

22 (Noise from the gallery.)

23 THE COURT: None of that or I will put you out.

24 Go ahead, Mr. Mauldin.

25 BY MR. MAULDIN:

1 Q. When you kicked in the door, the dead bolt appeared to
2 be functioning; is that correct?

3 A. Yes, sir.

4 Q. Like it hadn't been broken or anything like that?

5 A. I didn't notice it being broken before, no, sir.

6 Q. Okay. And you mentioned that the individual in the
7 hallway had piles of clothing and cloth on him as if
8 somebody had piled that on top of him?

9 A. Yes.

10 Q. And you had removed some of that?

11 A. Yes.

12 Q. Did you leave it close in the vicinity of where you
13 found it?

14 A. Yes. Officer Barber was just kind of grabbing it and
15 throwing it to the side.

16 Q. All right. And you also took pictures of, I think,
17 drawers in the bathroom that had been gone through or
18 appeared to have been opened?

19 A. I just took a picture from the outside of each door
20 into the room.

21 Q. Okay. But I think you remarked when the Solicitor
22 showed you the drawers being open in the bathroom you
23 remarked that they were open; is that right?

24 A. Yes, sir. He asked if the drawer had been -- was
25 open.

1 Q. It appeared that multiple drawers had been opened; is
2 that correct?

3 A. In the bathroom I only recall one.

4 Q. Okay. And going back to when you were talking with
5 Mr. Haynes at the -- prior to entry, he told you he was
6 sleeping in his room and heard talking and then gunshots;
7 is that right?

8 A. He told me he heard talking and gunshots. I don't
9 know what order.

10 Q. Okay. He heard talking and after that he looked out
11 of his room and saw someone lying in a hallway; is that
12 correct?

13 A. That's what he said, yes.

14 Q. And I think from the diagram that he showed that
15 probably would have been Mr. Booker right in front of that
16 closet; is that correct?

17 A. I would -- I would imagine so.

18 Q. That's the only body that was found in the hallway?

19 A. Yes.

20 Q. Okay.

21 A. So it seems like that's what you would see out his
22 door.

23 Q. And then after he saw Mr. Booker in the hallway, he
24 went and hid in his closet?

25 A. I believe so, yes.

1 MR. MAULDIN: Okay. No further questions.

2 THE COURT: Any redirect?

3 MR. HUBBARD: Just a little bit.

4 REDIRECT EXAMINATION

5 BY MR. HUBBARD:

6 Q. When Mr. Donnovin was talking to you, Mr. Donnovin
7 Haynes, talked about talking and gunshots, seeing someone
8 in the hall and hiding in his closet, did you write it down
9 as he was saying it or your report reflects as he said it?

10 A. I wrote down what he told me. I wasn't writing it
11 while he was telling me.

12 Q. And, again, what state of mind was he in?

13 A. I mean, he was upset. You could tell he was visibly
14 shaking and upset, you know.

15 Q. And based on your dealing with him and your
16 experience as a law enforcement officer, could it have
17 been a different order or you just wrote it down the way
18 he said it?

19 A. Sure. I mean, yeah, he could have been remembering
20 it in the wrong order or, you know, just, you know, what
21 he did out of order. I really couldn't say, but --

22 Q. But your job is to just to document what you heard?

23 A. Correct.

24 MR. HUBBARD: Okay. No further questions.

25 THE COURT: Anything else?

1 | RECROSS EXAMINATION

2 | BY MR. MAULDIN:

3 Q. Your job is to document what you heard correctly,
4 isn't it?

5 | A. Yes.

6 MR. MAULDIN: No further questions.

7 THE COURT: Can I let Officer Purdy down?

8 MR. HUBBARD: Please, Your Honor. Thank you.

9 | (Witness excused.)

10 THE COURT: All right. Is the next one short or
11 long --

12 MR. HUBBARD: The next one -- we probably need a
13 break.

14 THE COURT: Okay. We need a break.

15 Mr. Foreman, I'm gonna let you-all go back to the
16 jury room. You're gonna hear this from me more than you
17 want to hear it. There is to be no discussion about this
18 case until I tell you to even amongst yourselves, okay?

19 | Thank you. We're gonna take a 15-minute break.

20 (Whereupon, the jury retires to the jury room at
21 11:09 AM.)

22 THE COURT: Okay. We're in recess. Fifteen
23 minutes.

24 MR. HUBBARD: Thank you, Your Honor.

25 (Recess taken at 11:09 AM.)

1 (Back on the record at 11:25 AM.)

2 BAILIFF: Keep your seats. Court will come to
3 order.

4 MR. HUBBARD: Your Honor, I was -- I spoke to your
5 clerk with Ms. Mauldin about just kind of when you might
6 want to break for lunch. We've got Officer Donnelly, who
7 -- I don't know is gonna be particularly long, but after
8 that is Donnovin Haynes, and I was afraid that one might
9 run a while, so it might be better to maybe take --

10 THE COURT: Do you-all want to do an early lunch?

11 MR. HUBBARD: -- an early lunch and then start back
12 and I think we can get probably three more -- with him
13 three more witnesses hopefully done by the end of the day,
14 one being another long one, too.

15 THE COURT: Mr. Mauldin, any preference?

16 MR. MAULDIN: That sounds fine to me, Your Honor.

17 THE COURT: Okay. Well, we'll do the next witness
18 and then we'll break, come back and maybe start back at
19 1:30?

20 MR. HUBBARD: Yes, Your Honor.

21 THE COURT: Okay. Let me just tell everybody in
22 the gallery. There is absolutely no need for anyone
23 talking, especially when these lawyers are trying to do
24 their jobs on direct and cross. If I hear it again,
25 I'm gonna stop and have you escorted out of here. I

1 want that made perfectly clear and you won't be coming
2 back. This is case is too important to both sides and
3 I don't need any bickering going on with the people in
4 the gallery.

5 Okay. With that said, are we ready?

6 MS. MAYES: Yes, Your Honor.

7 THE COURT: Is the State ready?

8 MS. MAYES: Yes, Your Honor.

9 THE COURT: Mr. Mauldin? Ms. Mauldin?

10 MR. MAULDIN: We're ready, Your Honor.

11 THE COURT: Okay. The Mauldins.

12 Let's bring them in.

13 (Whereupon, the jury return to the courtroom at
14 11:28 AM.)

15 THE COURT: All right. Mr. Foreman, is the jury
16 ready?

17 FOREPERSON: Yes, ma'am.

18 THE COURT: Please be seated.

19 The State can call their next witness.

20 MS. MAYES: The State calls Detective John Donnelly.

21 (Whereupon, John Donnelly was duly sworn by the
22 Clerk of Court.)

23 THE CLERK: If you'll have a seat, please. State
24 your name and spell your last, please, for the record.

25 THE WITNESS: I'm Investigator John Donnelly with

1 the Lexington County Sheriff's Department.

2 JOHN DONNELLY,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Good morning. Can you tell us a little bit about
7 yourself, Detective Donnelly? What current division are
8 you in with the Lexington County Sheriff's Department?

9 A. I currently work as a crime scene investigator with
10 the Lexington County Sheriff's Department.

11 Q. All right. And how long have you been with CSI?

12 A. I believe I got in towards the end of 2019 and early
13 2020.

14 Q. Okay. Well, I want to take you back in time to
15 December 17th of 2019, a Tuesday morning, and ask you
16 what division you were working at when you responded to
17 [REDACTED] Butternut Lane?

18 A. I was still working patrol in our north region.

19 Q. All right. And when you say patrol, tell us how that
20 works when you hear a call or a tone come over the radio
21 following that dispatch for officers by the 9-1-1 Center at
22 10:59 AM. What's your first action?

23 A. So in a call like this, which would come out as a home
24 invasion, tones are dropped to just over the net, over our
25 radio, which pretty much just draws any unit's attention to

1 the radio and it's a significant event that is requiring
2 multiple units to be en route, what we would say Code 3,
3 which is lights and sirens, to get there immediately.

4 Q. Okay. And do you have with you a copy your report,
5 Detective Donnelly?

6 A. I do, ma'am.

7 Q. And can you tell us what, if anything, you recall
8 about your approximate arrival time at the scene? Well,
9 let me ask you this. Were you wearing a body cam?

10 A. Yes, I was wearing a body cam during the entire
11 incident and it was on and recording.

12 Q. I want to show you State's 60 already in evidence and
13 ask you whether or not you recognize that?

14 A. Yes, ma'am. That's a still shot from my body cam.

15 Q. From your body cam?

16 A. (Nods head.)

17 Q. Okay. We're gonna put this on the overhead. So
18 there's been testimony in this case that the 9-1-1 call
19 is 10:59 and Detective Scott Purdy would have arrived at
20 11:03. Looking at State's 60, what can you tell us about
21 the time of your arrival?

22 A. The time of my arrival was about 11:07 hours AM. The
23 time displayed on my body cam is Zulu time, so you have to
24 subtract five hours.

25 Q. Okay. So I'm gonna look up here at the top right-hand

1 corner of State's 60. Is there a date and time stamp on
2 this particular photograph?

3 A. Yes, ma'am. The date would be December 17, 2019, at
4 16:07:50 Zulu, which would be 11:07:50 AM.

5 Q. So when we see the Zulu time, we subtract five and
6 that would be 11:07 AM?

7 A. Yes, ma'am.

8 Q. Now what is -- who is actually shown right here?

9 A. That is me, ma'am.

10 Q. All right. And who are we looking at right here?

11 A. That would be Mr. Donnovin.

12 Q. Donnovin Haynes?

13 A. Yes, ma'am.

14 Q. And tell us what, if anything, you recall about your
15 arrival here at the scene at 11:07 AM?

16 A. When I arrived initially on-scene, I met Donnovin on
17 the front steps of the apartment. He appeared to be in a
18 very emotional and shocked state as if he just had gone
19 through something serious.

20 Q. And what action did you take after meeting him there
21 at the steps?

22 A. After I met with him, I escorted him to my patrol
23 vehicle where I placed him in the back seat of my patrol
24 vehicle just to keep him secured.

25 Q. I'm gonna show you what is State's 192.

1 MR. MAULDIN: No objection, Your Honor.

2 THE COURT: It's admitted.

3 (State's Exhibit Number 192, a photograph, is
4 admitted into evidence.)

5 BY MS. MAYES:

6 Q. Looking here at State's 192, I realize the lighting
7 on this particular photograph is poor, but looking at 192,
8 what is the date and time stamp now?

9 A. That would still be December 17, 2019, at
10 approximately 16:08:32 Zulu, which is 11:08:32 AM.

11 Q. So this still shot is one minute after the previous
12 still shot we saw from your body cam?

13 A. Yes, ma'am.

14 Q. Detective Donnelly, what is taking place now in this
15 still shot from your body cam?

16 A. I've currently escorted Donnovin to the rear seat of
17 my patrol vehicle where he took a seat and I secured him
18 there.

19 Q. Okay. So this Tahoe is yours?

20 A. Yes, ma'am. Vehicle Number 4200.

21 Q. Okay. And he is seated here?

22 A. (Nods head.)

23 Q. What is the next action you take?

24 A. So after I've placed him in my patrol vehicle and
25 secured it and locked the door, I went into the actual

1 scene to assist other officers that were inside.

2 Q. All right. And were you aware as to whether or not
3 Detective Purdy was already inside?

4 A. Yes, ma'am.

5 Q. I'm gonna show you what is 49 already in evidence.
6 What do you recall about the general location of your
7 response, Detective Donnelly?

8 A. I responded to this apartment building here.

9 Q. [REDACTED] Butternut?

10 A. Yes, ma'am.

11 Q. And what do you recall about your observations once
12 you entered that location?

13 A. Once I immediately entered that location, the
14 apartment was through this doorway and immediately to the
15 right. Upon entering the front door, there was blood in
16 the area of the front door that I observed.

17 Q. We're looking at 61 now. This scene diagram.

18 A. So when I made entry into this doorway here, which is
19 the front door, I observed blood at the threshold of the
20 door. I then made contact with my supervisor, Sergeant
21 Purdy, who was inside. I observed a gentleman on the
22 couch. He was suffering from a wound. After I spoke
23 with Sergeant Purdy, I went into the hallway here where I
24 made contact with another victim that was on the floor of
25 the hallway that appeared to be covered with linen and

1 clothing. After I checked the pulse on him and I found no
2 pulse, Sergeant Purdy went into this bedroom here and I
3 followed him. He checked the pulse on that gentleman and
4 there was no pulse on him either.

5 Q. Okay. So I want to look at some photographs here
6 already in evidence. This is State's 50. What can you
7 tell us about your observations as you entered this
8 location?

9 A. My immediate observations was the blood that was on
10 the floor, as well as the doorjamb. To me, it was as if
11 an incident happened at that door.

12 Q. I'm gonna show you State's 65 already in evidence.
13 Detective Donnelly, how, if at all, does this photograph
14 differ from your first observations approaching Mr. Booker?

15 A. My first initial observations, Mr. Booker was actually
16 covered with a lot more linen and clothing that was around
17 him. I believe a lot of this was actually removed from him
18 to actually get an idea of his injuries.

19 Q. So when you first approached this area, you believe
20 there were more -- more items atop him?

21 A. Yes, ma'am.

22 Q. And those items would have been removed for what
23 purpose by law enforcement?

24 A. Just to see the extent of the injuries and also to
25 checked on his well-being. As stated, I had checked to

1 see if he had a pulse and I found none.

2 Q. Okay. Now we're gonna take a look at 66. What did
3 you observe as you entered this location of the apartment?

4 A. When I entered this location of the apartment, I
5 observed Mr. Livingston in that position, and Sergeant
6 Purdy had went to check the pulse on him and did not find
7 one.

8 Q. And were you present and observing as that occurred?

9 A. Yes, ma'am.

10 Q. Can you tell us whether or not this condition as we
11 see with the red-colored bedding, can you tell us whether
12 or not that is how he was found in the bedroom?

13 A. That was how he was found.

14 Q. Now we're gonna take a look at 57. Looking at this
15 scene diagram, can you tell us whether or not you were able
16 to make any observations within this area around the master
17 bedroom?

18 A. Yes, ma'am. In this area of the master bedroom, I
19 actually observed damage to the door frame of the master
20 bedroom.

21 Q. Can you show us where you made that observation?

22 A. The observation was made in this area.

23 Q. And when you say damage to the door frame, what do you
24 mean by that?

25 A. The damage was consistent with it -- force being used

1 on the door to open it.

2 Q. And just to clarify, did yourself or any other law
3 enforcement use force to open that door?

4 A. No, ma'am.

5 Q. I'm gonna show you 57 and ask you whether or not you
6 recognize which room in the apartment this would be?

7 A. That would be the master bedroom.

8 Q. The room you just told us about that had the damage to
9 the --

10 A. Door frame, yes.

11 Q. -- to the door frame?

12 A. Yes.

13 Q. Here?

14 A. Yes, ma'am.

15 Q. Now were you also able at any point to observe this
16 apartment from the exterior?

17 A. Yes, ma'am. After I exited the apartment, I assisted
18 with securing the outside and also making contact with
19 others in the area just to attempt to locate witnesses,
20 and during that I actually observed that the window to the
21 master bedroom was open. The curtains were actually coming
22 out of the window to the exterior.

23 Q. I'm gonna show you 59 already in evidence. You
24 indicated that you did assist with the scene. What are we
25 looking at here? What is this item that we see that is

1 yellow in color on the left side of that photograph?

2 A. That's crime scene tape and it just indicates do not
3 cross the crime scene.

4 Q. And can you tell us at this point after you have
5 exited the apartment whether or not crime scene tape was
6 in place?

7 A. When I exited the apartment, crime scene tape was in
8 place and it was being placed.

9 Q. And what is the purpose of crime scene tape?

10 A. It's to prevent any other individuals from entering
11 that scene. It's to secure it.

12 Q. Does that include non-law enforcement personnel?

13 A. That's to include non-law enforcement personnel and
14 even some law enforcement. If you do enter the scene, you
15 have to sign in on a log sheet.

16 Q. Okay. So neighbors and civilians around the scene,
17 would they have been able to cross the crime scene tape?

18 A. No, ma'am.

19 Q. What about Donnovin Haynes, who had come out the
20 window, would he have been allowed to cross that crime
21 scene tape to come back in?

22 A. No, ma'am.

23 Q. And what, if any, indications were there to you that
24 that window was open?

25 A. Just my initial observations. You can actually see

1 the window is up and you can actually see the curtains from
2 the interior on the exterior.

3 Q. Now I want to go back to inside the apartment. We're
4 gonna take a look here at State's 52 already in evidence,
5 and now comparing with 61, the diagram. Where, if at all,
6 Detective Donnelly, did you observe a victim to still be
7 alive?

8 A. I located a victim by the name of Duwan Williams on
9 the couch and he was alive.

10 Q. And this is State's 52. Do you recognize this
11 location?

12 A. Yes, ma'am. Mr. Williams was right here on the couch.
13 His head this way, his feet were down this way.

14 Q. How would you describe his physical condition?

15 A. Mr. Williams was suffering from what I believed to be
16 a grievous wound. He was bleeding. I assessed him when I
17 initially made contact with him to locate wounds he was
18 suffering from. I was able to locate a gunshot wound and I
19 began providing aid during that time.

20 Q. What, if anything, do your notes indicate about where
21 you could physically observe or visualize gunshot wounds to
22 Duwan Williams on the couch?

23 A. So what I observed was that it appeared that he was in
24 the position he was in and had not moved. All the blood
25 was located in that area that is depicted in this area

1 where some of his clothing were. He had a pillow and
2 blankets in the area as if he was sleeping on the couch
3 during the incident.

4 Q. How many gunshot wounds were you able to visualize?

5 A. During my assessment of him and just trying to get him
6 some kind of aid and just to try to keep him calm, I was
7 able to locate one to his left side torso under his left
8 arm and another wound to his neck.

9 Q. And what, if anything, did you do as a first responder
10 to render aid?

11 A. I just know from my experience to apply pressure to
12 the wound and make sure medical services were sent out.

13 Q. And who were you waiting on to arrive?

14 A. Either the fire service who are trained to deal with
15 these injuries until EMS gets there and so I was also
16 waiting on emergency medical services as well.

17 Q. All right. In that situation, Detective Donnelly,
18 what, if anything, did you ask Mr. Williams?

19 A. During that time, I was trying to keep him calm and
20 just try to get information -- get information from him.
21 I did ask him if he had known who had shot him.

22 Q. And what, if anything, was he able to tell you?

23 A. So his statement to me was "No, not at all. I was
24 asleep".

25 Q. All right. And as he made that statement, what, if

1 any, concerns did you have about his condition?

2 A. As he was making that statement, I could tell that
3 he was having difficulty breathing. He was speaking very
4 short with me and from his demeanor he -- he was having a
5 hard time just getting a breath to speak.

6 Q. And ultimately were you present when EMS arrived to
7 assist Mr. Williams?

8 A. Yes, I was present when fire services and EMS arrived
9 to start attending to Mr. Williams and I stood by and
10 assisted them until he was removed from the scene.

11 Q. Okay. In this particular photograph, which would be
12 State's 52, what are we looking at here on the floor, as
13 well as along this area on the couch?

14 A. In those areas, you're looking at packaging from
15 medical items that were used to assist in trying to save
16 Mr. Williams' life during that time.

17 Q. Did you observe any blood?

18 A. Yes, there was a large quantity of blood in the area
19 of the couch.

20 Q. Did you observe any blood trail or indications of
21 blood anywhere else along the carpet to indicate that
22 Mr. Williams had moved from the couch?

23 A. No, ma'am. Although blood was originating from around
24 this couch, there was no trails around the couch. You can
25 observe a pillow against this sliding glass door that was

1 near the victim, but was moved during lifesaving efforts.

2 Q. Okay. So I want to ask you a little bit more about
3 that. Let's take a look at State's 53 already in evidence.
4 And, again, by the time this photograph is taken who are we
5 looking at in the background behind the couch?

6 A. You'd be seeing fire services, I believe.

7 Q. Okay. And this particular item on the couch, can you
8 tell us what the nature of that item is?

9 A. I believe that item is actually AED pads, automated
10 external defibrillator pads. They're used in lifesaving
11 efforts.

12 Q. All right. And here on the floor, what, if anything,
13 do we observe?

14 A. I observed those blankets as if the gentleman was --
15 Mr. Williams was, in fact, sleeping on the couch.

16 Q. Now the pillow that you mentioned, I'm gonna show
17 you State's 51. How, if at all, does the location of
18 the pillow in this photograph, State's 51, differ from
19 where you recall the pillow being when you first found
20 Mr. Williams on the couch?

21 A. When I first found Mr. Williams on the couch, that
22 pillow was actually near him and under him at that point
23 and was, as I said, moved during lifesaving efforts.

24 Q. Okay. So looking back at State's 52 in evidence, can
25 you show us the general area that you recall that pillow

1 being?

2 A. I recall that pillow being in this area.

3 Q. And, again, the moving of items would be for the
4 purpose of EMS?

5 A. Yes, ma'am. We were just trying to clear items from
6 the area so we could get a better picture of Mr. Williams'
7 injuries and being able to move him around to assess him
8 further.

9 Q. Okay. I want to ask you as well, looking here at 66,
10 where Mr. Livingston is concerned, when you approached
11 this bedroom, can you tell us whether or not you saw any
12 indication of a blood trail or blood droplets around
13 Mr. Livingston?

14 A. No, ma'am. I observed all of that scene right there
15 with Mr. Livingston just there. I did not see any blood
16 or driplets or anything that would leave a trail.

17 Q. Was there any indication he had ever moved from this
18 location?

19 A. No.

20 Q. Now going back to the scene, looking at 59, where the
21 apartments are concerned, surrounding apartments, upstairs,
22 other units adjacent to [REDACTED], what, if any, efforts did you
23 undertake to potentially locate any witnesses being it --
24 being eyewitnesses, witnesses who heard something, anything
25 of that nature?

1 A. During that time after Mr. Williams was removed from
2 the apartment, I went outside to assist with securing the
3 crime scene, as well as canvassing the area for potential
4 witnesses. During that time, I went to 126 Butternut Lane
5 and made contact with someone, but they did not hear or see
6 anything. I also went to 121 Butternut Lane, 122 Butternut
7 Lane, 123 Butternut Lane, 128 Butternut Lane, 130 Butternut
8 Lane, as well as 102 Woodway Lane, and I received no
9 contact from anyone from those apartments.

10 Q. So seven different residential areas you approached?

11 A. Yes, ma'am.

12 Q. Were you able to locate any witnesses from any of the
13 those locations?

14 A. No, ma'am.

15 Q. In addition to yourself, can you tell us whether or
16 not other officers also worked to canvass the neighborhood?

17 A. Yes, there were other officers in the area that
18 were doing as I was doing making contact with different
19 apartments.

20 Q. And would that also include potentially for any type
21 of video surveillance from the area?

22 A. Yes, we were also being mindful of any video
23 surveillance that was either on the apartments or
24 personally affixed by any individuals living in an
25 apartment.

1 Q. Okay. And to your knowledge was any recovered from
2 this immediate area of [REDACTED] Butternut Lane?

3 A. None was recovered, ma'am.

4 Q. Now after you rendered initial aid to Mr. Williams,
5 were you present when he -- when EMS arrived?

6 A. I was, ma'am.

7 Q. And can you tell us ultimately whether or not he
8 survived those injuries?

9 A. Mr. Williams did not survive his injuries that he
10 sustained during the incident.

11 MS. MAYES: I beg the Court's indulgence.

12 THE COURT: Take your time.

13 BY MS. MAYES:

14 Q. Going back to State's 51, you've indicated that there
15 was movement of the pillow?

16 A. Yes, ma'am.

17 Q. And also do you recognize what this item may be? And
18 I can show you the photograph as well if you need to see
19 it.

20 A. I believe that is an EMS medical bag.

21 Q. Okay. Other than that, were there any changes to the
22 condition of this scene by law enforcement?

23 A. No, ma'am.

24 Q. And can you tell us whether or not that is how the
25 patio door appeared upon your arrival?

1 A. That's exactly how it appeared, ma'am.

2 MS. MAYES: Thank you. Nothing further.

3 THE COURT: Mr. Mauldin.

4 MR. MAULDIN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. MAULDIN:

7 Q. If you arrived four or five minutes after the initial
8 officers, how do you know no other changes were made? Why
9 are you --

10 A. I'm stating that I observed no initial changes from
11 my arrival.

12 Q. From your arrival. Okay. And you testified you
13 went to 126 Butternut and that person didn't see or hear
14 anything; is that right?

15 A. That's correct, sir.

16 Q. And can you tell where 126 is here on State's 59 in
17 comparison to where [REDACTED] was?

18 A. I do not recall where exactly that would be, sir.

19 Q. How about here on State's 49?

20 A. No, sir. I honestly don't recall where it exactly it
21 would be.

22 Q. Okay. So you don't know if it was -- was it over here
23 on this side in the same building?

24 A. I -- sir, the only things I did, I checked on these
25 apartments here and some across the way. That's all I

1 recall.

2 Q. But you said you talked to somebody at 126 and they
3 didn't see or hear anything; is that right?

4 A. Correct. That's what I documented.

5 Q. But you don't know where that apartment is?

6 A. I don't recall where it was at the time, sir.

7 Q. Okay. And how long have you been in CSI?

8 A. Just about two years.

9 Q. Okay. And are you aware of any methods that they
10 could use to pick up whether bodily fluids are present that
11 are not visible to the naked eye?

12 A. I am aware of such techniques, yes, sir.

13 Q. Okay. And you didn't use those when you were making
14 observations?

15 A. I worked patrol, sir.

16 Q. All right. But there are methods to see bodily fluids
17 not visible to the naked eye using those methods?

18 A. Yes, sir.

19 Q. Okay. The fact that this fellow said that he was
20 asleep and didn't see who shot him, that didn't help very
21 much in finding a suspect, did it?

22 A. It was a statement he made to me. I don't know
23 anything else as far as the investigation went.

24 Q. Well, it seems to me if somebody said that I was
25 sleeping, I didn't see who shot me, that wouldn't help very

1 much, would it?

2 A. I mean, in the statement itself, he was asleep, so he
3 made no observation of what shot him.

4 MR. MAULDIN: Okay. No further questions.

5 THE COURT: Ms. Mayes.

6 REDIRECT EXAMINATION

7 BY MS. MAYES:

8 Q. And to clarify, can you tell us whether or not it's
9 important to know where the shooting begins?

10 A. Yes, ma'am.

11 Q. And can you tell us whether or not it's important to
12 know that Mr. Williams was shot on the couch?

13 A. Yes, ma'am.

14 Q. And about the bodily fluids or the testing for bodily
15 fluids, are you familiar with tools such as Bluestar?

16 A. I am.

17 Q. Bluestar can potentially detect the appearance of
18 blood?

19 A. Correct, ma'am.

20 Q. Looking here at State's 50, did you need Bluestar to
21 see the blood when you entered that home?

22 A. No, ma'am. It was observable from just your naked
23 eye.

24 Q. And, again, your role on that particular day what was?

25 A. I was working as a patrol officer. I was not yet an

1 investigator in crime scene investigation.

2 Q. You were the responding patrol officer?

3 A. Yes, ma'am.

4 MS. MAYES: Thank you, Detective Donnelly.

5 THE COURT: Mr. Mauldin, anything else?

6 RECROSS EXAMINATION

7 BY MR. MAULDIN:

8 Q. The fact that he said I was asleep and I don't know
9 who shot me, that doesn't tell you if he was shot first or
10 second, does it?

11 A. I could not specify that.

12 MR. MAULDIN: Okay. No further questions.

13 THE COURT: May I let Investigator Donnelly down?

14 MS. MAYES: Yes, Your Honor.

15 THE COURT: Thank you, Investigator.

16 THE WITNESS: Thank you, ma'am.

17 (Witness excused.)

18 THE COURT: All right. Mr. Foreman, ladies and
19 gentlemen of the jury, I'm gonna let you-all go to
20 lunch and we're gonna start back at 1:30 because the
21 next witness is a long witness and I didn't want to keep
22 you longer than I had to.

23 So let's go to lunch. Everybody be back in the
24 jury room at 1:15.

25 You-all are gonna get tired of me saying this.

1 Please do not talk about this case, do any research
2 while you-all have your cell phones, look up anything,
3 and I'll see you back at 1:15. Have a good lunch.

4 (Whereupon, the jury was excused for lunch at
5 11:56 AM.)

6 THE COURT: Okay. Anything from the State?

7 MR. HUBBARD: Nothing, Your Honor.

8 THE COURT: Anything from the defense?

9 MR. MAULDIN: No, Your Honor.

10 THE COURT: We'll start back at 1:30.

11 (Whereupon, a luncheon recess was taken at
12 11:57 PM.)

13 (Back on the record at 1:34 PM.)

14 THE COURT: All right. Are we ready?

15 MR. HUBBARD: Yes, Your Honor.

16 THE COURT: David, are you ready?

17 MR. MAULDIN: Yes, ma'am.

18 THE COURT: Let's bring the jury in.

19 (Whereupon, the jury return to the courtroom at
20 1:35 PM.)

21 THE COURT: Mr. Foreman, is the jury ready?

22 FOREPERSON: Yes.

23 THE COURT: The State can call their next witness.

24 MR. HUBBARD: Thank you, Your Honor.

25 The State calls Donnovin Haynes.

1 (Whereupon, Donnovin Haynes was duly sworn by the
2 Clerk of Court.)

3 THE CLERK: Have a seat over there. State your
4 name, please, and spell your last for the record.

5 THE WITNESS: Donnovin Haynes, H-A-Y-N-E-S.

6 DONNOVIN HAYNES,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. HUBBARD:

10 Q. Donnovin, how old are you?

11 A. Thirty, sir.

12 Q. What county do you live in?

13 A. Lexington, sir.

14 Q. What do you do for a living?

15 A. I'm a cook, sir.

16 Q. You're a cook?

17 A. (Nods head.) Yes, sir.

18 Q. Are you single or married?

19 A. Single, sir.

20 Q. Back December 17th of 2019, where were you working?

21 A. UBar, sir.

22 Q. The UBar?

23 A. Yes, sir.

24 Q. And what did you do at the UBar?

25 A. Cook, sir.

1 Q. So you've been cooking for quite a while?

2 A. Yes, sir.

3 Q. What was your specialty at the UBar?

4 A. Seafood, sir.

5 Q. At this UBar, did you work every night?

6 A. Yes, sir.

7 Q. What were your typical hours at the UBar?

8 A. About ten in the morning until about three or four at
9 night.

10 Q. So you worked into the early morning hours?

11 A. Yes, sir.

12 Q. When you would come home and go to bed, was that when
13 the rest of us were getting up to go to work?

14 A. Yes, sir.

15 Q. Where were you living back on December 17th of 2019?

16 A. Woodland Village, sir.

17 Q. What county is that in?

18 A. Lexington, sir.

19 Q. I want to show you State's Exhibit 49. Do you see
20 your apartment building on this exhibit?

21 A. Yes, sir.

22 Q. There's a pointer there. Can you use that, it's the
23 top button, and point out which building you lived in?

24 I might have to turn it on. There you go.

25 THE COURT: Mr. Hubbard, if you'd help him out, can

1 you pull that microphone closer to him so I can make sure
2 the jury can hear.

3 MR. HUBBARD: I will.

4 BY MR. HUBBARD:

5 Q. Just speak up, and if you would, point out which
6 building, where your apartment was, in 2019.

7 A. (Indicating.)

8 Q. Okay. And, again, you said that's in Lexington
9 County?

10 A. Yes, sir.

11 Q. How many rooms were in that apartment? How many
12 bedrooms?

13 A. Two, sir.

14 Q. So were you one of the primary renters?

15 A. Yes, sir.

16 Q. Which bedroom did you have?

17 A. The master, sir.

18 Q. Who else was living -- or let me ask you this. Who
19 was the other primary renter besides you?

20 A. Sheldon Livingston, sir.

21 Q. Let me ask you about Sheldon. How long had you known
22 Sheldon?

23 A. Childhood friends, sir.

24 Q. Childhood friends?

25 A. Yes, sir.

1 Q. Were you-all related by blood?

2 A. No, sir.

3 Q. But what did you consider Sheldon Livingston?

4 A. My younger brother, sir.

5 Q. And he lived in that other bedroom in that apartment?

6 A. Yes, sir.

7 Q. Where did he work?

8 A. Outback, sir.

9 Q. Was he working in the evenings like you?

10 A. Yes, sir.

11 Q. What about Duwan Williams? How long had you known
12 Duwan Williams?

13 A. A childhood friend, sir.

14 Q. What did you consider Duwan Williams to be in your
15 world?

16 A. Best friend.

17 Q. Best friend?

18 A. (Nods head.)

19 Q. Where was Duwan working in December of 2019?

20 A. At the UBar with me, sir.

21 Q. So when you would work late, he's working late, too?

22 A. Yes, sir.

23 Q. How would you get to and from work?

24 A. Duwan's vehicle, sir.

25 Q. Was Duwan your ride?

1 A. Yes, sir.

2 Q. Where did he stay in your apartment?

3 A. On the couch, sir.

4 Q. So when you had initially got that apartment, was he
5 not living in that apartment with you at the time?

6 A. No, sir.

7 Q. Branton Booker. How long had you known him?

8 A. Since middle school, high school.

9 Q. Where -- was he staying in that apartment at the time
10 or was he just visiting?

11 A. Yes, sir.

12 Q. How would you -- how would you say it? Was he living
13 there or was he visiting?

14 A. Staying there, sir.

15 Q. Okay. Did he have anywhere else to stay at that time?

16 A. No, sir.

17 Q. I can't hear you.

18 A. No, sir.

19 Q. What was that?

20 A. No, sir.

21 Q. Did he have a job at this time?

22 A. No, sir.

23 Q. So did he have a place to go at this point in time?

24 A. Not besides my apartment, sir.

25 Q. So he turned to you?

1 A. Yes, sir.

2 Q. And you let him stay there as well with the three of
3 you along with him?

4 A. Yes, sir.

5 Q. Where would he sleep in your apartment?

6 A. On the couch with Duwan, sir.

7 Q. Now you're pretty close to Branton, too?

8 A. Yes, sir.

9 Q. Were you close to all these guys?

10 A. Yes, sir.

11 Q. I want to ask you something, and I know you don't want
12 to tell me, but I'm gonna ask you anyway. You said Branton
13 didn't have a job, but did you know of some activities he
14 was involved in?

15 A. Just marijuana, sir.

16 Q. Let me ask you about marijuana. Did you smoke
17 marijuana?

18 A. Yes, sir.

19 Q. Did all you guys smoke it?

20 A. Yes, sir.

21 Q. And I want to ask you this. Do you still smoke
22 marijuana?

23 A. Yes, sir.

24 Q. Was somebody selling marijuana to your knowledge out
25 of your apartment?

1 A. Yes, sir.

2 Q. Was that Branton?

3 A. Collectively, yes, sir.

4 Q. All right. You're saying all of you-all were or
5 you-all were aware of it?

6 A. All.

7 Q. Huh?

8 A. Can you repeat the question, please?

9 Q. Were you all aware of it or were you all actually
10 selling?

11 A. Aware of it.

12 Q. Who was actually selling it?

13 A. Branton, I believe.

14 Q. Branton you believe. Okay. I know you don't want to
15 say that, but I told you I was gonna ask you that, right?

16 A. Yes, sir.

17 Q. Okay. Now December 17, 2019, did you and Duwan work
18 at the UBar that night?

19 A. Yes, sir.

20 Q. Duwan drove you there?

21 A. Yes, sir.

22 Q. How late did you work there that night?

23 A. Until about 3:00, sir.

24 Q. Back in December of 2019, did you have a girlfriend?

25 A. Yes, sir.

1 Q. Did she come by the UBar before heading to your
2 apartment that night?

3 A. Yes, sir.

4 Q. So this is before you left the UBar she came by the
5 UBar?

6 A. Yes, sir.

7 Q. What did she come by to pick up?

8 A. A spare house key, sir.

9 Q. The spare key?

10 A. (Nods head.)

11 Q. How many keys did you have for your apartment?

12 A. Two, sir.

13 Q. And how many did you-all have -- did you have -- still
14 have two on the night of December 17th or were you down to
15 one?

16 A. Down to one, sir.

17 Q. What happened to your second key?

18 A. I lost it, sir.

19 Q. So your girlfriend comes by. Is she gonna stay with
20 you all that night -- stay with you that night? Was that
21 the plan?

22 A. Yes, sir.

23 Q. And then you got home about what time, you and Duwan?

24 A. Around three, sir.

25 Q. Was your girlfriend already there?

1 A. Yes, sir.

2 Q. Where was she?

3 A. In the bedroom, sir.

4 Q. And when you came home at three, did you do anything
5 around the house or did you go to bed?

6 A. Went to bed, sir.

7 Q. About what time did she get up December 17th, the
8 early morning hours, and what time did she get up and
9 leave?

10 A. Around 6:00, sir.

11 Q. Did that wake you up?

12 A. Yes, sir.

13 Q. About what time did you fall back to sleep or did you?

14 A. Around 7-ish, sir.

15 Q. So you were up about an hour or so after she left?

16 A. Yes, sir.

17 Q. And then went back to sleep?

18 A. Yes, sir.

19 Q. And, again, was it typical for all you guys because
20 you-all worked late, and even Branton, for all of you-all
21 to just sleep pretty late in the mornings?

22 A. Yes, sir.

23 Q. When most of us are at work, you-all worked late, so
24 you-all were still sleeping?

25 A. Yes, sir.

1 Q. Donnovin, on this December 17th, what, if anything,
2 woke you up from your sleep?

3 A. Gunfire, sir.

4 Q. That gunfire, could you tell where it was coming from?
5 Outside in the parking lot or where?

6 A. Inside the house, sir.

7 Q. Was it that loud?

8 A. Yes, sir.

9 Q. When you heard that gunfire, what did you do?

10 A. Ran into my bathroom closet.

11 Q. Your bathroom closet?

12 A. Yes, sir.

13 Q. Let me ask you this. Your bedroom door, was it open
14 or closed?

15 A. Closed, sir.

16 Q. Was it locked or unlocked?

17 A. Locked, sir.

18 Q. Donnovin, every night when you go to bed is that
19 typically what you would do?

20 A. Yes, sir.

21 Q. Shut your door and lock it?

22 A. Yes, sir.

23 Q. When you heard gunfire and you got up, you said you
24 ran where?

25 A. My bathroom closet, sir.

1 Q. I'm gonna show you State's 61. Can you use that
2 pointer and show the jury the closet you hid in, Donnovin?

3 A. (Indicating.)

4 Q. Okay. And this -- this is your bed in that apartment?

5 A. Yes, sir.

6 Q. So you went from your bed to this bathroom and into
7 that closet?

8 A. Yes, sir.

9 Q. As you're hearing gunfire, did you hear somebody say
10 something? Let me ask you -- I'll rephrase it. Did you
11 hear a voice you had not heard before?

12 A. Yes, sir.

13 Q. What did that voice say?

14 A. It said "Where's it at?", sir.

15 Q. Where's it at?

16 A. Yes, sir.

17 Q. Had you ever heard that voice before?

18 A. No, sir.

19 Q. It wasn't Branton?

20 A. No, sir.

21 Q. It wasn't Sheldon?

22 A. No, sir.

23 Q. It wasn't Duwan?

24 A. No, sir.

25 Q. Did you still hear gunfire?

1 A. No, sir.

2 Q. So there's this gunfire and this person saying where's
3 it at?

4 A. Yes, sir.

5 Q. And then do you hear any more gunfire?

6 A. No, sir.

7 Q. What do you hear or do you hear anything?

8 A. Just doors getting kicked in, sir.

9 Q. All right. Well, let's talk about doors. Did you
10 hear anybody kicking in your bedroom door?

11 A. Yes, sir.

12 Q. Could you tell somebody was close by when you heard
13 that?

14 A. Yes, sir.

15 Q. Your bathroom door, was it still open?

16 A. No, sir.

17 Q. So did somebody come into that door?

18 A. Yes, sir.

19 Q. When that person is there, were you still in this
20 closet?

21 A. Yes, sir.

22 Q. This door to your closet, does it open in or is it one
23 that opens out?

24 A. In, sir.

25 Q. While you're in that closet, you've heard your door

1 get kicked open, somebody's in your bathroom. What happens
2 next?

3 A. Would you repeat the question, sir?

4 Q. While you're in the closet somebody has kicked in your
5 bedroom door and is coming to the bathroom. While you're
6 in the closet, what do you hear next?

7 A. Kicking in my closet door.

8 Q. While -- the closet door you're in?

9 A. Right.

10 Q. What, if anything, did you do to hold that closet door
11 closed? Can you demonstrate like you showed us before how
12 you held that door?

13 A. I had one hand at the bottom and one hand at the
14 doorknob, sir.

15 Q. Donnovin, how deep is this closet? By deep, I mean
16 from the door to the wall right there?

17 A. Not that deep.

18 Q. Could you use your body weight and strength to hold
19 that door?

20 A. Yes, sir.

21 Q. I want to show you three photographs. 183, do you
22 recognize that?

23 A. Yes, sir.

24 Q. And speak up for me. 62 and 84, do you recognize
25 these?

1 A. Yes, sir.

2 MR. HUBBARD: Your Honor, I offer these into
3 evidence.

4 THE COURT: Any objections?

5 MR. MAULDIN: No objection, Your Honor.

6 THE COURT: They're admitted.

7 (State's Exhibit Numbers 62, 84 and 183,
8 photographs, was admitted into evidence.)

9 BY MR. HUBBARD:

10 Q. Is this your bathroom -- master bathroom?

11 A. Yes, sir.

12 Q. This door right here, what does it go to -- or lead
13 to?

14 A. The bathroom, sir.

15 Q. Okay. Where the tub and the toilet is? I mean, where
16 -- yeah, the shower, tub and toilet?

17 A. Yes, sir.

18 Q. This door to the left on 183, what is that?

19 A. Closet door, sir.

20 Q. Looking at State's 62, is this the door you were
21 hiding behind?

22 A. Yes, sir.

23 Q. So it's not very deep; is that correct?

24 A. No, sir.

25 Q. Do you see on 62 some prints right there on that door?

1 A. Yes, sir.

2 Q. I'm gonna show you 84. Is this also that same closet
3 with the door all the way open?

4 A. Yes, sir.

5 Q. All right. Donnovin, while you're in that closet and
6 someone is kicking your door, do you hear a voice?

7 A. Yes, sir.

8 Q. Was it the person kicking that door or was it from
9 somewhere else?

10 A. Somewhere else, sir.

11 Q. And what did that voice say?

12 A. "Here it is". "I found it".

13 Q. Here it is? I found it?

14 A. Yes, sir.

15 Q. The person kicking in your door, was that the person
16 speaking or was it someone else?

17 A. No, sir, someone else.

18 Q. Someone else. The person that was speaking, was that
19 Branton?

20 A. No, sir.

21 Q. Duwan?

22 A. No, sir.

23 Q. Sheldon?

24 A. No, sir.

25 Q. Was it a voice you'd ever heard before?

1 A. Yes, sir -- no, sir.

2 Q. When you heard "Here it is", "I found it", what, if
3 anything, did the person who's kicking in your closet do?

4 A. Stopped kicking, sir.

5 Q. So the kicking stopped. That person, could you -- as
6 you sat in that closet, could you tell if these people
7 remained or if they left? To the best of your ability as
8 you're sitting there, what were you thinking? Did you
9 sense or hear if they seemed to be leaving or not?

10 A. I just waited around until I didn't hear anything.

11 Q. So you stayed in that closet until you didn't hear
12 anything?

13 A. Yes, sir.

14 Q. After you thought these guys are gone, did you hear
15 something that made you concerned maybe they came back?

16 A. Heavy breathing.

17 Q. Heavy breathing?

18 A. Yes, sir.

19 Q. When you came out of that closet, what did you do?

20 A. I grabbed my pants and jumped out the window.

21 Q. Grabbed your pants and jumped out the window?

22 A. Yes, sir.

23 Q. Looking back at this diagram, 61, when you came out
24 of this bathroom, your bathroom, was your bedroom door now
25 open or closed?

- 1 A. It was open, sir.
- 2 Q. Had you opened it?
- 3 A. No, sir.
- 4 Q. When you went to bed it was closed?
- 5 A. Yes, sir.
- 6 Q. Was it locked when you went to bed?
- 7 A. Yes, sir.
- 8 Q. And now it was open?
- 9 A. Yes, sir.
- 10 Q. Did you see anything in the hallway as you were
- 11 grabbing your pants and going to the window?
- 12 A. A body covered with clothes, sir.
- 13 Q. At that time did you know who that was?
- 14 A. No, sir.
- 15 Q. And where did you go?
- 16 A. Out the window, sir. Out the window.
- 17 Q. This window right here on the diagram in the bedroom?
- 18 A. Yes, sir.
- 19 Q. Let me show you State's 57. Donnovin, does that show
- 20 your bed and the window you went out?
- 21 A. Yes, sir.
- 22 Q. Did you at any time -- before you went out that
- 23 window, do you go down that hallway and look to see what
- 24 had happened in your apartment?
- 25 A. No, sir.

1 Q. Did you ever leave your room other than going out that
2 window?

3 A. No, sir.

4 Q. When you went outside that window, where did you go?

5 A. Around the back of the building, sir.

6 Q. Around the back of the building?

7 A. Yes, sir.

8 Q. I'll show you State's 49. Is your window on the back
9 side of this apartment complex?

10 A. Yes, sir.

11 Q. So when you say you went around the building, did you
12 go around to the left on this photograph or did you go
13 around to the right?

14 A. To the left, sir.

15 Q. To the left?

16 A. Yes, sir.

17 Q. Why did you go that way, Donnovin?

18 A. To make sure nobody was outside, sir.

19 Q. And when you went out your window, did you see anybody
20 outside?

21 A. No, sir.

22 Q. Did you see anybody over here? Using this diagram,
23 49, did you see anybody on what is marked as Woodway Lane?

24 A. No, sir.

25 Q. And as you made your way around the building and came

1 back to Butternut Lane, did you see anybody out there?

2 A. No, sir.

3 Q. When you made your way around the building, what did
4 you do?

5 A. Went back upstairs to use my neighbor's phone.

6 Q. You went to the second floor?

7 A. Yes, sir.

8 Q. Donnovin, let me ask you this. Why are you coming
9 back in that building? Why are you using that neighbor's
10 phone?

11 A. I had lost my phone inside, sir.

12 Q. Okay. The neighbors you had upstairs, did you know
13 them?

14 A. Yes, sir.

15 Q. Did you know any of your other neighbors?

16 A. Yes, sir.

17 Q. Did you know any of your other neighbors?

18 A. Yes, sir.

19 Q. But you knew the ones upstairs?

20 A. Yes, sir.

21 Q. Is that why you went up to use the phone?

22 A. Yes, sir.

23 Q. Who actually called 9-1-1?

24 A. I did, sir.

25 Q. Donnovin, I want to show you what's been marked

1 State's Exhibit 71, the 9-1-1 call. Have you heard this
2 call?

3 A. Yes, sir.

4 MR. HUBBARD: Your Honor, I'd like to publish 71.

5 THE COURT: It's already in evidence.

6 MR. HUBBARD: Yes.

7 THE COURT: Go ahead and publish.

8 MR. HUBBARD: Thank you, Your Honor.

9 (Whereupon, State's Exhibit Number 71 was played.)

10 BY MR. HUBBARD:

11 Q. Donnovin, do you recall making that call?

12 A. Yes, sir.

13 Q. Do you recall the first officer that showed up,
14 Officer Purdy, speaking to you?

15 A. Yes, sir.

16 Q. And do you recall when another officer showed up, I
17 believe it was Officer Barber, and they spoke to you before
18 going into your apartment, going through that front door?
19 Do you remember that?

20 A. Yes, sir.

21 Q. And State's 72, that's the video that shows that?

22 A. Yes, sir.

23 MR. HUBBARD: Your Honor, I'd like to play this one
24 again if I may?

25 THE COURT: Yes, sir. Go ahead.

1 (Whereupon, State's Exhibit Number 72 was played.)

2 BY MR. HUBBARD:

3 Q. Donnovin, is that how you were dressed when Officer
4 Purdy came?

5 A. Yes, sir.

6 Q. Donnovin, when those officers got there, did you
7 realize that door was locked? Your front door was locked?

8 A. No, sir.

9 Q. Did you-all have a back door, kind of like a screen
10 door in that apartment, too?

11 A. Yes, sir.

12 Q. Looking at State's 61, is that what is shown on the
13 upper part of this diagram past the sofa?

14 A. Yes, sir.

15 Q. I want to show you State's 51. Is this how you-all
16 always kept that door or had somebody disturbed that door?

17 A. That's not how we kept it.

18 Q. That's not how you kept it?

19 A. No, sir.

20 Q. What did you keep outside on that porch out there,
21 that patio? I'm going back to the diagram, 61. What did
22 you-all keep out here on this patio?

23 A. A bunch of junk and between Duwan and Branton's
24 personal belongings.

25 Q. A lot of their stuff was just stored out there?

1 A. Yes. Yes, sir.

2 Q. Did you go back into the apartment at any time while
3 those officers are there?

4 A. No, sir.

5 Q. Would they even let you go into that apartment?

6 A. No, sir.

7 Q. Where did they let you sit while they were inside your
8 apartment?

9 A. In the Tahoe, sir.

10 Q. Did anybody bring you any kind of clothing?

11 A. I was given a shirt.

12 Q. Was it one of your shirts from inside the apartment?

13 A. No, sir.

14 Q. Who gave you that shirt?

15 A. One of the officers, sir.

16 Q. All right. While you're sitting in that Tahoe, did
17 you see an ambulance?

18 A. Yes, sir.

19 Q. Did you see the ambulance -- the paramedics bring one
20 of your friends out to that ambulance?

21 A. Yes, sir.

22 Q. Who did you see being brought out?

23 A. Duwan Williams, sir.

24 Q. The guy you always considered your best friend?

25 A. Yes, sir.

1 Q. Did you see them working on him?

2 A. Yes, sir.

3 Q. Did you ever see them bring Sheldon or Branton out?

4 A. No, sir.

5 Q. Just Duwan?

6 A. Yes, sir.

7 Q. How long was it before you could ever get back in that
8 apartment?

9 A. About five days, sir.

10 Q. When you got back in that apartment, did you notice
11 anything else missing?

12 A. Not that I can recall.

13 Q. Well, let me ask you about this. Did you at any time
14 find you were missing any money?

15 MR. MAULDIN: Objection. Leading.

16 THE COURT: Can you rephrase, Mr. Hubbard?

17 MR. HUBBARD: Yes, Your Honor.

18 BY MR. HUBBARD:

19 Q. What, if anything, can you tell us about might have
20 been missing in terms of money from your apartment?

21 A. My rent and utilities money for the month.

22 Q. And, Donnovin, I'm sorry. I didn't hear that.

23 A. My rent and utilities money for the month.

24 Q. Where did you keep that money?

25 A. In the bathroom.

1 Q. Your bathroom?

2 A. Yes, sir.

3 Q. I'll show you State's 183. Where would you keep that
4 money?

5 A. On the counter.

6 Q. On the counter?

7 A. Yes, sir.

8 Q. How much was your rent for this apartment?

9 A. 865 a month.

10 Q. 865?

11 A. Yes, sir.

12 Q. What were your utilities?

13 A. Around \$250.00.

14 Q. Okay. And, Donnovin, I want to ask you about your
15 bedroom door again. When your girlfriend left that
16 morning, did she know to lock that door as well, your
17 bedroom door?

18 A. I locked it myself.

19 Q. You locked it yourself?

20 A. (Nods head.)

21 Q. Before you got back in bed?

22 A. Yes, sir.

23 Q. I want to ask you this, too. Did officers talk with
24 you at the scene about what happened as you sat in that
25 Tahoe?

1 A. Yes, sir.

2 Q. What, if anything, did you tell them about the number
3 of voices you heard in your apartment?

4 A. I heard two voices, sir.

5 Q. Were these voices you had ever heard before?

6 A. No, sir.

7 Q. Do you recall -- and who were you talking to? Was
8 that Sergeant Creech over here?

9 A. Yes, sir.

10 Q. Do you recall a little bit later that day going to the
11 sheriff's department and talking to some other officers?

12 A. Yes, sir.

13 Q. To tell them what happened?

14 A. Yes, sir.

15 Q. What, if anything, did you say about the number of
16 voices you heard coming inside your apartment?

17 MR. MAULDIN: Under 802, Your Honor.

18 MR. HUBBARD: What's that?

19 THE COURT: Excuse me?

20 MR. MAULDIN: Under 802. Hearsay.

21 MR. HUBBARD: Present sense impression.

22 THE COURT: I think so, too.

23 MR. MAULDIN: At the sheriff's office?

24 THE COURT: It's what he said was my understanding.

25 Go ahead, Mr. Hubbard.

1 BY MR. HUBBARD:

2 Q. What, if anything, did you say about the number of
3 voices you heard in your apartment that -- that morning
4 after you had heard gunfire?

5 A. I heard two and might possibly a third.

6 Q. Two or maybe three?

7 A. (Nods head.)

8 Q. Now let me ask you, as far as voices, how many did you
9 hear?

10 A. Just two.

11 Q. But did you tell officers -- what, if anything, did
12 you say about a third person?

13 A. There might have been one, but I'm not sure.

14 Q. You're not sure. Were you sure on the number of
15 voices?

16 A. Yes, sir.

17 Q. The next day, on December 18, 2019, did you get to
18 talk to Sergeant Creech again at the sheriff's department?

19 A. Yes, sir.

20 Q. What, if anything, did you say about the number of
21 voices you heard in your apartment?

22 MR. MAULDIN: Objection. 802.

23 THE COURT: And I'm gonna -- I guess you're going
24 with presence sense; is that right, Mr. Hubbard?

25 MR. HUBBARD: Yes, Your Honor.

1 THE COURT: It's the same objection as last time.

2 I'm gonna allow it. Go ahead.

3 THE WITNESS: I heard two voices, sir.

4 BY MR. HUBBARD:

5 Q. Two voices. While you're talking to -- or at some
6 point when you were with Sergeant Creech, do you remember
7 him doing what they call buccal swabs? Taking a Q-tip and
8 putting it in your mouth?

9 A. Yes, sir.

10 Q. Looking at State's 25, would these be the buccal swabs
11 taken from you?

12 A. Yes, sir.

13 Q. Okay.

14 MR. HUBBARD: Your Honor, I just have this for ID
15 at the time.

16 THE COURT: And the number on that, Mr. Hubbard?

17 MR. HUBBARD: 25.

18 THE COURT: 25. Thank you.

19 BY MR. HUBBARD:

20 Q. Donnovin, have you ever met Justin Hopkins?

21 A. No, sir.

22 Q. Have you ever met Jeremy Cornish?

23 A. No, sir.

24 Q. Have you ever had any dealings with them or seen them?

25 A. No, sir.

1 MR. HUBBARD: Donnovin, I think I'm through at this
2 time. Please answer any questions the defense might have
3 for you.

4 THE COURT: Mr. Mauldin.

5 MR. MAULDIN: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. MAULDIN:

8 Q. Good afternoon, Mr. Haynes.

9 A. Afternoon.

10 Q. So at that time in December of 2019 you were working
11 at a place called UBar; is that correct?

12 A. Yes, sir.

13 Q. Okay. And you cook for them?

14 A. Yes, sir.

15 Q. And your specialty is seafood?

16 A. Yes, sir.

17 Q. And did you get paid in cash or did you get a check
18 every two weeks? How did they pay you?

19 A. Cash, sir.

20 Q. Okay. Was that weekly or every two weeks?

21 A. Every night.

22 Q. Oh, every night. And on the night of the 17th of
23 December of 2019 you left work about 3:00; is that right?

24 A. Yes, sir.

25 Q. And you and Mr. Williams left together in his car?

1 A. Yes, sir.

2 Q. Okay. And then you got back to your apartment. How
3 far away is the apartment from UBar?

4 A. Ten to fifteen minutes.

5 Q. Okay. Ten to fifteen minutes. And you get back in
6 the apartment. You had given your key to your girlfriend,
7 right?

8 A. Right.

9 Q. And so you didn't have a key. Did you-all knock to
10 get in or did Mr. Williams have a key?

11 A. I told my girlfriend I was on the way home.

12 Q. You texted her or something or called her?

13 A. Talked to her.

14 Q. Okay. So did she let you-all in?

15 A. She left the door unlocked.

16 Q. Oh, she left the door unlocked.

17 Okay. And Mr. Williams and you got back, I guess,
18 around 3:15 or thereabouts. Was Mr. Booker asleep on the
19 couch?

20 A. Yes, sir.

21 Q. Okay. And Mr. Livingston was in his room I reckon.
22 Was his door open or shut when you got there?

23 A. Shut, sir.

24 Q. So you don't know if he was asleep or awake because
25 his door was shut?

1 A. No, sir.

2 Q. Okay. And then your bedroom door, was it shut and
3 locked or was it shut and unlocked or was it open?

4 A. Shut and locked.

5 Q. Okay. And was your girlfriend asleep by the time you
6 got home or --

7 A. Yes, sir.

8 Q. Okay. So basically you didn't wake her up, you just
9 went in and went to sleep shortly after you got home there?

10 A. Yes, sir.

11 Q. Okay. And you locked the bedroom door behind you when
12 you went to sleep?

13 A. Yes, sir.

14 Q. Okay. And so the other people in the apartment not
15 in your bedroom would be Mr. Livingston, Mr. Booker and
16 Mr. Williams; is that right?

17 A. Yes, sir.

18 Q. And you locked your door before you went to sleep,
19 right?

20 A. Yes, sir.

21 Q. Okay. She gets up -- you said she gets up at about
22 6:00 and you wake up, you let her out, you lock your
23 bedroom door. Did you lock the front door back?

24 A. Yes, sir.

25 Q. Do you know if the sliding door was locked or

1 unlocked?

2 A. Locked always.

3 Q. Okay. You don't know if Duwan or Branton had gotten
4 up during the night and opened it?

5 A. I doubt it.

6 Q. But you didn't see whether they did or not, did you?

7 A. No. No, sir.

8 Q. Because their stuff was out on the patio, wasn't it?

9 A. Yes, sir.

10 Q. A bunch of their stuff. Do you recall -- I know you
11 talked with a lot of officers that day, but you remember
12 going to the sheriff's office and talking to those two
13 officers. Their names are Miller and Laintz. Do you
14 remember that --

15 A. Yes, sir.

16 Q. -- when your girlfriend showed up? Do you recall
17 telling them that you didn't know if the back door was
18 locked or not?

19 A. I don't recall.

20 Q. You don't recall. Is it possible you could have told
21 them that?

22 A. I'm not sure.

23 Q. Not sure. Okay. So you let your girlfriend go out
24 around 6-ish. You're in your room from about six to seven.
25 What are you doing that hour?

- 1 A. Trying to fall back to sleep for work.
- 2 Q. Okay. What time do you get up to go to work?
- 3 A. Around eleven.
- 4 Q. Okay. And then you hear four shots and you wake up;
- 5 is that right?
- 6 A. Yes, sir.
- 7 Q. And then you hear another five shots real quick?
- 8 A. Yes, sir.
- 9 Q. And then you look at your phone and your phone says
- 10 it's 9:07 AM; is that right?
- 11 A. I didn't have my phone at the time, no.
- 12 Q. Oh. You don't recall telling Officer Miller and
- 13 Laintz at the sheriff's department that day that you looked
- 14 at your phone and it said 9:07 AM?
- 15 A. Possibly I could.
- 16 Q. So it's possible you could have told them that?
- 17 A. Yes, sir.
- 18 Q. And after you hear those nine shots, you go into your
- 19 bathroom closet; is that right?
- 20 A. Yes, sir.
- 21 Q. Okay. Did you shut and lock the bathroom door?
- 22 A. Yes, sir.
- 23 Q. Okay. So you shut and locked that door. And the
- 24 closet door didn't have a lock on it, did it?
- 25 A. No, sir.

1 Q. Okay. And did you hear the talking before the shots
2 or after the shots?

3 A. After.

4 Q. Okay. Did you hear any kind of talking before the
5 shots where you couldn't make out the words?

6 A. No, sir.

7 Q. Did you hear any talking after the shots where you
8 couldn't make out the words?

9 A. Yes, sir.

10 Q. Okay. And if you can't make out the words, how do you
11 know how many voices there was?

12 A. I -- I heard "Where it's at". You kind of tricked me
13 into that one.

14 Q. I'm not -- I'm not trying to trick you. These are
15 fairly straightforward questions here.

16 So you're in your closet with no lock, you hear one
17 boom, which you assume is the kicking in of your bedroom
18 door because you're behind the locked bathroom door and the
19 shut closet door, right?

20 A. Yes, sir.

21 Q. And then you hear another boom where you think the
22 bathroom door was kicked open; is that right? Because you
23 had locked that, right?

24 A. Yes, sir.

25 Q. Okay. And then you heard somebody kicking on the door

1 while you were holding it as you described to Mr. Hubbard;
2 is that right?

3 A. Yes, sir.

4 Q. And how long was that feller kicking at -- or that
5 lady kicking at that door?

6 A. A couple of seconds.

7 Q. A couple of seconds. Was it like three or four kicks
8 or more kicks than that?

9 A. Three or four, yeah.

10 Q. Okay. Were they pretty weak kicks?

11 A. Kind of, sort of, yeah.

12 Q. Yeah. So you didn't need your whole weight to hold
13 the door shut on it if the were pretty weak, huh?

14 A. I did anyway because I heard gunshots.

15 Q. Okay. And the Solicitor showed you, I guess, this
16 photo of the apartment complex. You waited in the closet
17 until you thought you couldn't hear anything more; is that
18 right?

19 A. Yes, sir.

20 Q. And that was about four or five minutes; is that
21 right?

22 A. Yes, sir.

23 Q. How long do you reckon you were hearing noises before
24 you thought it was safe to go?

25 A. I'm not sure. A quick minute.

1 Q. Okay. So even after somebody said "I got it", there
2 was some more noises as far as rumbling around. That's why
3 you thought there could have been more than two people;
4 isn't that right?

5 A. Yes, sir.

6 Q. And as you told the lady on the phone -- but you never
7 saw any faces or anything?

8 A. No, sir.

9 Q. Did you ever give like a written statement like on
10 a form where you wrote it down on a piece of paper or
11 anything like that?

12 A. No, sir.

13 Q. Okay. And I know, you know, you're dealing with
14 police. Initially you -- you told -- told the police that
15 you didn't know anything about drugs or anything in the
16 house; is that right?

17 A. I don't recall that.

18 Q. Okay. You don't -- you don't remember telling
19 Detective Creech here on the day of that you didn't know
20 anything about drug activity in the house?

21 A. No, sir. I told him I had weed in the house.

22 Q. Okay. And when he asked you about some weed they
23 found in your room on December 23rd, he asked you about
24 some weed found in the room, and you denied knowing about
25 it?

1 A. Yeah, I didn't know about it.

2 Q. Okay. Well, how do you think it got in there?

3 A. I'm not sure.

4 Q. Oh. Okay. Because it was like a pound of weed or
5 something like that?

6 A. No, sir.

7 Q. Okay. Like half a pound?

8 A. Yes, sir.

9 Q. Somewhere around there?

10 A. (No verbal response.)

11 Q. Okay. And that 1100, was that all your cash or did
12 everybody contribute or -

13 A. It was mostly all mine. Yes, sir.

14 Q. Okay.

15 MR. MAULDIN: I beg the Court's indulgence for a
16 second.

17 THE COURT: Take your time.

18 MR. MAULDIN: No further questions, Your Honor.

19 MR. HUBBARD: A few follow-up.

20 REDIRECT EXAMINATION

21 BY MR. HUBBARD:

22 Q. Donnovin, when you heard gunshots were you counting
23 how many times you heard a gunshot?

24 A. No, sir.

25 Q. All right. So when he was giving numbers, did you

1 hear shots or did you know the exact numbers?

2 A. I just heard shots, sir.

3 Q. About your closet door, State's 62, if someone was
4 kicking in this door at any time did that door bend enough
5 so you could see out?

6 A. Yes, sir.

7 Q. Is that what kind of pressure was being put on that
8 door?

9 A. Yes, sir.

10 Q. When that door bent ever so much, did you identify who
11 was on the other side?

12 A. No, sir.

13 Q. What, if anything, did you see?

14 A. A piece of a gun, sir.

15 Q. A what?

16 A. A piece of a gun.

17 Q. What piece?

18 A. A barrel.

19 MR. HUBBARD: No more questions.

20 RECROSS EXAMINATION

21 BY MR. MAULDIN:

22 Q. On the 17th you talked with responding Officer Purdy,
23 right?

24 A. Yes, sir.

25 Q. And you talked with another guy. Let's see.

1 Snelgrove maybe?

2 A. I don't -- I'm not sure. I don't recall.

3 Q. You might have talked to four or five deputies before
4 they even took you over to the sheriff's office; is that
5 right? Because they were moving you from here to there and
6 putting you in this car and that car?

7 A. Yes, sir.

8 Q. Okay. And then you talked to the two at the sheriff's
9 office, right, the same day?

10 A. Yes, sir.

11 Q. And then you came back and you talked to Miller and
12 Creech; is that right?

13 A. Yes, sir.

14 Q. And then you talked to Creech again a couple of days
15 later on the 23rd; is that right?

16 MR. HUBBARD: Your Honor, I'm gonna object. This is
17 beyond my cross. This is nothing -- this is new matter.

18 MR. MAULDIN: No, it's not.

19 MR. HUBBARD: I brought up two things; closet and
20 shots. That's it.

21 MR. MAULDIN: I understand that and I'm getting
22 there, Your Honor.

23 THE COURT: Well, you need to get there quickly.

24 BY MR. MAULDIN:

25 Q. In all those times of talking to the officers, you

1 never said anything about the door opening until last
2 month; is that correct?

3 A. Yes, sir.

4 MR. MAULDIN: No further questions.

5 MR. HUBBARD: Nothing else.

6 THE COURT: Thank you.

7 May I excuse Mr. Haynes?

8 MR. HUBBARD: Yes, Your Honor.

9 THE COURT: Mr. Haynes, thank you for coming.

10 (Witness excused.)

11 THE COURT: All right. Let's take a quick break.

12 MR. HUBBARD: Thank you, Your Honor.

13 THE COURT: Mr. Foreman, I'm gonna give you-all
14 about a 10-minute break. Stretch your legs. Remember
15 no talking amongst yourselves about this case.

16 (Whereupon, the jury retires to the jury room at
17 2:33 PM.)

18 THE COURT: All right. We're in recess for about
19 ten minutes.

20 MR. HUBBARD: Thank you, Your Honor.

21 (Recess taken at 2:33 PM.)

22 (Back on the record at 2:53 PM.)

23 BAILIFF: Keep your seats. Court come to order.

24 THE COURT: Okay. Are we ready?

25 MS. MAYES: I beg the Court's indulgence.

1 THE COURT: You can sit down.

2 MR. HUBBARD: Can we approach on scheduling real
3 quick?

4 THE COURT: Uh-huh.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: All right. I'm gonna bring the jury
7 in. Let's bring them in.

8 (Whereupon, the jury return to the courtroom at
9 2:58 PM.)

10 THE COURT: All right. Mr. Foreman, is the jury
11 ready?

12 FOREPERSON: Yes, ma'am.

13 THE COURT: All right. Let's be seated.

14 Mr. Foreman, and ladies and gentlemen of the jury,
15 just to kind of keep you apprised of the scheduling,
16 we're gonna do one more witness today and then I'm
17 gonna let you go. Tomorrow we're gonna buy you lunch
18 and we're gonna work hard tomorrow to try to get through
19 some more witnesses, but we've got one witness that's
20 kind of long and then there's some matters I need to
21 take up with the lawyers that I won't need you-all, so
22 I'm gonna let you go after this witness, okay?

23 FOREPERSON: Yes, ma'am.

24 THE COURT: All right. Thank you.

25 With that said, the State can call their next

1 witness.

2 MS. MAYES: The State calls Patrick Ward.

3 (Whereupon, Patrick Ward was duly sworn by the
4 Clerk of Court.)

5 THE CLERK: If you'll have a seat, please. State
6 your name and spell your last for the record.

7 THE WITNESS: Patrick Ward, W-A-R-D.

8 PATRICK WARD,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. All right. Tell us a little bit about yourself,
13 Detective. Where are you employed?

14 A. The Lexington County Sheriff's Department.

15 Q. And in what capacity?

16 A. I'm a crime scene investigator.

17 Q. All right.

18 MS. MAYES: And, Your Honor, if I may approach?

19 THE COURT: You may.

20 MS. MAYES: I'm gonna move this a little closer to
21 you and speak directly into this.

22 BY MS. MAYES:

23 Q. All right. Tell us how long you have been with the
24 Lexington County Sheriff's Department.

25 A. About eight and a half years.

1 Q. All right. And how did you develop to become a crime
2 scene investigator or CSI detective?

3 A. I kind of worked my way into the position. I started
4 out on the road as a patrolman for about a year, then I
5 moved into a school as the school resource officer. I did
6 that for two and a half years and for the past little over
7 four years I've been a crime scene investigator.

8 Q. All right. And were you working in that capacity on
9 December 17th of 2019?

10 A. I was.

11 Q. And who was the lead CSI officer on this case?

12 A. I was.

13 Q. Tell us, Detective Ward, what you recall about your
14 first arrival there at the scene, [REDACTED] Butternut Lane, and
15 we're gonna take a look here at State's 49.

16 A. When I first arrived on-scene, there was a door
17 leading to the main building that led to an enclosed
18 stairwell with four apartments off of it. The incident
19 location, the crime scene, was on the bottom right-hand
20 side of the building when you first walk in. I observed
21 the door itself to the apartment had been kicked in
22 according to the responding officers. The frame of the
23 door along the left side latch side was broken. When you
24 first walk in, you observe a living room area, as well as
25 an entryway that had some laminate flooring right there

1 immediately past the threshold. I first observed there was
2 a significant amount of what I observed to be blood on the
3 floor and after walking in I saw that the blood continued
4 onto the carpet, as well as on the back of the door itself
5 and on the wall surrounding the door.

6 Q. All right. So looking here at State's 61, let me ask
7 you this. Who actually created this diagram?

8 A. I did.

9 Q. And is that your name and information up there on the
10 left-hand side?

11 A. Yes, it is.

12 Q. And what you just noted about the entryway, can you
13 show us? And you have a laser pointer. Can you show us
14 what you were observing as you walked through?

15 A. Okay. So first upon walking in, this was the --
16 the laminate flooring. The remainder of the apartment
17 had carpet, so there was a significant amount of blood
18 on the laminate flooring that continued to trail off
19 into the carpet area here. Also I observed two cartridge
20 cases on the edge of the flooring and the carpet that
21 were head-stamped 9-millimeter. Sig 9-millimeter.

22 Q. Okay. And as you proceed through, were you able to
23 locate the first victim?

24 A. Yes. The first victim as you continued into the
25 apartment going through this walkway here was located in

1 this short hallway here in front of some closets.

2 Q. Okay. So we're gonna take a look at what you have
3 described up to this point about the scene. First, let's
4 look at 77, and I want to ask you this particular
5 photograph, State's 77 --

6 THE COURT: That's not in evidence.

7 MS. MAYES: I see that, Your Honor.

8 I beg the Court's indulgence.

9 MR. MAULDIN: I don't object to 77, Your Honor.

10 THE COURT: Thank you.

11 BY MS. MAYES:

12 Q. I'm gonna ask you to take a look here at 77, 78, 80,
13 79 and 82, and ask you whether or not you recognize these
14 photographs?

15 A. I do.

16 Q. And who was actually taking crime scene photographs
17 there?

18 A. At the time it was Sergeant Jamie Johnson.

19 Q. All right. So I tell you what. We're going to get
20 into a series of crime scene photographs. Let me ask you
21 this. The photographs that you just mentioned that you
22 took a look at there, they were taken by Jamie Johnson?

23 A. Yes.

24 Q. Are they a fair and accurate representation of the
25 scene as you processed it?

1 A. They are. I was there with her as she was taking
2 them.

3 MS. MAYES: Okay. Your Honor, we would offer each
4 of those photos as evidence.

5 MR. MAULDIN: Just a quick peek.

6 THE COURT: Absolutely.

7 MR. MAULDIN: No objection to 77, 78, 79, 80 and
8 82, Your Honor.

9 THE COURT: All right. Then they're admitted.

10 (State's Exhibit Numbers 77, 78, 79, 80 and
11 82, photographs, were admitted into evidence.)

12 BY MS. MAYES:

13 Q. Looking here at 77, what are we seeing in this
14 photograph?

15 A. That is the doorway leading to the enclosed stairwell.

16 Q. And how many units are beyond this door if you recall?

17 A. I believe there were four. There were two upstairs
18 and two downstairs.

19 Q. And as to this particular location, we're gonna look
20 at 78. What are we seeing here in State's 78, which also
21 has some tape that's visible, and I'm gonna ask to you
22 explain that?

23 A. That is a view from inside the apartment complex -- or
24 apartment looking out through the main entrance towards the
25 -- the stairwell. The crime scene barrier tape right there

1 was placed by responding deputies to secure the scene prior
2 to my arrival.

3 Q. All right. And where we see right here the tape going
4 across, when would the crime scene tape have been placed?

5 A. Shortly after the responding deputies arrived
6 on-scene and recognized the need to secure the secure for
7 processing.

8 Q. And what are we seeing here at State's 80?

9 A. That is a view of the interior side of the front door
10 to the apartment.

11 Q. And what, if anything, is apparent in this photograph?

12 A. Again, I just observed a significant amount of blood
13 immediately upon entering the apartment, as well as the
14 projected blood on the back side of the door there.

15 Q. State's 79.

16 A. Again, you see the suspected blood on the wall there.
17 It's very hard to see in that photo, but there are two
18 cartridge cases approximately in this area.

19 Q. All right. So there are two cartridge cases right
20 there at the doorway?

21 A. That's correct.

22 Q. And you've indicated those appear to be 9-millimeter
23 casings?

24 A. Yes.

25 Q. State's 82.

1 A. That's additional blood on the interior side of the
2 front door.

3 Q. All right. So we're gonna go back to this exhibit,
4 but first I want to ask you about all of these scene
5 photographs that were taken in this case. Were all of
6 them taken with Jamie Johnson there contemporaneously
7 working as you processed the scene?

8 A. Yes, they were.

9 Q. I'm gonna show you what is State's 104, 98, 99, 100
10 and 101, and have you take a look at these. Are those all
11 a fair and accurate representation of the scene?

12 A. They are.

13 THE COURT: Let me know if there's any objection,
14 Mr. Mauldin.

15 MR. MAULDIN: No objection, Your Honor.

16 THE COURT: They're admitted.

17 (State's Exhibit Numbers 98, 99, 100, 101 and 104,
18 photographs, were admitted into evidence.)

19 BY MS. MAYES:

20 Q. I'm now gonna show you 86 and 87 and ask you whether
21 or not you recognize these as well?

22 A. Yes, I do.

23 Q. And now 92, 88, 89, 90, 93, 94, 95 and 96, which is a
24 series of photographs -- and 97, which is also a series of
25 photographs. If you could take a look at those.

1 A. I do.

2 Q. Okay. Do these all appear to be a fair and accurate
3 representation of the scene as you found it and processed
4 it?

5 A. Yes, they are.

6 THE COURT: Let me know if there's an objection,
7 Mr. Mauldin.

8 MR. MAULDIN: Yes, ma'am. No objection, Your Honor.

9 THE COURT: They're admitted.

10 (State's Exhibit Numbers 86, 87, 88, 89, 90, 92,
11 93, 94, 95, 96 and 97, photographs, were admitted into
12 evidence.)

13 BY MS. MAYES:

14 Q. And now 102, 106, 108 and 111, and I'm gonna ask you
15 whether or not you recognize these?

16 A. I do.

17 Q. Are they also a fair and accurate representation of
18 that scene as you processed it?

19 A. Yes, they are.

20 Q. State's 115, 116, 117, 81 and finally 118. I'm gonna
21 ask you to review those as well.

22 A. I recognize them.

23 Q. Detective Ward, are these a fair and accurate
24 representation of the scene as you processed it?

25 A. Yes, they are.

1 Q. And the markings that you placed at the scene?

2 A. Yes.

3 MR. MAULDIN: No objection, Your Honor.

4 THE COURT: They're admitted.

5 (State's Exhibit Numbers 81, 102, 106, 108, 111,
6 115, 116, 117 and 118, photographs, were admitted into
7 evidence.)

8 BY MS. MAYES:

9 Q. So you had begun describing the entryway there and
10 you noted that there were casings present?

11 A. That's correct.

12 Q. I'm gonna show you what is 86 in evidence and ask you
13 to take us through this photograph if you have a laser
14 pointer there.

15 A. Well, Marker 1 and Marker 2 are marking the locations
16 of the two cartridge cases, the fired shell cases, that I
17 observed.

18 Q. Okay. We'll take another look at that. Also part of
19 86. Now we see Marker 1.

20 A. That's an image of the cartridge case.

21 Q. And Marker 2?

22 A. The second cartridge case.

23 Q. Okay. And your notes indicate those are both
24 9-millimeter casings?

25 A. That's correct.

1 Q. Where, looking at this diagram, would you approximate
2 those two casings were found?

3 A. Item 1 or Marker 1 was located right here on the edge
4 of the laminate flooring and the carpet and Marker 2 was
5 very close nearby on the carpet.

6 Q. That location for the casings, can you tell us whether
7 or not that's consistent with gunfire occurring here at the
8 entryway?

9 A. Typically that would be a very good indication that
10 a firearm was discharged somewhere in the vicinity of the
11 front door.

12 Q. And when you talked about the blood being in this
13 laminate area, could you tell us whether or not you
14 observed some type of drip trail?

15 A. There was a small drip trail leading onto the carpet
16 just behind the couch in the living room.

17 Q. We're gonna take a look at State's 79. Is that where
18 you see the carpet area?

19 A. That's correct. And the drip trail itself would have
20 been located kind of near the bottom of the photograph.
21 It's kind of dark to see there.

22 Q. And, again, this photo is dark, but recognizing that
23 there is blood in the entryway, could you determine a
24 general direction in which that blood trail tended to --
25 which direction that blood trail tended to go towards?

1 A. The blood trail itself indicated that it was moving
2 away from the door itself towards the interior of the
3 apartment.

4 Q. And can you show us specifically in which direction,
5 looking there at our overhead being, State's 61?

6 A. Kind of behind the couch in this general vicinity.

7 Q. Okay. And I'm gonna show you what is State's 86. Is
8 that the drip trail that you were referring to?

9 A. Yes, it is.

10 Q. Okay. Now I'm gonna show you what is State's 61.
11 What, if anything, did you observe, Detective Ward,
12 regarding the location of the body of Branton Booker in
13 relation to that drip trail that we just saw at the
14 entryway?

15 A. It appeared to be heading towards his general
16 direction.

17 Q. And when you found Branton Booker, what can you tell
18 us about his surroundings?

19 A. When I first arrived on-scene, I was advised that
20 when deputies arrived that he had been basically entirely
21 covered over with -- with linens and clothing to the point
22 where they could not even have seen him when they walked
23 in. He was partially uncovered when I arrived, but he
24 still had some of those items on top of him and surrounding
25 him.

1 Q. Okay. We're gonna look at State's 65. And what can
2 you tell us about this location shown in State's 65?

3 A. Near the victim there were two linen closets. There
4 was a linen closet along, I believe, it's the north wall
5 and there's also another linen closet or closet on the left
6 side here.

7 Q. Okay. And where his legs are shown here in
8 State's 65, can you tell us what is over here near his
9 legs?

10 A. That is a -- the other side of the hallway that's
11 leading towards the master bedroom here and if you continue
12 down the hallway there would be the second bedroom and a
13 bathroom on the right.

14 Q. Okay. So where his foot or legs are, this would be
15 the master bedroom?

16 A. That's correct.

17 Q. We're gonna take a look there. And the door to the
18 master bedroom would be located where?

19 A. Located right here.

20 Q. And then you mentioned the second bedroom. What, if
21 anything, did you observe upon entry into the second
22 bedroom?

23 A. Immediately upon entering the second bedroom, I
24 observed there was another cartridge case on the floor near
25 the doorway that was also head-stamped 9-millimeter and

1 then I did observed victim Livingston located next to the
2 bed just below the window.

3 Q. We're gonna take a look at State's 66. Now was this
4 a crime scene photo or was this taken by someone else?

5 A. That I'm not sure. It could be from a body camera,
6 but I'm not a hundred percent certain.

7 Q. Are you aware as to whether or not Detective Scott
8 Purdy, one of the first officers, also took photographs at
9 the scene?

10 A. Yes, he did.

11 Q. Was this the general area in which you found
12 Mr. Livingston as well?

13 A. Yes.

14 Q. And, Detective Ward, what, if anything, did you note
15 about Livingston -- Mr. Livingston and his surroundings?

16 A. I observed that he was still partially covered over
17 with a bedsheet or a comforter. It did not appear that he
18 moved very far away from the bed.

19 Q. Now you told us about the blood trail from the
20 entryway coming down towards Mr. Booker, but let me ask
21 you about this. Where you see Mr. Livingston, was there
22 any evidence of a drip trail or a blood trail?

23 A. No, there was no blood beyond the bed.

24 Q. And what, if anything, does that indicate about the
25 positioning of Mr. Livingston?

1 A. It indicates that he did not move very much at all.

2 Q. Beyond that bed?

3 A. Correct.

4 Q. And here we see the overhead again. I'm gonna ask
5 you what, if anything, you observed in the living area?

6 A. In the living room area, there was a sectional sofa
7 with kind of a chase lounge protruding out. I did observe
8 that there was a bloodstain saturating the surface of the
9 couch approximately in this area. There was also EMS trash
10 in the vicinity indicating that they had worked on him
11 on-scene.

12 Q. All right. And by the time of your arrival, had
13 Mr. Williams been removed from the scene?

14 A. He had.

15 Q. To be treated by EMS?

16 A. Yes.

17 Q. And finally I want to ask you about the master
18 bedroom. Upon observing the master bedroom, what, if any,
19 indications did you see of forced entry?

20 A. The frame of the master bedroom door along the latch
21 side here, the frame itself was broken, the door was also
22 damaged, and there was a visible footwear tread impression
23 on the exterior side of the door.

24 Q. Okay. So I'm gonna ask you a few questions about all
25 of that as we go. Now I'm gonna show you what is 103 and

1 ask you whether or not you had the opportunity to follow up
2 this initial diagram that you did with another diagram to
3 depict all of the ballistics findings noted in this case?

4 A. Yes.

5 Q. And if you could take a look here at 103 and tell us
6 whether or not this is a fair representation of the scene
7 as you found it?

8 A. Yes, it is.

9 Q. And the evidence you collected?

10 A. Yes.

11 Q. And who prepared this diagram?

12 A. I did.

13 MS. MAYES: Your Honor, this would be State's 103
14 for evidence.

15 THE COURT: Any objection?

16 MR. MAULDIN: No objection, Your Honor.

17 THE COURT: It's admitted.

18 (State's Exhibit Number 103, a ballistics diagram,
19 was admitted into evidence.)

20 BY MS. MAYES:

21 Q. So now looking at 103, I want to start here by asking
22 you about the two markers that you have here, and these
23 markers are noted Number 1 and Number 2. I'm gonna get
24 up a little closer on it. What, if anything, does the
25 placement of these yellow markers on your diagram indicate?

1 A. The yellow markers are indicating the locations of
2 cartridge cases and fired bullets, projectiles.

3 Q. Okay. And now we're gonna compare to 86. That's the
4 photograph that we already saw earlier. Is that the one
5 and two casings that you're referring to on this diagram?

6 A. Yes, it is.

7 Q. Did you observe any fired shell casings around the
8 body of Mr. Booker?

9 A. No, I did not.

10 Q. So other than the two fired casings that we see at the
11 entryway and the drip trail, were there any other casings
12 between this area and where he is found here?

13 A. The only additional 9-millimeter cartridge cases we
14 located were Markers 12 and 13 in the vicinity of the
15 couch.

16 Q. All right. In the vicinity of where Mr. Duwan
17 Williams was located?

18 A. Correct.

19 Q. Okay. And after the notations made about the
20 ballistics evidence at the entryway to the door, what, if
21 anything, are we looking at here in Marker 4?

22 A. Marker 4 is an additional 9-millimeter cartridge case.

23 Q. And what, if any, proximity does that fired shell
24 casing have to this bedroom area where Mr. Livingston was
25 found?

1 A. To me, it indicated that a firearm was discharged near
2 the entrance or inside the room just near the doorway.

3 Q. All right. We're gonna take a look now at Number 4.
4 What, if anything, did you note about the caliber of the
5 fired shell casing?

6 A. The headstamp on the cartridge case also indicated
7 that it was a 9-millimeter.

8 Q. Next 7 and 6. Can you show us what we're looking at
9 here?

10 A. Those were two additional 9-millimeter cartridge
11 cases.

12 Q. And can you show us where they're located?

13 A. Near the victim Livingston's left foot.

14 Q. Now we're looking at State's 88 with Marker 20. What
15 caliber?

16 A. That was also a 9-millimeter cartridge case.

17 Q. State's 89 with Marker 21. What caliber?

18 A. It's a 9-millimeter.

19 Q. And what vicinity or proximity is this casing located
20 in relation to Mr. Livingston's bed?

21 A. That is the right edge of the mattress or the bed
22 itself.

23 Q. State's 90. What do we see here?

24 A. That is a nightstand that appeared to have broken or
25 collapsed under the victim and there was a cartridge case

1 located on top of the drawer.

2 Q. We're gonna look at the second part of this exhibit,
3 State's 90. Is that the casing you're referring to?

4 A. Yes, it is.

5 Q. And what caliber?

6 A. It was 9-millimeter.

7 Q. Now you indicated that there was some type of damage
8 to this nightstand?

9 A. Yes.

10 Q. What can you tell us about that nightstand which was
11 damaged in relation to where Mr. Livingston appeared to
12 have fallen or his body was located?

13 A. Mr. Livingston was right on top of the nightstand.
14 Essentially his left shoulder was resting on top of it.

15 Q. And what are we looking at here on the left side of
16 this photograph?

17 A. That's the bed.

18 Q. Next is State's 91. Can you show us what we see here?

19 A. That's a 9-millimeter cartridge case located at the
20 top of the -- between the wall and the top of the mattress.

21 Q. State's 93.

22 A. It's an additional 9-millimeter cartridge case.

23 Q. Marker 28?

24 A. Yes.

25 Q. State's 94.

1 A. That is a fired bullet.

2 Q. Now this fired bullet, what can you tell us about it?
3 How would you best describe that particular projectile or
4 fired bullet? Does it appear to be jacketed?

5 A. Yes, it was jacketed.

6 Q. What type of outer layer or coating does it appear to
7 have?

8 A. It appeared to have a copper or a brass exterior.

9 Q. Can you tell us whether or not that bullet, that
10 projectile, is consistent with the 9-millimeter fired shell
11 casings that you observed?

12 A. Yes, it appeared to be consistent.

13 Q. Now we're gonna take a look at State's 95. This is
14 Marker 35. What do we see here?

15 A. That's an additional 9-millimeter cartridge case.

16 Q. And all of these items that we have just looked at,
17 State's 4, 6, 7, 26, 22, 24, those are all the casings that
18 you have noted there in the vicinity of Mr. Livingston?

19 A. Yes.

20 Q. I'm sorry. 34. Now what, if any, indications did
21 you have about where these projectiles, where these fired
22 bullets, were landing?

23 A. From what I observed, they appeared to all have been
24 fired in the direction of the bed itself.

25 Q. What, if any, indications did you have in that regard?

1 A. There were the multiple defects, bullet defects, in
2 the wall and the mattress itself that were all indicating
3 a direction from the doorway towards the northwest corner
4 of the room.

5 Q. So you found bullet defects within the mattress
6 itself?

7 A. Yes.

8 Q. Indicating that the bed was hit?

9 A. Yes.

10 Q. And then you also indicated the surrounding wall
11 around the bed?

12 A. Yes.

13 Q. I'm gonna show you what is State's 96 and ask you to
14 describe what we're looking at here?

15 A. Marker 37 is a fired bullet that was recovered from
16 the wall just to the left of the bed and that's just a
17 close-up view of that bullet.

18 Q. The same bullet?

19 A. Yes.

20 Q. Did that also appear to be a jacketed bullet?

21 A. Yes, it was.

22 Q. Also appeared to be brass or copper outer layer?

23 A. That's correct.

24 Q. Consistent with the previous --

25 A. Yes.

1 Q. -- projectile recovered from that location inside
2 Mr. Livingston's room?

3 A. Yes.

4 Q. Now you spoke about the direction and -- and that you
5 saw defects in the bedding and around the wall. What, if
6 any, measures did you take to determine the actual flight
7 path or direction of any bullets fired in the direction of
8 Mr. Livingston?

9 A. One of the defects we did observe we were able to
10 stick a trajectory rod, a flight path rod, through the hole
11 and we did shoot a laser from the hole to the opposite wall
12 trying to get a general idea of where the shooter may have
13 -- or where the firearm had been discharged.

14 Q. And is that a routine part of your CSI work?

15 A. Yes, it is.

16 Q. We're gonna take a look now at State's 97 in evidence
17 and ask you to tell us what we're looking at.

18 A. That's a side view of a trajectory rod that was placed
19 through the bullet defect.

20 Q. And is this the first thing you did in determining the
21 potential flight path of that bullet?

22 A. Yes.

23 Q. And looking here at State's 97, where was the bullet?

24 A. The bullet itself was not recovered from that. We
25 did end up damaging the wall significantly trying to -- to

1 locate it, but it was just lost inside the wall that is
2 just below the window there.

3 Q. And what, if any, indications did you have that a
4 bullet was present?

5 A. There was a hole in the drywall that continued on
6 through the stud in the wall.

7 Q. And where would the bed have been in relation to what
8 you observed?

9 A. The bed would have been to the left of that. So we're
10 actually standing where the bed was. We had to move the
11 mattress to take that photo.

12 Q. Okay. After you placed this flight rod, what did you
13 do next?

14 A. Then we placed a second flight rod that was a little
15 different in design that had a laser on the end of it and
16 we projected that laser beam onto the opposite wall so that
17 we could see just the general vicinity where the firearm
18 was discharged.

19 Q. Okay. So looking here at the first photo in this
20 group, being 97, what can you tell us about the direction
21 of this flight rod once you placed it where you observed
22 that hole or defect in the wall?

23 A. The rod indicated that the bullet had originated from
24 near the doorway of the bedroom and was at a downward
25 angle.

1 Q. The next photograph in this series, what do you show
2 here?

3 A. That is an image of a second flight path rod with a
4 string attached to it.

5 Q. Again, the same defect in the wall?

6 A. That's correct.

7 Q. And now this photograph in the series, what, if
8 anything, does this indicate?

9 A. That's a string that we ran to the location where the
10 laser dot determined the general area where the firearm had
11 been discharged, so that's just showing a general idea of
12 where the shooter may have been standing.

13 Q. All right. And what do we see here where the blue
14 tape is shown placing the string?

15 A. That's -- that's where the laser dot would have
16 originated on the wall.

17 Q. Okay. So just to clarify, that would be the
18 originating position of where the gun is fired?

19 A. That's correct.

20 Q. And at this angle, which is downward?

21 A. Yes.

22 Q. Towards the bed?

23 A. Correct.

24 Q. And can you tell us whether or not this indicates the
25 position of the shooter?

1 A. Yes, generally it does.

2 Q. And now from another angle, the last photograph in
3 this series, is that the same blue tape there holding the
4 string in place?

5 A. Yes, it is.

6 Q. That we just saw a moment ago?

7 A. Yes.

8 Q. Again, this would indicate the position of the shooter
9 or the gun as it's fired?

10 A. That's correct.

11 Q. And now looking back at 66, being the room of
12 Mr. Livingston, where is that string that we just saw in
13 State's 97 in relation to this photograph?

14 A. It would be just to the left of the doorway.

15 Q. Can you demonstrate, please?

16 A. Just on the other side of the wall very close to the
17 light switch, I believe.

18 Q. Did you ever see any indication of shots being fired
19 in any direction other than towards the bed and towards the
20 area of Mr. Livingston?

21 A. No, I did not.

22 Q. Did you ever see any indication of a blood trail that
23 went beyond where Mr. Livingston's body was found?

24 A. No.

25 Q. And now regarding Mr. Williams, we're gonna take a

1 look here at State's 104.

2 All right. Where we see your diagram, 103, can you
3 tell us whether or not you were able to recover fired shell
4 casings in the area of that couch where Mr. Williams had
5 been located?

6 A. Yes, I was.

7 Q. Can you tell us whether or not you were also able to
8 recover a projectile or fired bullet from this area as
9 well?

10 A. Yes.

11 Q. So looking at 104, tell us what we see here.

12 A. That is a view of the couch towards the entrance to
13 the apartment.

14 Q. And where, if at all, did you observe a blood pattern?

15 A. There was a saturated bloodstain on the couch cushion
16 in this general area.

17 Q. Other than that saturated area, did you observe any
18 blood trail around this couch consistent with Mr. Williams
19 moving or openly bleeding?

20 A. No, I did not.

21 Q. It was all confined to that one area on the couch?

22 A. That's correct.

23 Q. You mentioned earlier that you had noted casings in
24 the vicinity of the couch. I'm gonna ask you specifically
25 about State's 12 -- State's 99 showing Marker 12. What,

1 if any, type of casing did you observe there near the
2 couch?

3 A. It was a 9-millimeter.

4 Q. And what are we seeing here in State's 100, being
5 Marker 13?

6 A. It was also a 9-millimeter shell casing.

7 Q. Shown here the 13 and 12 that we just saw in those
8 photographs?

9 A. Correct.

10 Q. What do we see in State's 101 and where is that
11 located within the home?

12 A. That's an image of a bullet hole in the living room
13 wall just to the left of the sliding glass door.

14 Q. And were you able to recover a projectile from that
15 hole in the wall that you see in 101?

16 A. Yes, I was.

17 Q. And what marker number was that?

18 A. Marker 39.

19 Q. And is that also a view --

20 A. Yes.

21 Q. -- of that projectile?

22 A. Yes.

23 Q. And then finally 113. What, if anything, was noted
24 around the area of the mirror?

25 A. There was a bullet hole to the front of the mirror

1 itself.

2 Q. Now let's go back to 103. You've indicated the
3 apparent defect of a bullet here, as well as one in the
4 wall. You've shown us the casings at 12 and 13. What are
5 we looking at here with your blue marker, which is 38?

6 A. Marker 38 was a projectile was that was recovered from
7 the couch cushion.

8 Q. And you have described the projectiles, and there's
9 been more than one, that appeared to have a jacket and the
10 brass and copper in the outer layer. What, if anything,
11 was different about the projectile that you found and
12 marked as 38?

13 A. I observed that the projectile was a non-jacketed
14 bullet. It appeared to be of a gray metal similar to lead.

15 Q. We're gonna take a look here at State's 98. What is
16 that?

17 A. That is what we would call scale tape marking the
18 location of the bullet hole.

19 Q. And that bullet hole is found approximately where here
20 looking at your 103 overhead?

21 A. Approximately here near where the chase lounge meets
22 the upright of the couch cushion.

23 Q. How did you go about retrieving that particular
24 projectile from the couch or couch cushion itself?

25 A. We had to cut the fabric of the couch cushion and just

1 extract it.

2 Q. Now we're gonna take a look at the second photograph
3 in this series. This would be Marker 38. And is this a
4 closer up view of the same projectile that you've already
5 described?

6 A. Yes, it is.

7 Q. Marker 38?

8 A. Yes.

9 Q. And, again, the observations that you were able to
10 make as a CSI detective viewing this projectile?

11 A. My observations on it?

12 Q. Yes.

13 A. I observed that it was a non-jacketed bullet. It did
14 not appear to be consistent with the others just from its
15 construction and the color.

16 Q. And that color was?

17 A. It's a gray metallic consistent with lead coloration.

18 Q. So this bullet has no jacket and is gray and lead?

19 A. Correct.

20 Q. Any doubt in your mind while making that observation
21 that it's a completely separate type of bullet?

22 A. Yes, that was the first thing that came to my mind.

23 Q. Now all of these casings that you've shown us, what
24 caliber were all of those fired shell casings that you
25 picked up there at the scene?

1 A. The headstamps indicated they were all 9-millimeter.

2 Q. How many 9-millimeter fired casings did you recover
3 from that scene?

4 A. Thirteen.

5 Q. All 9-millimeter?

6 A. That's correct.

7 Q. And now you see a projectile that appears to be
8 different. Did you find a casing consistent with that
9 projectile anywhere around the couch or surrounding area?

10 A. No, I did not.

11 Q. What, if anything, does that indicate to you?

12 A. Typically from my experience growing up around
13 firearms, it indicated to me that it had been fired from
14 a revolver.

15 Q. So when you mention a revolver, does a revolver
16 actually eject fired casings when that gun is fired?

17 A. No, they typically do not.

18 Q. So if it's a revolver, would you expect to find any
19 .38 fired casings at that crime scene?

20 A. No.

21 Q. And as a result of observing this, what, if anything,
22 did you note on your CSI report regarding possible weapons
23 in this case?

24 A. I believe I indicated that a 38-caliber revolver
25 possibly had been used.

1 Q. And what, if anything, regarding a 9-millimeter
2 weapon?

3 A. Also a 9-millimeter, so two weapons had likely been
4 involved.

5 Q. And that .38 revolver and the 9-millimeter weapon that
6 you believed to be involved, were they located anywhere at
7 that crime scene?

8 A. No, they were not.

9 Q. Or outside the crime scene?

10 A. No.

11 Q. And just to follow up on that, is it normal or
12 routine to check the general area around a crime scene,
13 the exterior, for any evidence that a firearm may have
14 been dropped or hidden outside?

15 A. Yes, typically it would be.

16 Q. And any evidence of the firearm anywhere around those
17 surrounding areas?

18 A. No.

19 Q. So they're missing from the crime scene?

20 A. That's correct.

21 Q. Now the master bedroom, you spoke of what you observed
22 there regarding the door. I'm gonna ask you what, if
23 anything, you noted regarding the window, again, of this
24 area here we're gonna refer to as the master bedroom?

25 A. The window, I observed it was open and the drapes and

1 the curtains had been -- basically they were outside of the
2 window, so hanging out.

3 Q. Can you show us where that would be on the diagram?

4 A. It's here on the north side.

5 Q. All right. And we're gonna take a look here at
6 State's 102. Is that also one of your crime scene
7 photographs?

8 A. Yes, it is.

9 Q. Showing the window as it's found?

10 A. Correct. In that image the curtains had been pulled
11 inside, but it is an image of the window.

12 Q. And now that door to that bedroom, where did you first
13 observe damage? We're gonna go back to your diagram,
14 State's 103.

15 A. Where did I first observe the damage?

16 Q. Yes.

17 A. I did see damage along the frame itself and there was
18 obvious damage on the latch side of the door itself.

19 Q. Okay. So just to clarify, is that damage to the door
20 facing the hallway or from the inside where the bedroom
21 would be located?

22 A. It was facing the hallway.

23 Q. So the damage is on the outside of the door where the
24 hallway is located?

25 A. Well, the damage itself indicated that the door had

1 been kicked inward if I'm tracking correctly.

2 Q. From the hallway side?

3 A. Yes.

4 Q. We're gonna take a look here at State's 106, which is
5 a series of photographs. Tell us Detective Ward what we're
6 looking at here.

7 A. That is a view of the interior side of the master
8 bedroom door and the damage surrounding the doorknob.

9 Q. And the second photograph in this series, what, if
10 any, indications did you have that that door had, in
11 fact -- that bedroom door had, in fact, been locked?

12 A. Just looking at the photograph, as well as on-scene,
13 I observed that the latch was in the position -- the upper
14 position usually indicating that it's locked. We did also
15 test to see if it was locked and it was.

16 Q. Okay. And what is this?

17 A. That's an image of the damage to the door.

18 Q. Can you tell us though whether or not that damage
19 is consistent with what you would see when a door's kicked
20 in?

21 A. Yes.

22 Q. And looking here at the next photograph in this
23 series, where do you see damage?

24 A. All along the side of the door here.

25 Q. Can you tell us though whether or not you also noted

1 that there was damage along the wall?

2 A. There was damage to the drywall behind the door. Not
3 visible in this photograph, but basically looked like the
4 doorknob had slammed into the wall and left a hole.

5 Q. Would that require some type of force?

6 A. Yes.

7 Q. Looking here at State's 108, what, if any, indication
8 did you have regarding the mechanism in which this locked
9 door was forced open?

10 A. On the interior or the hallway side of the door there
11 was a partial footwear impression.

12 Q. And, again, that's the hallway side?

13 A. That's correct.

14 Q. And show us what we're seeing here and what is noted
15 to be 40 in State's 108? What did you do here?

16 A. This is a scale that was taped to the door. This is
17 an image of the footwear or the footwear tread impression
18 on the door itself, so we're essentially scaling this for
19 photography reasons.

20 Q. And what is the purpose of the scaling?

21 A. The scale allows us to send the image off to be
22 analyzed by footwear tread specialists essentially so that
23 it can be compared.

24 Q. And is it your understanding that this was being
25 documented in order to go to the State Law Enforcement

1 Division?

2 A. Yes.

3 Q. For footwear impression analysis?

4 A. Yes.

5 Q. And looking here at State's 108, we're gonna see the
6 second photograph in the series. What are we looking at
7 here?

8 A. That is another image of the scaled footwear
9 impression. That is the image we sent off to SLED to be
10 analyzed.

11 Q. All right. And what do we see up here in the
12 left-hand corner?

13 A. That's the file name of the image that we sent off.

14 Q. And do you see your initials in that particular file
15 name?

16 A. Yes, I do.

17 Q. The PMW and it ends in 816?

18 A. Yes.

19 Q. That's a photograph taken by you at the scene?

20 A. Yes.

21 Q. Now regarding this particular image, I know we're
22 looking at a photo, can you tell us whether or not looking
23 at it in person with the naked eye, what, if any,
24 observations were you able to make?

25 A. From what I observed, it appeared to be a large

1 foot and it did have more of an aggressive tread pattern
2 indicating it was consistent with more of a work boot than
3 a tennis shoe.

4 Q. Okay. Now we're gonna look at 111. Which door is
5 this?

6 A. That is the door to the closet off of the master
7 bathroom.

8 Q. Again, by using the diagram can you show us which door
9 specifically? This would be State's 111.

10 A. This would be the master bath and sink area off of the
11 master bedroom. The closet was located here with the door
12 here.

13 Q. What, if any, indications did you have, Detective
14 Ward, that there was an attempt to kick in this door as
15 well there at the closet?

16 A. We observed that there were additional partial
17 footwear impressions on the door.

18 Q. I'm gonna show you what is State's 111 and ask you to
19 describe what, if anything, is depicted in that paragraph?

20 A. That's an image of the footwear impressions on the
21 door. It appeared to be multiple footwear impression.

22 Q. What do you mean by multiple?

23 A. Just from what we observed, it appeared that there
24 were at least three overlapping footwear tread impressions.

25 Q. And can you tell us whether or not that would indicate

1 more than one kick?

2 A. Yes, at least three kicks.

3 Q. Now were you able to scale this for potential footwear
4 impression analysis by SLED?

5 A. We did not. We looked at the footwear impressions and
6 determined that the one on the door to the master bedroom
7 was the best one.

8 Q. By best one, you mean in terms of the quality here
9 as shown in State's 108, the quality of that particular
10 impression?

11 A. That's correct.

12 Q. Including the individual tread markings here?

13 A. Yes.

14 Q. Now in addition to noting the impressions on the door
15 and scaling that, what, if any, other evidence did you
16 actually process at this crime scene?

17 A. We did process -- well, I did process for latent
18 prints or for fingerprints on the doors and the cabinets
19 in the kitchen and touch DNA and blood DNA swabs were
20 collected.

21 Q. All right. What, if anything, did you learn regarding
22 this door, the front door to this residence, and any action
23 law enforcement had to take upon arrival?

24 A. We were advised by responding deputies that the front
25 door had been dead bolted or locked when they arrived and

1 that's why they had to kick the door in.

2 Q. And knowing that, can you tell us what, if any,
3 determinations you made about any other points of exit for
4 an intruder or intruders?

5 A. Knowing that the dead bolt had been activated, the
6 only other door leading into or out of the apartment was
7 the sliding glass doors.

8 Q. Can you show us where that would be on your diagram,
9 which is 103?

10 A. They are along the north wall of the living room.

11 Q. Knowing that, that this door is dead-bolted, shut at
12 the crime scene, what, if any, efforts did you take to
13 process the sliding door, sliding patio door, as a point
14 of exit?

15 A. Touch DNA swabs were collected from the interior and
16 the exterior side of the door handles and I also processed
17 it for fingerprints.

18 Q. All right. We're gonna take a look here at
19 State's 115 in evidence. What do we see here?

20 A. That's a marker indicating the door handle on the
21 inside of the sliding glass doors from where I collected
22 the touch DNA swabs from.

23 Q. All right. And can you show us looking at 115 exactly
24 where you're swabbing?

25 A. I swabbed the -- there's a little recessed handle here

1 and I swabbed the inside of that.

2 Q. And why did you select to swab the handle itself?

3 A. Typically that's just gonna be the natural place for
4 someone to grab to open a door.

5 Q. And when you found this patio door there at the scene,
6 can you tell us whether or not it was locked?

7 A. It was not locked.

8 Q. So you found it unlocked?

9 A. Correct.

10 Q. And in addition to swabbing the interior side of that
11 handle, we're gonna take a look at State's 116 and I'm
12 gonna ask you what we're looking at there?

13 A. That's a view of the door handle on the outside of the
14 sliding glass door.

15 Q. And, again, where in this photograph, State's 116,
16 would you have swabbed?

17 A. I swabbed the recessed area of the handle here.

18 Q. And why?

19 A. Again, just typically that's where someone would
20 naturally have to grasp that door to open it.

21 Q. Open it and then close it?

22 A. Correct.

23 Q. Now looking at State's 117, which door is this?

24 A. That's an image of the front door.

25 Q. The same front door that -- that we've already seen.

1 What, if any, indications do you have as to whether the
2 dead bolt was engaged?

3 A. In that photograph it shows that it's still actively
4 engaged right now -- or at the time the photograph was
5 taken.

6 Q. Prior to being kicked in by law enforcement?

7 A. That's correct.

8 Q. And knowing that, what, if any, action did you take
9 regarding the swabbing of this dead bolt?

10 A. I did collect touch DNA swabs from the dead bolt
11 latch.

12 Q. Okay. And looking here at State's 118, can you show
13 us where approximately in this photograph you would have
14 collected what is known as touch DNA swabs?

15 A. I would have swabbed the latch itself and possibly
16 even the area immediately surrounding it.

17 Q. Okay. What is meant by the term touch DNA swab?

18 A. Essentially when you do touch an item, your body will
19 leave trace amounts of DNA.

20 Q. Okay. May be left behind?

21 A. That's correct.

22 Q. Now we're gonna look at State's 81. What is this
23 Marker E?

24 A. Marker E was indicating the area from which a blood
25 DNA swab was collected.

1 Q. And when you say a blood DNA swab, how is a blood DNA
2 swab different than the touch DNA swab that we just saw on
3 the dead bolt?

4 A. Essentially they'll be sent off to SLED to be analyzed
5 separately for either blood DNA or touch DNA.

6 Q. All right. What are you trying to find out when you
7 do a blood DNA swab?

8 A. Essentially just who the blood belongs to. Was it a
9 victim or someone else.

10 Q. Okay. So at this point you are collecting -- can
11 you show us here on State's 81 where approximately you
12 collected that blood?

13 A. Approximately this stained area right here.

14 Q. And you're putting blood from the crime scene onto the
15 swab?

16 A. That's correct.

17 Q. And that's to determine whose blood that is on the
18 door?

19 A. Yes.

20 Q. Now how long did this crime scene remain open?

21 A. Three days.

22 Q. And throughout that time, I'm gonna go back to this
23 photograph here being 78, can you tell us whether or not
24 crime scene tape remained in place?

25 A. Yes, it did.

1 Q. And does that include the exterior of the apartment
2 as well?

3 A. Yes, the door itself would have been sealed with
4 basically evidence tape.

5 Q. And other than yourself or a fellow CSI officer, is
6 anyone else coming or going from this crime scene?

7 A. No.

8 Q. What about Donnovin Haynes, for example, who had been
9 a resident there?

10 A. No, the door would have been secured and a deputy
11 would be standing by until that scene had been closed out.

12 Q. And does that include monitoring the scene throughout
13 the overnight period?

14 A. Yes, it does.

15 Q. Throughout that duration of your processing of the
16 crime scene?

17 A. That's correct.

18 Q. And you've indicated that that crime scene was closed
19 or completed by the date of December 20th?

20 A. I believe it was closed by the 19th.

21 Q. Okay. Prior to December 21st of 2019?

22 A. Correct.

23 Q. So closed after that 2- to 3-day period? And you can
24 check your notes if you need to.

25 THE COURT: While he's checking, Ms. Mayes, I've got

1 Exhibit 91 and 113. I want to make sure the defense -- I
2 don't think I moved those into evidence and I'd like to
3 know at this time if there's no objection.

4 MS. MAYES: Yes, Your Honor. We would move those
5 into evidence, if not already done so.

6 THE COURT: Okay. I just didn't know if you-all
7 didn't call them out. I just didn't --

8 MR. MAULDIN: 113 is in according to our notes.

9 THE COURT REPORTER: I didn't have them either.

10 THE COURT: Me and the court reporter, we don't
11 have them. So is 91 -- I just want to move them in for
12 the record.

13 MR. MAULDIN: I have no objection to that, Your
14 Honor.

15 THE COURT: Okay. Thank you.

16 (State's Exhibit Numbers 91 and 113, photographs,
17 were admitted into evidence.)

18 THE COURT: All right. I think we're good.

19 BY MS. MAYES:

20 Q. Now as you're processing this crime scene, you've
21 indicated that crime scene tape is up and that it's limited
22 to yourself or fellow crime scene officers. I think you
23 indicated Jamie Johnson was also working with you?

24 A. That's correct.

25 Q. And taking photographs?

1 A. Yes.

2 Q. Are you and Detective Johnson wearing gloves
3 throughout the entirety of your processing of this crime
4 scene?

5 A. Yes, before we entered the door we would put gloves
6 on.

7 Q. And what, if any, measures are you taking as you're
8 going about collecting swabs to ensure that they are
9 collected properly?

10 A. Any time I'm concerned about contamination, I would
11 frequently change my -- my gloves.

12 Q. And can you tell us once a swab is taken, for example,
13 this swab here of the dead bolt, can you tell us when it is
14 sealed in relation to as it's collected?

15 A. I would immediately place the swabs into an envelope
16 and then seal it while I'm still on-scene to prevent the
17 contamination of the swabs.

18 Q. Okay. I'm gonna show you a series of items and ask
19 you to take a look at them. First being swabs A and B
20 from the patio door, swab D from the dead bolt that we see
21 overhead, and then swab E, which is the blood swab from
22 that door. I'm gonna ask you whether or not you recognize
23 those items?

24 A. Yes, I do.

25 Q. Can you tell us whether or not you recognize your

1 initials on those items?

2 A. I do, as well as my -- my handwriting.

3 Q. Were all of these swabs properly sealed immediately
4 after their collection?

5 A. Yes, they were.

6 Q. And can you tell us how you go about sealing that
7 envelope with evidence tape?

8 A. We would take the -- the seal of the -- or the opening
9 of the envelope, fold the flap down and then immediately
10 seal that with tape and initial and date it.

11 Q. Where we see the red tape, which is the evidence tape,
12 how does that tape allow you to prevent tampering?

13 A. If anyone tries to open the envelope, the tape would
14 be torn.

15 Q. And did you ever observe any evidence of tampering
16 following you sealing each of these swabs?

17 A. No, I did not.

18 Q. And can you tell us whether they remained sealed up
19 and until their submission to the State Law Enforcement
20 Division for analysis?

21 A. Yes.

22 MS. MAYES: This would be 40, 44, and 37, Your
23 Honor, being swabs marker E and swabs marker D and
24 swab markers A and B. All for evidence.

25 THE COURT: Any objection?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: They're admitted.

3 (State's Exhibit Numbers 37, 40 and 44, DNA swabs,
4 were admitted into evidence.)

5 BY MS. MAYES:

6 Q. Now I want to go back to that patio door. Looking
7 here at 116 and 115, what are we observing here, this
8 discoloration that appears in these photographs?

9 A. That is black latent print powder used for locating
10 fingerprints.

11 Q. And what areas of that patio door did you dust in
12 order to potentially obtain latent fingerprints?

13 A. I dusted the metal frame, as well as the glass, and
14 frame around the door latch.

15 Q. I'm gonna show you what is State's 47 and ask you
16 whether or not you recognize this item?

17 A. I do.

18 Q. And does it bear your initials?

19 A. Yes.

20 Q. What is it?

21 A. These are three latent print cards collected from the
22 sliding glass door.

23 Q. All right. And were you able to recover latent prints
24 from any other location within that residence?

25 A. No, I was not.

1 Q. What other area of interest did you swab -- I'm gonna
2 take a look here at 103 -- I'm sorry -- did you attempt to
3 dust for latent prints?

4 A. The kitchen drawers and some of the cabinet doors were
5 open, so I did dust those for latent prints.

6 Q. Okay. Were you able to recover any latent prints
7 along this area?

8 A. No.

9 Q. And then going back to what we just saw here, the dust
10 on 115, you were able to place some type of latent print
11 onto this latent print card?

12 A. Yes.

13 MS. MAYES: And this is gonna be State's 47 for
14 evidence, Your Honor.

15 MR. MAULDIN: No objection.

16 THE COURT: Okay. Did we move the other evidence,
17 the latent print cards in?

18 MS. MAYES: This would be State's 47, Your Honor.

19 THE COURT: The one before it.

20 MS. MAYES: It's all one exhibit.

21 THE COURT: All one exhibit. Okay. I'm sorry.
22 Thank you. It's admitted.

23 (State's Exhibit Number 47, latent print cards,
24 was admitted into evidence.)

25 BY MS. MAYES:

1 Q. Now ultimately, Detective Ward, were these of
2 sufficient ridge detail to make an actual comparison?

3 A. No, they were not.

4 Q. And you mentioned the shoe impressions that we saw in
5 the photographs that were scaled. How did you go about
6 documenting or preserving those photographs that you took
7 at the scene of those, which you identified as a potential
8 boot impression, on that bedroom door?

9 A. Those photographs were saved to a CD and it was
10 entered into evidence separately.

11 Q. I'm gonna show you what is State's 46 and ask if you
12 recognize that item?

13 A. Yes, I do.

14 Q. How so?

15 A. It has my seal and initials and date on the back.

16 Q. And is that the photograph you just mentioned of those
17 boot impressions?

18 A. Yes.

19 MS. MAYES: This would be State's 46 for evidence,
20 Your Honor.

21 THE COURT: Any objection?

22 MR. MAULDIN: No, Your Honor.

23 THE COURT: It's admitted.

24 (State's Exhibit Number 46, boot impression CD, was
25 admitted into evidence.)

1 BY MS. MAYES:

2 Q. Now those fired casings from the crime scene, you
3 noted that there were thirteen 9-millimeter fired casings.
4 I want to show you what is State's 41 and ask you whether
5 or not you recognize this item? And you may open it.

6 MS. MAYES: Your Honor, with the Court's permission
7 may he unseal that package?

8 THE COURT: Yes, ma'am.

9 THE WITNESS: Yes, I recognize them.

10 BY MS. MAYES:

11 Q. What are the headstamps on these particular items,
12 all thirteen? And by headstamp, you've identified them as
13 9-millimeter, but what can you tell us about the particular
14 manufacturing headstamp on each?

15 A. I believe two were head-stamped Sig 9-millimeter Luger
16 and the remainder were head-stamped Win 9-millimeter Luger.

17 Q. And "Win" means what?

18 A. Short for Winchester.

19 Q. And this particular item that I'm showing you here,
20 can you tell us whether or not that would be consistent
21 with one of the Winchester 9-millimeter fired casings?

22 A. Yes, it is.

23 MS. MAYES: These are all for evidence, Your Honor.
24 This would be State's 41 containing the thirteen fired
25 9-millimeter shell casings.

1 MR. MAULDIN: No objection, Your Honor.

2 THE COURT: It's admitted.

3 (State's Exhibit Number 41, fired cartridge cases,
4 was admitted into evidence.)

5 BY MS. MAYES:

6 Q. We're gonna take a look here under the projector. Are
7 you able to observe that, Detective Ward? First, let me
8 ask you this. What is the general color of this casing?

9 A. It's a brass color.

10 Q. And does it appear to be all brass, including the
11 primer?

12 A. Yes.

13 Q. And now looking at the headstamp with the naked eye,
14 can you tell us what, if anything, is engraved in that
15 headstamp?

16 A. It says Win, W-I-N, 9-millimeter Luger.

17 Q. Okay. And that's actually engraved along its
18 headstamp?

19 A. Yes, it is.

20 Q. And, again, no casings recovered from that crime scene
21 that correspond with that .38 round?

22 A. No.

23 Q. And in addition to the projectiles that were recovered
24 from the scene -- projectiles recovered from the scene, and
25 I believe State's 38 as well, two additional 9-millimeter

1 casings?

2 A. Yes.

3 Q. And what are the headstamps on each of these?

4 A. They're both Win 9-millimeter Luger.

5 MS. MAYES: This would be State's 38 for evidence,
6 Your Honor.

7 THE COURT: Any objection?

8 MR. MAULDIN: No objection, Your Honor.

9 THE COURT: It's admitted.

10 (State's Exhibit Number 38, fired cartridge cases,
11 were admitted into evidence.)

12 BY MS. MAYES:

13 Q. So the thirteen total includes the ones that we just
14 observed in State's 41 plus these additional two?

15 A. Yes.

16 Q. All 9-millimeter?

17 A. Yes.

18 Q. Now did you also have an opportunity to swab those
19 fired shell casings just by chance to potentially recover
20 touch DNA from those?

21 A. Yes. Typically we would take them back to the lab and
22 swab them just out of an abundance of caution.

23 Q. I'm gonna show you what is State's 42 and ask you
24 whether or not you recognize that item?

25 A. I do.

1 Q. How so?

2 A. I recognize the item number, as well as the seal --

3 Q. Okay.

4 A. -- seal inside this envelope.

5 Q. And you may unseal it if need be.

6 A. (Witness complies.) Yes, they have my initials and
7 date on there.

8 Q. As well as the evidence seal?

9 A. Yes.

10 Q. Can you tell us whether these swabs from the fired
11 shell casings also were properly packaged immediately after
12 your collection?

13 A. Yes, they were.

14 Q. And were you wearing gloves?

15 A. Yes.

16 Q. All of the evidence in this case, Detective Ward, can
17 you tell us whether or not it remained sealed after you
18 yourself sealed it?

19 A. Yes.

20 Q. And ultimately until its arrival at the State Law
21 Enforcement Division?

22 A. Yes, that's correct.

23 MS. MAYES: This would be 42 for evidence, Your
24 Honor, being swabs from the fired shell casings.

25 THE COURT: Any objection?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: It's admitted.

3 (State's Exhibit Number 42, swabs from cartridge
4 cases, were admitted into evidence.)

5 BY MS. MAYES:

6 Q. And these swabs are actually taken at what location?

7 A. That would have been taken at the crime lab at
8 headquarters.

9 Q. Once you collected the evidence and returned there?

10 A. Yes.

11 Q. Now finally I want to ask you about the fired
12 projectiles that we have in this case. I believe we saw
13 several that you indicated were jacketed and brass, copper,
14 and then the one that is noted to be no jacket and gray.
15 I'm gonna ask you to take a look at 45, 43 and 39, and ask
16 you whether or not you recognize these items?

17 A. Yes.

18 Q. And do all of these appear to be consistent with the
19 projectiles and fragments that you recovered from the
20 scene?

21 A. Yes, they do.

22 Q. And do you recognize your initials on the packaging
23 of each?

24 A. Yes, I do.

25 Q. As well as the date of collection?

1 A. Yes.

2 MS. MAYES: This would be State's 1 -- I'm sorry.
3 Let me rephrase that. 45, 39 and 43 for evidence.

4 THE COURT: Any objection?

5 MR. MAULDIN: No objection, Your Honor.

6 THE COURT: It's admitted then. Thank you.

7 (State's Exhibit Numbers 39, 43 and 45, fired
8 projectiles, were admitted into evidence.)

9 BY MS. MAYES:

10 Q. Looking here at this item from State's 43, I'm
11 gonna compare it to this additional item from State's 39.
12 Detective Ward, are you able to visually discern a
13 difference between those two projectiles?

14 A. Yes, I am.

15 MS. MAYES: Your Honor, if the witness may have
16 permission to step down?

17 THE COURT: He may.

18 BY MS. MAYES:

19 Q. And, Detective Ward, I'm gonna ask you what we're
20 looking at first in this particular item? And I believe
21 this is from State's 43.

22 A. It's a jacketed bullet.

23 Q. And what do you mean by jacketed in appearance?

24 A. The exterior of the bullet has a copper or brass
25 exterior.

1 Q. And how, if at all, does that item or projectile
2 depicted and packaged in State's 43 differ from this
3 projectile as packaged in State's 39?

4 A. This item is a non-jacketed bullet consistent with a
5 lead construction or gray metal.

6 Q. And is it apparent that these are two different
7 caliber projectiles?

8 A. Yes.

9 Q. Thank you. You may return.

10 A. (Witness complies.)

11 Q. What, if anything, can you tell us about the weather
12 that day as noted in your report, Detective Ward?

13 A. That day it was raining pretty heavily.

14 Q. Were you able to recover any signs of trace evidence
15 such as blood or boot prints outside of the residence?

16 A. No, we were not.

17 Q. And how, if at all, may weather conditions affect your
18 ability to recover trace evidence or footprints outside of
19 a location?

20 A. Sometimes rain could wash away the trace evidence or
21 potentially hide it.

22 MS. MAYES: I beg the Court's indulgence.

23 THE COURT: Take your time.

24 BY MS. MAYES:

25 Q. And in addition to collecting physical items of

1 evidence from this scene, can you tell us whether or not
2 there was any video surveillance or doorbell ring camera
3 or anything of that nature at this particular apartment?

4 A. No, there was none.

5 Q. And to your knowledge at Woodland Village Apartments
6 as a whole?

7 A. I'm not aware of any.

8 MS. MAYES: Thank you. Nothing further.

9 THE COURT: Thank you, Ms. Mayes.
10 Mr. Mauldin.

11 MR. MAULDIN: Yes, Your Honor.

12 I'm gonna take like a minute and go through some
13 of the exhibits and pick out the ones I want to use so
14 it will kind of go a little bit smoother.

15 THE COURT: Sure.

16 Let me ask the Foreman. Do you-all need a quick
17 break?

18 FOREPERSON: No, ma'am.

19 MR. MAULDIN: It's just gonna take a little.

20 THE COURT: That's fine. Take your time. We're
21 not gonna go anywhere.

22 CROSS-EXAMINATION

23 BY MR. MAULDIN:

24 Q. All right. You said you checked outside for trace --
25 for like boot prints or blood or anything. Let me show you

1 State's 49. Where did you check for those?

2 A. If I'm looking at it correctly, I believe [REDACTED] was --
3 I don't see [REDACTED] on here to be honest with you. In the
4 exterior of the apartment complex, there was a grassy area
5 behind the apartment complex.

6 Q. Okay. And you looked at the grassy area behind the
7 apartment complex?

8 A. Yes.

9 Q. And you found no boot prints; is that right?

10 A. No.

11 Q. Even -- even a boot that can make an aggressive print
12 like the one on the door?

13 A. Typically you wouldn't see boot impressions in grass
14 unless there was some heavy mud.

15 Q. Well, there are some muddy areas. I see some brown,
16 say, right here. That doesn't look like a grassy area.
17 That looks pretty brown to me.

18 A. I can't tell from the photograph itself.

19 Q. Do you remember if it was totally grass or mud or
20 both?

21 A. It was predominantly grass.

22 Q. Are you sure? Are you sure?

23 A. As far as I can remember.

24 Q. As far as you can remember.

25 Okay. So to just kind of review real quick, you

1 recovered thirteen 9-millimeter shells from the Butternut
2 Lane address; is that correct?

3 A. Correct.

4 Q. That had been fired. Eleven stamped Win or W-I-N
5 9-millimeter for Winchester, right?

6 A. Correct.

7 Q. And two marked S-I-G 9-millimeter; is that correct?

8 A. Yes, sir.

9 Q. What does S-I-G stand for?

10 A. Typically that's short for SIG Sauer.

11 Q. Okay. SIG Sauer. And I'm showing you State's 103
12 here, the diagram that you created. Items 1 and 2 here by
13 the door, those are the ones stamped Sig 9-millimeter; is
14 that correct?

15 A. That's correct.

16 Q. And then every other casing that you found was stamped
17 Win 9-millimeter; is that correct?

18 A. Yes.

19 Q. Okay. And I noticed that you testified on direct
20 that you would expect since these casings are here that
21 somebody would have fired the gun very near the door. Did
22 you testify to that?

23 A. That's correct.

24 Q. That's 1 and 2. As far as Number 4 on this,
25 State's 103, I believe you said you would expect that

1 somebody might have been in the doorway when they fired
2 that shot; is that correct?

3 A. That's correct.

4 Q. Okay. And so these are all shell casings found around
5 Mr. Livingston; is that correct?

6 A. Yes.

7 Q. So would you expect that the person would just be
8 standing over him when they fired those?

9 A. That's possible.

10 Q. Okay. Now when you fire -- you have to fire a gun
11 because your in law enforcement and you have to go to the
12 range every once in a while and get qualified; is that
13 right?

14 A. Yes, that's correct.

15 Q. Okay. And when you fire an automatic, and I'm not a
16 gun guy, so does the shell go back and to the left or back
17 and to the right?

18 A. It just depends on the firearm and how many bullets
19 are in the magazine, how you're holding it.

20 Q. Okay. Have you ever heard of a gun designed to shoot
21 where the shells shoot forward?

22 A. Sometimes they do.

23 Q. Well, in a accident typically it would shoot
24 backwards, right?

25 A. Or to the side.

1 Q. Or to the side. Okay. And have you ever heard that
2 a shell might bounce off a wall?

3 A. Yes, they do.

4 Q. Okay. That might happen. Or a shell might be kicked
5 around by somebody that works for EMS or somebody looking
6 to clear a scene or something along those lines?

7 A. Yes, sir.

8 Q. All right. But -- but these two shells were the Sig
9 shells, correct?

10 A. Yes.

11 Q. And all the other ones were with the Win shells?

12 A. Correct.

13 Q. Okay. And that was thirteen total?

14 A. Yes.

15 Q. And projectiles recovered from the scene, was that
16 four and a fragment?

17 A. If my memory serves me, correct, yes.

18 Q. Four and a fragment. And you believe three were the
19 jacketed ones and one was the more lead-colored one; is
20 that correct?

21 A. Yes, sir.

22 Q. What about the fragment?

23 A. The fragment also was a copper brass color.

24 Q. All right. And which one was the fragment on this
25 diagram?

1 A. The fragment is the grayed-out marker.

2 Q. Oh, the grayed-out marker, Number 36, there?

3 A. Yes, sir.

4 Q. Oh, okay. And was that just on the floor on the other
5 side of the bed?

6 A. That was actually tangled up in a comforter that was
7 still on top of the bed.

8 Q. Tangled up in a comforter. Okay. I notice here on
9 this diagram you have some defects labeled. You've got
10 defect C and defect B and defect A and defect D. Those are
11 all where you assume that there's a bullet hole or a hole
12 created by a bullet?

13 A. Yes, that's correct.

14 Q. All right. And defect C is one you testified -- is
15 that where you recovered a bullet from or not where you
16 recovered a bullet from?

17 A. That is where we placed the trajectory rod. We could
18 not recover a bullet from the wall.

19 Q. Okay. So did you see a bullet fall down inside the
20 wall?

21 A. We actually broke the drywall all the way out through
22 to the brick and we could not locate it.

23 Q. But did you see the bullet and then you see it fall
24 or --

25 A. No.

1 Q. You never saw a bullet?

2 A. We did not. We saw a bullet defect going through the
3 stud.

4 Q. So you can't determine whether that was attributable
5 to December 17th or prior damage?

6 A. It seemed consistent with all the other evidence.

7 Q. Well, it seemed, but you don't know, do you? You
8 didn't recover --

9 A. I'm fairly certain.

10 Q. Okay. And what about defect B? Did you recover a
11 projectile from defect B?

12 A. We did not. We could not get it out of the wall.

13 Q. Okay. Did you -- I mean, did you see a projectile
14 that fell or did you just dig and not find anything?

15 A. We saw the bullet hole.

16 Q. Oh, you saw a hole --

17 A. Yes.

18 Q. -- that you say is a bullet hole. Did you see
19 anything?

20 A. No, we did not see a bullet in there.

21 Q. Did you stick a rod in that hole?

22 A. No.

23 Q. Okay. Did you put a laser and go out of that one?

24 A. No, we didn't have a second -- in order to do that,
25 you have to have two corresponding defects.

1 Q. Okay. And where was the defect in the bed?

2 A. The defect in the bed? There was defects along the
3 left side consistent with the ones in the wall.

4 Q. Okay. So the defects were on the bed close to the
5 wall; is that right?

6 A. Yes, sir.

7 Q. Were they going through the top of the bed or --

8 A. Just the outer edge. The top edge.

9 Q. The outer edge of the bed. So this defect C is on
10 the right side of the bed. Was there a defect in the bed
11 as well as the wall right there that you could do the rod
12 through?

13 A. No, there was not a defect in the bed on that
14 particular side.

15 Q. Well, where's the second defect that you're talking
16 about that you need to --

17 A. Well, we used the stud in the wall.

18 Q. Okay. And so you're saying there's no studs behind
19 these two that you could stick a rod into?

20 A. As far as we knew, they did not make contact with the
21 stud.

22 Q. As far as you know?

23 A. Yes.

24 Q. So you don't know?

25 A. I don't know where the bullet is in the wall. We did

1 recover one.

2 Q. Okay. What about this defect over here? Was that
3 able to -- you could stick a rod and do a laser and a
4 string from that one?

5 A. Not without -- we would have had to move the mirror,
6 so once we moved the mirror it messed that up.

7 Q. It messed the wall up?

8 A. No, it messed up the ability to reconstruct the flight
9 path once you move the initial object.

10 Q. But that's where you recovered the gray projectile;
11 is that right?

12 A. No, sir.

13 Q. No, that was from the couch, right?

14 A. That's correct.

15 Q. Did you recover any projectile from this defect?

16 A. Yes, sir.

17 Q. Okay. So you've got two defects here that you have
18 not recovered projectiles from that you're assuming that
19 are bullet holes; is that correct?

20 A. We recovered the projectile from one.

21 Q. Okay. You didn't -- okay. So you only didn't recover
22 a projectile from two places; is that right? Out of all
23 the four defects there, A, B, C and D?

24 A. We recovered one from the wall in the bedroom, one
25 from the floor of the bedroom and one from the wall of the

1 living room.

2 Q. Okay. The living room. And that's 39 here, defect D;
3 is that right?

4 A. That's correct.

5 Q. So you didn't recover one from defect C and you did
6 not recover from one from defect B; is that right?

7 A. That's correct.

8 Q. Okay. So you've got four -- four bullet holes here,
9 but two bullets; is that right?

10 A. Yes, sir.

11 Q. Okay. Or what you assume to be bullet holes; is that
12 right?

13 A. Yes, sir.

14 Q. All right. Going back to this diagram, this entry
15 door, was there any bloodstain on the outside of the door
16 that leads towards the exterior hallway here?

17 A. I believe there was some, but I believe that was from
18 removing Williams from the couch.

19 Q. Okay. Was there any blood on the edge of the door?
20 You know, not the front part of the door or the back of the
21 door. Was there any blood on the edge of the door?

22 A. No, sir.

23 Q. And I'm showing you State's 78 here, which shows a
24 good portion of the edge of the door. No blood on --

25 A. Are you talking about blood on the edge of the door

1 or the edge of the door frame?

2 Q. Well, the door frame, yes, but edge of the door
3 itself.

4 A. I don't see any blood.

5 Q. Right. And there was no blood on the hallway outside;
6 is that right?

7 A. No, sir. I believe there may have been some from EMS
8 moving the victim out, but...

9 Q. Okay. And no shell casings were found in the outside
10 area?

11 A. No, sir.

12 Q. You had testified to that. When you located
13 Mr. Booker, he had some clothing piled on him; is that
14 correct?

15 A. Yes, sir, that's correct.

16 Q. And some piled off to the side; is that correct?

17 A. Yes.

18 Q. Did you collect any of those to be examined by SLED
19 for touch DNA evidence?

20 A. No, we did not collect any clothing from the floor to
21 be examined.

22 Q. Okay. Did any officer let you know that an intruder
23 might have piled that on top of him and it might be
24 important to collect it?

25 A. No, sir.

1 Q. Okay. Going to this bathroom here, the little side
2 bathroom, did you notice that the drawers in there were
3 open or closed?

4 A. I believe one drawer was open.

5 Q. And did you swab that for DNA or process that door for
6 prints?

7 A. I did not.

8 Q. Okay. Was there any blood that you noticed visually
9 here on the bed?

10 A. No, not that I'm aware of.

11 Q. Okay. The only blood you noticed would be around
12 Mr. Livingston here on the floor?

13 A. That's correct.

14 Q. Okay. And you noticed blood here in the entryway; is
15 that correct?

16 A. Yes, sir.

17 Q. And there is a trail leading toward the couch; is that
18 right?

19 A. Just behind it.

20 Q. Just behind the couch. Is there a trail of blood
21 leading all the way to this closet where Mr. Booker is
22 found?

23 A. No, not a -- not a nice neat blood trail, no, sir.

24 Q. Okay. And there's no blood trail from here to here
25 either, is there?

1 A. No, sir.

2 Q. Or any blood trail. Now going back to the defect C,
3 what's a ricochet?

4 A. A ricochet is when a bullet essentially doesn't
5 penetrate fully into a surface and basically angles off of
6 it.

7 Q. Okay. How do you know that that might not have been
8 a ricochet?

9 A. I'm pretty certain it was not.

10 Q. How are you so certain?

11 A. There was a hole in the wall and also a defect that
12 went through the stud.

13 Q. Right. But you can't be a hundred percent positive,
14 can you?

15 A. I'm pretty positive it was not.

16 Q. Pretty?

17 A. Yes, sir.

18 Q. Now you mentioned that the door's locked and the only
19 exit could be the patio sliding door; is that correct?

20 A. Yes, sir.

21 Q. Were you aware that somebody else also exited this
22 window here?

23 A. Yes.

24 Q. So that would have been another point of exit, right?

25 A. That was the exit I was informed that the --

1 Q. Well, I'm not asking if you were informed that's
2 another exit from the house. You've got point of exit
3 written right above it.

4 A. Yes, it is a point of exit.

5 Q. Okay. Now going back to the sliding door, there's
6 also a screen door there; is that right?

7 A. Yes.

8 Q. Did you swab that or dust that for prints?

9 A. I did not.

10 Q. And you mentioned the prints you did swab. You said
11 the -- during direct the ridge detail wasn't enough to make
12 a comparison?

13 A. That's correct.

14 Q. Are you the fingerprint guy at the sheriff's
15 department?

16 A. I am not.

17 Q. Okay. You guys have a fingerprint guy?

18 A. Yes, we do.

19 Q. But you're not the fingerprint guy?

20 A. No, sir. I just collected them.

21 Q. So you're just telling us that there's no ridge
22 detail?

23 A. That's right. They were smudged, but they were still
24 submitted for analysis.

25 Q. But there's a fingerprint guy that could say that,

1 right?

2 A. Yes.

3 Q. Oh, okay. And you talked about these matters being
4 sealed on the way to SLED. That's what theoretically
5 happens; isn't that right?

6 A. Theoretically?

7 Q. Yes.

8 A. They were sealed, yes, sir.

9 Q. Did you deliver them to SLED?

10 A. Some of them I did.

11 Q. Do you know which ones?

12 A. I don't know off the top of my head, no, sir.

13 Q. Okay. On this table here, I guess it's a little
14 breakfast nook or dining area, you found items 14, 15 and
15 16; is that right?

16 A. Yes, sir.

17 Q. And Item 14 was a digital scale; is that right?

18 A. That's correct.

19 Q. Item 15 was a Patron tequila tin with two bags of
20 green plant material; is that right?

21 A. Yes, sir.

22 Q. Right up here on this table out in the open. And
23 Item 16 was another Patron tequila tin with another bag of
24 green plant material; is that right?

25 A. That's correct.

1 Q. And then in here in the master bedroom -- there's so
2 many papers -- you found item -- is that a TV table there?

3 A. Yes, sir.

4 Q. Okay. You found Item 26 here on the TV table; is that
5 right?

6 A. That's correct.

7 Q. And that was another plastic bag containing green
8 plant material; is that right?

9 A. I believe it was loose green plant material that I
10 placed in a bag.

11 Q. Okay. You placed in a bag. And when we're talking
12 plant material, we're not talking about -- it's not a fern
13 or a houseplant?

14 A. No, sir.

15 Q. Okay. And then here, this is like a chair or
16 something or a settee or -- I'm not familiar.

17 A. Yes, sir. A love seat.

18 Q. A love seat. Okay. And in that love seat there was
19 a bag of some sort -- a Cookies bag?

20 A. Underneath the love seat there was a black Cookies
21 brand duffle bag.

22 Q. Oh, under there was a Cookies brand duffle bag.
23 And on the 19th at Investigator Laintz's instruction you
24 weighed the green plant material that was found inside that
25 bag; is that right?

1 A. Yes, sir.

2 Q. And how much did that weigh?

3 A. If I can consult my notes? 330.4 grams or 11.66
4 ounces approximately.

5 Q. How many ounces are in a pound?

6 A. Sixteen, sir.

7 Q. Now -- all right. On January 3rd of 2020, you had the
8 opportunity to examine a white Chevy 3500; is that correct?

9 A. Yes, sir.

10 Q. And you used the Bluestar, I guess, method of trying
11 to determine whether any blood was present in that vehicle?

12 A. That's correct.

13 Q. And the vehicle was negative for blood?

14 A. We did not find any traces of blood.

15 Q. And that including the passenger compartment, right?

16 A. Yes, sir.

17 Q. Did you use any Bluestar here?

18 A. No, sir. We didn't need to.

19 Q. Okay. I'm gonna show you again because we were
20 talking about items 1 and 2 here being the Sig 9-millimeter
21 casings. This is State's 86 to kind of put it in context.
22 That's the front door all the way open, isn't it?

23 A. Yes, sir.

24 Q. So, I mean, there would be the length of the door --
25 the entire length of the door would be from here upward; is

1 that right?

2 A. Yes, sir.

3 Q. To the top of the thing. And then the opening would
4 be over here where -- the opening of the door where people
5 walk in and such -- or further up?

6 A. That's correct.

7 Q. And these shells were found over here; is that right?

8 A. Yes.

9 Q. The Sig 9-millimeter shells?

10 A. Yes.

11 Q. Okay. Did CSI -- CSI Smith worked on this case a
12 little bit; is that right?

13 A. Yes, sir.

14 Q. Did he leave the sheriff's department for a period of
15 time?

16 A. He left and went to the academy to train, a training
17 position.

18 Q. Were you aware of CSI Johnson having to correct any
19 errors in his report?

20 A. I haven't read any of his reports.

21 Q. Okay. Team work.

22 MR. MAULDIN: No further questions.

23 REDIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Briefly, Detective Ward, he was asking you about

1 marijuana being present in the home. Did you observe
2 marijuana in one location or more than one location?

3 A. It was more than one.

4 Q. And did you recover any cash from the home greater
5 than \$10.00?

6 A. No, I don't believe we did.

7 Q. So marijuana, I believe, in the kitchen area in some
8 type of Patron tin?

9 A. Yes.

10 Q. And then I believe there was some marijuana as you
11 indicated on cross hidden under a love seat?

12 A. Yes, ma'am.

13 Q. Other than that, any large amounts of marijuana
14 recovered?

15 A. No, ma'am.

16 Q. And no cash greater than \$10.00?

17 A. No.

18 Q. And Mr. Mauldin was asking you about the projectiles
19 that were recovered from the scene. I believe you
20 indicated four projectiles and a fragment?

21 A. Yes.

22 Q. Now does that include any bullets or projectiles that
23 would have been recovered from the autopsies of the three
24 victims?

25 A. No, they were not.

1 Q. So those were recovered by another CSI officer?

2 A. That's correct or whoever the investigator at the
3 autopsy was.

4 Q. And were you the one who actually went to the autopsy?

5 A. No, I did not.

6 Q. That would be additional evidence recovered in this
7 case?

8 A. Yes.

9 Q. And the projectiles that were recovered, again, how
10 many would you estimate you were unable to recover from the
11 walls based upon your observations of any defects in the
12 area?

13 A. As far as defects, only two.

14 Q. Okay. So at least two you believe you were unable to
15 recover from defects in the wall?

16 A. Yes, that's correct.

17 Q. And then Mr. Mauldin was asking you about projectiles
18 in relation to the bedding of Mr. Livingston. Where did
19 you actually see or observe projectiles in or amongst his
20 bedding?

21 A. As far as the bedding, I only observed a fragment on
22 the left side of the bed.

23 Q. Okay. And was that on the mattress itself?

24 A. Yes.

25 Q. And can you tell us if this crime scene remained

1 secure until all the processing was completed?

2 A. Yes, it was.

3 Q. Now does your work review -- include a review of first
4 responder reports, body cameras, anything of that nature?

5 A. Yes.

6 Q. He was asking you about the points of exit. You had
7 an opportunity to review body cam footage in this case?

8 A. Yes, I did.

9 Q. What is your understanding of who would have exited
10 from the point of exiting the window?

11 MR. MAULDIN: Objection, Your Honor. That
12 information would be derived from hearsay.

13 BY MS. MAYES:

14 Q. Let me ask you this. Did you have any reason to
15 believe that an intruder went out of the window?

16 A. I did not.

17 Q. And based upon your knowledge of the scene and your
18 observations of the condition of the front door, what did
19 you believe to be the point of exit for any intruders in
20 this case?

21 A. I believe that the primary point of exit would have
22 been the sliding glass door.

23 Q. And finally let me ask you in regards to all of the
24 evidence collected in this case, if those evidence seals
25 that you showed us, being either the red tape or the blue

1 tape, if those had been -- if that sealing had been
2 tampered with in any way, would it be apparent to the naked
3 eye?

4 A. Yes, it would be.

5 Q. There would be a break in that seal?

6 A. Yes.

7 MS. MAYES: Nothing further.

8 THE COURT: Thank you.

9 Anything?

10 MR. MAULDIN: Nothing further, Your Honor.

11 THE COURT: May I excuse Detective Ward?

12 MS. MAYES: Yes, Your Honor. We ask that he be
13 excused. He's on duty.

14 THE COURT: Okay. Thank you, Detective Ward, for
15 coming.

16 (Witness excused.)

17 THE COURT: All right. Mr. Foreman and ladies
18 and gentlemen of the jury, we're finished for the day.
19 I'm gonna ask to you report tomorrow at 9:15 in the
20 jury room. We'll start at 9:30. I am gonna have lunch
21 brought in for you-all.

22 Don't talk about this case when you go home.

23 Don't do any research. If you hear anything on TV, the
24 newspapers, Internet, you're not allowed to read it or
25 listen to it. With that said, I hope you-all have a

1 great evening and I'll see you in the morning.

2 (Whereupon, the jury was excused for the day at
3 4:49 PM.)

4 THE COURT: All right. Anything from the State?

5 MS. MAYES: Nothing from the State, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. MAULDIN: Just for the record, it's about ten
8 until five. We didn't knock off that early, Your Honor.

9 THE COURT: Absolutely. You are exactly right.

10 MR. MAULDIN: Just so everybody upstairs knows.

11 THE COURT: You are right.

12 MR. MAULDIN: Other than that, nothing further,
13 Your Honor.

14 THE COURT: I'll see you in the morning.

15 MR. HUBBARD: Thank you, Your Honor.

16 (Whereupon, the proceedings were concluded for
17 October 25, 2022, at 4:50 PM.)

18 (The following proceedings were held October 26,
19 2022, beginning at 9:38 AM.)

20 THE COURT: All right. The State ready?

21 MS. MAYES: Yes, Your Honor.

22 THE COURT: How about the defense?

23 MR. MAULDIN: Yes, Your Honor.

24 THE COURT: Okay. Let's get the jury.

25 (Whereupon, the jury enter the courtroom at

1 9:40 AM.)

2 THE COURT: All right. Mr. Foreman, is the jury
3 ready?

4 FOREPERSON: Yes, ma'am.

5 THE COURT: Okay. Please be seated.

6 And let me ask you-all before we get started,
7 has anyone tried to speak with you or have you heard
8 anything about this case, watched it on TV, have done
9 any reach on the Internet or any other social media
10 site? If so, please raise your hand.

11 Thank you.

12 All right. The State's ready. You can call your
13 next witness.

14 MS. MAYES: Your Honor, the State calls Christy
15 Meneses.

16 (Whereupon, Christy Meneses was duly sworn by the
17 Clerk of Court.)

18 THE CLERK: If you'll have a seat there. State your
19 name and spell your last, please, for the record.

20 THE WITNESS: My name is Christy Meneses,
21 M-E-N-E-S-E-S.

22 CHRISTY MENESES,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. Good morning.

2 A. Good morning.

3 Q. Can you tell us a little bit about yourself. What
4 county do you currently reside in?

5 A. I live in Lexington County.

6 Q. All right. And can you tell us whether or not you're
7 married and have children?

8 A. I am and I do.

9 Q. Okay. Can you tell us where you and your family were
10 residing back on December 17th of 2019?

11 A. We were living at [REDACTED] Pine Springs Road, Columbia.

12 Q. And that would be December 17, 2019?

13 A. Correct.

14 Q. Okay. I'm gonna write down that address. One more
15 time, Ms. Meneses?

16 A. [REDACTED] Pine Springs Road.

17 Q. The numbers again?

18 A. [REDACTED] Pine Springs Road.

19 Q. Now on that particular day, which is gonna be -- let's
20 take a look here at State's 212, being a calendar. That
21 particular day, being a Tuesday, Ms. Meneses, tell us about
22 your morning and what, if anything, you recall.

23 A. On that morning around 11 AM, me and my husband left
24 our residence to go pay our property taxes. I had to
25 re-enter our home because I had forgotten important

1 paperwork. When I stepped back out, we had noticed a
2 gentleman on a bicycle coming from behind our building,
3 and he was riding a bike. Shortly after that, he yelled
4 at a truck to stop that had come into the parking lot or
5 near the edge of the parking lot. He turned around, that
6 gentleman threw the bike down and got in the white truck.

7 Q. Okay.

8 A. Moments later he got out and moved that bike and he
9 took off.

10 Q. Okay. I'm gonna ask you a few specific questions
11 about what you just told us.

12 A. Uh-huh.

13 Q. So your estimation is that this would be around 11 AM?

14 A. Yes.

15 Q. And where were you exactly in relation to your home?

16 A. We were -- I was just outside of my home on -- on the
17 walkway.

18 Q. I'm gonna show you two photographs and ask you whether
19 or not you recognize what is depicted in them. This is
20 State's 206 and 209.

21 A. Yes.

22 Q. Do you recognize that location?

23 A. Yes.

24 Q. Can you tell us whether or not it shows the area that
25 you were on this particular date, on December 17th?

1 A. Yes.

2 MS. MAYES: Your Honor, this would be 206 and 209
3 for evidence.

4 THE COURT: Any objection?

5 MR. MAULDIN: No objection, Your Honor.

6 (State's Exhibit Numbers 206 and 209, photographs,
7 were admitted into evidence.)

8 BY MS. MAYES:

9 Q. All right. I want to start by looking here at 206,
10 an aerial photograph. And do you have a laser pointer with
11 you as well?

12 A. Yes.

13 Q. Now if this is the area of Butternut Lane, where would
14 your home be in relation to the crime scene of Butternut
15 Lane?

16 A. We lived here. This yellow dot.

17 Q. Where the yellow dot is located?

18 A. Yes.

19 Q. And can you tell us whether -- I realize this is
20 showing a large area, but do you see the location here on
21 this aerial map, State's 206, in which you observed this
22 individual on the bike?

23 A. Yes. Right here.

24 Q. In that general parking lot area?

25 A. Yes.

1 Q. I'm now gonna show you what is State's 209. Is this
2 a closer up view of that parking area that you just showed
3 us on the map?

4 A. Yes.

5 Q. Looking at 209, Ms. Meneses, where is your building?

6 A. Right here.

7 Q. And where approximately were you on this particular
8 morning?

9 A. I was right outside this -- this home right here.

10 Q. Okay. And tell us about the individual that you saw
11 on the bike. How would you physically describe him?

12 A. He was a heavyset black man with a band-aid on his
13 face.

14 Q. All right. So you remember a heavyset black male,
15 band-aid on face?

16 A. Yes.

17 Q. And how sure are you that he had a band-aid on his
18 face?

19 A. I'm a hundred percent sure.

20 Q. And you've indicated that he was on a bike?

21 A. Yes.

22 Q. What do you recall about the bike?

23 A. The bike was black and green.

24 Q. After you saw him on the bike -- or I'm gonna go back
25 to 209. Where did you first observe him on this bike?

1 A. We saw him coming down this pathway here behind the
2 building.

3 Q. And as he's coming down the pathway, were you able to
4 see which direction he was going?

5 A. Yes, he went right in front of our car to here and
6 this is where we saw him get in the truck.

7 Q. All right. The truck. I want to ask you specifically
8 about the truck. How would you describe it?

9 A. It was a white truck with dual wheels in the back, a
10 Chevy or Dodge from the exterior, and it had some type of
11 heavy equipment in the back.

12 Q. All right. A white truck. What you call the dual or
13 dually wheels?

14 A. Yes.

15 Q. And then heavy equipment in the back?

16 A. Yes.

17 Q. I believe your description is that it may have been a
18 Dodge or a Chevy?

19 A. Correct.

20 Q. What direction is the truck coming from?

21 A. There's only one way in, so he was coming from this
22 direction.

23 Q. All right. So I want to go back now and take a look
24 at 206. Can you tell us whether or not that truck would be
25 coming from the direction of Butternut Lane?

1 A. Yes, it's possible.

2 Q. And now looking at 209. Again, you see the truck
3 going which direction and stop approximately where?

4 A. The truck comes up through here, turns around and
5 stops here to let the gentleman in.

6 Q. Now how fast was this truck -- did this truck appear
7 to be moving?

8 A. At quite a fast pace given the fact there are speed
9 bumps right there.

10 Q. Did you hear the person on the bike that you described
11 as the heavyset male with the band-aid on his face, did you
12 hear him say or do anything regarding the truck?

13 A. He yelled at the truck to stop.

14 Q. All right. What did you see him do next?

15 A. I saw him throw down the bike in the middle of the
16 parking lot and enter the truck.

17 Q. And can you tell us whether or not that appeared
18 unusual to you?

19 A. Yes, it was very unusual.

20 Q. And when you saw him throw down the bike and get in
21 the truck, what happened next?

22 A. Then the truck moved -- just a few seconds later moved
23 just under the tree in the parking spots right here and he
24 got back out, moved the bike up against the pole and then
25 re-entered the truck and it took off.

1 Q. Was it the same individual with the band-aid on his
2 face that you saw get out and move the bike?

3 A. Yes.

4 Q. And this time the bike was placed where?

5 A. On a pole under that tree.

6 Q. And once he got into the truck, can you tell us did he
7 get into the driver's side or the passenger side of that
8 truck?

9 A. Passenger side.

10 Q. And what did you observe about the rate in which that
11 truck left that area?

12 A. He left at a very high speed given the -- the nature
13 of the area.

14 Q. I'm gonna show you a photograph, which is State's 149,
15 and ask you whether or not you recognize this?

16 A. Yes, I do.

17 Q. Can you tell us whether or not that is a fair and
18 accurate representation of one of the items you observed on
19 that day?

20 A. Yes.

21 MS. MAYES: This would be 149 for evidence.

22 MR. MAULDIN: No objection, Your Honor.

23 THE COURT: It's admitted.

24 (State's Exhibit Number 149, a photograph, was
25 admitted into evidence.)

1 BY MS. MAYES:

2 Q. Taking a look here at 149, can you tell us whether or
3 not you recognize that?

4 A. I do.

5 Q. How so?

6 A. I'm a hundred percent sure that's the bike.

7 Q. Okay. When you saw the bike get dropped in the
8 parking lot area and then moved against the pole, did
9 you bring that to anyone's attention later that day on
10 December 17th?

11 A. Yes, when we contacted Lexington County Sheriff's
12 Department we had noted that in our statements and pointed
13 them to the bike.

14 Q. Okay. So you actually led the sheriff's department
15 to the recovery of that bike?

16 A. Correct.

17 Q. And you indicated that you contacted the Lexington
18 County Sheriff's Department?

19 A. Yes.

20 Q. Did your observations on that day -- what, if
21 anything, about your observations on that day led you to
22 do that?

23 A. Well, one, because it was so unusual and it was right
24 around the time of the incident.

25 Q. Right around the time that you eventually learned that

1 three murders had occurred?

2 A. Correct. I learned that just a few hours later.

3 Q. Okay. Now if you are potentially travelling -- are
4 you familiar with this road here that travels -- it's gonna
5 be called Woodway Lane --

6 A. Yes.

7 Q. -- and is going to carry you from this location up to
8 the location you described?

9 A. Yes, I'm familiar.

10 Q. Is there any way out at this parking lot here that
11 you've shown us in 209?

12 A. No. There's only one way in and out.

13 Q. One way in and out. And so if a vehicle is here, what
14 would be the only point of exit?

15 A. They would only be able to come back in the same way.
16 So if they come in, they have to turn around and come back
17 out.

18 Q. And that's what you saw the white truck do?

19 A. Yes.

20 Q. Now regarding the truck I'm gonna show you what is
21 depicted in State's 105 and 64 and ask you whether or not
22 you recognize anything in this photograph?

23 A. Yes, that white truck.

24 Q. And can you tell us, is that a fair and accurate
25 representation of how the truck appeared on that day?

1 A. Yes.

2 MS. MAYES: State's 64 and 105.

3 MR. MAULDIN: No objections to the pictures, Your
4 Honor.

5 THE COURT: Okay. They're admitted.

6 (State's Exhibit Numbers 64 and 105, photographs,
7 were admitted into evidence.)

8 BY MS. MAYES:

9 Q. First, we're gonna take a look here at State's 64.
10 And, again, what, if anything, do you recognize in this
11 photograph, Ms. Meneses?

12 A. This white truck.

13 Q. Does that appear to be the same white truck that you
14 observed on that day?

15 A. Yes.

16 Q. And the dual wheels that you noted, do you see them
17 or observe them in this photograph?

18 A. Yes, you can see here the extension of the wheel hub.

19 Q. Okay. And now 105, another view. What, if anything,
20 do you recognize in this photograph?

21 A. Yes, this truck here.

22 Q. Again, you see the dual wheels?

23 A. Yes.

24 Q. And what, if anything, did you observe or describe as
25 heavy equipment in the back?

1 A. This white box-like thing.

2 Q. Okay. And looking here at State's 64, do you see it
3 in that photograph as well?

4 A. Yes.

5 Q. And you indicated that after you learned of the crime
6 that had occurred, you took what action?

7 A. We immediately called Lexington County Sheriff's
8 Department.

9 MR. MAULDIN: Asked and answered, Your Honor.

10 THE COURT: Ms. Mayes, I'll hear from you.

11 MS. MAYES: I can rephrase that, Your Honor.

12 THE COURT: Thank you.

13 BY MS. MAYES:

14 Q. Approximately how long after you learn the events that
15 day did you contact the sheriff's department?

16 A. Around two hours, I believe.

17 MS. MAYES: I beg the Court's indulgence.

18 THE COURT: Take your time.

19 BY MS. MAYES:

20 Q. And going back now looking at 209, this road where
21 you identified the truck and then this road here between
22 Butternut Lane and Pine Springs Road, is that all the same
23 road?

24 A. Yes, there's a little bit of a -- they don't line up
25 perfectly, but, yes, visually a straightaway.

1 Q. And can you show us with your laser what that path
2 would be between Butternut and your residence?

3 A. Yes. You go straight and there's a small little turn
4 and it picks right up.

5 Q. But one pathway?

6 A. Yes.

7 Q. And you indicated that you observed the truck coming
8 in?

9 A. Yes.

10 Q. And when it left?

11 A. Yes.

12 Q. How would you describe its speed as its leaving?

13 A. Very fast for that area. So I believe the speed limit
14 is about fifteen or twenty and it was probably travelling
15 twenty-five to thirty miles an hour in that area.

16 Q. And there are speed bumps there?

17 A. Yes, lots.

18 Q. Was that usual or unusual given the speed bumps?

19 MR. MAULDIN: Objection. Asked and answered, Your
20 Honor.

21 MS. MAYES: I've not asked that question.

22 THE COURT: Just rephrase it.

23 BY MS. MAYES:

24 Q. Based upon your observations, was that usual or
25 unusual given the speed bumps?

1 A. Unusual.

2 MS. MAYES: Nothing further.

3 THE COURT: Mr. Mauldin.

4 MR. MAULDIN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. MAULDIN:

7 Q. Good morning, Ms. Meneses.

8 A. Good morning.

9 Q. Now in regards to State's 105 and State's 64, when's
10 the first time you've seen these pictures?

11 A. I saw them last week --

12 Q. Okay.

13 A. -- when I was in court.

14 Q. Okay. So you saw them last week?

15 A. I saw the pictures last week.

16 Q. Okay. And you were able to recognize the truck two
17 and half years later?

18 A. Yes.

19 Q. It's a white dually work truck?

20 A. Yes.

21 Q. With a box in the back?

22 A. Yes.

23 Q. Okay. And going to State's, I think, 206 here, this
24 is the -- the big overview picture where it has a yellow
25 dot at Butternut Lane at the bottom and then another yellow

1 dot at your apartment up near the top; is that correct?

2 A. Yes.

3 Q. And you're saying the individual came from above the
4 yellow lot from this building, from behind this building,
5 and went this way through your parking lot towards the
6 right?

7 A. Yes, he came from behind the building.

8 Q. He came from behind this building. He came from this
9 direction behind the building --

10 A. Yes.

11 Q. -- above the yellow dot?

12 And this is about, what, half a mile away, the two
13 yellow dots?

14 A. About. I've never measured it, so.

15 Q. And, I mean, obviously this is on the opposite side
16 of the -- this complex and then this building; isn't that
17 right?

18 A. Yes. I'm at the very end.

19 Q. At the very end of the complex. And you couldn't tell
20 anything about the other occupants of the truck, could you,
21 as far as any description?

22 A. No.

23 Q. And when you described the individual to the police in
24 your statement, you said he was wearing all dark clothes;
25 is that right?

1 A. That is what I told them, yes.

2 Q. And you said there was a band-aid on his face, but you
3 don't remember which side?

4 A. I don't.

5 Q. Your husband was a witness to that, too?

6 A. Correct.

7 Q. Do you know if he has a better memory of that?

8 A. He might.

9 Q. Okay. Now going to, I believe, State's 29 here, the
10 closer up view of your building and the building from
11 behind which you say this fellow came from, you were --
12 you were standing here at the sidewalk; is that right?

13 A. Correct. Yes.

14 Q. And your husband was over here in one of these cars?

15 A. No, my husband had parked our car right in front of
16 this parkway and that's stated in testimony as well.

17 Q. Okay. I just -- I was making sure.

18 A. He had moved the car in anticipation that we were
19 about to leave.

20 Q. So did the fellow drive -- go with his bike between
21 you and your husband?

22 A. He came in front of our car, so he came here. So my
23 husband's parked in the vehicle here, I'm coming out and
24 moving to the passenger side of the car, which is now
25 facing -- the car's facing outwards, but the passenger

1 side is on this side. I'm moving out and the gentleman
2 was here and comes in front of our car.

3 Q. So he goes over by the driver's side of the car past
4 your husband?

5 A. Yes.

6 Q. Who had a better view of him?

7 A. He would have.

8 Q. Okay.

9 A. And he was also stationary inside the car while I was
10 getting in the vehicle.

11 Q. Okay. So your husband probably would have had the
12 better view?

13 A. Yes.

14 Q. And, again, you said that the individual was wearing
15 all dark clothes?

16 A. He was wearing dark clothes. I don't know if it was
17 all of his pieces of clothing, but there was some dark
18 clothing.

19 Q. Okay. You would have noticed if there were different
20 colors, wouldn't you?

21 A. I mean, you don't typically pay attention to every
22 little detail, but, yes, I noticed dark clothing.

23 Q. But you called the police two hours after, right?

24 A. Yes. We came back from the -- paying our property
25 taxes and the way that we travelled back to our home does

1 not pass by Butternut Lane, so I did not know anything was
2 wrong until I came out later to run another errand.

3 Q. Okay. And the police came soon after you called,
4 right?

5 A. Right.

6 Q. And you gave a statement, right?

7 A. Correct.

8 Q. And you didn't say anything about different colored
9 clothes, did you?

10 A. No.

11 MR. MAULDIN: Okay. No further questions.

12 THE COURT: Ms. Mayes.

13 MS. MAYES: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. All right. I want to go back to this general
17 photograph, 209, and then also looking at 206. That
18 particular day I think you identified this is your
19 building?

20 A. Correct.

21 Q. What is this?

22 A. That is another apartment. They have single room
23 apartments in there that also faces that parking lot.

24 Q. Okay. So that's another residential building?

25 A. Uh-huh.

1 Q. And can you show us again looking at 209, to follow
2 up on Mr. Mauldin's questions, where did you first observe
3 the bike and where did it appear to be coming from?

4 A. I first saw the bike coming this pathway and it
5 appeared to be coming from behind us and I only say that
6 because there's a fence here, so there would have been --
7 so he appeared to be coming around our building and I first
8 noticed him here.

9 Q. All right. So there is a fence here and here?

10 A. Yes, ma'am.

11 Q. And the bike -- you're out here and you see the bike
12 rounding this curve?

13 A. Yes.

14 Q. Okay. And, again, this would be a residential
15 building here?

16 A. Yes.

17 Q. Now regarding the clothing, I believe he was asking
18 you and you said you remember something dark?

19 A. Yes.

20 Q. Do you recall whether or not that may have been a
21 layered item?

22 A. It's possible.

23 MS. MAYES: Nothing further.

24 THE COURT: Thank you, Ms. Mayes.

25 Mr. Mauldin.

1 MR. MAULDIN: Just briefly, Your Honor.

2 THE COURT: Sure.

3 RECROSS EXAMINATION

4 BY MR. MAULDIN:

5 Q. So you said there was a fence on this border here
6 behind your building and going around behind the building
7 to the top of it in State's 209?

8 A. Yes.

9 Q. You first observed the bicycle kind of at the corner
10 of your building?

11 A. Yes.

12 Q. So you're assuming he came from behind your building
13 and not from behind that building?

14 A. Correct.

15 Q. Okay. So you don't know?

16 A. I'm not a hundred percent sure because I don't have
17 x-ray vision.

18 Q. Okay. Well, I'm not -- I'm saying you do. I'm just
19 trying to ask you about it.

20 A. It's possible he --

21 Q. So you have no idea if he was coming from this
22 direction or this direction?

23 A. Correct.

24 Q. Okay. And, again, if you were on the passenger side
25 of the vehicle, you would have been more able to see the

1 top part of his body and than the bottom part of his body?

2 A. Yeah. Well, as he's rounding this corner, I am in
3 progress walking to my car, so I'm walking this pathway to
4 the passenger side of the car.

5 MR. MAULDIN: Okay. No further questions.

6 THE COURT: Thank you, Mr. Mauldin.

7 May I excuse Ms. Meneses?

8 MS. MAYES: Yes, Your Honor.

9 THE COURT: Ms. Meneses, thank you.

10 (Witness excused.)

11 THE COURT: Call your next witness.

12 MR. NORTON: Your Honor, the State calls Dr. Sabah
13 Kadhim.

14 (Whereupon, Sabah Kadhim was duly sworn by the
15 Clerk of Court.)

16 THE CLERK: If you'll have a seat over there,
17 please. If you'll state your name and spell your last,
18 please, for the record.

19 THE WITNESS: My name is Sabah Kahdim. My last name
20 Kahdim.

21 SABAH KAHDIM,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. NORTON:

25 Q. Good morning, Dr. Kahdim.

1 A. Good morning.

2 Q. Let's start off, where are you from?

3 A. I'm from Iraq.

4 Q. Okay. And what county do you currently reside in?

5 A. I live in Irmo area. It's considered like Richland.

6 Q. How long have you lived in South Carolina?

7 A. Since 2000 -- the end of 2015, 2016. Beginning of
8 2016.

9 Q. And what do you do for a living?

10 A. I'm an emergency veterinarian.

11 Q. Okay. And where do you work?

12 A. One of the emergency hospitals in Columbia, Richland
13 County.

14 Q. Dr. Kahdim, where did you live on December 17th of
15 2019?

16 A. I used to live in Woodland Village at [REDACTED] Pine Springs
17 Road.

18 Q. I'm gonna show you what's already in evidence as
19 State's Exhibit 209. Do you recognize this image?

20 A. Yes, sir.

21 Q. And I believe you should have a -- I'm gonna give you
22 a laser pointer.

23 Mr. NORTON: Your Honor, may I approach the witness?

24 THE COURT: You may.

25 BY MR. NORTON:

1 Q. Can you show us on Exhibit 209 where you lived on
2 December 17th of 2019?

3 A. Okay. I lived in this building. This is exactly my
4 house.

5 Q. So on the -- on that left edge?

6 A. Yes.

7 Q. Okay. Going to that date specifically, what do you
8 recall from that day?

9 A. I was at work, a normal day to me. I went to work at
10 eight doing surgeries. We heard from the news that there
11 was a shooting in the apartment complex that I live in, so
12 I went back home around 6:30, 6:35.

13 Q. So what hours would you have been working that day?

14 A. Eight to six. That's my normal hours, yes.

15 Q. Now what did you see upon arriving home at 6:30 that
16 night?

17 A. Like near the main entrance, there were like a lot of
18 like police cars and crime scene everywhere. So I went
19 home, it was dark. It was kind of like wintertime. So I
20 was walking through this -- like all the way to the back
21 and as I was walking, I noticed that my bike is not there.
22 It's exactly -- I put it right in here in this corner. So
23 I talked to my wife about like, where's my bike, have you
24 seen my bike, she said check the storage, there's like
25 laundry room called the storage, I couldn't find it there.

1 I started being really worried because of the situation in
2 the complex, so I called the police. So I thought we were
3 like Richland, you know, police, so I called like Columbia
4 police and they transferred me to Lexington, and I was
5 informed that the bicycle was with them and it was part of
6 the crime scene.

7 Q. So let's -- let's talk about your bicycle. I'm gonna
8 show you what's already in evidence as State's Exhibit 149.
9 Do you recognize that image?

10 A. Yes, sir.

11 Q. Okay. And what is this?

12 A. This is my bicycle and at that day and the day before,
13 probably a couple of days before that, the pressure of the
14 tires, they were low, so.

15 Q. So this is your bicycle in 149 and can you show us,
16 again, where you kept that bicycle?

17 A. Again, right here in the corner.

18 Q. So would that have been outside of your apartment?

19 A. Yes, it's outside right in front of the main door.

20 Q. And, what if, any kind of security measures did you
21 have on that bicycle?

22 A. I don't unfortunately. I didn't unfortunately.

23 Q. So it would have just been resting outside?

24 A. Yes. I'm the last like home-town down there and
25 I lived there for two years before the incident and

1 everything was okay.

2 Q. And I believe you testified a little bit ago that your
3 bicycle was -- was low on air that day?

4 A. Yes.

5 Q. Okay. In your experience, would that have made it
6 difficult to ride?

7 A. It was like hard on me to do; to, you know, drive
8 it.

9 Q. So you testified that when you realized your bike
10 was missing that night you called the police?

11 A. Yes, I did.

12 Q. What, if anything, do you recall about meeting with
13 any law enforcement officers after that?

14 A. So I was expecting somebody to come and talk to me
15 and -- the same night, but they came to my work. I used
16 to work at Banfield. They came and collected a DNA swab
17 from me.

18 Q. Do you recall who that would have been?

19 A. The officer's name? Wathers.

20 Q. Is it Marthers?

21 A. Marthers. Sorry. Yes.

22 Q. And on what day would that have been?

23 A. The next day.

24 Q. And he was requesting DNA from you?

25 A. Yes. He collected a sample to eliminate my DNA.

1 Q. So you provided him with that sample?

2 A. Yes.

3 Q. And what was the process for that, to collect the
4 DNA sample?

5 A. He collected them and then put them in a small
6 container, sealed them and write my information from my
7 ID.

8 Q. Okay. Dr. Kahdim, to your knowledge, where's your
9 bike as we stand here today?

10 A. With the Lexington police.

11 MR. NORTON: I beg the Court's indulgence.

12 THE COURT: Take your time.

13 BY MR. NORTON:

14 Q. Dr. Kahdim, do you know Justin Hopkins?

15 A. Unh-unh. No.

16 MR. NORTON: Nothing further.

17 THE COURT: Thank you, Mr. Norton.

18 Mr. Mauldin.

19 CROSS-EXAMINATION

20 BY MR. MAULDIN:

21 Q. Is it Sabah or Dr. Kahdim?

22 A. Dr. Kahdim is fine.

23 Q. Going to State's 209, you live in this dark building
24 near the top of the exhibit; is that right?

25 A. Yes, sir.

1 Q. And where do you park?

2 A. The car?

3 Q. Yes, your car.

4 A. Right there. Usually either in those like spots
5 because those -- like they don't have like tags to, you
6 know, reserve it. They're not reserved. And sometimes
7 under the tree and if it's really full we can park
8 anywhere.

9 Q. So your bike wasn't under this tree when you got
10 home?

11 A. No, the bike was here before -- the day before --

12 Q. Okay.

13 A. -- and I couldn't really see it.

14 Q. So it was on that side of the -- did you have it on
15 a bike rack? Did they have a bike rack over there?

16 A. No.

17 Q. Just leaning up against the building?

18 A. No, there was like kind of a stand, but that was near
19 the fence.

20 Q. Oh, a stand?

21 A. Yeah.

22 Q. Okay. Was that toward the back of your building or
23 the front of your building?

24 A. In the front of my main door.

25 Q. All right. Does your door face towards the left

1 exit?

2 A. Towards the fence. The door is here and it's like
3 facing the fence.

4 Q. Okay. Facing the left of the --

5 A. Yeah.

6 MR. MAULDIN: Okay. No further questions.

7 THE COURT: Thank you, Mr. Mauldin.

8 Mr. Norton.

9 MR. NORTON: Just one thing briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. NORTON:

12 Q. Just to clarify, looking at Exhibit 209, you testified
13 there's a fence. Can you show us with that laser pointer
14 where that fence is?

15 A. So this one is all fenced and here there like is a
16 small size -- like a fence, a wooden fence, with a door
17 and right here there is a fence that separates the complex
18 from the people like in the back.

19 Q. So around the perimeter of that building?

20 A. Yes.

21 MR. NORTON: Nothing further, Your Honor.

22 THE COURT: Thank you, Mr. Norton.

23 May I excuse the --

24 MR. MAULDIN: Just a --

25 THE COURT: Okay. I'm sorry.

1 RECROSS EXAMINATION

2 BY MR. MAULDIN:

3 Q. So how tall is the fence?

4 A. Sorry?

5 Q. How tall is that fence?

6 A. Probably taller than me. Like probably seven.

7 Q. Okay. Does it have any gates?

8 A. No gates to the back, but there is a small gate
9 separating the yard from the -- my house.

10 Q. So there is a small gate?

11 A. Yeah.

12 MR. MAULDIN: Okay. No further questions.

13 THE COURT: Now can I excuse him?

14 MR. NORTON: Yes, Your Honor.

15 THE COURT: Doctor, thank you.

16 THE WITNESS: Thank you so much.

17 (Witness excused.)

18 THE COURT: You can call your next witness.

19 MR. NORTON: Your Honor, the State calls Deputy
20 Thom Smith.

21 (Whereupon, Thomas Alvin Smith was duly sworn by
22 the Clerk of Court.)

23 THE CLERK: If you'll have a seat, please, and
24 state your name for the record.

25 THE WITNESS: My name is -- I apologize. My name

1 is Thomas Alvin Smith. Smith is S-M-I-T-H.

2 THOMAS ALVIN SMITH,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. NORTON:

6 Q. Is it Investigator Smith? Detective Smith?

7 A. Investigator, detective. I'm both, yes.

8 Q. Investigator Smith, where are you currently employed?

9 A. I'm currently employed with the Lexington County
10 Sheriff's Office inside the Major Crimes Unit as a crime
11 scene investigator.

12 Q. How long have you been employed?

13 A. I'm sorry, what was that?

14 Q. How long have you been employed there?

15 A. I've been employed there for the past year and a
16 couple of months. Prior to that, I was with the South
17 Carolina Criminal Justice Academy for about a year and a
18 half, and prior to that I was with the Lexington County
19 Sheriff's Department for six years. Of those six years I
20 spent a good four in the Crime Scene Unit. Prior to that,
21 I was with the United States Army Criminal Investigation
22 Division Command doing felony investigations for the Army
23 where I did that for seven and a half years. Of that time
24 it was straight investigative and we did our own crime
25 scenes.

1 Q. So what are some of your current job duties?

2 A. So my current job duties -- duties, are reporting and
3 documentation of crime scenes, the processing of evidence.
4 I'm also the coordinator for the IBIS program and I am
5 currently conducting training beyond that.

6 Q. So would you have been doing those same duties in
7 December of 2019?

8 A. Yes, I would have.

9 Q. And you testified that some of those job duties and
10 responsibilities include processing items for things like
11 touch DNA?

12 A. Correct. That's one of the duties, yes, sir.

13 Q. Okay. And can you tell us how do you go about
14 processing an item for touch DNA?

15 A. So processing an item for touch DNA is actually quite
16 easy. Most of the time we can't see -- well, you can't see
17 DNA. The only way to see it is through a microscope. Now
18 obviously with blood and obvious visible serological --
19 and serological is just a big fancy word for body fluids.
20 If you see that, obviously that's where we're going to
21 exploit, that's where we're gonna swab because we know that
22 there's a source of DNA present. The other times we're
23 doing what's called a blind swab. In other words, we're
24 attempting to obtain DNA from a surface that we believe to
25 have DNA presence on. So to do that is -- is not the most

1 scientific method in the world. All we do is take a 6-inch
2 sterile cotton swab, we take sterile water, we then apply
3 the sterile water to the cotton tip of the swab. Let's
4 say I believe that there might be touch DNA here on this
5 countertop. All we're gonna do is we're gonna swab that
6 back and forth multiple times and then we're gonna take
7 that swab and place it into a sterile container, a clean
8 container, so that it can be processed by DNA at a later
9 time. We put it into the container, we allow it to dry.
10 Five, ten minutes is usually what it takes. We then seal
11 that container up. That container goes inside of another
12 container to prevent cross-contamination or our DNA from
13 being polluted by another source, so we double bag that
14 and we submit it to the evidence depository.

15 Q. So how many times would you say you've processed items
16 for touch DNA?

17 A. That's not something I keep a hundred percent track
18 on, but I would say we're well into the several hundred.

19 Q. Okay. I'm gonna show you what is already in evidence
20 as State's Exhibit 149. Are you familiar with this
21 picture?

22 A. Yes, that is a picture I took of a Kent ten-speed
23 bicycle.

24 Q. And on what day would you have taken that picture?

25 A. That would have been the 19th of December of 2019.

1 Q. Okay. And what brought you to take that picture?

2 A. So on the 18th of December, I was requested by
3 Lieutenant McCann to go to the evidence depository, and
4 specifically to the evidence bay, in order to photograph
5 and -- and process this bicycle for DNA. On the 19th of
6 December, I got with Sergeant Creech, who was -- his team
7 was in charge of this investigation. We talked about the
8 bicycle. He told me that it was found property and since
9 it's found property, we didn't need a search warrant. So I
10 went to the -- immediately following that conversation, I
11 went to the evidence depository where I photographed this
12 bicycle. I then processed it for touch DNA.

13 Q. I'm gonna show you what's been premarked as State's
14 Exhibit 184.

15 MR NORTON: Your Honor, if I could approach the
16 witness?

17 THE COURT: You may.

18 BY MR. NORTON:

19 Q. Do you recognize these images?

20 A. Yes, these are images in which I took while I was
21 processing the bicycle for touch DNA.

22 Q. Okay. And are these images a fair and accurate
23 representation of the bike as it existed at that time?

24 A. Yes, sir.

25 MR. NORTON: State's 184 for evidence, Your Honor.

1 THE COURT: Any objection?

2 MR. MAULDIN: No objection, Your Honor.

3 THE COURT: They're admitted.

4 (State's Exhibit Number 184, photographs, was
5 admitted into evidence.)

6 BY MR. NORTON:

7 Q. Investigator Smith, let's walk through these. The
8 first image, what is that?

9 A. So that is the right side of the handlebars on the
10 bicycle as it sat in the evidence bay. I've taken the
11 photographs. At this point I put a placard or marker on
12 the bicycle so I'd know which evidence collection this went
13 with. The A indicates that this photograph is prior to me
14 swabbing the two handlebars. This is a road bike, so
15 typically what you see in a road bike is you have the
16 traditional handlebars coming out at a T-angle and then
17 they wrap around sort of like elk horns -- or not elk
18 horns, ram horns is what I'm talking about. Well, this
19 bicycle they had loosened them and turned them up in the --
20 in this current configuration you're seeing them, but I
21 swabbed both the ram horn as well the T of the handlebar
22 for touch DNA.

23 Q. And the second picture in Exhibit 184?

24 A. So, again, we're dealing with the right side of the
25 handlebars. B indicates my second set of photographs,

1 which would have been the brakes on the bicycle there, the
2 green levers that you see present, as well as there's
3 another set of brakes up underneath that, that T-post or
4 that straight post that you would normally see on a racing
5 bike.

6 Q. And the third image?

7 A. So all we've done here is we've just gone over to the
8 other side of the bicycle. This is image C, so what we're
9 dealing with here is the handlebars again; the ram horn as
10 well as the straight bar.

11 Q. And finally?

12 A. So, first off, let me apologize for this picture
13 because it's way out of -- out of focus, and I apologize,
14 but the D on there indicates that this is where I was
15 taking of the swabs for the brake levers themselves.

16 Q. So by my count, that would be four sample sites?

17 A. Four samples with two swabs per sample.

18 Q. And all of those would have come from the handlebar
19 area of the bicycle?

20 A. Correct, sir.

21 Q. While you're taking these samples, what, if any,
22 kind of steps did you take to ensure they were properly
23 collected?

24 A. I made sure that I was using sterile cotton swabs
25 that I was using, the package wasn't broken. We also use

1 sterile water ampules, which is nothing more than a little
2 plastic tube of sterile water. You break the tip off and
3 it has a nozzle. So we were using one of those per set of
4 swabs. I'm wearing gloves while I'm doing this. We change
5 gloves out every -- in between each swab. So what I always
6 do is I wear an under set of gloves and I put on a set of
7 gloves over that. That outer glove set comes up and I
8 reapply another set of gloves between each set of swabs.

9 Q. Investigator Smith, I'm gonna show you what's been
10 premarked as State's 122H. Do you recognize 122H?

11 A. Yes, this is -- yes this is a paper bag. So I told
12 you-all the envelopes -- or the swabs go inside of a
13 container. That container is then dropped inside of
14 another. In this case, I like to use the long one liter
15 paper bags. I drop it in there, so now it's protected
16 twice, and then this paper bag is a paper bag that contains
17 all four sets of swabs.

18 Q. And would that be your handwriting on the front of
19 that?

20 A. Oh, yes, that's definitely my handwriting.

21 Q. And how would you go about sealing that envelope after
22 you put the swabs in there?

23 A. I would have placed -- this is red evidence tape.
24 It's designed to where if someone goes to tamper with it,
25 tries to pull it away, it breaks free of itself showing

1 that the item had been tampered with.

2 MR. NORTON: Your Honor, State's 122H for evidence.

3 MR. MAULDIN: No objection, Your Honor.

4 THE COURT: It's admitted.

5 (State's Exhibit Number 122-H, swabs from bike, was
6 admitted into evidence.)

7 BY MR. NORTON:

8 Q. So, Investigator Smith, once you collected these
9 samples from the bicycle, what did you do with them?

10 A. Once I collected them, I took them back over to our
11 crime lab. We have a criminalistic lab that the CSI use.
12 Once over there, I packaged everything together and then
13 brought it over and submitted it to the evidence
14 depository.

15 Q. And that would be at the Lexington County Sheriff's
16 Department?

17 A. Yes, sir.

18 Q. Just briefly, one more question, you collected this by
19 -- from the evidence depository as well?

20 A. Well, no, I didn't collect the bike. The bike itself
21 stayed in the evidence depository the whole time.

22 Q. Well, as to when you obtained the DNA samples, it was
23 at the evidence depository; is that right?

24 A. Yes. Yes, it was.

25 Q. So you did not go at any point to the scene in this

1 case?

2 A. No, I was not on call that week. I did not respond
3 to the scene. Literally the only activity I had as far as
4 processing something for that scene is this bicycle here.

5 MR. NORTON: I beg the Court's indulgence.

6 THE COURT: Take your time.

7 BY MR. NORTON:

8 Q. Investigator Smith, I want to go back just briefly to
9 your process of collecting touch DNA. In your experience,
10 what factors are you thinking about when you're -- when
11 you're going through and collecting or trying to collect
12 touch DNA? What can have an effect on that?

13 A. So when we go and start looking for -- for touch
14 DNA, especially blind touch DNA, what we're looking for
15 is areas that are most commonly touched. That's why I
16 focussed on the handlebars. It's kind of hard to ride a
17 two-wheel bicycle and all without at some point touching
18 the handlebars and the brakes, so that's why I focussed
19 all my efforts there.

20 Q. And what, if any, external factors can play a role in
21 that?

22 A. So touch DNA understand is not something that I can
23 touch this and come back later and say -- and swab it and
24 then say hey, that individual touched this last week. It
25 can't be aged. Touch DNA is also, for lack of better

1 words, flangible -- no, frangible, I believe. It
2 disappears, all right? Fairly easy actually. So heat will
3 destroy DNA, water, moisture. So if you have a heavy dew,
4 you have rain, anything like that is going to reduce the
5 probability of you being able to get a good sample off of
6 that item.

7 MR. NORTON: That's all the questions I have at
8 this time. Please answer any questions the defense has
9 for you.

10 THE COURT: Thank you, Mr. Norton.

11 Mr. Mauldin, before you go I need to give the jury
12 a break for just a second.

13 MR. MAULDIN: Oh, sure.

14 THE COURT: All right. I'm gonna give you a ten,
15 fifteen-minute break. Remember, no talking amongst
16 yourselves about this case just yet.

17 Thank you.

18 (Whereupon, the jury retires to the jury room at
19 10:28 AM.)

20 THE COURT: And I'm gonna ask you to remember you're
21 under oath and you can't talk to anybody about this case
22 during the break.

23 THE WITNESS: Your Honor, I'm gonna stay right here.

24 THE COURT: Okay. You're free to walk around though.
25 You just can't talk with anybody.

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Mr. Mauldin, I apologize, but one of
3 the jurors said they really needed to go to the restroom.

4 MR. MAULDIN: I understand that completely and I
5 hope you have the same courtesy for me.

6 THE COURT: Absolutely. So I was waiting for a
7 good breaking point, but I just didn't want you to think
8 I just randomly decided to have a break.

9 MR. MAULDIN: That's fine, Your Honor.

10 (Recess taken at 10:29 AM.)

11 (Back on the record at 10:47 AM.)

12 BAILIFF: Keep your seats. Court will come to
13 order.

14 THE COURT: All right. The State ready?

15 MR. NORTON: The State's ready, Your Honor.

16 THE COURT: Defense?

17 MR. MAULDIN: Defense is ready, Your Honor.

18 THE COURT: Call them in.

19 Mr. Hubbard, can I ask you a question
20 real quick that has nothing to do with this case?

21 MR. HUBBARD: Yes, Your Honor.

22 (Proceedings held at the bench; not reported.)

23 (Whereupon, the jury return to the courtroom at
24 10:49 AM.)

25 THE COURT: Mr. Foreman, everybody ready?

1 FOREPERSON: Yes, ma'am.

2 THE COURT: You can be seated. Thank you.

3 All right. Investigator Smith, I'm gonna remind
4 you you're still under oath.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: All right. Mr. Mauldin.

7 MR. MAULDIN: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MAULDIN:

10 Q. Investigator Smith, you processed this bicycle on
11 12-18 of '19?

12 A. Correct.

13 Q. And I think you testified it was the only evidence you
14 processed regarding the scene in this case?

15 A. To my knowledge, yes.

16 Q. Didn't you process a Hyundai on 12-19 of '19 in this
17 case?

18 A. A what?

19 Q. A Hyundai. A vehicle. If you did a report, would
20 looking at the report fresh your memory?

21 A. Yes, it would.

22 MR. MAULDIN: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 BY MR. MAULDIN:

1 Q. (Hanging.)

2 A. Okay. I withdraw my last statement. Apparently I
3 processed a white Hyundai Accent as well on the 19th in
4 relation to this -- in relation to this case. It was
5 conducted off of a search warrant that Investigator
6 Henderson had procured for me. That's the extent of what
7 I just read, so.

8 Q. And shortly after this case you left the sheriff's
9 department to do some sort of training somewhere; is that
10 right?

11 A. I left the sheriff's department to go to the South
12 Carolina Criminal Justice Academy in order to -- as a
13 member of the mobile training team where I had the
14 experience and opportunity to travel throughout the State
15 providing both basic, as well as advanced training to law
16 enforcement agencies throughout the State at their request
17 or behest.

18 Q. So that's a yes, right?

19 A. Yes.

20 Q. Okay. And are you aware of any corrections CSI
21 Johnson made to your report?

22 A. I was notified this morning that there was a
23 correction made.

24 Q. Okay.

25 MR. MAULDIN: No further questions.

1 THE COURT: All right. Mr. Norton.

2 MR. NORTON: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. NORTON:

5 Q. Investigator Smith, you assisted in that search of
6 the Hyundai and that would have been on December 19th?

7 A. Yes.

8 Q. Okay. And that -- do you recall who that belonged to?

9 A. I do not.

10 Q. Okay. Would looking at your report help you?

11 A. Yes.

12 MR. NORTON: Your Honor, can I approach the witness?

13 THE COURT: You may.

14 BY MR. NORTON:

15 Q. (Handing.)

16 A. Okay. So the vehicle, per my report, belonged to the
17 victim -- or one of the victims in this case. Again, I
18 must have -- per my report, I photographed the vehicle and
19 searched the vehicle for drugs, weapons, anything along
20 those cases. Nothing of evidentiary value was done to the
21 vehicle. Primarily kids' clothing and all in the trunk was
22 the extent of what was inside the vehicle.

23 And, you-all, please understand this isn't my case.

24 MR. MAULDIN: Objection. Nonresponsive.

25 THE COURT: I agree. You can't say that,

1 Investigator Smith.

2 Go ahead, Mr. Norton.

3 BY MR. NORTON:

4 Q. I believe you testified when you searched that you
5 didn't find any contraband?

6 A. No, there was no drugs in the vehicle, there were no
7 firearms, no firearm-related material, no ammunition,
8 anything to that extent.

9 Q. But you did find kids' clothing?

10 A. It was kids' clothing and a car seat.

11 MR. NORTON: Nothing further.

12 THE COURT: Thank you.

13 Anything further?

14 MR. MAULDIN: I have no further questions for this
15 witness.

16 THE COURT: Can I excuse Investigator Smith?

17 MR. NORTON: Please, Your Honor.

18 THE COURT: Investigator, thank you.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 MR. HUBBARD: The State calls Dr. Nicholas Batalis.

22 (Whereupon, Nicholas Batalis was duly sworn by the
23 Clerk of Court.)

24 THE CLERK: Thank you. If you'll have a seat,
25 please. State your name and spell your last, please,

1 for the record.

2 THE WITNESS: My name is Nicholas Ike Batalis,
3 B-A-T-A-L-I-S.

4 NICHOLAS IKE BATALIS,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HUBBARD:

8 Q. Dr. Batalis, where do you work?

9 A. I work at the Medical University of South Carolina
10 down in Charleston.

11 Q. And how long have you worked there?

12 A. I've been employed there for just about fifteen years
13 now.

14 Q. And what do you do as a doctor for the hospital in
15 Charleston?

16 A. Sure. I'm employed as a professor in the Department
17 of Pathology and Laboratory Medicine, specifically as a
18 forensic pathologist.

19 Q. What is a forensic pathologist?

20 A. Sure. To back up just a second, so pathology is a
21 specialty of medicine that deals with the diagnosis of
22 disease. So a general pathologist would be someone who
23 would interpret a biopsy or resection. If a surgeon takes
24 out a tumor, the pathologist would be the one to tell them
25 what it was. A pathologist also oversees the clinical

1 labs, so if you have blood drawn, the pathologist would be
2 the one kind of overseeing things. Forensic pathology is
3 then a subspecialty within that field that deals with the
4 medico-legal aspects of medicine, in particular performing
5 autopsies to determine cause and manner of death.

6 Q. When you say autopsies, how many autopsies have you
7 performed over the years? Roughly.

8 A. Yeah, I don't have an exact number, but somewhere
9 between three and four thousand.

10 Q. And as a forensic pathologist, have you had an
11 occasion to be qualified as an expert in a court of law to
12 testify as to the cause of death of an individual and to
13 the manner of death?

14 A. Yes, I believe it's somewhere around a hundred times
15 in South Carolina, twice in Texas and twice in North
16 Carolina.

17 Q. When we say cause and manner of death, what are we
18 talking about, Doctor?

19 A. A cause of death, simply put, is how the person died.
20 Was it a heart attack, a gunshot wound, hanging. Just
21 kind of, simply put, how they died. The manner of death is
22 then how that comes about. So if it was a motor vehicle
23 collision, the cause of death would be head trauma, the
24 manner would be accident. Whereas if somebody dies of,
25 you know, cancer that would be a natural process. If

1 somebody dies at the hand of another individual, that would
2 be a homicide. So the manner of death is just kind of how
3 the cause came about.

4 Q. And how it's classified?

5 A. Correct.

6 MR. HUBBARD: Your Honor, I offer Dr. Batalis as an
7 expert in forensic pathology.

8 THE COURT: Any objection?

9 MR. MAULDIN: No objection, Your Honor.

10 THE COURT: All right. Let me tell the jury.

11 Normally, a person cannot give opinion testimony, but
12 there is an exception to the rule when someone is
13 qualified because of education or experience. In this
14 case, Dr. Batalis is an expert in forensic pathology and
15 he's gonna be allowed to give his opinion. That does not
16 mean you must accept the opinion, but it is evidence for
17 you to use in any way you see fit.

18 THE COURT: Mr. Hubbard.

19 MR. HUBBARD: Thank you, Your Honor.

20 BY MR. HUBBARD:

21 Q. Dr. Batalis, back in December of 2019, were you asked
22 to perform three separate autopsies; one being on a Branton
23 Booker, a Sheldon Livingston and a Duwan Williams?

24 A. Yes, I did.

25 Q. And in conducting those autopsies, did you use charts

1 to denote their wounds and injuries?

2 A. I did.

3 Q. I'm gonna show you those. State's 139, 140 and 141.

4 Are these the charts you used for each individual?

5 A. Yes, they are.

6 MR. MAULDIN: I have no objection to those three
7 items coming in.

8 THE COURT: All right. Then they're admitted.

9 MR. HUBBARD: Thank you, Your Honor.

10 (State's Exhibit Number 139, 140 and 141, autopsy
11 diagrams, were admitted into evidence.)

12 BY MR. HUBBARD:

13 Q. If we can, let's begin with Branton Booker. How old
14 was Mr. Booker? Do your notes reflect that?

15 A. Yes, he was twenty-eight years old at the time that
16 he died.

17 Q. And in conducting this autopsy, is there a method you
18 use in conducting all autopsies, kind of a procedure of how
19 you start and what you do?

20 A. Yes, there is.

21 Q. Can you explain that to the jury?

22 A. Sure. So when we first receive a body for autopsy,
23 we will photograph the body from head to toe as is before
24 we've done any cleaning, any manipulation whatsoever to the
25 body. We then would document any clothing, any evidence,

1 any evidence of therapy, remove that, and then we'd clean
2 the body after which we'd take another set of photographs
3 once the body has been cleaned and de-robed, then we do
4 our external examination where we examine the body from
5 head to toe, looking for basic stuff like height and
6 weight, tattoos, eye color, that sort of thing, but then
7 also any evidence of trauma or natural disease that could
8 have led to their death. In certain cases such as these,
9 we'll also obtain x-rays to identify any retaining bullets
10 or any other possible projectiles. We then move to our
11 internal exam where we use surgical-type incisions to
12 examine the internal organs, again, looking for any
13 evidence of natural disease or trauma that could explain
14 why the person died, and then at the conclusion of that
15 I'll compose a report that includes the findings of what I
16 performed.

17 Q. Thank you, Doctor. And in looking at Branton Booker,
18 did you notice and denote any kind of trauma that he had
19 received and what type of trauma he received to his body?

20 A. Yes. The major findings in the case of Mr. Booker was
21 that he had two gunshot wounds; one on his right shoulder
22 and then one on the right side of his chest.

23 Q. Looking at State's 139, is this the chart that you
24 used?

25 A. Yes, it is.

1 Q. Okay. So this is 139 and this Mr. Booker. Now can
2 you tell the jury -- do you have a pointer up there, a
3 little laser pointer?

4 A. Yes.

5 Q. If you can tell the jury, you've got -- I notice on
6 this, you've got some circles and then you have some
7 letters. Can you explain that to the jury?

8 A. Sure. So the standard abbreviations that will be
9 used in all three of the diagrams is essentially is to
10 simplify a diagram to illustrate the findings, so all I
11 have on these are gonna be the gunshot wounds; a circle is
12 gonna be an entrance wound, a B is gonna be a recovered
13 bullet, and as we'll see on the other diagrams if there's
14 an exit wound, that would be marked as an X. I also have
15 noted gunshot wound number one and gunshot wound number
16 two. That is not indicating the order that the gunshots
17 were received. That is just when I examined the body, the
18 first one I looked at to examine was gunshot wound number
19 one. So, again, we have number one. We can see there's a
20 circle here that entered the right side of the chest and
21 there's a B here in the back, so we recovered the bullet
22 from the back, and then with gunshot wound number two, an
23 entrance on the front part of the shoulder and then we
24 recovered the bullet from deep within the shoulder.

25 Q. Thank you, Doctor. And, Doctor, looking at these

1 shots, both of these are to the front. If I'm standing
2 facing, say, the jury, it's on the right-hand side and
3 it's upper chest and shoulder -- right shoulder?

4 A. Correct.

5 Q. Okay. And one of those bullets went towards the
6 midline of the back?

7 A. Correct.

8 Q. And you recovered both of these?

9 A. I did.

10 Q. Now looking at what you've marked as gunshot number
11 one, you say you recovered that bullet. What -- what path
12 did that actual bullet take?

13 A. Sure. So after that bullet entered the right side of
14 the chest there, it then went through the chest wall and
15 went through the right lung, so both lobes of the right
16 lung, and then continued through the -- the spine, so the
17 mid portion of the spine, and then buried itself into the
18 back. As a result of the perforation of the lung, there
19 was abundant bleeding, so he had about a liter and a half
20 of blood surrounding his lung in that right plural cavity.

21 Q. Doctor, would that -- the one you have denoted as
22 gunshot number one, would that have been a fatal shot?

23 A. Yes, it would.

24 Q. Gunshot number two, it looks like the way you've
25 marked it, it did not travel very far?

1 A. Correct. And this is where two dimension doesn't
2 quite translate, but, yeah, the bullet is gonna essentially
3 enter the front part of the shoulder and I was trying to
4 show that it was recovered just posterior to that, so kind
5 of within the shoulder joint.

6 Q. Okay. Would that have been fatal or superficial?

7 A. That one I would not expect to be fatal, but it would
8 have some bleeding associated with it, but not near as much
9 as the first wound.

10 Q. And in this instance, you were able to recover both of
11 those rounds from Mr. Booker's body?

12 A. Yes.

13 Q. In addition, do you -- when you do an autopsy like
14 this, were you requested to do a blood standard as well, to
15 take a blood standard from Mr. Booker?

16 A. Correct. That's part of our kind of standard
17 protocol. In all our autopsies we'll obtain a sample of
18 blood and put it on filtered paper to preserve that for --
19 as a blood standard.

20 Q. All right. I'm gonna show you what's been marked
21 State's 120 as to Mr. Booker and see -- we may have to open
22 up this bag. It may be easier if I do that, Doctor. Do
23 you see the blood standard that you took from Mr. Booker?

24 A. I see the envelope with the sticker identifying it as
25 is, yes.

1 Q. And then as to the two rounds, would these be the ones
2 that you recovered from Mr. Booker's body?

3 A. Could you turn those over?

4 Q. I'm sorry.

5 A. Yes, they are.

6 Q. Okay. And in looking at these rounds --

7 MR. HUBBARD: And, Your Honor, I offer at this time
8 State's 120 into evidence.

9 THE COURT: Any objection?

10 MR. MAULDIN: No objection, Your Honor.

11 THE COURT: Admitted.

12 (State's Exhibit Number 120, blood spot and
13 projectiles from autopsy, was admitted into evidence.)

14 BY MR. HUBBARD:

15 Q. Looking at State's 120, the two recovered rounds, did
16 they have copper casings on these rounds?

17 A. Yes, they do. So they have an orange metal or copper
18 colored jacket around the bullet.

19 Q. Okay. Thank you, Doctor. And that is as you found
20 them?

21 A. Correct.

22 Q. Do you know which round of those two is fatal? It's
23 not -- not critical to this, but I don't know if -- do you
24 know which one is which or would you have to look at them
25 again?

1 A. I would need to see the front of the envelopes.

2 Q. All right. Here you go, Doctor. I'm just gonna hand
3 them to you and you just tell me which one.

4 A. So both bullets have some deformity to them, but the
5 one that's less deformed was recovered from the back, so
6 that would be the fatal round.

7 Q. And, again, having been shot and that bullet
8 travelling through the lungs, would an individual with a
9 shot like that or a wound like that be able to, say, still
10 move like maybe down a hallway after being shot before
11 bleeding to death?

12 A. Yes, there's nothing that would be immediately fatal
13 from this wound. Certainly an injury to your lung can be
14 a fatal injury, but it would take several minutes to bleed
15 out most likely.

16 Q. But we're talking minutes typically in a wound like
17 this?

18 A. Typically, yes.

19 Q. Okay. Now as to the cause of death, I think you've
20 explained that with Mr. Booker, but would you explain your
21 cause of death and manner of death as to Mr. Booker?

22 A. Sure. The cause of death in this case was a gunshot
23 wound to the trunk, so the gunshot wound to the chest, and
24 specifically that would be due to the bleeding out or the
25 exsanguination due to that gunshot wound.

1 Q. And then the manner of death?

2 A. The manner of death in this case would be homicide as
3 the death was due to another individual.

4 Q. And, Doctor, just recap, as to Mr. Booker he's shot
5 how many times?

6 A. He's shot twice.

7 Q. And both rounds were recovered? Two rounds recovered?

8 A. Correct.

9 Q. And they're both copper jacketed?

10 A. Correct.

11 Q. Now let's turn to Mr. Livingston. Did you do a
12 similar chart with Mr. Livingston?

13 A. I did.

14 Q. Looking at State's 140, does this look like your
15 chart?

16 A. Yes, it does.

17 Q. And you've got a lot more information on this chart.
18 How many times was Mr. Livingston shot?

19 A. He was shot twelve times.

20 Q. Twelve times. If we could, were you able to recover
21 some rounds, and we'll get into that, but were you able to
22 recover some rounds from him as well?

23 A. Yes, we were.

24 Q. Looking at State's 140, your chart, can you walk us
25 through each shot? And let's talk about each individual

1 injury.

2 A. Sure. So the first gunshot wound, indicated by
3 gunshot wound one, again, that doesn't mean it occurred
4 first, it was just the first one described, that's going
5 to be on the inner part of the left arm here. So you can
6 see there's a circle and an X right next to each other.
7 So, again, in the first case we did not have the X's, but
8 that means it was an exit wound. So in this case, a very
9 superficial wound that enters the inner portion of the
10 left arm and then exits very -- in very close proximity to
11 that.

12 Q. And that wound obviously you recovered nothing, it's
13 a through and through?

14 A. Correct.

15 Q. All right. And, Doctor, as to wound number two,
16 gunshot wound number two?

17 A. Yeah, so if you don't mind, I'll take gunshot wound
18 number two and three at the same time --

19 Q. Absolutely.

20 A. -- as they're in very close proximity and travel a
21 very similar pathway. So gunshot wound number two and
22 three are both entered on the back of the right arm right
23 around the elbow, gunshot wound number two being just above
24 the elbow, gunshot wound number three being right at the
25 elbow. These gunshots, again, both enter the back part of

1 it and if we kind of switch over to the front diagram you
2 can see an X here, an X here, so both of these wounds,
3 again, travel from back to front and through and through
4 injuries through the right arm and both of which went
5 through the right humerus or the large bone in the arm.

6 Q. Did it break that arm?

7 A. It did. Both gunshots went through the bone and broke
8 it.

9 Q. Would that have been a fatal round, either one?

10 A. Not immediately. Again, certainly if you fracture
11 your humerus it eventually could be lead to bleeding down
12 the road, but not in any small amount of time.

13 Q. And, Doctor, these hit Mr. Livingston from behind?

14 A. Correct.

15 Q. Okay. Gunshot wound number four. Do you see that on
16 your chart?

17 A. Yeah. So gunshot wound number four, we can see here
18 is on the right thigh with the entrance wound kind of on
19 the anterior or front part of the thigh and an exit wound
20 off to the right side. This wound, again, is a -- it's a
21 superficial wound similar to the one we saw on the left arm
22 where it did not strike bone and just went through the skin
23 and muscle before exiting.

24 Q. And gunshot wound number 5?

25 A. So gunshot wound number five we see here is on the

1 left leg, so right at the front of the left shin, and then
2 on the posterior part of the diagram we see there's an X
3 here, so this wound goes through pretty much straight from
4 front to back through that left shin and that one did not
5 -- did not fracture the bone as it went through, so it was
6 a through and through. In the front and out the back.

7 Q. And so, Doctor, as to four and five, both of those
8 were from the front of Mr. Livingston?

9 A. Correct.

10 Q. Moving onto gunshot wound number six.

11 A. So number six is here on the posterior part of the
12 left thigh just above the knee and the exit wound is here
13 on the anterior part of the left thigh. So kind of sim
14 -- somewhat opposite of what we saw of gunshot wound
15 number four there. So this one, again, travels through the
16 left thigh and muscle and, again, did not go through any
17 bone or anything, so kind of, again, a fairly superficial
18 wound as far as not causing any significant damage.

19 Q. And gunshot wound number six is from the back side?

20 A. Correct.

21 Q. All right. And do you see gunshot wound number seven?

22 A. I do. So gunshot wound number seven is gonna be here
23 on the left flank, so kind of the left side of the body
24 there. So this bullet enters kind of the left flank there
25 and pretty much goes straight across the body. So it's

1 kind of left side of the back, it's moving across the body,
2 and we can see there's a B here that's on the right side
3 of the abdomen, so that's where we recovered that bullet.
4 As this bullet went across from the left flank to where
5 we recovered it, it did perforate through the left lung
6 and also the intestines -- excuse me -- the left lung and
7 intestines before it came to rest where we recovered it.
8 And so along with that we had, again, as in the previous
9 case since it did go through the lung, we had quite a bit
10 of blood that accumulated within the -- around the left
11 lung.

12 Q. And so would gunshot wound number seven have been
13 fatal?

14 A. Gunshot wound number seven could have been fatal even
15 if it was the only gunshot wound, yes.

16 Q. Okay. Without all the other prior six shots, that one
17 shot could have been a fatal shot?

18 A. Yes.

19 Q. Gunshot wound number eight. And going back to seven,
20 you did recover a round?

21 A. Yes, we did.

22 Q. Was that another copper jacketed round?

23 A. Yes, it was similar to the ones that we saw in the
24 prior case.

25 Q. All right. Going to gunshot wound number eight, what

1 can you tell us about that wound?

2 A. Sure. And, again, as I did before, I'd like to take
3 eight and nine together. So gunshot wounds number eight
4 and nine both enter really close to each other here on the
5 right side of the abdomen just above where we recovered
6 the bullet from gunshot wound number seven. So both are
7 entering on the right side of the abdomen and then we can
8 see on the back here that both are gonna exit on the right
9 side of the back. So both of these wounds, again, entering
10 the right side of the abdomen, exit the right side of the
11 back, so predominantly travelling front to back. Both of
12 these wounds caused significant --

13 Q. Doctor, let me back you up.

14 A. Excuse me. I'm sorry. I apologize.

15 Q. Nine and ten.

16 A. Yeah, I apologize.

17 Q. That's fine. Go ahead and talk about those, too.
18 Nine and ten.

19 A. I apologize. I skipped over eight. So nine and ten
20 are the two that are next to each other here where they're
21 on the right side of the abdomen and enter the right side
22 -- or exit the right side of the back. And these, again,
23 caused significant internal organ damage. They went
24 through -- gunshot wound number nine went through the
25 liver, so it hit a large organ in the abdomen, which would,

1 again, cause significant bleeding. And also gunshot wound
2 number ten travelled a similar pathway, so it also went
3 through the liver.

4 Q. So those would have been fatal as well?

5 A. Correct. Each one could have been fatal by
6 themselves. And then to go back to, I apologize, number
7 eight. Gunshot wound number eight, the entrance is
8 actually here on the left side of the abdomen and then
9 that bullet exits the upper right side of the chest here.
10 So as that bullet travelled through the body, that bullet
11 went through the abdomen, then went through the diaphragm.
12 So it went up into the chest and went through the --
13 actually went through the heart before it then exited.

14 Q. And, Doctor, as to number eight, I notice you have
15 denoted there was some stippling, but no soot. Can you
16 explain what you mean by that?

17 A. Yes. So when we look at gunshot wounds, you know,
18 obviously we can look at them and say it's an entrance
19 wound, it's an exit wound, is it a gunshot wound. Another
20 thing we can do is sometimes we can determine the range
21 of fire. So when a bullet is fired, the bullet obviously
22 comes out of the gun, but a couple of other things do. So
23 there's a big cloud of soot, which is basically the smoke
24 from the explosion of the bullet being fired. Depending on
25 the weapon and ammunition, that could go out to six inches

1 to a foot from the barrel of the gun to where it will kind
2 of dissipate. The other thing that comes out are pieces
3 of gunpowder that are burning or unburnt that will travel
4 through the air, strike the skin and cause small abrasions
5 that we call stippling. And, again, it depends on the type
6 of weapon and the ammunition, but that will travel anywhere
7 from two to four feet. So in this case the fact that we
8 did have stippling around gunshot wound number eight, so
9 around the one on the abdomen here, we would know that
10 that gunshot, the barrel of the gun was between one and
11 four feet by the time it was -- when the gun was fired.
12 We know that because there's no soot on the skin, so that
13 would put it within a foot. And, again, if it was beyond
14 four feet we would not see that stippling that we saw here.

15 Q. And, Doctor, one to four feet, it's a close range
16 shot?

17 A. Correct.

18 Q. Shot number eight, would that have been a fatal round
19 as well?

20 A. It certainly could have been by itself, yes.

21 Q. Okay. So thus far, we're at -- we've covered ten
22 shots. Four of those are fatal thus far; seven, eight,
23 nine and ten?

24 A. Yes, that last four that we covered. Correct.

25 Q. Okay. Let's look at gunshot wound number eleven. Do

1 you see it?

2 A. Yeah. So gunshot wound number eleven is gonna be
3 here on the upper left side of the chest kind of near the
4 left armpit. So the bullet enters here and you can see
5 where there's a B just up above it kind of in the area
6 of the shoulder or collarbone area where that bullet was
7 recovered. So that bullet, again, entered the chest and
8 went through one of the ribs and then kind of buried itself
9 into the -- in the area up by the shoulder.

10 Q. And you were able to recover a round?

11 A. Yes, sir, I was.

12 Q. And was that a copper jacketed round as well?

13 A. Yes, it was similar to the other ones that we've
14 described.

15 Q. And nonfatal?

16 A. Correct.

17 Q. All right. As to gunshot wound number twelve, what
18 can you tell us about that one?

19 A. So gunshot wound number twelve, the entrance is very
20 similar to eleven. It's just below here to near the left
21 armpit, just a bit lower here, and this one you can see
22 here we have a bullet that we recovered from the left side
23 of the back. So this one, instead of going a little more
24 upward as gunshot wound number eleven did, gunshot wound
25 number twelve pretty much goes straight from front to back,

1 also moving a little bit from his left to right, and on
2 its pathway through that also struck the left lung and
3 contributed to the -- the bleeding that we had in the left
4 side of the chest.

5 Q. Would gunshot wound number twelve have been fatal?

6 A. Yes.

7 Q. Okay. So you have a total of -- of the twelve, five
8 were basically fatal rounds?

9 A. Correct.

10 Q. And I believe -- so you recovered -- gunshot wound
11 number twelve you recovered a round, gunshot wound number
12 eleven, and then gunshot would number seven. You recovered
13 rounds from all of them?

14 A. Yes.

15 Q. Were they all copper jacketed?

16 A. Yes, they were.

17 Q. Doctor, I want to show you State's 119. Did you
18 collect a blood standard in addition to the rounds?

19 A. Yes, I did.

20 Q. And, again, if we can open this up.

21 MR. HUBBARD: And, Your Honor, I offer 119 into
22 evidence.

23 MR. MAULDIN: No objection, Your Honor.

24 THE COURT: Then it's admitted.

25 Are the bullets --

1 MR. HUBBARD: It's all included.

2 THE COURT: They're all in this one thing.

3 MR. HUBBARD: The three rounds and the blood spot
4 are all in this one.

5 THE COURT: Got it.

6 (State's Exhibit Number 119, projectiles and a blood
7 spot, was admitted into evidence.)

8 BY MR. HUBBARD:

9 Q. Do you see the blood spot you took for the blood
10 standard for Sheldon Livingston?

11 A. Yes. Again, I can't see the blood spot, but the
12 envelope with the sticker that's unique to that case.

13 Q. And looking at the projectiles or the bullets you
14 recovered, are those the ones you recovered from
15 Mr. Livingston?

16 A. Yes, they are.

17 Q. They are all copper jacketed?

18 A. Yes.

19 Q. And, Doctor, to recap, Mr. Livingston was shot twelve
20 times?

21 A. Correct.

22 Q. You recovered three rounds?

23 A. Correct.

24 Q. Those rounds were consistent with what you found in
25 Mr. Booker, the copper jacketed?

1 A. Yes. I'm not a ballistics examiner, but they appeared
2 to be of similar size and were both jacketed, yes.

3 Q. Now as to Mr. Livingston, did you, as an expert, a
4 forensic pathologist, determine cause and manner of death?

5 A. Yes, I did.

6 Q. And what was his cause and his manner of death?

7 A. So this one, as with the prior case, was due to
8 gunshot wounds of the trunk. Again, in this case there
9 were five of the wounds that could have potentially been
10 fatal and contributed to the bleeding that led to his
11 death, and, again, the manner of death in this case would
12 be a homicide as the death was due to the hands of another
13 individual.

14 Q. Okay. Thank you, Doctor. And if we could move onto
15 Mr. Duwan Williams. Let me ask you this before we move on
16 from Mr. Livingston. How old was Mr. Livingston?

17 A. He was twenty-six years of age at the time he died.

18 Q. Twenty-six.

19 All right. Mr. Duwan Williams, how old was he?

20 A. He was twenty-seven years age -- years old.

21 Q. All right. And in conducting your autopsy, did you
22 follow the same process that you followed on Mr. Booker and
23 Mr. Livingston?

24 A. Yes, I did.

25 Q. How many gunshot wounds did you find on his body?

1 A. He had -- Mr. Williams had four gunshot wounds.

2 Q. If we can, can we walk through those just like we've
3 done with Mr. Livingston and Mr. Booker, looking at State's
4 Exhibit 141?

5 A. Sure. So, again, using the -- the same key that we
6 had before with the circles for entrances, X's for exits,
7 and a B for recovered bullet, the first gunshot wound we
8 have here, gunshot wound number one, was in the mid back
9 or just left of midline here. So the bullet entered there
10 and then we can see we have a recovered bullet on the kind
11 of upper right side of the chest. So after this bullet
12 entered kind of the mid left side of the back, it then went
13 through the -- one of the ribs, went through the right
14 lung, and then also the larynx, so the breathing tube that
15 leads to the lungs, and then had significant bleeding
16 associated with it around the right lung.

17 Q. Would that round -- that gunshot wound have been
18 fatal?

19 A. Yes, in this case this would be certainly a fatal
20 wound and the most severe of the four wounds that he
21 received.

22 Q. And you recovered a round from that wound?

23 A. I did.

24 Q. And how did it appear?

25 A. It appeared similar in size to the other bullets that

1 we've described, but this one is different in that it did
2 not have a jacket associated with it.

3 Q. Okay. Let's move onto gunshot wound number two?

4 A. So gunshot wound number two here, again, the diagram
5 makes it a little bit tough, but we're on the left side of
6 the neck, kind of the back left side of the neck. That
7 bullet sort of enters the back left side of the neck there
8 and then essentially kind of travels through the deep
9 musculature and connective tissue, and recovered it from
10 the -- from the neck. So it went through, again, the soft
11 tissue and such, did not actually make it through a major
12 blood vessel or into the skull, but basically enters the
13 left side of the neck and is recovered from an area in
14 close proximity to it.

15 Q. Would that gunshot wound have been fatal?

16 A. This one would not likely be fatal by itself, but,
17 again, the head and neck are very vascular areas, so it
18 would have been contributory to the death for sure.

19 Q. All right. And did you recover a round from gunshot
20 wound number two?

21 A. I did.

22 Q. And can you, please, tell the jury how that round
23 appeared?

24 A. The bullet from gunshot wound number two appeared very
25 similar to that of gunshot wound number one in that it was

1 similar in size and was not jacketed.

2 Q. Okay. Gunshot wound number three, can you tell us
3 about it?

4 A. Yes. So gunshot wound number three here is in the
5 posterior aspect or back of the left arm and we can see
6 here there's an exit on the inner part of the left arm.
7 So this one, again, basically moving from back to front
8 did not go through the humerus, did not fracture any bones,
9 it just went through skin, muscle and soft tissue.

10 Q. A nonfatal superficial wound?

11 A. Correct.

12 Q. And obviously as a through and through, you did not
13 recover a bullet from that wound?

14 A. Correct.

15 Q. Gunshot wound number four.

16 A. So gunshot wound number four, is another entrance here
17 on the back. This one's on the back of the left shoulder.
18 Then we can see here this bullet is actually recovered
19 kind of from the area of the right armpit. So this one --
20 bullet essentially kind of is moving -- enters his back
21 but it is moving from his left to right. So the primary
22 direction of this one is actually moving across his body.
23 So this one actually did not -- despite going all the way
24 across his body, was kind of going through the soft
25 tissues. It did fracture one of his ribs on the right

1 side, but never actually entered or damaged his heart or
2 lungs or anything like that, but so it moved from left to
3 right across his body to where it was recovered.

4 Q. So would that wound have been fatal?

5 A. Again, not by itself and it would -- it would take
6 quite a while. Potentially the rib fracture could lead to
7 some complications, but certainly not near as significant
8 as the gunshot wound number one.

9 Q. Considering the rib fracture and movement of that
10 particular bullet, would that have been painful in your
11 opinion as a doctor?

12 A. Yes.

13 Q. All right. So you have a total of four gunshots and
14 you recovered three rounds?

15 A. Correct.

16 Q. That fourth gunshot, how did it compare to the other
17 two rounds you recovered?

18 A. So the bullet from gunshot number four, so the one
19 we recovered from over here, again, similar in size, but
20 this one did have a jacket. So this was more in appearance
21 with the ones we saw in the prior case and different from
22 gunshot wounds number one and two that were not jacketed.
23 So gunshot wound number four did have a jacket.

24 Q. I want to show you what's been marked as State's 121.
25 And, again, Doctor I'll open this up so you can get a

1 better view of it. Did you take a blood standard from
2 Mr. Williams as well?

3 A. I did.

4 Q. Do you recognize that in State's 121?

5 A. Yes, I do. Again, that's the envelope with the
6 sticker that indicates it's Mr. Williams.

7 Q. And then I want you to take a look at the three rounds
8 collected and see are those the rounds you collected from
9 Mr. Williams?

10 A. Yes, they are.

11 MR. HUBBARD: Your Honor, I offer State's 121 into
12 evidence?

13 MR. MAULDIN: No objection, Your Honor.

14 THE COURT: It's admitted.

15 (State's Exhibit Number 121, projectiles and blood
16 spot, were admitted into evidence.)

17 BY MR. HUBBARD:

18 Q. Doctor, looking at these particular rounds, two you
19 say are non-jacketed, one is jacketed. Of the non-jacketed
20 rounds, was one of those a fatal round for Mr. Williams?

21 A. Yes, it was.

22 Q. Do you know which round was fatal?

23 A. Yes, it was this one that we recovered from the chest.

24 Q. From the chest. Okay. If I may?

25 A. (Hanging.)

1 Q. And, Doctor, two of these rounds are basically lead
2 rounds?

3 A. Correct.

4 Q. And then the one we see on the far right, that's a
5 copper jacketed round?

6 A. Correct. So this one here on my left would be a
7 little bit of a shiny appearance that has the jacket. The
8 other two have more of a dull gray appearance that did not
9 have the jacket.

10 Q. And the one I've placed on top is the fatal round, the
11 lead round?

12 A. Correct.

13 Q. Doctor, having recovered these lead rounds,
14 non-jacketed rounds, were you able to conclude that these
15 were fired from a separate -- that Mr. Williams was shot
16 with two separate pistols -- two separate guns?

17 A. I can't say that they were two separate guns. I can
18 say there were two different sets of ammunition.

19 Q. Okay. So if -- let me ask you this. Well, I'll leave
20 it at that. So two different types of ammunition were
21 fired into Mr. Williams?

22 A. Correct.

23 Q. Okay. Now these rounds, along with all the other
24 rounds that you collected from Mr. Livingston and
25 Mr. Booker, along with the blood standards from each of

1 them, do you recall turning those over to a Detective
2 Brannon Marthers with the sheriff's department?

3 A. Yes, I do.

4 Q. And that was at autopsy?

5 A. Yes, that was at the -- once we had completed the
6 cases for the day, correct.

7 Q. As to Mr. Williams, did you determine cause and manner
8 of death?

9 A. Yes, I did.

10 Q. And please tell the jury what that is.

11 A. So his cause of death would be gunshot wounds of the
12 neck and truck. Again, with the major one being the one to
13 the back that perforated his lung, and the manner of death
14 in this case, as with the others, would be homicide as the
15 death was due to the actions of another individual.

16 Q. So the total of shots to Mr. Williams was how many?

17 A. Four.

18 Q. How many were copper jacketed?

19 A. Two.

20 Q. Two or one copper jackets?

21 A. I'm sorry. One was jacketed.

22 Q. And how many non-jacketed?

23 A. Two did not have jackets. Two were non-jacketed.

24 MR. HUBBARD: I beg the Court's indulgence.

25 THE COURT: Take your time.

1 BY MR. HUBBARD:

2 Q. These bullets that you recovered from autopsy and
3 that were turned over to Detective Marthers, was that
4 for the purpose of being sent to SLED so they can be
5 analyzed?

6 A. Yes.

7 Q. And then an analyst there could determine if there's
8 two different types of weapons being used?

9 A. Correct. You know, my job as a forensic pathologist
10 is identifying injuries and determining evidentiary-type
11 things, but the ballistic experts there would be better
12 fit to describe as you mentioned specific caliber type of
13 ammunition and that sort of thing.

14 Q. But one thing you can say is that as to Mr. Williams,
15 he's the only victim that had non-jacketed rounds in his
16 body?

17 A. Correct.

18 Q. But he also had one copper jacketed round like
19 Mr. Livingston and Mr. Booker?

20 A. Correct.

21 Q. All right.

22 MR. HUBBARD: Thank you, Doctor. I believe that's
23 all I have at this time.

24 THE COURT: Okay. Mr. Mauldin.

25 MR. MAULDIN: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. MAULDIN:

3 Q. Good afternoon -- or morning. Kind of halfway.

4 A. Good morning.

5 Q. I want to go back to State's 141 here, your diagram
6 of Mr. Williams, and all of the gunshots on Mr. Williams
7 entered from the rear; is that correct?

8 A. Correct.

9 Q. From the back of his body?

10 A. Yes.

11 Q. I don't know what the -- posterior, anterior?

12 A. Posterior.

13 Q. Posterior. And I see here that -- it would be they
14 just all entered from the back and went toward the front
15 and you say that gunshot one was that a fatal shot?

16 A. Yes.

17 Q. Okay. But that's not the order of the gunshots as
18 far as you know?

19 A. No. Again, the one, two, three, four is as I
20 encountered them during my examination just to label them
21 for identification purposes.

22 Q. Okay. And that was the lead jacketed or the lead
23 colored bullets?

24 A. It was one of the two bullets that did not have a
25 jacket, correct.

1 Q. Okay. And so gunshot one entered from the mid back
2 and travelled upward and you recovered the bullet
3 somewhere, I guess, near the collarbone area?

4 A. Correct. Yes.

5 Q. Okay. And then gunshot two kind of appeared to have
6 just went straight in from the back?

7 A. Yeah, for the most part. It's coming from back to
8 front. I tried to put it would be little bit upward, but
9 from his back and a little bit upward.

10 Q. And as the -- that was the copper colored, the jacket
11 that was recovered at that point; is that right?

12 A. No, the one in the neck did not have a jacket.

13 Q. Okay. So that was another lead colored one?

14 A. Correct.

15 Q. Okay. And then three was a through and through and
16 unrecovered?

17 A. Correct.

18 Q. And that was pretty much just slightly upward
19 trajectory?

20 A. Really most of it's back to front and just a little
21 bit from his left to right. It didn't really --

22 Q. Do you know what angle upward it would have been?

23 A. I don't believe it went up or downward very much.
24 Let's see here.

25 Q. So it's like --

1 A. No, it was straight through.

2 Q. Straight through?

3 A. So it entered and exited thirteen inches below the
4 top of the head.

5 Q. So if he was lying face down, that would be a
6 perpendicular-type shot?

7 A. So, yeah, I couldn't speak to the position of the gun
8 to the body. If he was down on the ground, the gun would
9 have been above him at the time it was fired.

10 Q. Or if he was on a couch, the gun would have been at
11 least two to four feet away as to have no stippling; is
12 that correct?

13 A. So, again, we can kind of change the position of the
14 body. You know, if he's on the couch, it would depend on
15 kind of where his arm was hanging and that sort of thing.

16 Q. Okay.

17 A. As far as the stippling, the caveat to that is if --
18 I mentioned stippling can go two to four feet. That's if
19 there's nothing in between the body and the gun. So if
20 there's this wall here or a pillow between that would
21 absorb the -- the stippling and soot.

22 Q. Okay. Good to know.

23 All right. And let's see. So Mr. Booker had two
24 wounds and you recovered two rounds; is that right?

25 A. Yes.

1 Q. So that would be zero unrecovered bullets as far as
2 you're concerned?

3 A. Correct. In relation to the autopsy findings,
4 correct.

5 Q. All right. And Livingston had twelve bullets -- there
6 were twelve wounds, bullet hole wounds, and you recovered
7 three, so that would leave nine unrecovered bullets; is
8 that correct?

9 A. Correct, nine bullets that we did not recover at
10 autopsy. I don't know what was recovered at the scene
11 or --

12 Q. Well, I'm not asking you. I'm asking you what you
13 know. And then on Mr. Williams, he was shot four times and
14 you recovered a total of three bullets, so that left one
15 unrecovered bullet?

16 A. At autopsy, correct.

17 Q. Okay. So in total, at least from autopsy concerns,
18 that's ten unrecovered bullets, right?

19 A. Correct.

20 Q. Okay. Now going back to the soot and stippling, that
21 one wound on Mr. Livingston, number eight, was the only
22 wound out of all three of these individuals where you noted
23 any stippling; is that correct?

24 A. Yes, that's correct.

25 Q. And you noted no soot in any of the wounds; is that

1 correct?

2 A. Correct.

3 Q. And I believe you said that soot can occur if a gun is
4 six inches to a foot away if there's nothing obstructing --

5 A. Correct.

6 Q. -- the bullet and the stippling could be two to
7 four feet away if there's nothing obstructing?

8 A. Correct.

9 Q. So in a situation where people are struggling over a
10 gun and a gun goes off, one would expect to find some soot
11 or stippling if there's nothing in between the gun and the
12 wound; is that correct?

13 A. I'm sorry, could you rephrase that one?

14 Q. If people are struggling over a gun, they've both
15 got their hands on the gun and they're going back and
16 forth, unless they have arms that are longer than two to
17 four feet, I guess, you would expect to find some kind of
18 stippling, wouldn't you?

19 A. Most likely. Again, I can imagine some scenarios
20 where depending on how far the arm was and what angle it
21 was coming --

22 Q. Well, I guess somebody would have to be struggling
23 like this, right?

24 A. Right. If you're up here and you're shot in the
25 leg --

1 Q. But if they're struggling real close like that, you
2 would probably expect to find soot and stippling; is that
3 right?

4 A. Correct. Again, if there's not any intermediary
5 objects that would include clothing or otherwise that could
6 have absorbed that material.

7 MR. MAULDIN: Thank you. No further questions.

8 REDIRECT EXAMINATION

9 BY MR. HUBBARD:

10 Q. Just following up on that, Doctor. You said clothing.
11 So if somebody is wrestling over a gun but they're wearing
12 a shirt and they're shot, that clothing could prevent
13 stippling or soot and you so you would not be able to give
14 a jury a professional opinion on distance?

15 A. Correct. So that's my -- when I give a range on
16 these, the only one I gave a somewhat definitive range was
17 the one where I had stippling because I know it's within
18 that range. The others I say there's no soot or stippling
19 so, again, that either means it's more than four feet or
20 there's something in the way and, again, I can't tell that
21 just from the autopsy exam.

22 Q. And then when we talk about angles, if somebody's
23 getting shot and they're still alive, would it be
24 reasonable to assume they stay stationary like a mannequin
25 as they're getting shot a second time or would you expect

1 as a professional movement of that body?

2 A. It would be extremely unlikely for the body to stay
3 in the same position after being shot depending on whether
4 it's one of the superficial wounds or one of the fatal
5 wounds.

6 Q. And so does that make your job easier or harder when
7 you consider angles?

8 A. I guess really neither would be my answer. For each
9 -- I take each wound independently and, again, I can say
10 how the gun was to the body and there's all sorts of
11 different ways the arm could be pointing and the body could
12 be situated, but, again, that's what I can tell based on
13 the wounds.

14 Q. So you denote how a bullet enters a body and how it
15 leaves but not where the gun is?

16 A. Correct.

17 Q. Okay. And when we talk about stippling, I want to
18 just look at State's 65, which is Mr. Booker. He's wearing
19 a shirt. Could that affect stippling and soot? He's the
20 one hit in the shoulder and upper chest.

21 A. Yes, it certainly could have. The shirt could absorb
22 that gunshot material.

23 Q. And then as to State's 66, Mr. Livingston, who had no
24 shirt on, and you found some stippling?

25 A. Yes, we did find stippling associated with the one

1 with wound on the abdomen, number eight.

2 MR. HUBBARD: Thank you, Doctor. I don't have any
3 further questions.

4 THE COURT: Mr. Mauldin, anything?

5 MR. MAULDIN: Yes, Your Honor.

6 RECROSS EXAMINATION

7 BY MR. MAULDIN:

8 Q. Dr. Batalis, did these gentleman come to you clothed
9 or nude?

10 A. So I guess taking them in order from my case numbers,
11 Mr. Booker was wearing sweatpants, underwear and a red
12 shirt.

13 Q. Uh-huh.

14 A. Mr. Williams was wearing a pair of previously cut
15 underwear and also a pair of shorts that had been
16 previously cut.

17 Q. Uh-huh.

18 A. And then Mr. Livingston was received wearing socks,
19 shorts and underwear.

20 Q. Okay. And did you examine any of those clothes for
21 any kind of soot or gunshot wound residue or stippling?

22 A. Nothing that can be performed at autopsy. Soot and
23 that sort of stuff, it gets -- can blend in with -- their
24 blood can obscure that. So, again, we turn the clothing
25 over to investigators where they could potentially do

1 gunshot residue testing. It's not anything that falls
2 under the realm of forensic pathology.

3 Q. So there would be another department where they could
4 do that?

5 A. Potentially.

6 Q. Maybe SLED?

7 A. Potentially.

8 Q. Okay. And on Livingston you found stippling on one
9 out of the twelve wounds; is that correct?

10 A. That's correct.

11 Q. So there's eleven with no stippling?

12 A. Correct.

13 MR. MAULDIN: No further questions.

14 MR. HUBBARD: Nothing further from Dr. Batalis.

15 And I'd ask that he be excused.

16 THE COURT: Thank you, Doctor.

17 THE WITNESS: Thank you, Your Honor.

18 (Witness excused.)

19 MS. MAYES: The State calls Detective James Pratt.

20 (Whereupon, James Pratt was duly sworn by the Clerk
21 of Court.)

22 THE CLERK: If you'll have a seat, please. State
23 your name and spell your last, please, for the record.

24 THE WITNESS: My name is James Pratt. Last name
25 spelled P-R-A-T-T.

1 JAMES PRATT,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Good morning. Tell us a little built about yourself.
6 Where were you employed back in December of 2019?

7 A. With the Lexington County Sheriff's Department.

8 Q. And what type of work were you doing?

9 A. I was a major crimes detective.

10 Q. As a member of the major crimes, let me ask you were
11 you familiar with the on-going investigation regarding the
12 triple murder at [REDACTED] Butternut Lane?

13 A. Yes, ma'am.

14 Q. And between the dates of December 17, 2019, which was
15 a Tuesday, and Saturday, December 21, 2019, can you tell
16 us whether over the course of those four days you were
17 involved in this on-going investigation?

18 A. Yes, ma'am. My -- the team that I was on was asked
19 to assist in the investigation.

20 Q. All right. Now as a result of that, can you tell
21 us what role, if any, you were assigned on Saturday,
22 December 21st, 2019?

23 A. I was asked to do surveillance on the apartment at
24 [REDACTED] Landmark Drive, Apartment Number 27A.

25 Q. Okay. And what time of day or night was that on

1 December 21st?

2 A. Approximately 8:00 in the afternoon.

3 Q. You said --

4 A. 8:00 in the afternoon. Approximately 8:00 in the
5 afternoon.

6 Q. Okay. You say afternoon, but is it --

7 A. Evening.

8 Q. You're referring to 8:00 PM?

9 A. Yes, ma'am.

10 Q. Now tell us by this time, December 21st of 2019, are
11 you aware as to whether or not a suspect had been developed
12 by the Lexington County Sheriff's Department?

13 A. Yes, ma'am.

14 Q. Who was that suspect?

15 A. Justin Hopkins.

16 Q. And that particular residence that you were conducting
17 surveillance at, I think you indicated that's 27A?

18 A. Yes, ma'am.

19 Q. What was the purpose of that surveillance?

20 A. To observe, to make sure that the apartment wasn't
21 disturbed, and if anyone -- to observe anyone coming in or
22 out of it while a search warrant was being obtained for
23 that location.

24 Q. So you mentioned a search warrant?

25 A. Yes, ma'am.

1 Q. On this particular evening when you first began
2 conducting surveillance, I think you estimated that to be
3 8:00 PM, what was the status of that search warrant?

4 A. It was still in the process of being obtained.

5 Q. And as a result, were you in a marked vehicle or an
6 unmarked vehicle?

7 A. I was in unmarked.

8 Q. So I'm gonna ask you a few questions about that.
9 First, I want to show you what is State's 13 and 69.

10 MS. MAYES: And then I believe State's 14, Your
11 Honor, is gonna replace Court's Exhibit 14.

12 THE COURT: Okay.

13 BY MS. MAYES:

14 Q. And that being State's 14, are you familiar with what
15 is depicted in that photograph?

16 A. Yes, ma'am.

17 Q. I'm gonna show you what's State's 13 and ask you about
18 that one?

19 A. Yes, ma'am.

20 Q. As well as State's 69?

21 A. Yes, ma'am.

22 Q. Are you familiar with the locations depicted in each
23 of these aerial photographs?

24 A. Yes, ma'am, I am.

25 Q. Do they appear to be a fair and accurate

1 representation of those locations?

2 A. Yes, ma'am.

3 MS. MAYES: This would be State's 13, 14 and 69,
4 Your Honor.

5 MR. MAULDIN: No objection, Your Honor.

6 THE COURT: They're admitted.

7 (State's Exhibit Number 13, 14 and 69, photographs,
8 were admitted into evidence.)

9 BY MS. MAYES:

10 Q. Let's take a look at State's 69. You're familiar --
11 or can you tell us whether or not you're familiar with the
12 St. Andrews Road area of Lexington County?

13 A. Yes, ma'am, I am.

14 Q. And looking at this particular photograph, which road
15 is this?

16 A. That would be St. Andrews Road.

17 Q. And along St. Andrews Road, can you tell us whether or
18 not any apartments are located?

19 A. Yes, ma'am. Landmark Apartments is directly off of
20 St. Andrews Road.

21 Q. Can you show us? You have the pointer? The laser?

22 A. I don't.

23 Q. I believe it's right here.

24 A. I'm sorry. Yes, ma'am. This location here.

25 Q. All right. So where we see the pink dot, that would

1 be the Landmark Apartments?

2 A. Yes, ma'am.

3 Q. And that's the location you were conducted conducting
4 surveillance?

5 A. That's correct.

6 Q. Now along St. Andrews Road, down to Bush River Road,
7 is that all considered part of the St. Andrews area?

8 A. Yes, ma'am.

9 Q. Where, if at all, on this particular aerial do you
10 observe the crime scene, being Woodland Village?

11 A. Right down here in this area.

12 Q. Where we see the yellow dot?

13 A. Yes, ma'am.

14 Q. Now we're gonna look at another photograph. This is
15 gonna be State's 13. What are we looking at here?

16 A. It's an aerial view of the Landmark Apartments.

17 Q. And looking here at this photograph, can you tell
18 us where you were positioned in order to conduct your
19 surveillance on the night of December 21st?

20 A. Yes, ma'am. I was in this area here.

21 Q. And, again, was that a marked vehicle or an unmarked
22 vehicle?

23 A. It was unmarked.

24 Q. What's the purpose of you being in an unmarked
25 vehicle?

1 A. So people would not realize that I'm law enforcement
2 or not to -- or to not -- prevent anyone from being able to
3 go to that location, just to observe and not tip off law
4 enforcement is in the area.

5 Q. Now as you were conducting surveillance, what role, if
6 any, do the other major crimes investigators have regarding
7 obtaining that search warrant?

8 A. I'm sorry?

9 Q. What is taking place regarding attempts to obtain that
10 search warrant?

11 A. So the -- while performing surveillance, they were
12 presenting the probable cause they had to a judge to obtain
13 that search warrant for that location.

14 Q. And you're waiting confirmation on that?

15 A. Yes, ma'am.

16 Q. What, if anything, do you observe while you are
17 conducting surveillance?

18 A. Excuse me. So while conducting surveillance, I
19 observed a white dually truck pull up in approximately
20 this area here, a black male matching the description of
21 Mr. Hopkins exiting the vehicle and then walking towards
22 Apartment 27 there -- or Building 27 there, and then the
23 vehicle proceeding to the exit ahead toward St. Andrews.

24 Q. So had you identified the specific building number as
25 part of your surveillance?

1 A. Yes, ma'am. The building right here has a large sign
2 that says Number 27 on the side of it. That would be
3 visible from where I was posted outside.

4 Q. So you could actually see that a 27 marked the
5 building that you were observing?

6 A. That's correct.

7 Q. And then had you also taken an effort to identify
8 which one of the units within that building would be
9 Apartment A?

10 A. Yes, ma'am.

11 Q. The individual that you indicated you saw get out of
12 the truck, which unit was he headed or walking towards?

13 A. 27A.

14 Q. Now prior to that night, can you tell us whether or
15 not you had knowledge of the physical attributes of Justin
16 Hopkins?

17 A. Yes, ma'am, I did.

18 Q. Would that include height and weight?

19 A. Yes, ma'am.

20 Q. And what, if anything, did you observe about the
21 individual that you saw get out of the white truck?

22 A. He matched the description that we had of Mr. Hopkins.

23 Q. How so?

24 A. Approximately 5-8, 5-9. Approximately 300 pounds.

25 Q. Now the truck, at this point in time can you tell us

1 whether or not by the night of the 21st there had been a
2 vehicle of interest to the sheriff's department?

3 A. Yes, ma'am. A white dually truck.

4 Q. So you were on the lookout for a truck of that
5 description?

6 A. That's correct.

7 Q. What, if any, similarities did you see in the truck
8 where the individual got out of?

9 A. It was a white truck that had dual tires on the rear
10 of it.

11 Q. And observing that, what, if any, action did you take?

12 A. I notified my supervisor via radio that I observed
13 the vehicle pull up to that location, I observed a subject
14 matching Mr. Hopkins' description exiting the vehicle and
15 then the vehicle pulling off.

16 Q. Is there any doubt in your mind that the individual
17 you saw get out was headed towards 27A?

18 A. No, ma'am.

19 Q. And did you see anyone else get out other than the
20 individual you described as matching the description of
21 Justin Hopkins?

22 A. No, ma'am.

23 Q. After communicating that to your supervisors or
24 command staff, what, if any, action did you take, Detective
25 Pratt?

1 A. I proceeded to follow the vehicle out onto St. Andrews
2 Road. I waited until the vehicle got approximately a
3 mile from the -- from that location before initiating a
4 traffic stop. I didn't want the lights or sirens to notify
5 Mr. Hopkins that law enforcement was in the area.

6 Q. All right. So I want to ask you a little bit about
7 that. You say you're now conducting a traffic stop?

8 A. Yes, ma'am.

9 Q. At this point in time, what, if any, concerns did you
10 have about that vehicle to substantiate your traffic stop?

11 A. So after seeing Mr. Hopkins exit the vehicle and head
12 towards that apartment and the area it was in, matched the
13 description of a vehicle that we had been looking for, we
14 had reason to believe there was potential trace evidence or
15 other evidence in that vehicle or the vehicle itself being
16 of evidentiary value.

17 Q. Did you consider that vehicle potential evidence?

18 A. Yes, ma'am.

19 Q. Or that it may contain potential evidence?

20 A. Yes, ma'am.

21 Q. Now at that point in time did you know anything about
22 a driver of that vehicle?

23 A. No, ma'am.

24 Q. Had the name Jeremy Cornish even been known to you?

25 A. No, ma'am.

1 Q. So what happens once you conduct the traffic stop?

2 A. So I initiated the traffic stop on St. Andrews Road
3 just before the I-26 and we pulled into the parking lot
4 right here in front of the Waffle House and Nick's
5 Restaurant at which point in time I made contact with the
6 driver and requested license, registration and proof of
7 insurance.

8 Q. All right. Now we're looking at State's 14. We see
9 Landmark -- well, you show us where Landmark Drive is here
10 on this particular exhibit.

11 A. Yes, ma'am. It's right here. This is where the
12 vehicle exited out at and which I followed them and then
13 continued to follow the vehicle until we got to this area
14 here where I initiated lights and sirens and then the
15 vehicle pulled off into the Waffle House parking lot right
16 there.

17 Q. At the Waffle House here?

18 A. Yes, ma'am.

19 Q. Now in addition to conducting the traffic stop for
20 the reasons you've already told us what, if anything, else
21 did you observe about the vehicle?

22 A. The vehicle had defective tag lights. The lights that
23 illuminate the license plate were out.

24 Q. And is that also a traffic violation?

25 A. Yes, ma'am.

1 Q. Would that also be an independent reason for stopping
2 that vehicle?

3 A. Yes, ma'am.

4 Q. Once you stopped the vehicle, who did you observe
5 inside of it?

6 A. I observed the driver, who later identified himself as
7 Jeremy Cornish, along with his girlfriend.

8 Q. All right. And who was driving that vehicle?

9 A. Mr. Cornish.

10 Q. Once you were able to actually visualize the vehicle,
11 were you able to make out a make or model?

12 A. Yes, ma'am.

13 Q. I'm gonna show you what is State's 30 and State's 85
14 and State's 84 {sic}. Are you familiar with these
15 photographs?

16 A. Yes, ma'am.

17 Q. Are they a fair and accurate depiction of how that
18 vehicle appeared on the night of December 21st?

19 A. Yes, ma'am.

20 MS. MAYES: State's 30, 84 and 85 for evidence,
21 Your Honor.

22 THE COURT: Any objections?

23 MR. MAULDIN: No objections, Your Honor.

24 THE COURT: They're admitted.

25 (State's Exhibit Numbers 30, 84 and 85, photographs,

1 were admitted into evidence.)

2 BY MS. MAYES:

3 Q. And, Detective Pratt, were these photographs that
4 we're about to look at actually taken by law enforcement
5 during the traffic stop?

6 A. Yes, ma'am.

7 Q. Looking here at State's 30, what is the make of that
8 vehicle?

9 A. It's a Chevy.

10 Q. And what, if anything, did you observe about the bed
11 of that vehicle?

12 A. I was able to observe the construction equipment in it
13 and also damage to the vehicle, wear and tear, that looked
14 consistent with a vehicle used for construction.

15 Q. Was that all consistent with their being heavy
16 equipment in the bed of that truck?

17 A. Yes, ma'am.

18 Q. What, if anything, did you observe about whether there
19 were dual wheels on that truck, taking a look here at 84.

20 A. Yes, that that vehicle was a dually or had dual tires
21 on the rear.

22 Q. Based on those observations, did it appear to match
23 the vehicle of interest in this investigation?

24 A. Yes, ma'am.

25 Q. And you indicated that Mr. Cornish was the driver?

1 A. That's correct.

2 Q. And, again, was this the first time you had heard the
3 name Jeremy Cornish?

4 A. Yes, ma'am.

5 Q. Or made any type of physical contact with this
6 individual?

7 A. That's correct.

8 Q. As well as other members of law enforcement?

9 A. Yes, ma'am.

10 Q. So what is the first thing you do when you approach
11 a vehicle and you're making contact?

12 A. So I made contact with the driver and requested
13 license, registration and proof of insurance during which
14 time Mr. Cornish handed me paperwork from the DMV. The
15 paperwork on it contained the name Justin Hopkins with the
16 date of December 17, 2019, on it.

17 Q. So you've asked for his license?

18 A. That's correct.

19 Q. And did Mr. Cornish give you his license?

20 A. Yes, ma'am.

21 Q. But then he also gave you some DMV paperwork?

22 A. Yes, ma'am.

23 Q. I'm showing you what is State's 67. Do you recognize
24 this?

25 A. Yes, ma'am.

1 Q. How so?

2 A. It's the DMV paperwork that was handed to me that
3 night by Mr. Cornish.

4 Q. On the night of December 21st?

5 A. Yes, ma'am.

6 Q. During the traffic stop?

7 A. Yes, ma'am.

8 MS. MAYES: State's 67 for evidence, Your Honor.

9 THE COURT: Any objection?

10 MR. MAULDIN: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (State's Exhibit number 67, a photograph, was
13 admitted into evidence.)

14 BY MS. MAYES:

15 Q. We're gonna take a look here now at State's 67. You
16 indicated that when you observed this paperwork it was not
17 actually in the name of Jeremy Cornish?

18 A. That's correct.

19 Q. And can you tell us whether or not -- without saying
20 anything that was said to you, can you tell us whether or
21 not Mr. Cornish seemed surprised when you brought that to
22 his attention?

23 A. He was.

24 Q. And what is the name that you actually observed to be
25 on this paperwork?

1 A. Justin Tyler Hopkins.

2 Q. And what is the date in which this paperwork was
3 issued by the South Carolina Department of Motor Vehicles?

4 A. December 17, 2019.

5 Q. Why, if at all, was that date of interest to you?

6 A. Because that was the date of the homicides.

7 Q. And can you tell us once you made this observation,
8 did you also note that in your supplemental report?

9 A. Yes, ma'am.

10 Q. Who, if at all, came out to the scene to assist you
11 with this traffic stop?

12 A. Captain Laintz and Detective Dubard.

13 Q. That would be Captain Jesse Laintz of the Major Crimes
14 Unit?

15 A. Yes, ma'am.

16 Q. And you mentioned Detective Dubard as well?

17 A. Yes, ma'am.

18 Q. Can you tell us, again without saying anything that is
19 said to you, can you tell us whether or not you and other
20 members of the sheriff's department participated in an
21 interview of Jeremy Cornish?

22 A. We did.

23 Q. Can you tell us whether or not Mr. Cornish gave law
24 enforcement consent to search that vehicle, being the Chevy
25 truck?

1 A. He did.

2 Q. Was it searched that night?

3 A. Yes, ma'am.

4 Q. Which individual or which detective took part in the
5 search of that vehicle?

6 A. Captain Laintz.

7 Q. Now in addition to searching that vehicle and making
8 the documentation regarding this paperwork in the name of
9 Justin Hopkins, can you tell us whether or not Jeremy
10 Cornish gave law enforcement consent to photograph his
11 phone?

12 A. He did.

13 Q. You witnessed that as well?

14 A. Yes, ma'am.

15 Q. Ultimately was Mr. Cornish in custody that night?

16 A. No, ma'am, he was not.

17 Q. Can you tell us whether or not you now know him to be
18 a co-defendant also charged with murder in this case?

19 A. Yes, ma'am.

20 Q. But on that particular night did you have any reason
21 or cause at that stage to arrest him for murder?

22 A. No, ma'am.

23 Q. Was he ultimately released that night?

24 A. He was.

25 Q. Was the truck released that night?

1 A. It was.

2 Q. I want to go back to Landmark. Looking here at
3 State's 13, I think you said after you saw the individual
4 get out and walk towards 27A, how long would you say it was
5 thereafter that you left to follow the white dually truck?

6 A. Within a minute.

7 Q. And ultimately do you know whether or not other
8 members of law enforcement returned to this area?

9 A. Yes, ma'am.

10 Q. Do you know whether or not a search warrant of
11 apartment 27A was conducted that night?

12 MR. MAULDIN: Objection, Your Honor, based on prior
13 motion and the basis of knowledge would be hearsay.

14 MS. MAYES: If he has knowledge, Your Honor.

15 THE COURT: If he has knowledge, he can testify to it.

16 BY MS. MAYES:

17 Q. Do you know --

18 A. Yes, ma'am.

19 Q. Do you know whether or not the search warrant was
20 executed that night?

21 A. It was.

22 MS. MAYES: Thank you. Nothing further.

23 THE COURT: Mr. Mauldin.

24 CROSS-EXAMINATION

25 BY MR. MAULDIN:

1 Q. Is that a white Chevy 3500?

2 A. As far as the model's concerned, I couldn't recall.
3 I know it was a Chevy dually truck.

4 Q. You can't recall the model?

5 A. I'm sorry?

6 Q. You can't recall the model?

7 A. The model, that's correct.

8 MR. MAULDIN: No further questions.

9 THE COURT: Anything else for Detective Pratt?

10 MS. MAYES: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. Simply based on your knowledge of the vehicle of
14 interest, did that vehicle you saw that night match that?

15 A. Yes, ma'am.

16 MS. MAYES: Thank you. Nothing further.

17 MR. MAULDIN: No further questions.

18 THE COURT: Okay. Thank you.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE COURT: All right. Can I see counsel just
22 for a moment?

23 (Proceedings held at the bench; not reported.)

24 THE COURT: Mr. Foreman, ladies and gentlemen of
25 the jury, I'm gonna -- your lunch should be here shortly,

1 but I'm gonna go ahead and let you take a break. When
2 you finish with lunch, how about knock on the door and
3 let me know that you're ready to come back in, okay?

4 FOREPERSON: Yes, ma'am.

5 THE COURT: Okay. And, again, no talking about
6 this case even amongst yourselves, okay?

7 All right. Enjoy your lunch. Just knock on the
8 door and let the bailiff know.

9 FOREPERSON: Yes, ma'am.

10 (Whereupon, the jury was excused for lunch at
11 12:08 PM.)

12 THE COURT: We'll be in recess.

13 (Whereupon, a luncheon recess was taken at
14 12:10 PM.)

15 (Back on the record at 1:13 PM.)

16 BAILIFF: Keep your seats. Court will come to
17 order.

18 THE COURT: All right. I know the jury is ready.
19 Is the State ready?

20 MR. HUBBARD: Your Honor, I might as well bring up
21 one thing because I know what we're gonna do is I've got
22 a couple of witnesses that one can positively identify
23 the defendant. Law enforcement, they're the ones that
24 arrested him, they're at the search, they're at the stop.
25 They can also positively point him out on KJ's, so I was

1 gonna have that as well.

2 THE COURT: Any objection?

3 MR. MAULDIN: I maintain my pre-trial objection
4 under -- it doesn't fit under 701, Your Honor.

5 THE COURT: I'm gonna allow it. Under my previous
6 ruling, I think that is a pretty clear picture and,
7 I believe, wasn't there -- didn't they know of him
8 beforehand or --

9 MR. HUBBARD: By that point, by the time they got
10 the video, they had already figured him out, but so when
11 they look at him they see the patch, but they can also
12 see on the right side there's a tattoo that you can just
13 make out. I don't know if it will come out on the big
14 screen, but these officers looking at these still shots
15 can say yes, it's there. They've seen the video and the
16 screen. Because they were up close and front. In fact,
17 our next officer's gonna be the guy that actually gets in
18 the back seat and definitely notices the tattoo. That's
19 how he knew this is Justin Hopkins.

20 THE COURT: Okay. I'd just lay a good foundation
21 and I'm gonna allow it.

22 MR. HUBBARD: Thank you, Your Honor.

23 THE COURT: All right. I think we need to get
24 some things straight about our exhibits because I think
25 we have two 84's. One of them should have been a 48.

1 The 84 should be the master bathroom closet photo.

2 MR. HUBBARD: Right, this.

3 THE COURT: And then 48 should be the photo of the
4 rear of the white pick-up truck.

5 MR. HUBBARD: And, Your Honor, we've gone ahead and
6 made that correction, so it's got 48 on it now.

7 THE COURT: Okay. Anything else we need to correct?
8 The defense agrees with those corrections?

9 MR. MAULDIN: Judge, we'll agree to the corrections.

10 THE COURT: I think that was just a little flip-flop,
11 48 and 84.

12 (State's Exhibit Number 48, a photograph, was
13 remarked and admitted into evidence.)

14 THE COURT: Okay. Then I'm gonna bring the jury in.

15 (Whereupon, the jury return to the courtroom at
16 1:23 PM.)

17 THE COURT: All right. Mr. Foreman, is the jury
18 ready?

19 FOREPERSON: Yes, ma'am.

20 THE COURT: Please be seated. I hope you-all had
21 a good lunch.

22 FOREPERSON: Yes, ma'am.

23 THE COURT: And I'm gonna get the State to call
24 their next witness.

25 MR. HUBBARD: Thank you, Your Honor. The State

1 calls Lieutenant Jonathan Brock.

2 (Whereupon, Jonathan Brock was duly sworn by the
3 Clerk of Court.)

4 THE CLERK: If you'll have a seat, please. State
5 your name and spell your last, please, for the record.

6 THE WITNESS: Jonathan Brock, B-R-O-C-K.

7 JONATHAN BROCK,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. HUBBARD:

11 Q. Lieutenant, where do you currently work?

12 A. I work for the Lexington County Sheriff's Department.
13 I'm the lieutenant over the Western Region, which is
14 basically everything west of Lexington to include Gilbert,
15 Summit and out to Batesburg-Leesville.

16 Q. How long have you been with the sheriff's department?

17 A. I've been with the sheriff's department a little over
18 ten years now.

19 Q. And prior to Lexington County, were you in law
20 enforcement?

21 A. Yes, sir, I was. I was employed as a state trooper
22 with the highway patrol for about five years.

23 Q. Back in December of 2019, what you were your duties?

24 A. So December 2019, I was assigned as a narcotics
25 investigator. The county has a multiagency narcotics

1 enforcement team comprised of some different agencies with
2 -- inside of Lexington County, and also I was assigned as
3 a task force officer with the ATF.

4 Q. Okay. Back on December 21, 2019, were you brought in
5 along with others -- or let me -- let me back up. Were you
6 given information along with others in your agency about
7 the triple homicide that occurred in Lexington at that
8 apartment complex?

9 A. Yes, sir, I was.

10 Q. And were you given details as an officer with
11 Lexington County about, for instance, a white pick-up
12 truck?

13 A. Yes, sir, I was.

14 Q. A dually?

15 A. Yes, sir.

16 Q. Were you given at any time the name of Jona -- Justin
17 Hopkins?

18 A. Yes, sir. I was told Justin Hopkins.

19 Q. Were you also able to review his appearance at that
20 time to see what he looked like?

21 A. Yes, sir. So I had previously seen his South Carolina
22 DMV photo from DMV Online and also some social media photos
23 that he had online as well.

24 Q. On December 21st, do you recall being asked by major
25 crimes to assist in surveillance of [REDACTED] Landmark Drive,

1 Apartment 27A?

2 A. Yes, sir, I do.

3 Q. And let me ask you this. Were you aware there had
4 been surveillance prior to that?

5 A. Yes, sir. I knew that Detective Pratt was conducting
6 surveillance before I --

7 Q. You might want to pull that microphone up just a
8 touch.

9 A. Yes, sir. Sorry about that.

10 THE COURT: Mr. Hubbard, could you just hold on one
11 second here.

12 MR. HUBBARD: Thank you, Your Honor.

13 THE COURT: Somebody has got a cell phone in here
14 and I want it. I heard it.

15 Who in the gallery has a cell phone?

16 There shouldn't be a cell phone in this courtroom
17 period unless you are with the defense team, a police
18 officer or at the State's table.

19 I heard it.

20 UNIDENTIFIED FEMALE SPEAKER: I heard it from that
21 area.

22 UNIDENTIFIED MALE SPEAKER: I heard it, too.

23 THE COURT: I'm gonna tell you if I hear a cell
24 phone, it is mine. I'm not gonna have this right in
25 the middle of this case. This is a very important case

1 to both the State and the defense and with cell phones
2 going off and people talking as we had yesterday, the
3 jury can't hear, it breaks my concentration. I want
4 the deputy to sit back there and if you see somebody
5 with a cell phone I want it.

6 I apologize, Mr. Hubbard.

7 MR. HUBBARD: Thank you, Your Honor. I appreciate
8 that.

9 THE COURT: If you'd like to start over because it
10 did break my concentration and I'm not sure about the
11 jury's, but like I said, this case is very important.

12 BY MR. HUBBARD:

13 Q. Back December 21, 2019, do you recall being tasked by
14 major crimes to assist in the surveillance of an apartment?

15 A. Yes, sir, I was.

16 Q. And where was that?

17 A. It was Landmark Drive, Apartment 27A. ■ Landmark.

18 Q. I'll show you State's 13. Do you see the apartment
19 you were asked to put surveillance on?

20 A. Yes, sir, I do.

21 Q. Do you have a pointer there? I believe it's on.

22 A. So it's this apartment building right here.

23 Q. And where did you -- where did you position yourself
24 in your vehicle to conduct surveillance?

25 A. So there's like trees right here, but I backed my

1 pick-up truck, the front of my -- like I'm looking towards
2 the apartment building so I can see people coming and going
3 from that apartment.

4 Q. And you mentioned a pick-up truck.

5 A. Yes, sir.

6 Q. Any police markings on it?

7 A. No, sir. At the time I drove a red Chevrolet pick-up
8 truck. It doesn't have any markings because of being
9 assigned to narcotics. It's somewhat more incognito. It
10 still does have some blue lights though.

11 Q. But they were basically like on a visor or inside the
12 vehicle?

13 A. Yes, sir. So there are two little small blue bulbs
14 that are in the front grill, just behind the grill. Again,
15 trying to be incognito, but if you look hard you can see
16 them. And also there's a light over the passenger side
17 visor as well, so. But at nighttime, and that's when I was
18 out there, it's not really something I'm worried about at
19 the time.

20 Q. Nothing about your vehicle that would have said law
21 enforcement?

22 A. No, sir.

23 Q. And prior to you taking position there, had there been
24 surveillance at this same apartment complex previously?

25 A. Yes, sir. Detective Pratt was there before me.

1 Q. And are you-all all monitoring the radio traffic?

2 A. So before that I was told to go there, I wasn't
3 monitoring radio traffic because I was not aware that this
4 was even going on until Sergeant Burt told me to go.

5 Q. All right. And he was your supervisor at the time?

6 A. No, sir. He was just a sergeant in the major crimes
7 unit.

8 Q. All right. Do you know how long it had been since --
9 before you got there how long Detective Pratt had been away
10 from that -- that apartment complex?

11 A. So I was in the major crimes suite, the cubicle land,
12 at headquarters when Sergeant Burt received a phone call
13 about Detective Pratt leaving and that's when he asked that
14 we need somebody to take his place and set up surveillance,
15 so it would be the timeframe that it took me to get to
16 Landmark from basically where we're at right now, downtown
17 Lexington where the sheriff's department is at, to drive
18 all the way over to St. Andrews Road where Landmark Drive
19 is at. It took me a good while.

20 Q. Okay. Fifteen, twenty minutes?

21 A. Yes, fifteen, twenty minutes.

22 Q. All right. And had you been apprised of a white
23 dually truck?

24 A. Yes, sir. I knew a white dually truck was a vehicle
25 of interest in this case.

1 Q. The triple homicide?

2 A. Yes, sir.

3 Q. And were you also apprised that that's what Pratt was
4 conducting a stop on at that time?

5 A. Yes, sir.

6 Q. All right. So 27A, who were you apprised resided in
7 that apartment complex?

8 A. Justin Hopkins.

9 Q. Okay. The defendant on trial today?

10 A. Yes, sir. He's seated right over there.

11 Q. Okay. Now, again -- let me ask you this. Looking at
12 State's 13, while you were there, what, if anything, did
13 you observe?

14 A. So, like I said earlier, my vehicle was backed into
15 the parking space and I'm looking across that green way,
16 this green way over here across, and a vehicle pulls up
17 nose in with their lights pointing directly at me and I
18 observed somebody exit that vehicle. The way they exited,
19 they exited from the side, they didn't cross in front of
20 the headlights, so with the lights shining directly in my
21 eyes I really couldn't tell -- sorry -- I really couldn't
22 tell who that was at that time.

23 Q. And when they got out of that vehicle, where did they
24 go, this individual?

25 A. They went into Apartment 27A.

1 Q. And at some point later what did you observe?

2 A. So a little while later I observed an individual
3 exiting apartment 27A and this time the way that he got
4 into the vehicle he crossed in front of those headlights,
5 so I could see more detail, like what kind of shirt he was
6 wearing, and that he was holding some bags.

7 Q. Well, let me ask you. The shirt or the top he's
8 wearing, what color was it?

9 A. It was a -- it was a red hoodie because I could tell
10 the bunch in the back behind his head.

11 Q. And you mentioned bags, so there was more than one
12 bag?

13 A. Yes, sir. There was a bag in each one of his hands.

14 Q. Previously when you had seen somebody get out of a
15 vehicle and go into 27A, did you see any bags?

16 A. I couldn't say that I saw bags in his hands.

17 Q. But now this individual's coming out of 27A and going
18 back to this same vehicle and they now have two bags?

19 A. Yes, sir.

20 Q. Were you able to get -- recognize the appearance of
21 this individual who's now wearing the red hoodie and
22 carrying two bags?

23 A. As to --

24 Q. Not a positive ID, but how did he appear?

25 A. Okay. So since I had seen his DMV Online, I knew like

1 a relative height and weight that I was looking at and the
2 individual, again, passing in front of the headlights his
3 height and weight matched the description of the defendant.

4 Q. What did you do when you saw this person who matched
5 the description, height and weight, carrying bags that
6 looked like Justin Hopkins? What did you do?

7 A. So me believing that he was Justin Hopkins leaving
8 with bags from this residence, I radioed for a marked unit
9 to respond to our location to do a traffic stop because --
10 and I haven't gotten to this yet, but the vehicle started
11 backing up and was leaving the apartment complex.

12 Q. Why would you call for a marked unit to conduct the
13 traffic stop? You're a police officer, you've got lights,
14 why wouldn't you just right there conduct a traffic stop?

15 A. So my belief was that Justin Hopkins was responsible
16 for the murder of three individuals. So I'm in a police
17 car. Yes, it does have some lights in it. It doesn't have
18 the sheriff's department --

19 MR. MAULDIN: Your Honor, I would like an instruction
20 that his beliefs are not evidence.

21 THE COURT: Mr. Hubbard, do you want to rephrase it?

22 MR. HUBBARD: I'll rephrase it.

23 THE COURT: Thank you.

24 BY MR. HUBBARD:

25 Q. Based on the information you had about Justin Hopkins,

1 did that information pertain to the triple homicide at

2 [REDACTED] -- at the Woodbridge {sic} Apartments?

3 A. Yes, sir.

4 Q. And based on that belief, what did you do?

5 A. So I called for a marked vehicle and the reason
6 behind that is that I want a vehicle that is clearly
7 identifiable as law enforcement with a light bar on top,
8 the 360 lights, clearly has sheriff's department written
9 on the side because when Mr. Hopkins got into the backseat
10 of that vehicle and the vehicle's leaving, then I know that
11 that vehicle is occupied by at least one other person who
12 has to be driving that vehicle. Now I was accompanied in
13 my truck by another officer, but it was two of us and I had
14 no idea really who that other person in that vehicle was.
15 Also, you know, it was a safety concern for us because I
16 don't know who I'm about to deal with and the more law
17 enforcement that is on the traffic stop I feel like that
18 would be safer and would cause somebody to pause before
19 trying to do anything that would harm me or the person that
20 I'm with.

21 Q. Okay. Who -- who was called in to bring a marked unit
22 and to make that stop?

23 A. So Sergeant Aaron Poole. He was the patrol supervisor
24 working at the time.

25 Q. I want to show you State's 14. Have you seen this

1 exhibit?

2 A. Yes, sir, I have.

3 Q. What is -- over on the left side, what's depicted on
4 the left side of this exhibit, this aerial, State's 14?

5 A. It's kind of hard to see, but those are apartment
6 buildings. They have brown roofs, but that's the Landmark
7 Apartments. ■ Landmark Drive.

8 Q. Where you were conducting the surveillance?

9 A. Yes, sir.

10 Q. What road are we seeing right here? This main road
11 horizontally going from side to side on this exhibit?

12 A. St. Andrews Road.

13 Q. Which direction did you see this vehicle pulling out
14 from the apartments and did they get all the way to
15 St. Andrews Road?

16 A. Yes, they did, sir.

17 Q. Can you please show us using your pointer?

18 A. So Landmark Drive, this is -- you guys might be able
19 to barely see the writing there. That's actually Landmark
20 Drive and it loops around and comes out onto this side road
21 here, so that's the direction that the vehicle left. It
22 went down. There's a light right here across from the
23 church. They were stopped here. I was directly behind
24 them the entire time. Then they made the left on
25 St. Andrews Road and, again, I made the left on the green

1 light right behind them until Sergeant Poole pulled up
2 next to me, I applied my brakes and he was able to squeeze
3 between me and that vehicle and then he activated his blue
4 lights to do the traffic stop.

5 Q. What direction was Sergeant Poole coming from? Or do
6 you recall? If you don't recall, that's fine.

7 A. Yeah, I don't -- I don't really know like where he
8 came from.

9 Q. Okay.

10 A. He came up from be -- beside me, so if he had come
11 from the other way, he could have done a U-turn to be able
12 to get up behind me or if he was already behind me, but he
13 came up next to me because, you know, it's a four-lane
14 road, so we were in the rightmost lane and then he pulled
15 up in the left lane and that's when I braked to allow him
16 to get in between us.

17 Q. Now let me go back a little bit. You were conducting
18 surveillance on 27A. What, if any, information did you
19 have that your agency was preparing to do to Apartment 27A?

20 A. So -- so my role that night was strictly surveillance.
21 I was a narcotics detective who just happened to be in the
22 major crimes suite and when I heard they needed somebody to
23 do surveillance, some of our major crimes detectives don't
24 have the vehicles, they just scream police, and they didn't
25 want anybody -- they wanted somebody with a better looking

1 vehicle, so my role simply was simply surveillance. There
2 was another group of detectives and officers and crime
3 scene who were preparing to execute a search warrant on
4 that apartment.

5 Q. All right. Now when this vehicle that you see driving
6 down St. Andrews, and you're behind it, and Sergeant Poole
7 gets between you and that vehicle, where's that traffic
8 stop conducted?

9 A. So just like most traffic stops, the lights are turned
10 on and then it's up to the driver where they feel like is a
11 good place to turn in and stop, but ultimately the driver
12 ended up pulling into Mrs. B's Soul Food, and there's that
13 little GPS dot right there that says Mrs. B's Soul Food,
14 that's where she pulled in and stopped in the parking lot.

15 Q. And while we're looking at that, there's another major
16 road on the right-hand side of this aerial, on 14. What is
17 that?

18 A. That's Interstate 26.

19 Q. So Mrs. B's is going in the direction of 26 from the
20 apartment complex?

21 A. Yes. So we were headed towards the interstate.

22 Q. And the stop, again, you mentioned the security
23 reasons. If -- if that marked unit had been able to get
24 up closer before you-all got that far down the road, would
25 the stop have been conducted there?

1 A. Yes, sir. As soon as the vehicle started to exit, I
2 requested that a marked unit respond. So we're still in
3 the apartment complex when I am asking for this to happen.
4 I just don't know where they're coming from when I'm
5 asking.

6 Q. Do you know approximately what time that stop was?

7 A. Yes. It was about 8:59.

8 Q. Do you recall about what time the search warrant for
9 the apartment complex had been signed? Did you have that
10 information at that time? If you didn't, that's fine.

11 A. So I knew the search warrant was signed. I didn't
12 know exactly what time it was signed at, no, sir.

13 Q. That was before the stop?

14 A. Yes.

15 Q. I want to show you three photographs. State's 1, 2
16 and 4.

17 MR. HUBBARD: And Your Honor has these as Court's
18 numbers.

19 THE COURT: Okay.

20 BY MR. HUBBARD:

21 Q. Do you recognize these photographs?

22 A. Yes, sir, I do.

23 Q. Is that from that night?

24 A. Yes, sir, it is.

25 Q. Involving this stop?

1 A. Yes, sir.

2 Q. With Justin Hopkins?

3 A. Yes, sir.

4 MR. HUBBARD: I offer State's 1, 2 and 4 into
5 evidence.

6 THE COURT: Any objection?

7 MR. MAULDIN: Your Honor, I believe now is the time
8 I will renew my objection to the traffic stop based on
9 my prior motions and these pictures would be subject to
10 that.

11 THE COURT: Okay. And it's so noted for the record.

12 MR. MAULDIN: And I would like a continuing objection
13 regarding that subject, Your Honor.

14 THE COURT: It will be continuing for what we
15 discussed in pre-trial. It is, so you don't have to do
16 it again. So noted for the record.

17 (State's Exhibit Numbers 1, 2 and 4, photographs,
18 were admitted into evidence.)

19 BY MR. HUBBARD:

20 Q. Lieutenant, looking at State's Number 2, do you see
21 the vehicle in that photograph?

22 A. Yes, sir, I do.

23 Q. Is that the vehicle that was stopped that night?

24 A. Yes, sir, it was.

25 Q. Is that the vehicle when you were at Landmark

1 Apartments that you saw an individual get out of and go
2 into 27A?

3 A. Yes, sir, it was.

4 Q. Is that the same vehicle that you saw someone matching
5 the description of Justin Hopkins and carrying two bags
6 leave 27A and get into?

7 A. Yes, sir, it is.

8 Q. Do you remember which car door he got into or could
9 you tell from where you were?

10 A. So I could tell that he got into the rear passenger
11 driver's side.

12 Q. Okay. The door that we see right here?

13 A. Yes, sir.

14 Q. All right. Now who else was with you and Sergeant
15 Poole when this stop was being made?

16 A. So my passenger in my vehicle is Agent Youmans. He's
17 with the Cayce Department of Public Safety. Like I said,
18 we have multiple people from different jurisdictions that
19 are part of it and he was riding my passenger seat. Also
20 on the traffic stop was Sergeant Nick Burt and, I believe,
21 Sergeant Creech was there as well.

22 Q. Okay. I want to show you State's 1, the side view of
23 the vehicle, the driver's side view. Who do we see in this
24 photograph at the rear passenger door?

25 A. That's Sergeant Nick Burt.

1 Q. Nick Burt?

2 A. Nick Burt, yes, sir.

3 Q. This photo that we see, was there someone with a
4 camera out there or a body cam or how was this made?

5 A. So this is a still -- I guess you'd call it a still
6 shot from Sergeant Aaron Poole's body camera, so the angle
7 we're looking at now, the body camera would be somewhere
8 towards the middle of his chest and this is what -- he
9 would be standing directly behind on our side of this
10 photo, if that makes sense.

11 Q. So looking at State's 1, then Sergeant Poole would
12 basically be at the driver's side window standing back a
13 little bit?

14 A. Yes, sir.

15 Q. And Sergeant Burt we see is at the rear passenger
16 door. Where are you?

17 A. So at this particular time, I am on the -- completely
18 the other side of the vehicle on the passenger side at the
19 rear door.

20 Q. Just opposite of Sergeant Burt?

21 A. Yes, sir.

22 Q. And when you're on that side of the vehicle, could you
23 see into the windows?

24 A. So the windows -- and you can tell just by the --
25 you can see barely into the window with the aid of some

1 light, and I did have my flashlight with me, so I could see
2 general movements, but not anything in particular.

3 Q. Okay. What did you do?

4 A. So initially on the traffic stop, everybody was told
5 to put their hands up, just let us see your hands, and I
6 saw movement from the individual, the defendant, Justin
7 Hopkins, who was seated in the backseat of the vehicle, and
8 you can see his red hoodie there in the photo, I could see
9 his hands going down. Initially they were up, then they
10 started to move down, so I opened the back door so I can
11 see better into that vehicle, and that's when I was able
12 to clearly see, and actually that's when I knew who I was
13 looking at at that time.

14 Q. And did you have your weapon at that point?

15 A. Yes, sir. I drew my -- my firearm as soon as I exited
16 my vehicle.

17 Q. What commands were you giving Mr. Hopkins at the point
18 in time?

19 A. To put his hands up.

20 Q. And when you opened that door, did you just stand in
21 the open door or what did you do?

22 A. So if you-all look at this video, you see Sergeant
23 Aaron Poole where he would be sitting at -- or standing
24 at and then you see Sergeant Nick Burt, and I know where
25 they're at because we can see over the car and we can

1 see each other. When I opened the door, I'm thinking
2 there's -- there's a potential threat because he's not
3 following commands, this is the individual that I received
4 information about earlier and his hands are going down and
5 there's bags in between his legs, so I start getting inside
6 that vehicle because now I'm worried about if some force
7 has to be used, I have to worry about what's gonna happen
8 after my bullet exits my gun and I have to start thinking
9 about my other officers who are out there and not creating
10 -- you know, putting them in harm's way, so I basically get
11 into the back seat with him to make sure that he clearly
12 understands. Because as I said earlier, I had my
13 flashlight. My flashlight's attached to my gun and the
14 last thing I want is for somebody who has ill intent
15 towards me or the other officers is to believe that all
16 I'm pointing at him is a flashlight. I want him to know
17 that, you know, I'm pointing a gun at you, this has risen
18 to the level of it's pretty serious right now, and so I
19 think you need to listen to the commands that I'm giving
20 you.

21 Q. When you stepped in that vehicle, did you get
22 face-to-face with Mr. Hopkins?

23 A. I could clearly see his face and he was clearly able
24 to see my face other than the flashlight being in his eyes.

25 Q. Did Mr. Hopkins have anything distinctive about his

1 face that you had been apprised of before this stop?

2 A. Yes. Mr. Hopkins has a cross tattoo right here on his
3 cheek.

4 Q. And when you got in the backseat of that vehicle, did
5 you see that cross tattoo?

6 A. Yes, sir, I did.

7 Q. At that time was Mr. Hopkins wearing glasses like he
8 is today in court?

9 A. No, sir, he was not.

10 Q. When you were looking at photos of him prior to
11 conducting this surveillance to have an idea of how he
12 appeared, did you ever see him wearing glasses?

13 A. No, sir. He was -- I've never seen him wear glasses.
14 And obviously those are just photos, but I've never seen
15 him wear glasses before.

16 Q. Now as you were getting in the vehicle on the other
17 side, what was Sergeant Burt doing?

18 A. So I opened my driver door, I'm starting to get into
19 it and close distance. I tell him to put his hands back
20 up, which he does, he does, and then Sergeant Burt opens
21 the door right after I yell out put your hands out up,
22 Mr. Hopkins turns and faces Sergeant Burt and I basically
23 yell at him and say listen to the instructions given to
24 you by that officer right there because he's closer to
25 Sergeant's Burt's side, and he does. Again, he does comply

1 and listens to Sergeant Burt's commands and then he exits
2 the vehicle and he's placed in handcuffs.

3 Q. By Sergeant Burt?

4 A. I don't -- I don't know. There were more -- by that
5 time there were some other people that were showing up
6 and getting close into that and him being outside with the
7 other officers kind of lowered the threat level of being
8 afraid of what's in those bags.

9 Q. You mentioned the bags. I want to show you State's 4.
10 Do you see the bags that you're talking about here?

11 A. It's kind of hard to see the black bag because the
12 camouflage bag has its little flap open, but if you look
13 right above the orange flap that you can see that zipper
14 line from that second bag, that would be the other bag that
15 was there.

16 Q. Which was consistent with what you had seen earlier
17 that night?

18 A. Yes, sir.

19 Q. Now you mentioned you had gotten face-to-face with
20 Justin Hopkins. I want to show you two other photos that
21 have been marked as State's 21 and 36, but have not been
22 admitted yet. Have you seen these photographs?

23 A. Yes, sir, I have.

24 Q. And are you able to recognize and identify who is in
25 these photos?

1 A. Yes, sir. That's Justin Hopkins. That more closely
2 resembles what he looked like the night I saw him
3 face-to-face.

4 MR. HUBBARD: Okay. Your Honor, I offer State's 36
5 and 21 into evidence.

6 THE COURT: That's subject to your prior objection?

7 MR. MAULDIN: That's correct, Your Honor.

8 THE COURT: All right. So noted and they're
9 admitted.

10 (State's Exhibit Numbers 21 and 36, photographs,
11 were admitted into evidence.)

12 BY MR. HUBBARD:

13 Q. Lieutenant, looking at State's 21, this individual
14 walking into this doorway here, you say you can recognize
15 this individual?

16 A. Yes, sir. That's the defendant, Justin Hopkins.

17 Q. Now it's probably not as clear up here on the
18 overhead.

19 A. No, sir.

20 Q. You've been able to see the photo close up?

21 A. Yes. When you showed it to me close up, you can see
22 the different facial features, but from this far away, no,
23 sir, it's hard to see.

24 Q. And in this particular photo, what does he have on the
25 left side of his face?

1 A. It looks like it appears that he's got some sort of
2 bandage on the left side of his face.

3 Q. Okay. And if you would, what is the date here?

4 A. December 17, 2019.

5 Q. Okay. Looking at State's 36, is this the same
6 individual?

7 A. Yes, sir, it is.

8 Q. Now the tattoo you mentioned, can you see it from here
9 or do you have to hold the photograph to really see?

10 A. If you hold the photo, you can see almost like a
11 discoloration on his right cheek. Obviously I know what
12 that is because I've seen it a lot closer in person.

13 Q. But, again, who are we seeing in State's 36?

14 A. It's the defendant, Justin Hopkins.

15 Q. And, again, this is December 17th. Was he wearing
16 glasses at that time?

17 A. No, sir. He doesn't have glasses on at all.

18 Q. After you assisted in this traffic stop, did you go
19 onto assist in the search at 27A?

20 A. Yes, sir, I did.

21 Q. And then later go back to assist Sergeant Burt?

22 A. Yes, sir. I did.

23 MR. HUBBARD: I beg the Court's indulgence.

24 THE COURT: Take your time.

25 MR. HUBBARD: Your Honor, that's all I have at this

1 time.

2 Thank you. Please answer any questions of the
3 defense.

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Mr. Mauldin.

6 MR. MAULDIN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. MAULDIN:

9 Q. Detective Brock, I'm getting up in age and I use
10 reading glasses. Do you use reading glasses?

11 A. No, sir. I have them, but I do not use them.

12 Q. Okay. So do know people who use reading glasses that
13 don't have prescription glasses?

14 A. I've never asked somebody whether or not they're
15 prescribed, but you can buy them anywhere, right?

16 Q. Right. Do you have prescription glasses?

17 A. I have reading glasses. Yes, sir.

18 Q. They're prescription?

19 A. Oh, yes.

20 Q. Okay. And you can buy reading glasses
21 over-the-counter?

22 A. I had been told that after I went and got a
23 prescription you can just buy them to save money.

24 Q. Okay. But -- so you don't know of anybody that
25 doesn't wear prescription glasses that just uses reading

1 glasses?

2 A. Again, I don't. I haven't asked them that. I know
3 that you can buy them off the shelf, yes.

4 Q. Okay. All right. And the traffic stop at Mrs. B's
5 is about a mile give or take a tenth of a mile from where
6 the apartment was, right?

7 A. I believe that is correct, sir.

8 Q. Okay. And when you told Mr. Hopkins yourself to get
9 his hands up he obeyed; is that correct?

10 A. Yes, he did.

11 Q. Okay. And when you were conducting your surveillance
12 and you saw the car pull in, you saw an individual get out,
13 but you were unable to identify that individual?

14 A. Correct.

15 Q. You don't know if that was Justin Hopkins or not?

16 A. That is correct. I have no idea who that was that got
17 out of the vehicle.

18 Q. And they went into 27A?

19 A. Yes, sir, they did.

20 Q. And Justin Hopkins is 300 pounds thereabouts?

21 A. I believe he's about 300 pounds. That's what his DMV
22 said at the time.

23 Q. Okay. Because you said you were familiar with his
24 height and weight.

25 A. Yes.

1 Q. Okay. And these pictures here on 36 and 21, they
2 are stills from a grocery store called KJ's, aren't they?
3 These are still pictures from a video from a grocery store,
4 aren't they?

5 A. I believe they are. Yes, sir. KJ's.

6 Q. Yeah, KJ's. That says camera one there at 11:10:39.
7 And you see this guy here, he's wearing this white shirt,
8 isn't he?

9 A. Yes, sir, he's wearing a white shirt.

10 Q. And you don't see any bloodstains on that shirt, do
11 you?

12 A. No, sir, I do not.

13 Q. Even when you looked real close at the pictures you
14 don't see any bloodstains?

15 A. No, sir, I do not.

16 Q. And have you watched the videos at all?

17 A. This video right here, sir?

18 Q. All the KJ's videos. There's about fifteen of them,
19 aren't there?

20 A. No, I have not watched them.

21 Q. You haven't. Okay. Well, you think you could ask the
22 Solicitor to play camera one all the way through so you can
23 see there's no blood or anything like that?

24 MR. HUBBARD: Your Honor, I'm gonna object. I don't
25 think witnesses ask prosecutors or defense attorneys what

1 to do, so I'm gonna object to the form of the question.

2 MR. MAULDIN: Okay.

3 THE COURT: Can you change the form of the question?

4 MR. MAULDIN: I certainly will.

5 THE COURT: Thank you, Mr. Mauldin.

6 BY MR. MAULDIN:

7 Q. Do you think the Solicitor could play the video
8 camera angle one at 11:10:35 seconds to 44 seconds to see
9 Mr. Hopkins the entire time when he walks in?

10 MR. HUBBARD: And, Your Honor, I have no objection
11 if the defense wants to put all those in. None.

12 MR. MAULDIN: No objection. Subject to the
13 previous.

14 THE COURT: Okay. You-all decide. Are you gonna
15 go forward?

16 MR. MAULDIN: Who's you-all?

17 THE COURT: It's kind of hard for me to rule on
18 an objection if you want something else in and nobody's
19 offered it.

20 MR. MAULDIN: Well, that's fine.

21 THE COURT: So continue one.

22 MR. MAULDIN: We'll go forward. We'll go forward.
23 I can continue asking my questions.

24 THE COURT: Go ahead.

25 BY MR. MAULDIN:

1 Q. Okay. Well, I'll just go through it all. Camera one,
2 also between 11 minutes and 12 seconds -- 11:12 AM and 40
3 seconds to 46 seconds. Do you think the Solicitor could
4 play that?

5 A. Physically play it? I just heard the judge say yes,
6 he could.

7 Q. Well, I'm asking you. I'm doing questions of you
8 right now --

9 A. Okay.

10 Q. -- so we can let them know what parts they need to
11 play.

12 A. Okay.

13 Q. And camera four from 11:10 AM and 45 seconds on, do
14 you think they could play that?

15 A. I only know about camera one. That's the only thing
16 I've been shown.

17 Q. But if there was a camera four, do you think they
18 could play that?

19 A. If we're talking about any hypotheticals. I don't
20 know anything about any camera four and I haven't been
21 shown any camera four stills.

22 Q. Okay. I'll move on to the next question. How about
23 camera nine at 11 AM and 10 minutes and 53 on, do you think
24 they could play that?

25 A. I've only been shown camera one. I don't know if any

1 other camera angle exists.

2 Q. I would ask you about camera 13 and 14, but I don't
3 think that would be fair because they're long distant shots
4 and you couldn't see on the shirt any blood, so I won't ask
5 you that question.

6 MR. MAULDIN: No further questions.

7 MR. HUBBARD: A few follow-up.

8 REDIRECT EXAMINATION

9 BY MR. HUBBARD:

10 Q. When you were conducting your surveillance at
11 Apartment 27A, did you ever see anybody else come out of
12 that apartment?

13 A. No, sir.

14 Q. Just Justin Hopkins?

15 A. Yes. Yes, sir. I saw one person come out of the
16 apartment, get in the car and followed that car to the
17 traffic stop.

18 Q. And when you made that traffic stop, he was wearing a
19 red hoodie?

20 A. Yes, sir. A red hoodie.

21 Q. Later when you went to help execute the search warrant
22 at 27A, was anybody at that residence?

23 MR. MAULDIN: Your Honor, I'm gonna have to object
24 about the search warrant at this time and maintain a
25 continuing objection due to my pre-trial motions.

1 THE COURT: Okay. From pre-trial that objection is
2 noted for the record, so you don't have to continue
3 objecting through the State's testimony.

4 Go ahead.

5 BY MR. HUBBARD:

6 Q. In assisting in that, was that residence empty or was
7 somebody there in 27A?

8 A. So when we went to 27A, the door was locked and when
9 we searched the residence for any people before they
10 started taking photographs no one else was found in that
11 apartment.

12 Q. Finally, you were asked about reading glasses and you
13 said you have some?

14 A. I do have some.

15 Q. Do you only wear them when you're reading?

16 A. I -- well, I as stated earlier, I don't wear them and
17 I get in trouble by my wife all the time for not doing
18 that, but the only time I read {sic} them is when I'm at my
19 desk trying to read some sort of PDF on my computer where
20 it's hard to see and I forget there's a plus button, yes,
21 sir.

22 Q. But you don't wear them all day?

23 A. No, sir. I'm not wearing them now.

24 MR. HUBBARD: Thank you. No further questions.

25 MR. MAULDIN: Just a few, Your Honor.

1 | RECROSS EXAMINATION

2 BY MR. MAULDIN:

3 Q. You were the only one conducting surveillance at the
4 apartments at the time you were there, right?

5 A. Sergeant Youmans from Cayce Public Safety, he was my
6 passenger.

7 Q. But he was in your car, right?

8 | A. He was in my car.

9 Q. Okay. And so when you-all left, there was nobody
10 conducting surveillance there, was there?

11	A. Correct.

12 Q. So anybody could have left during that time?

13 | A. You are correct.

14 MR. MAULDIN: No further questions.

15 MR. HUBBARD: Nothing, Your Honor.

16 THE COURT: Okay. Can I let Lieutenant Brock down?

17 MR. HUBBARD: Yes, Your Honor. Thank you.

18 THE COURT: Thank you, Lieutenant Brock.

19 THE WITNESS: Thank you, Your Honor.

20 (Witness excused.)

21 THE COURT: Does the State want to call their next
22 witness?

23 MR. HUBBARD: The State calls Sergeant Nick Burt.

24 (Whereupon, Nick Burt was duly sworn by the Clerk
25 of Court.)

1 THE CLERK: If you'll have a seat, please. State
2 your name and spell your last for the record.

3 THE WITNESS: It's Nick Burt, B-U-R-T.

4 NICK BURT,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HUBBARD:

8 Q. Sergeant Burt, where do you currently work?

9 A. I work for Thompson Industrial Services. It's a
10 industrial cleaning company out of Sumter, South Carolina.

11 Q. Back in December of 2019, where did you work?

12 A. I was with the Lexington County Sheriff's Department
13 as a sergeant in the Major Crimes Unit.

14 Q. When you say major crimes, what is the Major Crimes
15 Unit? What was that?

16 A. So it is based out of headquarters. There are four
17 teams and those are gonna be cases that are crimes against
18 persons; murders, CSC -- criminal sexual assault, things of
19 those natures, but violent crimes usually that are against
20 persons, not property.

21 Q. How long had you been in law enforcement at that time?

22 A. So I was with the sheriff's department just over
23 twelve years and prior to that I was with the Columbia
24 Police Department for just under a year.

25 Q. On December 21, 2019, were you and other members of

1 the Major Crimes Unit given an update and appraisal on the
2 triple homicide that we're here on today?

3 A. Yes.

4 Q. Were you aware of a white dually pick-up truck being
5 involved?

6 A. I am, yes.

7 Q. And were you aware of an individual who was seen
8 getting into the vehicle from a bicycle and all that that
9 took place in an apartment complex?

10 A. Yes.

11 Q. And at some point during that day, were you made --
12 given any information as to Justin Hopkins?

13 A. Yes.

14 Q. Was he -- let me ask you this. By this point on the
15 21st, was he a focus or a suspect?

16 A. He was.

17 Q. And during that earlier part of the day, what, if
18 anything -- had you-all determined where he lived at that
19 point?

20 A. We did. We were able to determine he was at an
21 apartment complex.

22 Q. Would that be the Landmark complex seen here in
23 State's 13?

24 A. Yes, it's -- the address is [REDACTED] Landmark Drive off of
25 St. Andrews Road in Columbia.

1 Q. In Apartment 27A?

2 A. Yes.

3 Q. You-all had been able to confirm that that's where he
4 resided?

5 A. We were. There's another detective that lives in that
6 same complex and he's what they call a courtesy officer.

7 Q. A courtesy officer, so he just lives in that complex
8 and they get the benefit of having an officer on their --
9 their grounds?

10 A. Yes.

11 Q. What, if anything, was Lexington County planning to do
12 in regard to Apartment 27A that day?

13 A. So after we had obtained some information, we had
14 prepared -- or we were in the process of preparing a search
15 warrant and by that time it had become nighttime.

16 Q. Okay. And the -- the officer you mentioned that
17 resided out there, what, if anything, did he provide
18 you-all?

19 A. So I'd asked him for a -- just a general layout, a
20 brochure most complexes have, showing how the apartment
21 would be orientated with the rooms so we would know what
22 the layout was.

23 Q. Why would you need that?

24 A. So given the case we were working and it being the
25 nighttime, it would be considered a high risk search

1 warrant, so the more information we could get before we go
2 there the better. We're not gonna go into a closed door
3 and be blind going in.

4 Q. Okay. And as you-all were setting up and preparing
5 for this search warrant, was anybody tasked by you or major
6 crimes to conduct surveillance?

7 A. Yes. Investigator Pratt was sent to take up a spot in
8 a parking lot to watch the apartment.

9 Q. Was he in a marked or unmarked vehicle?

10 A. He would have been in an unmarked vehicle.

11 Q. And as he was surveying Apartment 27A, did he contact
12 you and let you know there had been some activity?

13 A. Yes, while he was there he called me on the phone
14 and told me that he had seen a white dually dropping off
15 somebody that looked like Mr. Hopkins at that apartment.

16 Q. And did he let you know if the white dually was
17 parking and staying or was it leaving?

18 A. It was leaving.

19 Q. What, if anything, did you instruct Detective Pratt
20 to do?

21 A. To try to get a tag and find a reason to stop the
22 vehicle.

23 Q. Okay. And in trying to stop that vehicle, was he
24 gonna make the stop right there in the complex?

25 A. It had already -- when he called me, it had already

1 left, so he had to go find it, which was a short distance
2 of leaving it.

3 Q. Okay. Was there any concern that if a stop was made
4 right there it might potentially let Mr. Hopkins know?

5 A. Absolutely.

6 Q. So that traffic stop was made off the grounds of the
7 apartment complex?

8 A. It was further down St. Andrews Road.

9 Q. Now when you got information and you directed
10 Detective Pratt to make that stop on that white dually,
11 were you aware of the significance of that white dually
12 pick-up truck?

13 A. Yeah, we were aware that it was described as one of
14 the vehicles seen picking up the other guy that left.

15 Q. Would the truck itself be of interest to your agency?

16 A. Yes.

17 Q. Basically evidence itself?

18 A. Yes.

19 Q. Would anything that might be in that truck be of
20 concern or interest to your agency?

21 A. Yes.

22 Q. Once Detective Pratt started pursuing that white
23 dually, did you instruct anyone else to take over the
24 surveillance?

25 A. I did.

1 Q. Who did you send?

2 A. He was an agent at the time. It would be Lieutenant
3 Brock.

4 Q. Currently Lieutenant Brock?

5 A. Yes.

6 Q. An agent at the time. Do you remember who he was with
7 at that time?

8 A. He was with the sheriff's department. He was attached
9 to our narcotics division, but he was also a task force
10 officer with the ATF, so he was referred to as an agent.

11 Q. Did you know if he had any other officers with him in
12 the car or were you aware of -- or do you remember?

13 A. He was with one other. Austol Youmans.

14 Q. Youmans. What did you direct Agent Brock to do at
15 that time?

16 A. So we were all still at headquarters trying to get a
17 game plan to execute a search warrant while it was in the
18 process, so while Pratt had left there was nobody still at
19 the complex so there was nobody that had surveillance, so
20 we asked Brock to go in his spot.

21 Q. And was Brock at headquarters at the time?

22 A. He was.

23 Q. While once Brock -- Agent Brock and Yeomans got to
24 the apartment complex, did he at some point put out over
25 the radio or contact you and let you know what he was

1 observing?

2 A. He did.

3 Q. What, if anything -- information did you get?

4 A. That a silver car was now there and that a subject
5 that looked to be Mr. Hopkins was getting into that vehicle
6 and leaving.

7 Q. Okay. And what was Agent Brock to do at that time?

8 A. He was gonna follow it and he called to have a marked
9 unit come and conduct a traffic stop.

10 Q. Why would he need a marked unit?

11 A. He would have been in unmarked truck at the time and
12 it's, you know, best practice. It's nighttime, in addition
13 to any time of day, that we don't usually stop cars for
14 traffic violations, things of that nature, in unmarked
15 vehicles. It's just a safety concern for both the officer
16 and the person driving the car.

17 Q. Looking at State's 14, do you see the apartment
18 complex on the left-hand side?

19 A. I do.

20 Q. And the road that we see going horizontally is what
21 road?

22 A. St. Andrews Road.

23 Q. Were you aware of where the actual traffic stop was
24 made?

25 A. Yes. Where it came to a stop?

1 Q. Yes.

2 A. Yes.

3 Q. Where's that?

4 A. It's at the Mrs. B's Southern Soul Food Restaurant.

5 Q. And at the time of this stop, were you on the scene as
6 well?

7 A. For the traffic stop, yes.

8 Q. Okay. I'm gonna show you what's been put in evidence
9 as State's 2. Do you recognize that vehicle?

10 A. I do.

11 Q. What is that vehicle?

12 A. That is the vehicle that Mr. Hopkins was a rear
13 passenger on the driver's side in.

14 Q. Let me ask you this. Were there other occupants in
15 this vehicle?

16 A. There were. There was a female driver and a female in
17 the front passenger seat.

18 Q. As you-all conducted this stop, were you-all able to
19 determine if these two females had anything do with your
20 investigation?

21 A. They were interviewed and they didn't have anything to
22 do with it.

23 Q. Were they released that night?

24 A. They were.

25 Q. State's 1. Who do we see in State's 1 at the rear

1 driver's side passenger door?

2 A. So that is me right there.

3 Q. And looking inside this window there's little glint of
4 red. What are we seeing there?

5 A. That is Mr. Hopkins in his red hooded jacket he was
6 wearing.

7 Q. This photo that we're seeing, how was it made?

8 A. It's a still shot from Sergeant Poole's body cam.

9 Q. Sergeant Poole's at the driver's side?

10 A. Yes, that's his -- he's right behind the camera
11 standing there, so that would be from his point of view.

12 Q. Who was on the opposite side of this vehicle?

13 A. Lieutenant Brock.

14 Q. As you were approaching that vehicle and standing at
15 that door, what, if anything, transpired?

16 A. So prior to me -- when the stop occurred, Poole was
17 the contact officer and I was kind of back hanging off and
18 then when I heard Brock kind of get a little animated
19 saying something about hands, that's when I went to open
20 the door -- well, see if it was unlocked, and it was, and
21 opened the door to detain Mr. Hopkins.

22 Q. Did you remove Mr. Hopkins from the vehicle?

23 A. I did. He complied with orders given to get out of
24 the car.

25 Q. When Mr. Hopkins was removed from the car, did you

1 notice anything in that backseat?

2 A. There was a -- like a broken cell phone near where he
3 was sitting, two bags and like a large jacket over the top
4 of them.

5 Q. Is that what we see in State's 4?

6 A. Yes.

7 Q. Did you seize those bags?

8 A. I did.

9 Q. So you've removed Mr. Hopkins from that back seat.
10 Let me ask you this at this point in time was he wearing
11 glasses that night?

12 A. No, he was not.

13 Q. Do you recall if he had any distinctive features on
14 his face?

15 A. He has a tattoo.

16 Q. Okay. On his face?

17 A. He does.

18 Q. And the bags, what did you do with the bags?

19 A. I -- well, I photographed them as they were, collected
20 them, and then I went and obtained a search warrant.

21 Q. Once you had a search warrant, did you remove them
22 from that vehicle and take them to headquarters?

23 A. Yes, I took -- I seized them and took them with me,
24 got the search warrant before I began to go inside of them.

25 Q. And did you conduct a search of those bags?

1 A. I did.

2 Q. Let me show you several photographs. State's 12, 70,
3 9 and 10. Do you recognize these photographs?

4 A. I do.

5 Q. Are these items from one of those bags?

6 A. They are.

7 MR. HUBBARD: Your Honor, I offer these into
8 evidence at this time.

9 MR. MAULDIN: Subject to prior objection, Your Honor.

10 THE COURT: So noted and they're admitted.

11 MR. HUBBARD: Thank you, Your Honor.

12 (State's Exhibit Numbers 9, 10, 12 and 70,
13 photographs, were admitted into evidence.)

14 BY MR. HUBBARD:

15 Q. Looking at State's 12, what are we seeing there,
16 Sergeant?

17 A. That's Mr. Hopkins' wallet and that his South Carolina
18 identification card.

19 Q. State's 70, what are we seeing?

20 A. The wallet again laid out, another cell phone -- well,
21 that's -- this one here is the one that we saw in the other
22 picture, there was another cell phone, a charger, that's a
23 small digital scale, and a pair of sandals.

24 Q. Digital scales?

25 A. Yes.

1 Q. State's 9, what are we seeing?

2 A. It's the same items we just saw up there in the left
3 and these are a bunch of clothing items that were removed
4 from the bags.

5 Q. White T-shirts?

6 A. Yes.

7 Q. Right up here, what are these right here?

8 A. Those are two .38 -- they've been fired. They're
9 casings.

10 Q. .38 casings?

11 A. Yes.

12 Q. State's 10, is that a photo of that same area, but
13 just showing a little bit different angle?

14 A. Yes, it is.

15 Q. Do you see the camouflage bag?

16 A. I do.

17 Q. And, again, the casings right here are from what
18 caliber pistol?

19 A. A .38.

20 Q. Okay. Did you see a .38 pistol in that bag?

21 A. I did not.

22 Q. I want to show you what's been marked State's 107.
23 Did you collect and place those items into evidence?

24 A. I did.

25 Q. State's 107, do you recognize these items here?

1 A. I do. The bags inside have my signature -- or
2 initials and date.

3 Q. And what are we seeing in the bag?

4 A. Those are the same .38 fired shell casings.

5 MR. HUBBARD: I offer State's 107 into evidence.

6 MR. MAULDIN: Subject to the prior hearing.

7 THE COURT: It's admitted. Objection noted.

8 (State's Exhibit Number 107, fired .38 cartridge
9 cases, was admitted into evidence.)

10 BY MR. HUBBARD:

11 Q. When we say a casing, so they've been fired?

12 A. Yes.

13 Q. Now a .38, is that a revolver or a semi-auto?

14 A. A revolver.

15 Q. When a revolver fires a bullet, what happens to the
16 casing that we see in State's 107?

17 A. The casing stays in the firearm until it's dumped out
18 after to reload.

19 Q. So unlike a semi-auto, it isn't ejected as it's shot?

20 A. No, usually with a revolver there's a cylinder, it can
21 be different shots, five, six shots, and it rotates and
22 once it fires, it goes to the next one. When it's empty
23 the cylinder can pop out and that's when the rounds come
24 out; whereas a semi-auto it's racking the slide and every
25 time it does the rack it will eject the casing and spit it

1 out and grab the next bullet.

2 Q. I'm gonna show you some more photographs that have
3 been marked State's 11 and 35. Do you also recognize these
4 as coming from the search of those bags? I think maybe the
5 black bag in this case.

6 A. I do.

7 Q. And what are we seeing in State's 11?

8 A. It's a picture of live rounds in a plastic baggy.

9 Q. Okay. And State's 35?

10 A. It's a picture of a long-sleeved yellowish color
11 sweatshirt.

12 MR. HUBBARD: All right. I offer State's 11 and 35
13 into evidence.

14 THE COURT: Any objection?

15 MR. MAULDIN: Subject to the prior one, Your Honor.

16 THE COURT: So noted.

17 (State's Exhibit Numbers 11 and 35, photographs,
18 were admitted into evidence.)

19 BY MR. HUBBARD:

20 Q. Looking at State's 11, do you see some unfired rounds
21 that you recovered in the black bag?

22 A. I do.

23 Q. The plastic that we see, is that how you found them?

24 A. It is.

25 Q. And there's two photos here. Is that -- the photo

1 we're seeing there, what caliber unfired round is that?

2 A. It's a .38.

3 Q. I want to show you what's been marked State's 73 and
4 see if these are the same rounds that we see up there.
5 State's 73, do you see three rounds?

6 A. I do.

7 Q. Now I also want to show you State's 127. Is this sent
8 to SLED for analysis?

9 A. It was. It was. Originally four were in this one and
10 one was taken out to be sent for testing.

11 Q. One of the unfired rounds?

12 A. Yes.

13 Q. As part of the testing they took apart one round?

14 A. They did.

15 Q. So do you see one of those rounds here --

16 A. Yes.

17 Q. -- that's been taken apart?

18 A. (Nods head.)

19 MR. HUBBARD: Your Honor, I offer 73 and 127 into
20 evidence.

21 MR. MAULDIN: Subject to prior, Your Honor.

22 THE COURT: They're admitted.

23 (State's Exhibit Numbers 73, a photograph, and 127,
24 .38 unfired bullets, were admitted into evidence.)

25 BY MR. HUBBARD:

1 Q. The one that was taken apart by SLED, 127, what
2 caliber round was that?

3 A. A .38.

4 Q. So this .38 round, did it have a jacketed head on it
5 or was it unjacketed?

6 A. Unjacketed.

7 Q. Just a lead round?

8 A. Correct.

9 Q. And one of the rounds that we see in that photograph,
10 State's 11, do you see the primer?

11 A. I do. It's brass colored like the rest of the
12 headstamp.

13 Q. And what caliber is the bullet I'm holding here?

14 A. It's a 9-millimeter.

15 Q. Do you see what make?

16 A. Winchester.

17 Q. When we say a primer, what is a primer on a bullet?

18 A. It's the -- when you're looking at it, in that picture
19 there, it's the centerpiece and when the hammer or the
20 striker hits that, it ignites the gunpowder which then
21 sends the bullet down the barrel.

22 Q. So in this case it's a brass or yellow primer?

23 A. Yes, it's the same color as the headstamp.

24 Q. And the head of this bullet, is it jacketed?

25 A. It is.

1 Q. Is this a copper jacket?

2 A. Yes.

3 Q. Did you find a 9-millimeter gun related to this case
4 in those bags?

5 A. No.

6 Q. And State's 35, an article of clothing, what is this
7 we're seeing?

8 A. It's the yellowish orange long-sleeved T-shirt or
9 sweater, whatever you would refer to it as. T-shirt
10 material.

11 Q. That was one of the items you seized?

12 A. It was in one of the bags, yes.

13 Q. And going back to State's 9, do you see -- how many
14 white T-shirts are we seeing there?

15 A. Two. One's spread out more right there in the main
16 part and there's another one right there.

17 Q. Do you recall white T-shirts were sent to SLED?

18 A. They were.

19 Q. I want to show you what's been marked State's 123 and
20 131 and see if you recognize these. Is this one of the
21 shirts sent to SLED?

22 A. It is.

23 Q. This writing that we see on it, did you do that?

24 A. I did not.

25 Q. Was that done by SLED?

1 A. It is by their -- the processing.

2 Q. Okay. And you say both T-shirts in this case were
3 sent to SLED for processing?

4 A. They were.

5 Q. Okay. So any writing there, was that done by you or
6 at SLED?

7 A. By SLED.

8 MR. HUBBARD: Your Honor, I offer State's 123 and
9 131 into evidence.

10 THE COURT: Any objection other than what's already
11 been stated?

12 MR. MAULDIN: No further objection.

13 THE COURT: It's admitted.

14 MR. HUBBARD: Thank you, Your Honor.

15 THE COURT: That was 123 and --

16 MR. HUBBARD: 131.

17 THE COURT: Thank you.

18 (State's Exhibit Numbers 123 and 131, white
19 T-shirts, were admitted into evidence.)

20 MR. HUBBARD: I beg the Court's indulgence.

21 THE COURT: Take your time.

22 BY MR. HUBBARD:

23 Q. Sergeant, was this your first involvement in this case
24 involving Justin Hopkins?

25 A. During the week we were on nights, but getting towards

1 the end, yes.

2 Q. And you were not called out to the apartment complex
3 where this triple homicide occurred?

4 A. No, we -- so in the major crimes there's usually two
5 teams on call every week. There's a daytime callout and
6 nighttime callout. This week we were on nights, so we
7 didn't -- my team came in in the afternoons and didn't get
8 too involved in this case until towards the end of the
9 week.

10 Q. And then you-all were brought in later to assist in
11 this investigation?

12 A. Yes.

13 Q. Okay.

14 MR. HUBBARD: I believe that's all I have at this
15 time. Thank you so much.

16 THE COURT: Mr. Mauldin.

17 MR. MAULDIN: Thank you.

18 CROSS-EXAMINATION

19 BY MR. MAULDIN:

20 Q. That jacket you mentioned, was that black or dark in
21 color or -- with the two bags, do you know?

22 A. In the back seat?

23 Q. Yes, sir.

24 A. It was black, darker in color.

25 Q. Okay. Black, darker in color. What all clothes did

1 you seize?

2 A. Everything that was in the bags. They both had
3 articles of clothing.

4 Q. How many articles of clothing do you reckon that was?

5 A. I have a list there. I could probably read them out.

6 Q. Okay. That would be cool.

7 A. Well, it's not in the list of individual stuff, but
8 it was a plethora of pants, shirts, some underwear, work
9 shirts.

10 Q. Okay. A plethora. That's a good word.

11 Now going to these -- these casings and bullets -- or
12 rounds -- is the bullet the part that separates or is the
13 whole thing a bullet?

14 A. The bullet is what's fired.

15 Q. Okay. The whole thing is a round then?

16 A. As far as the --

17 Q. Like the bullet plus the casing before it's fired,
18 what is that?

19 A. The casing is generally where the gunpowder and primer
20 is. The bullet --

21 Q. But when it's all put together, what is that called?

22 A. Well, people refer to it as bullets.

23 Q. Okay. Well, as far as casings, how many casings did
24 you find?

25 A. In the bag?

1 Q. Yes.

2 A. So there was four in that plastic bag; three .38's and
3 one 9-millimeter.

4 Q. Three .38's and one 9-millimeter?

5 A. Live rounds, and then two .38 cases that had been
6 fired, so there was no longer a projectile or gunpowder in
7 them.

8 Q. So three .38 rounds or unfired and one unfired
9 9-millimeter in that bag; is that right?

10 A. Yeah, those were all in that like plastic like
11 cellophane bag and then there were two fired, the only
12 thing left were the casings, of the .38's.

13 Q. Two fired casings.

14 MR. MAULDIN: Okay. No further questions.

15 THE COURT: Thank you, Mr. Mauldin.

16 MR. HUBBARD: No questions, Your Honor.

17 THE COURT: May I excuse Sergeant Burt?

18 MR. HUBBARD: Yes, Your Honor.

19 THE COURT: You're excused, Sergeant. Thank you.

20 (Witness excused.)

21 MR. HUBBARD: May I approach real quick?

22 THE COURT: You may.

23 (Proceedings held at the bench; not reported.)

24 THE COURT: Mr. Foreman, I'm gonna give you-all
25 about a 15-minute break. The next witness we have is

1 kind of long -- or the next two; one's short, I think,
2 one's long, so I'm gonna go ahead and give you-all a
3 break.

4 Remember, no talking about this case amongst
5 yourselves, okay? Enjoy your break. Stretch your legs.

6 (Whereupon, the jury retires to the jury room at
7 2:31 PM.)

8 THE COURT: Are we good to go until about 4:30,
9 5:00 today?

10 MR. HUBBARD: I think so, Your Honor.

11 THE COURT: I'd just like to kind of keep the jury
12 updated on what we're doing.

13 Okay. We're in recess. Fifteen minutes.

14 (Recess taken at 2:32 PM.)

15 (Back on the record at 2:55 PM.)

16 BAILIFF: Keep your seats. Court come back to
17 order.

18 THE COURT: All right. Are we ready?

19 MS. MAYES: We are, Your Honor.

20 If we can be on the record. There was a pre-trial
21 motion regarding Sergeant -- Captain Laintz and his
22 testimony regarding the DMV video. We do anticipate
23 that video being offered during the course of his
24 testimony. As the State indicated in pre-trial, we do
25 intend to have Captain Laintz identify a subject on the

1 DMV video as being physically consistent with both
2 Jeremy Cornish and the defendant, Justin Hopkins, and
3 then where the KJ's video is concerned Captain Laintz
4 is prepared to make an identification.

5 THE COURT: Okay. And I think --

6 MR. MAULDIN: My objection doubly applies to the
7 DMV pictures.

8 THE COURT: Right. Your objection was the video
9 is the best evidence and let the jury decide who's
10 there. I think he's just gonna explain the DMV video.

11 There's no statement in this case where the
12 defendant said he went to the DMV, is there?

13 MS. MAYES: That's correct, Your Honor. There
14 is a receipt from the DMV, which is gonna be dated
15 December 17, 2019.

16 And then in addition to that, Your Honor, where
17 the afternoon video is concerned, Captain Laintz will
18 be making an identification in that video of Jeremy
19 Cornish because he takes a driver's license photograph
20 and then there's also gonna be a corresponding driver's
21 license record that shows him wearing the same clothing
22 and it is apparent from that that an identification
23 can be made.

24 THE COURT: Okay. He's not testifying that that's
25 definitely Mr. Hopkins. It's what he believes to be

1 Mr. Hopkins, right?

2 MS. MAYES: That's correct, Your Honor. And the
3 physical appearance and attributes would be all
4 consistent with Justin Hopkins.

5 THE COURT: Okay. So she's got to lay a foundation
6 to even get it in, but your objection is noted throughout
7 this testimony as to the DMV video and the officer ID'ing
8 him as your -- as Mr. Hopkins.

9 MR. MAULDIN: Since it's happening next, I'm
10 considering this as a contemporaneous objection for the
11 standard.

12 THE COURT: For the what?

13 MR. MAULDIN: For the standard for the Court of
14 Appeals and Supreme Court. Or does it have to be in
15 front of the jury, the objection? I'll just do it real
16 quick in front of the jury.

17 THE COURT: So you want to put your objection on
18 the record when the jury comes in?

19 MR. MAULDIN: Just real quick beforehand.

20 THE COURT: Okay. That's fine.

21 MR. MAULDIN: I'm gonna just say I note my objection
22 to the testimony as it doesn't qualify under 701.

23 THE COURT: That's fine. Okay.

24 All right. Let's bring the jury in if everybody's
25 ready.

1 (Whereupon, the jury return to the courtroom at
2 3:01 PM.)

3 THE COURT: All right. Mr. Foreman, is the jury
4 ready?

5 FOREPERSON: Yes, ma'am.

6 THE COURT: All right. Please be seated.

7 All right. Mr. Mauldin, I'm gonna let you put your
8 objection on the record.

9 MR. MAULDIN: Thank you, Your Honor. For this next
10 testimony I'd renew my objection that it doesn't qualify
11 under Rule 701.

12 THE COURT: Okay. And the Court rules that it does,
13 specifically under 701(a).

14 You can go ahead and call your next witness.

15 MS. MAYES: May it please the Court?

16 THE COURT: Yes.

17 And I'm gonna tell you, Mr. Mauldin, throughout
18 this testimony that objection will be noted.

19 MR. MAULDIN: Thank you.

20 MS. MAYES: May it please the Court? The State
21 calls Captain Jesse Laintz.

22 (Whereupon, Jesse Laintz was duly sworn by the
23 Clerk of Court.)

24 THE CLERK: If you'll have a seat, please. State
25 your name and spell your last for the record, please.

1 THE WITNESS: My name is Jesse Laintz, L-A-I-N-T-Z.

2 JESSE LAINTZ,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Good afternoon, Captain Laintz. Tell us a little bit
7 about yourself. Where are you currently employed?

8 A. My name is Jesse Laintz. I'm with the Lexington
9 County Sheriff's Department. I've been with the sheriff's
10 department for almost seventeen years. I've been in
11 investigations for almost all but three of that. I'm now
12 the captain over investigations, which sees everything
13 from runaways to domestic violence, all the way to murders.
14 I also oversee special operations. I'm an assistant
15 commander of the SWAT team and one of our bomb techs. I
16 have a Ph.D. from the Chicago School of Professional
17 Psychology and I'm a military veteran with the United
18 States Marine Corps.

19 Q. All right. And during your 17-year career with the
20 sheriff's department, Captain Laintz, how long have you
21 spent in the Major Crimes Unit and investigations division?

22 A. The first three years I was not in major crimes and
23 then when I made lieutenant I left for one year, so four
24 years I was not in major crimes.

25 Q. Tell us, Captain Laintz, what role, if any, you played

1 in the on-going investigation of the triple murder, which
2 occurred at [REDACTED] Butternut Lane on December 17, 2019.

3 A. During this time I had recently been promoted to
4 captain and I responded for just overall supervision of
5 the entire scene. If somebody needs something, I help them
6 get it. Kind of the boss of the scene as you would say.

7 Q. All right. And in this particular case, between the
8 17th and the 21st, can you tell us whether or not the Major
9 Crimes Unit was conducting regular briefings on this case?

10 A. So on all serious cases, we'll -- we'll continue to
11 do operational briefs. If we're briefing morning shift or
12 nightshift, we'll continue to have briefs throughout. It's
13 just a meeting telling of new things that have been done
14 and what needs to be done moving forward.

15 Q. And can you tell us whether or not that includes the
16 sharing of information and intelligence?

17 A. It -- it does.

18 Q. And so by the 21st, can you tell us whether or not
19 Lexington County Sheriff's Department had developed a
20 suspect in this case?

21 A. By the 21st, we had developed a suspect and it was the
22 defendant, Mr. Hopkins.

23 Q. Justin Hopkins?

24 A. Yes.

25 Q. Now can you tell us whether or not you had identified

1 a residence for Mr. Hopkins by the 21st?

2 A. We had.

3 Q. And what was that location?

4 A. [REDACTED] Landmark. It was Apartment 27A. It was Landmark
5 Apartments.

6 Q. And on the night of December 21st, can you tell us
7 what role if -- or what knowledge, if any, you had of a
8 search warrant that was gonna be undertaken?

9 A. So on the 21st, due to the severity of the crime
10 that we were investigating, there was talks about doing
11 a search warrant at this house and we'd obtained a
12 search warrant and the SWAT team was actually going to be
13 hitting it because of the crime that's involved. So --
14 I shouldn't say hitting it. We were gonna secure the
15 residence. In securing the residence, we'd turned it over
16 to investigators and in doing so I kind of was wearing
17 dual hats at the same time. I was overseeing the SWAT
18 team, preparing for this and then I was overseeing the
19 investigation aspect as well.

20 Q. So I want to ask you a little bit about that. I'm
21 gonna have you take a look at 69 and 14. I believe both
22 of these are in evidence. Looking here at 69, of course,
23 due to your role as an investigator with the major crimes
24 division, Captain Laintz, what can you tell us about this
25 general area? First of all, let me ask you is it within

1 Lexington County?

2 A. So this is St. Andrews Road, which is in Lexington
3 County. It is going down to I-26 and right here -- the
4 actual crime happens way down here. There we go. So right
5 there is Landmark Apartments. I'm sorry. Right there is
6 Woodland Village. That's where the incident took place,
7 Butternut Lane, and then right up here, if you go back up,
8 St. Andrews Road, a lot of us travel that in the Irmo area.
9 If you drove through Irmo, you'd probably hit St. Andrews
10 Road at one point in time and then right here is Landmark
11 Apartments and if you go up this road, you turn in here,
12 it's right back there where 27A is at.

13 Q. Okay. So going back down here on State's 69, this
14 incident location, is that within the jurisdiction of
15 Lexington County?

16 A. It is.

17 Q. And how close, if at all, is it to what's known as
18 Bush River Road, also in the St. Andrews Road area?

19 A. So Bush River Road -- it's directly off Bush River
20 Road. You turn off Bush River. So right there is -- let
21 me point here. Right there is Bush River Road. If you
22 go right here, there's I-20, and right there is where --
23 what's that country kitchen place? Cracker Barrel.
24 Cracker Barrel is literally right here and you have to turn
25 off Bushberry to get into the subdivision.

1 Q. Okay. So looking here at the crime scene location,
2 Butternut -- or Woodland Village or [REDACTED] Butternut Lane,
3 how, if at all, would potentially be a route of travel to
4 the area of St. Andrews Road?

5 A. So there's actually two of them. Go back down to
6 Woodland because there's two areas that you can get out
7 of there. So right here, this is -- this is all kind of
8 self-enclosed, so you can get out on Bushberry -- I'm
9 sorry, Bush River, which is right here, or you can go
10 through a road right here. And obviously there's multiple
11 lanes that you can take up. You can go this way and go up
12 Ashland, but almost all of them result in Ashland or some
13 of these up here if you actually come out here and go up
14 this way, they all result out on St. Andrews Road.

15 Q. Okay. And so Ashland in particular, can you show us
16 where that is on this aerial map, which is State's 69?

17 A. Ashland is right there and it goes all the way to
18 St. Andrews Road. It's named after the church that's
19 right there. And here's Ashland right here and here's
20 St. Andrews Road.

21 Q. Now where is KJ's grocery store on this particular
22 map?

23 A. KJ's grocery store is right here. It's actually right
24 there.

25 Q. And, again, 27A Landmark Apartments, the residence of

1 Justin Hopkins?

2 A. It's right in here.

3 Q. And being familiar with this area and having
4 researched this, what is the general proximity between
5 the crime scene location and Landmark Drive or Landmark
6 Apartments?

7 A. So the way the crow flies, it's about a mile, mile
8 and a quarter. Driving it's about a mile and a half.

9 Q. Now on the night of the 21st, you've indicated that
10 you were aware of the execution of the search warrant at
11 27A?

12 A. Yes, ma'am.

13 Q. What, if anything, did you do that night regarding any
14 activity in relation to this case?

15 A. So we were preparing for the search warrant and as
16 we were preparing, I literally signed on the radio, we
17 get notified that a vehicle's dropping off a black male
18 matching the description of the defendant, the person we
19 were looking for, that individual gets out and there's a
20 white dually pick-up truck, we've been looking for a white
21 dually pick-up truck in this case, leaves and we end up
22 conducting a traffic stop. Investigator Pratt at the time
23 ended up conducting a traffic stop on that vehicle and I
24 showed up at that traffic stop. So instead of doing the
25 brief for the SWAT and all that stuff, I literal got in my

1 house -- or left my house and went straight to the vehicle
2 traffic stop.

3 Q. All right. Now you mentioned that you had been
4 looking for a vehicle of interest. What general
5 description were you aware of and did you have knowledge
6 of prior to the traffic stop on the night of the 21st?

7 A. So we were given information about a white dually
8 pick-up truck, either a Dodge or a Chevy. So the night of
9 the 18th we actually spend quite a few hours, about three
10 or four hours, driving around looking for a white Dodge or
11 Chevy dually pick-up truck. Surprisingly, we didn't find
12 any. We didn't find any that night and then -- so we'd
13 been looking for that vehicle. We actually went to SLED
14 and got records of all the registered owners in the area
15 that had white dually pick-up trucks for Dodges, so we were
16 looking for that white dually pickup truck.

17 Q. And can you tell us whether or not your search for
18 that vehicle also included any type of work or equipment
19 associated with it?

20 A. So one of the things that the witness told us
21 was there was a lot of equipment in the back, large
22 construction equipment and stuff in the back of the
23 pick-up truck, and during this traffic stop we were told
24 that there was stuff in the back of the pick-up truck and
25 when I arrived on-scene I was able to see that stuff

1 myself.

2 Q. So I want to ask you about that. Here we're looking
3 at State's 30, already in evidence. Is this where you
4 arrived after Detective Pratt made that stop?

5 A. Yes. That is the location of the traffic stop.

6 Q. And what did you observe the model of that white truck
7 to be?

8 A. So it was a Chevy white dually pick-up truck. You
9 can't see the dual tires there, but you can see them there.

10 Q. And what about in State's 48?

11 A. So some of the things that we saw was this white tank.
12 Right here is the top of a black box. There we go. Right
13 there's the top of a black box. There was a white tank.
14 The dangerous sickle sticks out. You can see the dual
15 tires. And it was a dually white pick-up truck with a
16 large -- a large amount of construction equipment in the
17 back.

18 Q. And at that point in time on the night of the 21st,
19 was the name Jeremy Cornish even known to law enforcement?

20 A. That night, no.

21 Q. And on that particular night, did you consider him a
22 suspect and was he in custody?

23 A. He was not. We didn't know what he was. We don't
24 know if he was involved, whether a witness, a suspect. We
25 had no clue.

1 Q. And on this particular night, what, if any, interest
2 did you have in this truck?

3 A. I wanted to search that pick-up truck. We -- we had
4 probable cause that that pick-up truck was involved with
5 the vehicle. We didn't know about the driver, but the
6 pick-up truck matched the description of what we had and I
7 wanted to search that vehicle.

8 Q. In relation to the crime?

9 A. Yes.

10 Q. And can you tell us whether or not you considered
11 the truck to be potential evidence or contain potential
12 evidence?

13 A. We did.

14 Q. Can you tell us during the course of this traffic
15 stop, and you can't say anything that was said to you, but
16 can you tell us whether or not you obtained consent to
17 search this vehicle?

18 A. I did obtain consent from the driver of the vehicle.

19 Q. And who conducted that search?

20 A. I did.

21 Q. And during the course of -- again, we're talking about
22 the 21st?

23 A. Yes, ma'am.

24 Q. So how many days have transpired since the actual
25 crime?

1 A. Four.

2 Q. And here four days later, did you actually observe
3 any items of physical evidence within the cab of the truck
4 related to the crime?

5 A. So there was one item of evidence that I ended up
6 collecting.

7 Q. I'm gonna show you what is State's 67.

8 A. Yes, ma'am. That's it.

9 Q. You're familiar with this document?

10 A. Yes.

11 Q. Again, already in evidence. And why was this of
12 interest to you, Captain Laintz?

13 A. Because it had the date on it and then it also had
14 -- at that point in time the suspect that we had was
15 Justin Hopkins and it had his information on there. So
16 date of the murder, his information on it.

17 Q. From within that white dually truck?

18 A. Correct. Yes, ma'am.

19 Q. And ultimately on that night was the driver, Jeremy
20 Cornish, allowed to leave?

21 A. He was.

22 Q. As well as the truck itself?

23 A. It was.

24 Q. And in follow-up to this information, the name of
25 Justin Hopkins and the date of the murder on December 17th,

1 what, if any, action did the Lexington County Sheriff's
2 Department take to obtain records or video surveillance
3 from the South Carolina Department of Motor Vehicles?

4 A. So following up with that, we were -- through the
5 investigation we continued and we went to the Department
6 of Motor Vehicles and we were able to get some transactions
7 that were conducted that day by Mr. Cornish and we were
8 able to get video from the two different times that he was
9 there, when he was at the DMV.

10 Q. All right. So I'm gonna show --

11 MS. MAYES: And, again, all of this, Your Honor,
12 would be pursuant to the State's notice of evidence in
13 this case.

14 THE COURT: Okay.

15 MS. MAYES: This would be State's 22, the DMV record.

16 THE COURT: Any objection?

17 MR. MAULDIN: Not to 22, Your Honor.

18 THE COURT: Okay. It's admitted.

19 MR. MAULDIN: No, no objection to -- no, no. Never
20 mind. Never mind. No objection.

21 (State's Exhibit Number 22, a DMV record, was
22 admitted into evidence.)

23 MS. MAYES: And, Your Honor, the DMV record and
24 video in this case, video surveillance, all submitted
25 pursuant to the State's notice of evidence under South

1 Carolina Code 19-5-520.

2 THE COURT: Okay. Thank you. I've admitted it.

3 BY MS. MAYES:

4 Q. I'm gonna start by showing you 22 and I'm gonna give
5 you a chance to look at it yourself. Oh, you have a copy
6 of that with you?

7 A. Yes, ma'am.

8 Q. Okay. Upon locating this receipt for Justin Hopkins,
9 how, if at all -- in a murder investigation, how important,
10 if at all, is it to develop a potential timeline of
11 someone's whereabouts if they are a suspect in a crime?

12 A. Well, a timeline can establish a lot. It can say that
13 person can be or literally can't be alibied at a location.
14 So we establish timelines from the very beginning from
15 before all the way to after the best we can through the
16 investigation.

17 Q. And based on that, were you able to obtain both
18 records and video surveillance for Jeremy Cornish?

19 A. Yes, ma'am.

20 Q. And looking here at this particular document, which
21 is State's 22, whose name is this DMV record for?

22 A. Right up there you'll see it's for Jeremy Cornish.

23 Q. I believe this document indicates it's service for a
24 customer and what is the date range for this service of
25 Jeremy Cornish?

1 A. The date range was just the day of interest. It's
2 December 17th to December 17th.

3 Q. And, again, that's the date of the murders?

4 A. Yes, ma'am.

5 Q. And what is the address on record for Jeremy Cornish?

6 A. [REDACTED] Angel Garden Way, Columbia.

7 Q. And I'm gonna go to the bottom of this document.
8 What is the first interaction that the records depict that
9 the South Carolina Department of Motor Vehicles had with
10 Mr. Cornish on this date?

11 A. So with Mr. Cornish as listed above, it was this and
12 it was at 2019-12-17, it's got it right up here, and then
13 0944, it's military time, so it's 9:44 in the morning.

14 Q. All right. And based upon your investigation, are
15 you familiar with which branch or location the interactions
16 with Mr. Cornish occurred?

17 A. This was all at the DMV on O'Neil Court over in
18 Columbia.

19 Q. So I want to talk about that a little bit. O'Neil
20 Court, that is located in Lexington County or Richland
21 County?

22 A. That is located in Richland County, it's not
23 Lexington.

24 Q. And that area of Richland County where O'Neil Court
25 is located, are you familiar with the 2 Notch Road, Decker

1 Boulevard area in Richland County?

2 A. Basically familiar, yes.

3 Q. And can you tell us whether or not that's the general
4 location for that O'Neil Court?

5 A. It is.

6 Q. A DMV satellite office?

7 A. It is, yes.

8 Q. And what is the time in which Mr. Cornish first
9 received services from the DMV on December 17th?

10 A. So in the morning it was 0944, and as I said before,
11 09 means military time, so it's nine in the morning.

12 Q. So 9:44 AM?

13 A. Yes, ma'am.

14 Q. And can you tell us whether or not you had the
15 opportunity to observe video surveillance from within that
16 timeframe?

17 A. I have.

18 Q. For the morning of December 17th of 2019?

19 A. Yes, ma'am.

20 Q. Can you tell us whether or not you observed anyone
21 appearing to be similar in physical description to Jeremy
22 Cornish?

23 A. Yes, I do. I see a male that appears to be the
24 physical stature and same haircut, same build, same
25 complexion of Jeremy Cornish.

1 Q. Okay. I'm gonna show you what is State's 24 and ask
2 you whether or not you recognize your initials?

3 A. Yes, ma'am, I do.

4 Q. And that indicates you have viewed this video?

5 A. I have.

6 Q. Is this a fair and accurate representation of the
7 DMV video surveillance for the morning of December 17th
8 received from the Department of Motor Vehicles?

9 A. Yes, ma'am, it is.

10 MS. MAYES: State's 24 also offered pursuant to the
11 notice of evidence.

12 MR. MAULDIN: No objection to the video, just the
13 interpretation thereof.

14 THE COURT: Okay. And it's admitted and so noted.

15 (State's Exhibit Number 24, a DMV video AM, was
16 admitted into evidence.)

17 BY MS. MAYES:

18 Q. And that night at the traffic stop on December 21st
19 where we saw the photograph, did you yourself actually have
20 face-to-face contact with Jeremy Cornish?

21 A. That night I had contact with Jeremy Cornish, yes.

22 Q. And in addition to requesting consent to search the
23 vehicle, can you tell us whether or not you requested
24 consent for an interview?

25 A. I did. I asked if we could have a long talk.