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SC Court of Appeals

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LEVY ERNEST DUNN,

APPELLANT

APPELLATE CASE NO. 2024-001413

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #1 (911 CALL RECORDING); #2, #3, #24, #26, #27,
#32, #33, #47, #48, #59, #60, #61, #65, #77, #78, #79, #80, #83, #84, #85, #86,
#87 (PHOTOGRAPHS) & #81 (BODY CAMERA RECORDING)**

STATE OF SOUTH CAROLINA	) COURT OF GENERAL SESSIONS
	) 2021-GS-23-08129
COUNTY OF GREENVILLE	)
	)
	)
STATE OF SOUTH CAROLINA	)
	) PLAINTIFF)
vs.	) TRANSCRIPT OF RECORD
	)
LEVY E. DUNN, III	)
	) DEFENDANT)

August 19-21, 2024
Greenville, South Carolina

B E F O R E:

THE HONORABLE G.D. MORGAN, JR., Judge; and a
jury.

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APRIL HERRON
Official Court Reporter

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1 August 19, 2024

2 THE COURT: All right, we're on the record in
3 The State of South Carolina vs. Levy Dunn,
4 2020-GS-23-8129. All right, everybody present.

5 And you're Mr. Dunn?

6 MR. DUNN: I am, sir.

7 THE COURT: All right, want to take up any
8 pretrial motions? We have had some -- had a
9 conference in chambers. And so I want to go on the
10 record to address any motions that we may have at
11 this time pretrial.

12 All right, first of all, anything from The
13 State?

14 MRS. SCOTT: Your Honor, The State presented a
15 motion regarding testimony of the victim's
16 immigration status. And, also, testimony of her --
17 testimony about a prior marriage, if any, at today's
18 trial. We did have actual chambers and we'd like to
19 put on the record, Your Honor, that we believe in
20 regards to the marriage that is in question with
21 Defense counsel, for clarification, a marriage that
22 may have taken place in Nigeria. We believe that
23 that's already been litigated in the family court.

24 Your Honor, the two parties in this case are
25 Levy Dunn and Rita Dunn. They were married in

1 Greenville County. They are divorced now in
2 Greenville County. At that particular family court
3 hearing, The Defendant at one point had an attorney
4 and then became pro se. The Defendant being
5 Mr. Dunn. He began to talk about the fact that their
6 marriage should be null based upon a prior marriage
7 that was not dissolved in Nigeria. It's the State's
8 position that that was already litigated and
9 determined in the family court. So, therefore,
10 bringing that up here in the criminal court is
11 prejudicial and not relevant. That's with regards to
12 the marriage.

13 Secondly, Your Honor, in regards to new visa or
14 immigration status of victim, Ms. Rita Dunn, The
15 State wanted to exclude that testimony, however,
16 wasn't sure how and when or what way The Defense
17 would use it. But looking at their response to our
18 motion, we now know that it is for credibility and
19 motive as to this particular criminal offense.

20 We ask that, Your Honor, if you allow that to be
21 explored by The Defense, that we believe it would be
22 opening the door if you allow the open door testimony
23 of a prior conviction that this Defendant had with
24 this particular victim, which would be for the
25 record, domestic violence third degree from 2020.

1 The incident date from 2019. Where, if at all, the
2 possibility of her obtaining the citizenship is a
3 motive for today's incident, she had that same
4 criteria met and could have done so in 2020. We'd
5 like to be able to point that out to the jury if
6 that's pointed out by The Defense.

7 I think we can just speak to this first motion.
8 We had other responses. That's just for The State's
9 motion that we did. We were withdrawing on the
10 record a previous motion that we had for remote
11 testimony, that would be of Dr. Strasberg at Prisma.
12 We're withdrawing that. Dr. Strasberg should be
13 here. Quite frankly, Your Honor, legal affairs asked
14 us to present that because they would prefer that
15 doctors not leave. We believe that his testimony
16 through WebEx would have been difficult based upon
17 him needing to look at the patient's medical records.
18 I don't know you could share a screen on WebEx.

19 In regards to Michael Googy, he is in Japan,
20 Your Honor. And I've not ever talked on the phone
21 with someone in Japan. If you would allow it, I
22 would try and pray that it worked. So we're fine
23 with proceeding without him as well.

24 THE COURT: So both of them, you're fine With
25 proceeding?

1 MRS. SCOTT: I'm fine with proceeding without
2 remote testimony of Michael Googy. And I am fine
3 with proceeding without remote testimony of
4 Dr. Strasberg.

5 THE COURT: He will be present?

6 MRS. SCOTT: Yes, sir.

7 THE COURT: All right. Anything else on those
8 two issues before I turn to The Defense?

9 MRS. SCOTT: I think we're still arguing the
10 motion I submitted right now.

11 THE COURT: All right. Mrs. Lipinski, let me
12 hear from you on The State's motion.

13 MRS. LIPINSKI: I think it's important for The
14 Court to break down, there are, basically, I guess,
15 three categories of evidence The State is seeking to
16 ironically exclude from evidence. The only thing
17 they've used to say that The Court has a basis to
18 exclude this evidence or exclude this line of
19 questioning with the victim is prejudice. They
20 haven't really identified what that prejudice to or
21 how it would be unduly prejudicial to The State. And
22 there's no legal basis that they invoke. There's no
23 rule of evidence they invoke in their motion. It
24 just says unduly prejudicial. And I'm not even sure
25 to whom its unduly prejudicial.

1 The mere fact that someone is an immigrant or,
2 perhaps, a citizen from another country, I don't think
3 in and of itself rises to the spectrum that it is per
4 se prejudicial. I'm married to a naturalized citizen
5 from an African country. I proudly introduce him as
6 such in multiple public settings.

7 So I don't think the fact that she is a citizen
8 of another country or that she came here or that
9 she's here with a passport -- there's no indication
10 that she came here illegally or anything like that.
11 It's just can we keep out the fact that she's not a
12 United States citizen?

13 So there's -- but I think The State first has to
14 allege beyond just saying it's prejudicial to tell
15 The Court how it's prejudicial and why that's a basis
16 to exclude it. Here, you're talking about the
17 principle testifying or accusing witness of the
18 prosecution. It is the victim. And while they list
19 her as Rita Dunn on their witness list, in all other
20 documents, she has a much longer name. She is known
21 as Rita Chidibere Nneke Okeke Dunn. As a matter of
22 fact, in the family court document that The State
23 references, she seeks leave to abandon Mr. Dunn's
24 name to return to her first marriage name of Okeke.
25 It says on there that that's how she would like to

1 now be reference. She would like to return to use of
2 that name.

3 So I think it does go to fully bringing her and
4 her credibility before this jury. And not some just
5 because she's an immigrant is prejudicial, but I
6 think it is important so the jury gets an
7 understanding of how long these two have been married
8 or those types of things. I think it's fully -- I
9 think it's necessary to bring up that she has gone by
10 other names when we simply voir dire the jury as to
11 what -- because she may have worked under the name of
12 Okeke and Nneka and there may be people who worked
13 with her who don't know her as Rita Dunn. Because
14 she has gone by other names.

15 So I don't think just saying she's an immigrant
16 or she's a citizen from another country is per se
17 prejudicial, that that means that The State -- or The
18 Defense is cut off at the knees from bringing that
19 out. It, also -- at least, when I've seen her on
20 video, she talks with an accent. I mean, there's
21 going to be some evidence put before the jury that
22 English is not her first language. Again, not to
23 draw it out as somehow the jury shouldn't be
24 sympathetic or listen to her, but I think it is
25 important in terms of this entire development of this

1 case and what these two have been arguing about in
2 their marriage and those types of things. And to
3 just say she's an immigrant and it's prejudicial, I
4 think The State has to do more. The Defense has a
5 6th Amendment right to present a defense. And if
6 that's where The Defense goes to just invoke
7 prejudice without more to say that somehow there's
8 that, we can address that with the jury. You can ask
9 a voir dire question that says if one of the
10 witnesses was a citizen of another country or a
11 citizen of Nigeria, do you have any bias or prejudice
12 against that class of people that prevent you from
13 being a fair and impartial juror? But just to
14 suggest that that classification alone is
15 prejudicial, I think The State has to do more if
16 they're going to hamstring The Defense.

17 THE COURT: What -- and I know we're not there
18 yet, but what is The Defense going to bring out?
19 What does The Defense intend to bring out about her
20 status?

21 MRS. LIPINSKI: I think there was an ongoing
22 conversation or dispute or bone of contention between
23 the two of them as to whether or not she had been
24 married before, whether or not she was legally
25 divorced in Nigeria, whether she was eligible to

1 marry Mr. Dunn. When The State talks about whether
2 that was litigated, he, instead of asking for a
3 divorce, filed the paperwork asking for an annulment.
4 Unfortunately, he is back in custody. He loses his
5 lawyer because he's, also, unemployed and can't pay
6 anybody.

7 So what the family court rules is he didn't meet
8 his burden of establishing that he was entitled to
9 annulment because he didn't have access to that
10 paperwork because he was in custody. That doesn't
11 mean it wasn't litigated. There is no family court
12 order that says that I find that she was never
13 married in Nigeria or I find that -- it, basically,
14 says he didn't present any witnesses and, therefore,
15 because you don't meet the burden of getting to an
16 annulment, we're just going to grant you two a
17 divorce instead. So that divorce was granted.

18 And I'm not seeking to go through the whole
19 family court. I think it would be prejudicial. I
20 think it invades the ultimate trier of fact, the
21 jury, because then it's has the issue of marital
22 cruelty been established? Therefore, they're going
23 to think they can't make that argument and anyone
24 else can. But I think we can elicit from her had you
25 been married before? Was that something that he was

1 suspicious of? Was that something the two of you had
2 argued about? Was that something the two of you
3 argued about on the day in question? I think you can
4 go into that without creating some spectra of
5 prejudice or raciest sentiment on the part of -- I'm
6 not sure because I don't understand where The State
7 is going with this theory -- without it being this
8 overwhelming thing. I think that line of questioning
9 about their marriage, about her prior marriage, about
10 fidelity or any of those kind of things, I think
11 ought to be fair game, particularly, in a domestic
12 violence case. I think the jury needs to know what
13 her legal name is, other names that she has gone by,
14 other names that she's attempted to go by recently
15 since this, so that we can identify whether or not
16 anybody knew her. And to call her Rita Dunn without
17 exposing that she also went by Rita Chidibere Nneka,
18 which I think her name when they were married, Okeke,
19 which I think was her original or first marriage name
20 or that her maiden name was Nneka. I think we have
21 to do that so we make sure we don't have people who
22 know her by a different name.

23 THE COURT: Mrs. Scott, what are you -- what are
24 you trying to keep out? Because what Mrs. Lipinski
25 is saying is that she's entitled to go into whether

1 the victim was previously married, the fact that they
2 argued about it, it had been maybe an issue before.
3 Sounds like that's where The Defense is going as far
4 as Mrs. ~Dunn --

5 Or does she still have the last name of Dunn or
6 not?

7 MRS. SCOTT: Your Honor, if I may -- I wanted to
8 wait till --

9 THE COURT: What is she going to go by?

10 MRS. SCOTT: So, Your Honor, I gave a witness
11 list over and we have an actual completed witness
12 list of her full name that we would introduce for the
13 jury in the event that, as she mentioned before, Rita
14 Dunn is not enough. So we have intended to do that
15 already. That speaks to that.

16 I think you were completing a different thought
17 in that statement and I wanted --

18 THE COURT: I was because I just want to make
19 sure what her name was. I do believe that the
20 name -- all the names that she goes by or has gone by
21 needs to be put to the jury.

22 MRS. SCOTT: Yes, Your Honor, we intend to do
23 that. We, also, intend -- because I know that you
24 will be reading them out loud, so phonetically put it
25 underneath and that takes some time. We will have

1 that ready for you at two o'clock.

2 THE COURT: All right. So going back to my
3 question then, The Defense is saying, okay, we're
4 going to -- we intend to bring out, potentially, that
5 there was a issue about the prior marriage, that they
6 had these arguments before, they were possibly
7 arguing about it that night, sort of going down that
8 avenue as far as the facts on the prior marriage.
9 Where, though, does it -- doesn't sound like they're
10 going to bring out and make a big deal about her
11 being an immigrant. So what exactly are you trying
12 to exclude?

13 MRS. SCOTT: Yes, sir. The purpose for the
14 motion was because I wasn't going to presume why
15 Defense counsel wanted the information about the
16 immigration status. It was finally laid out once
17 this response was provided to us. So with that being
18 said, now that we know, I couldn't attack something I
19 wasn't sure as to why they were using it.

20 In regards to first just the marriage issue, I
21 do believe that if that was actually the argument
22 they were having on that day, then I believe if
23 that's something if he testifies to or if they want
24 to ask her were they arguing about it, that's fine.
25 However, one particular question and she may have

1 been free styling in that moment, Your Honor, was had
2 you been married before? If, for example, our victim
3 states that she was not married before, we believe
4 they should take the answer as it is. If they are
5 then going to go into -- this is the part where I'm
6 talking about the litigation of it -- into well, how
7 come? We have these documents or we have these
8 people and we have all this to attack now, again, as
9 to whether or not she was married, that's the line of
10 questioning I think we should not go into. That's --
11 the forum for that would be for family court.

12 However, Your Honor, if that's part of your
13 decision today that they then can start to bring in
14 collateral evidence to show maybe, I guess, in that
15 sense trying to impeach her, then we would need to
16 bring a reply witness to explain further about the
17 marriage or nonexistence of the marriage in Nigeria.
18 And here we are talking about this Nigeria marriage
19 in a domestic violence high and aggravated trial. We
20 are prepared to do that. We wanted to make sure,

21 Your Honor, that -- we prefer not to do that. But if
22 they ask her the question, have you been married
23 before? She replies, no. And they are allowed to
24 then present collateral evidence, then The State will
25 have to then do rebuttal evidence in that collateral

1 evidence. And we may actually go towards a rabbit
2 hole of marriages in Nigeria.

3 THE COURT: All right, what about that,
4 Mrs. Lipinski? So I do have some concern that we're
5 going to -- we could possibly get down the road of
6 trying the issue of whether or not she was married
7 before in Nigeria. That's my concern. This is a
8 domestic violence case. The question is whether or
9 not your client committed domestic violence of a high
10 and aggravated nature. I do have some concern of
11 getting into the issue of whether she was married or
12 not. It's certainly -- I mean, I don't know the
13 facts of the case other than what I'm hearing here
14 and what y'all mentioned a little bit in chambers,
15 but I don't know how the facts are going to play out
16 and what exactly they may or may not have been
17 arguing about when this occurred.

18 Is The Defense going to try to argue issues
19 about whether they were married in Nigeria?

20 MRS. LIPINSKI: Your Honor, I think The Defense
21 should be entitled to elicit testimony from her about
22 whether or not she was honest with him about whether
23 or not she had been married before, about her legal
24 eligibility to marry again, whether she was still in
25 contact with that gentleman and whether or not that

1 was a bone of contention in their marriage on that
2 day. So to say we're now going down a rabbit hole --
3 I'm only aware of one other marriage in Nigeria. I
4 don't know that there's a rabbit hole of other
5 marriages to go down to. But I think that there is
6 some testimony that he should be allowed to elicit
7 that that's what it is.

8 Because, curiously, the victim's version is that
9 he just attacked her for no reason on that day and
10 she really doesn't know why. Maybe there's an
11 argument about keys, but that comes out later. Maybe
12 there was some alcohol, but even that. But she does
13 talk about a video being played very loudly and all
14 of those kinds of things that I think do have, at
15 least, some circumstantial evidence that that's what
16 they were arguing about that day and I think we
17 should be allowed to do it.

18 If she is being untruthful about that, if she is
19 lying either to him or to this Court or anyone else
20 about the fact that she has been married in the past,
21 then I think that goes to her credibility. And
22 whether or not we're able to develop testimony in
23 that. But I think The State having to call rebuttal
24 witness to say she's not lying, she was never married
25 and that's was what the argument was about, again, it

1 all goes back to The State is moving to exclude this
2 evidence based on prejudice and they get to identify
3 the prejudice. You can make any kind of ruling you
4 want as to relevance once we get there, but to take a
5 pretrial ruling in limine that says prejudice -- the
6 danger of prejudice alone that we're not going to
7 talk about anything like that, I think in any
8 domestic violence case saying you're never going to
9 talk about had you been married before, that you
10 argued about infidelity issue or any of those kinds
11 of things, the fact that it's from Nigeria versus
12 Traveler's Rest, I think it's inherent that that may
13 be evidence that's presented, particularly, in a
14 domestic violence case.

15 And the issues that Ms -- just the other thing,
16 just briefly in response. It was litigated after.
17 That doesn't mean they couldn't have been arguing
18 about it that day. That doesn't mean he could have
19 been mistaken in his belief. That doesn't mean he
20 couldn't have gotten some information that did say
21 that that caused him to call into question that. So
22 it's not the veracity of that information that is
23 even -- has to get to the point. It is, is that
24 possibly a topic that they were fighting about that
25 that led to this? Is that germane to the res gestae

1 of this case? And if it is, just the mere fact that
2 it could somehow be prejudicial to something somehow,
3 he knew she was a Nigerien citizen when he married
4 her. I mean, I don't think there's any prejudice
5 against her. I don't understand the prejudice
6 argument that we're chasing. And that's The
7 Defense's primary issue as to where we go. Why is
8 this -- I think they, as the moving party, to exclude
9 it have to establish that. Otherwise, as long as
10 it's germane to the case and she acknowledges it or
11 if we have evidence to impeach her with it and we go
12 through that, we're allowed to do that. You can rule
13 whether or not that evidence comes in or not.

14 THE COURT: All right, Mrs. Scott, what about
15 the fact that -- would you agree that the discussion
16 of what they may or may not been having at the
17 time --

18 MRS. SCOTT: Absolutely.

19 THE COURT: -- is relevant? You agree with
20 that?

21 MRS. SCOTT: I agree with that.

22 THE COURT: If they're having a discussion about
23 whether or not she was married or not, would you
24 agree with that?

25 MRS. SCOTT: Yes, Your Honor. Really, only what

1 I've stated is that's fine. It was the line of
2 questioning as to had you been married before? If
3 her response is no, I'd like at that point that
4 she -- the answer has been given -- I'm sorry, the
5 question been asked. If we then go into submitting
6 collateral evidence to, I guess, impeach that
7 witness, Your Honor, that's when The State would then
8 have to do a reply witness to establish, again, the
9 litigation of whether the marriage occurred. I get
10 the testimony coming out and Defense counsel wants to
11 say they were arguing about a prior relationship.
12 Let's take marriage off the plate. Let's just say
13 infidelity, period. You talking to a guy I don't
14 like, that's fine. But when we then start to
15 determine whether or not this marriage ever existed
16 in this trial, I think we need to have a cap, Your
17 Honor.

18 So again, when I wrote the motion, I was unsure
19 and unclear as how this evidence was going to be
20 used. Now that I know, Your Honor, in particular, if
21 the line of questioning is going to be about her
22 marriage, then it needs to stop and end with whether
23 or not she was married before. But if, at that
24 point, The Defense wants to then present documents or
25 evidence or testimony regarding whether or not she

1 was married before, then The State will then have
2 reply witness testimony as to whether or not she was
3 married before. And I wanted to put the Court on
4 notice that once that line of questioning is allowed
5 by Your Honor, then we, The State, believes we should
6 be able to rehabilitate the witness if then presented
7 collateral evidence by the Defense stating otherwise.

8 And that's the rabbit hole I was mentioning, not
9 any other marriages, Your Honor. The fact we will
10 and are prepared to litigate that particular, again,
11 rabbit hole, just secondary track, we can. I just
12 wanted to put Your Honor on notice that that is what
13 we believe is improper. That's just for the
14 marriage. We haven't really talked much about the
15 immigration yet.

16 Although, I will state that now that I know it's
17 used for credibility and motive, we agree, Your
18 Honor, with U.S. citizenship and the visa, in
19 particular. I've been following that case law
20 because that's often coming around. When it comes to
21 credibility, we do believe that the victim should be
22 able to rehabilitate herself if questioned about her
23 motives for this case. And we intend to do that if
24 that's talked about in this case.

25 And I think I've already mentioned I'm going to

1 do her full name for the witness list phonetically
2 for Your Honor. And that's it.

3 THE COURT: All right.

4 MRS. LIPINSKI: Can I just -- again, we're
5 trying to flesh this out so we're not sending the
6 jury out multiple times when the witness is on the
7 stand. When I begin my response, I understand I get
8 side tracked very often, but I kind of saw this as
9 coming into three classification. Was she married
10 before? I don't think there's any prejudice in and
11 of itself that even triggers 403. Her immigration
12 status, in terms of here and those kind of things,
13 again, I think if it comes out that he married a
14 Nigerian citizen, that in and of itself is not
15 prejudicial.

16 In terms of the line of thought of where
17 she's tracking a new visa, I think that's kind of -- the
18 third issue that I do acknowledge in the case law is very
19 case specific. If you look at it, I believe we cited two
20 cases where they said, specifically, in domestic violence
21 cases it can become probative as to whether or not they
22 had that motive. And part of that is I want to make sure
23 I've had those conversations with my client is we could
24 explore you've been married before, you weren't
25 necessarily eligible to be married to him if that became

1 an issue and that implicated your immigration status here
2 in the United States. We can discuss all those things
3 without invoking new visa, right? We can discuss all of
4 those things and it doesn't even -- because, at that
5 point, that night, they're not arguing about new visa, so
6 that to me is kind of a third class category that may be
7 more problematic for The Court.

8 The State -- and I just want to make sure
9 I'm understanding -- is kind of as they say or as I used
10 to say as a prosecutor, make the shot across the bow. If
11 we bring up the issue of new visa, that she possibly
12 fabricated this and provoked this or anything in an effort
13 to get a new visa, then their argument is that opens the
14 door as to whether or not there were prior domestic
15 violences where she is the victim and that she can apply
16 for a new visa at that level. But if The Defense stops
17 short of doing that, if we don't bring up the whole new
18 visa issue, then I don't think we've opened the door. I
19 don't think merely mentioning the marriage and infidelity
20 in and of itself opens the door to whether or not there
21 was any prior difficulty or prior domestic violence
22 between him or any other woman. So I just want to make
23 sure that I'm understanding that's how The State is seeing
24 how this may go through. If I'm wrong, then I may change
25 my response.

1 THE COURT: Well, I think that's the way --
2 here's where I'm coming at it is that I don't have
3 any issue and I will allow any testimony about the
4 issues around as far as what they were fighting about
5 that night, marriage and potential issues around
6 that. I'll allow that. I'm not going to allow any
7 discussion, you know, about the new visa, anything
8 like that. If The Defense does bring out those
9 issues or anything surrounding those issues, then I
10 will probably -- depending on how the evidence turns
11 out, but that will probably allow The State to bring
12 out, potentially, those prior DV's. If the Defense
13 stays away from the new visa issue and just stays
14 along the track The Defense is now saying that's what
15 they intend to do, I will allow that. But it's when
16 you start -- if The Defense branches out in an
17 expanded area, then I'm going to give The State the
18 ability to reply.

19 MRS. LIPINSKI: Can talk to my client for a
20 minute, Your Honor?

21 THE COURT: Yeah.

22 MRS. LIPINSKI: All right, thank you, Your
23 Honor.

24 THE COURT: All right.

25 MRS. LIPINSKI: That's what I think for the most

1 part our defense is going to be, but I do try to
2 flesh out some of these issues so we don't take so
3 many long-winded breaks. So we may make a
4 contemporaneous objection to renew our motion just at
5 the time, I think I have to do that.

6 THE COURT: You do.

7 MRS. LIPINSKI: I will probably just, at that
8 point, say subject to pretrial arguments and try to
9 minimize it so we don't have to go down shoots and
10 ladders again.

11 THE COURT: All right.

12 Yes, ma'am.

13 MRS. SCOTT: Yes, Your Honor. You mentioned
14 that you will allow testimony about what they fought
15 about that night and I wanted to make sure. The
16 State's main argument was going further into that
17 testimony as far as well, have you been married? And
18 then going into that. Are you making a ruling on
19 that or you want to see how that --

20 THE COURT: Yeah, I want to see how that plays
21 out. If they were arguing about the marriage and
22 whether or not she was married or not, I'm inclined
23 to allow, at least, some general testimony that that
24 was discussed. And again, I don't know what the
25 evidence is going to be. But if that was part of the

1 fight or argument that led to it, I think that's
2 relevant.

3 MRS. SCOTT: Absolutely.

4 THE COURT: All right. Anything else from The
5 State on pre-trial motions?

6 MRS. SCOTT: Your Honor, we have a sequestration
7 I believe we've both agreed upon.

8 THE COURT: Both of you agreed, so we'll
9 sequester the witnesses.

10 MRS. SCOTT: I believe from The State, we'll
11 stop. I know The Defense has some pretrial motions.

12 THE COURT: All right. I'll hear from Defense.

13 MRS. LIPINSKI: I apologize, Your Honor.

14 THE COURT: Take your time.

15 MRS. LIPINSKI: We would make a motion. I
16 don't -- and I'm not here to cast any aspersions on
17 Mrs. Scott or Mrs. Westfield, but we've met multiple
18 times. We've even reviewed physical evidence
19 together. We went through their file page-by-page
20 for the most part one day. But I do feel that I have
21 the obligation to make sure The State affirms on the
22 record that its complied with its obligations under
23 Rule 5 and 6, South Carolina Rules of Criminal
24 Procedure and their obligations under Kyles v.
25 Whitley and Brady v. Maryland to turn over any

1 exculpatory or potentially exculpatory evidence which
2 might be in their possession. And any new evidence
3 that was not turned over comes to light during the
4 trial that The State -- or The Defense would make a
5 motion to exclude such evidences being made too late
6 in the game.

7 THE COURT: All right, any response from The
8 State?

9 MRS. SCOTT: Your Honor, just speaking to number
10 one and any evidence not produced in a timely fashion
11 prior to the publication of the trial docket be
12 excluded. And I believe that in chambers, we talked
13 about that being more of a formal language. At the
14 time when I read it, I took it as anything that I
15 submitted to The Defense after the trial docket was
16 published, which there was a few things and I was
17 told that that's not what that really means.

18 We do believe that Brady is ongoing, so,
19 obviously, if we have something, Your Honor, we will
20 certainly give it to The Defense and we can, at that
21 point go before you, Your Honor, and decide, at that
22 point, if that particular evidence should be used.

23 THE COURT: I'll address that if it comes up.
24 Right now, I don't think it's mature -- ripe, I don't
25 think it's ripe unless there is some issue The

1 Defense has as to specific information as to any
2 material that has not been turned over to The Defense
3 by The State.

4 MRS. LIPINSKI: Your Honor, we wouldn't view the
5 evidence after the trial docket, that's pretty much
6 standard protocol here. As you know, if we did it in
7 every single case, property and evidence would
8 probably have to double their staff. We did ask that
9 time for renewed or updated property and evidence
10 sheets just to see since it was originally produced
11 in 2021, if anybody had access to or tested any
12 evidence. We were given those I think late last
13 week, but that was more of just let me make sure
14 because what we were given at that point was so old.

15 I do believe we asked Mrs. Scott about some
16 immigration or passport documents of the victim.
17 Mrs. Scott did make recommendations that she had seen
18 them, but that she was not turning them over because
19 she did not think they were relevant at this time.
20 They weren't in her possession. And just to the
21 extent that that might be triggered by the line of
22 questioning. But other than that, I will say I don't
23 have any inclination that that is there, I just felt
24 like I needed to make that.

25 The second motion on the part of The Defense is

1 motion for The State to declare on the record and
2 provide certified copies of any convictions of The
3 Defendant upon which they intend to use during their
4 case in chief or would use to impeach The Defendant. .
5 I just think it's always important to make sure the
6 record is clear and, also, it gives us the
7 opportunity to speak with him in advance as to his
8 decision to testify and the Court's colloquy about
9 that being his decision. So it's something I tend to
10 make.

11 THE COURT: All right.

12 Response from The State?

13 MRS. SCOTT: Your Honor, I believe that we can
14 address that if The Defendant intends to testify.
15 However, I did underline the certified copies of any
16 convictions. This Defendant has prior convictions in
17 another state. We are able to get with that other
18 state to get printouts of their actual clerk's
19 office, but a certified sealed something that's
20 mailed would not be able to be presented at this
21 trial. However, we can provide documentation from
22 the clerk's office, but it wouldn't have the seal.

23 Typically, with our NCIC national database
24 that we run, we provide to The Defense. But I am
25 concerned out of state convictions having a certified seal

1 on it in order for me to impeach, Your Honor, this
2 Defendant. But we have certified convictions clearly from
3 Greenville County that we can certainly get a seal for and
4 show The Court.

5 THE COURT: All right. What does he have in
6 another state?

7 MRS. SCOTT: I'm sorry, Your Honor.

8 THE COURT: While you're looking, Mrs. Lipinski
9 what are you asking, just to make sure you've got
10 certified copies?

11 MRS. LIPINSKI: I know NCIC records are wrong,
12 so I don't rely on that. It wasn't that long ago,
13 but 10 or 15 years ago when I was a prosecutor, I
14 routinely write the clerk of court of Wayne County,
15 North Carolina and say provide me with certified
16 copies because I think that's the way for that to be
17 admitted into evidence. I think if they're going to
18 try to impeach The Defendant, should he testify, and
19 say I printed this off the internet, I just don't
20 know -- so I always try to make sure we have
21 everything or we're reading the rap sheet correctly.
22 I've done this often enough, just because it shows up
23 on the rap sheet as one thing, it could be another.
24 If she wants to provide me what she does have, you
25 and I can litigate at the appropriate time whether

1 that meets the rules of admissibility, but I always
2 like to go ahead and ask for it.

3 THE COURT: All right. Mrs. Scott, did you find
4 out?

5 MRS. SCOTT: Yes, Your Honor. From North
6 Carolina, I'm just --

7 Y'all, what page am I looking at? There's no
8 page numbers.

9 Let me see. All right, starting on Page 8,
10 moving to Page 9, Your Honor, there are some
11 convictions for marijuana and drug paraphernalia out
12 of Edgefield County. In addition, there's a
13 misdemeanor larceny out of Nashville County, North
14 Carolina, not Nashville, Tennessee that's listed,
15 Your Honor.

16 At this point, I don't know what page I'm on,
17 I'm sorry, Defense counsel.

18 Common law forgery from 2005 in Nashville County
19 in North Carolina. Moving on.

20 THE COURT: Marijuana, drug paraphernalia,
21 common law forgery in '05, what was the other one you
22 mentioned?

23 MRS. SCOTT: Petit larceny in Nashville County.

24 THE COURT: Okay. And when was that?

25 MRS. SCOTT: Yes, sir. Sorry. Misdemeanor,

1 Your Honor, 2005.

2 THE COURT: Okay.

3 MRS. SCOTT: In 2005, common law forgery. I
4 think I've already mentioned it, Your Honor.

5 THE COURT: Yeah.

6 MRS. SCOTT: I apologize. In Nashville.
7 Assault inflicting serious injury in North Carolina
8 in Edgecombe.

9 THE COURT: What year was that?

10 MRS. SCOTT: In 2006.

11 THE COURT: Okay.

12 MRS. SCOTT: Your Honor, I do have that
13 certified conviction, Your Honor. I think that that
14 one was pled to assault, but I will provide that. So
15 that might be assault on a female there, but I will
16 check again. That was 2006. Then I have 2015,
17 assault on a female from Rocky Mount. And one I have
18 to get the court on the phone for that one. And that
19 is an assault on a female. That's it.

20 THE COURT: All right. Let me ask you this, so
21 out of those, do you even think they're -- can you
22 use them under 609?

23 MRS. SCOTT: Depending on his testimony, Your
24 Honor. So I believe that Defense counsel referenced
25 impeach, but I'm trying to get --

1 THE COURT: When you say depending on his
2 testimony if he testified. Even let's assume for
3 purposes of my question that he does, 609 wouldn't
4 come into play unless he does anyway. So where under
5 609 can you get those in?

6 MRS. SCOTT: Your Honor, outside 609, but, yes,
7 again, with 609, if this Defendant says he's never
8 been arrested before. If this Defendant says that
9 he's never hurt a woman before. We're out of me
10 having to prove as far as moral turpitude and the
11 length of penalty. We're into that type of
12 impeachable evidence. And I'm stating if he does
13 that, I'm not sure if I can provide a certified
14 conviction at that time. I'm not certain what he
15 would say. But in the event this Defendant says he's
16 never harmed a woman before, I do believe at that
17 point, I can bring up that conviction of assault on a
18 female in North Carolina. But I just want to be sure
19 of your ruling today is that if I do that, I, also,
20 have to have a certified copy of the conviction, then
21 I need to submit to you what we have.

22 THE COURT: I do have some concern that -- and I
23 don't disagree with you on your argument about
24 impeachment. And that's something that I'll have to
25 address depending on what you would testify to. From

1 the 609 standpoint, I'm -- again, this is all motions
2 in limine and I just have to wait. Under 609, you
3 may have a tough time just regular 609.

4 MRS. SCOTT: Yes, sir.

5 THE COURT: You know, two of them fit under
6 there a little bit, maybe forgery, but then you've
7 got a problem with that under 609(b) because of the
8 10-year limit, so I think you've got some issues
9 there. So some of those may not even come in on 609
10 at all. But it's a different argument you've got if
11 he gets up there and says I've never hurt a woman,
12 I've never talked about a woman. Let's just say for
13 purposes of my question he does testify to that, what
14 do you have in your possession that you would impeach
15 him with other than the NCIS [sic]?

16 MRS. SCOTT: Your Honor, if I had not his
17 testimony opening any doors of prior convictions, I
18 would not have anything within the 10 years in
19 regards to moral turpitude, Your Honor, and I would
20 not have a felony conviction.

21 THE COURT: Well, I agree with that. What I'm
22 saying, under 609 -- well, the assaults were in 2015.
23 Okay, I see. Well, you're within the 10 years there.
24 That's still a question whether or not that's
25 allowable under 609 anyway.

1 MRS. SCOTT: Yes, Your Honor. But, again, The
2 Defense motion just also mentioned impeachable
3 period. So that's -- according to your ruling, I
4 just wanted to know --

5 THE COURT: Yeah, get back to my question. So
6 what do you have that you impeach him with?

7 MRS. SCOTT: Without him opening the door --

8 THE COURT: Right. Let's just say he opens the
9 door and you want to impeach him. What do you have?
10 The Defense is concerned you don't have any certified
11 copies and you've just got an NCIC and -- I think I
12 said NCIS a little while ago. That's a good show.
13 But what do you have that you would impeach him with?
14 I think that's their concern is that, you know, you
15 don't have something, at least, certifying or from
16 the court.

17 MRS. SCOTT: I do have a certified conviction of
18 one domestic violence in 2020 because that happened
19 here and we have that. The other one would be the
20 one in North Carolina, Your Honor, and all I have
21 from that clerk's office is screen shot of their
22 screen. I would not be able to have a seal is what
23 was the question if that was what you required. I
24 guess, depending on his testimony, we can decide at
25 that point if I'm able to talk about that one. I do

1 already have one that meets that criteria of a
2 certified conviction in 2020. However, I do have
3 knowledge of the assault on a female from North
4 Carolina. But I would not have time to get an
5 embossed seal on it, but I would be able to get
6 confirmation from the clerk's office. That's it.

7 THE COURT: Okay. Mrs. Lipinski, you know, 609
8 doesn't say that you have to have a certified copy,
9 does it?

10 MRS. LIPINSKI: Well, I think if she's going to
11 try to admit it into evidence. I always do it in
12 terms of I have seen and not any kind of nefarious,
13 but not just dotting every eye. You run through the
14 rap sheet, she asked the basis for that question and
15 you haven't even delved into -- because, as she
16 acknowledged, he was charged with one thing, but pled
17 to the other. So I always thought it was a better
18 course of action to have something, you know, whether
19 it has a seal or whether they fax them a document or
20 something saying this is actually -- you know, here's
21 a copy of the indictment, here's a copy of the
22 sentencing sheet so that there's some fact checking
23 of really what we're going on. Especially under 609
24 analysis, where it is, what year is he convicted?
25 You know, was he arrested then, but pled then, you

1 know, did he plead to a lesser included offense?
2 Because those things don't always show up on what we
3 all know is a dot matrix printer from Circa 1982 and
4 might be run off of, you know, a Tandy 5000 somewhere
5 in Quantico.

6 So I just think that's a better course of
7 action. I think if you're going to submit a document
8 and you're going to try and put that in, I don't
9 think a screen shot of a clerk's office meets the
10 rules of admissibility of a public record. So I
11 always like to -- you know, in the same sense try to
12 make sure we're all on the same page, I want to have
13 a copy of that and I want to be able look at what
14 they're relying on, so that we're are all on the same
15 page. If they're going to rely on less than that,
16 share that with me. I'm more than willing to look at
17 it and we can have an argument as to admissibility
18 and questioning at that time.

19 THE COURT: All right. Here's what I'm going to
20 do, if you haven't already seen what Mrs. Scott has,
21 I want y'all to take a look at it. If The Defense
22 does have an issue with you just having a screen shot
23 of something, I may require something a little bit
24 more than that.

25 MRS. SCOTT: I agree. I can certainly get

1 something better. That was a phone call that I made
2 and I got that information. I think it was saved on
3 my phone.

4 THE COURT: Yeah, I'm going to require more than
5 just a screen shot, whatever you have. I'm not sure
6 what you have.

7 MRS. SCOTT: That's fine. The only thing I'm
8 not able to provide you is an embossed seal, that's
9 the only issue. And if that's not required, I think
10 she just argued that if she saw sentencing sheets,
11 something like that --

12 THE COURT: If you can get some kind of
13 confirmation from the County of North Carolina, I
14 more than likely will say that's appropriate and
15 enough and probably will not require an embossed
16 seal. But that's something y'all might can discuss.
17 Let's see what you get -- or can get from them. I'm
18 most likely not going to require an embossed seal
19 certification from them.

20 I think if The State can get confirmation from
21 the court there in North Carolina that The Defense
22 feels is legitimate, then most likely, I'll allow it,
23 but, again, we're in pretrial motions, so I'll have
24 to see what The State gets and whether or not I'll
25 allow that or not. But that's generally where I'm

1 coming from.

2 What else we got?

3 MRS. LIPINSKI: Your Honor, we discussed this a
4 little bit more and, again, I agree that The Defense
5 motion number four to exclude any comment from the
6 victim that The Defendant was under the influence of
7 narcotics or alcohol the evening in question and that
8 she's not an expert in trying to identify that. This
9 is something we discussed in chambers. She may be
10 able to testify to his behavior, that he appeared to
11 be under the influence of something. But she made
12 certain statements on -- when she's being questioned
13 by law enforcement that he was, specifically, under
14 the influence of, I believe, she says cocaine at one
15 point or that she smelled the odor of cocaine. And
16 that's where I think that she's crossing over from a
17 lay witness to an expert witness unless they could
18 establish that. If she wants to say it smelled funny
19 when I got home. He appeared to be under the
20 influence of something. But I think to cross into
21 that danger zone that he was using, specifically,
22 illegal narcotics and that she could identify which
23 one based on the smell, we believe it is improper. I
24 do think it's unduly prejudicial and I think it goes
25 outside the scope of just lay testimony. So we would

1 move to exclude that, specifically, under 403 and
2 failing to meet the expert witness, which I doubt she
3 is.

4 THE COURT: All right, Mrs. Scott.

5 MRS. SCOTT: Your Honor, we agree that she
6 should be able to testify what she observed and,
7 also, anything that she smelled. But actually
8 guessing what it is, we don't think that that's
9 proper, Your Honor. We will make sure to instruct
10 her of that.

11 THE COURT: All right, do that. I will allow
12 testimony in regarding what she observed about his
13 appearance and smell. I will not allow any testimony
14 from anyone as to what the drug may have been or what
15 he was on unless she saw him snorting cocaine or
16 whatever he was, potentially, doing. It does not
17 appear -- there does not appear to be testimony on
18 that issue, so I'm not allowing speculation on that.

19 All right, yes, ma'am.

20 MRS. LIPINSKI: Motion for The State to identify
21 any statement of The Defendant which they intend to
22 introduce during their case in chief. And The Court
23 do a requisite Jackson v. Denno hearing should the
24 statement be found custodial in nature. I'm unaware
25 that he sat down and gave like a true or untrue

1 written statement to law enforcement. There are some
2 other statements that Mrs. Scott has made us aware
3 of. I don't know the circumstances to all of them,
4 so I would just -- if she could identify the date and
5 time and where he was at the time it was allegedly
6 reported to have been made or ask that she introduce
7 it so The Court can cover any prophylactic Denno
8 hearing they would need to do.

9 THE COURT: So you don't have any Denno hearing,
10 though?

11 MRS. SCOTT: We don't, Your Honor. For my case
12 in chief, any statements that would be used would be
13 ones he made to non-law enforcement.

14 THE COURT: All right. We'll cross that bridge
15 when we get to it, when it comes up.

16 All right.

17 MRS. LIPINSKI: Well, will there be a joint
18 order by The Court to sequester any witnesses
19 beyond --

20 THE COURT: Yeah, I've said that. Y'all have
21 agreed to that.

22 MRS. SCOTT: Yes, Your Honor.

23 MRS. LIPINSKI: The last one on our formal
24 motion, just to make The court aware, that we may be
25 asking for charges of lesser included offenses based

1 on the recent decision out of the South Carolina
2 Court of Appeals that said CDV first and the CDV
3 second are lesser included offenses of domestic
4 violence of a high and aggravated nature.

5 I did not -- and I think you said you would
6 evaluate that once we got the charging decision. But
7 in there was a recent decision, I just wanted to make
8 sure that it was on The Court's radar.

9 The other thing, Your Honor, we would make a
10 motion for The State to identify any jurors that had
11 a criminal record. I didn't really see any list on
12 the part of the solicitor. There were a number of
13 them down there at jury selection, but if there are
14 any jurors that have a potential criminal record that
15 may keep them from serving on a jury, I would ask
16 them to affirm or deny that. Then even if they do
17 have a criminal record that wouldn't keep them, to
18 the extent it may trigger some type of motion as to
19 jury selection, we would move to identify any of them
20 that do have a criminal record of any kind.

21 We would, also, make a motion if they could
22 provide us the criminal record of any of the
23 witnesses that they intend to call, including whether
24 or not they ran a rap sheet on the victim. I know
25 they don't always run them on law enforcement, but I

1 do know there are a few that, potentially, do have
2 something in their record. So we would just ask to
3 make sure The State has done their due diligence in
4 attempting to identify any criminal record of any
5 witnesses they may intend to call.

6 THE COURT: All right, State?

7 MRS. SCOTT: In regards to the motion to
8 identify any criminal record of any jurors, Your
9 Honor, I have not been asked that by Defense ever.
10 That's over -- I think we had 80 something odd
11 people. I cannot present that effectively. I can
12 certainly share with her anything I learn. But to
13 represent that I've checked every person's criminal
14 record is going to be false, I have not. In addition
15 to criminal record of witnesses, we certainly will
16 comply.

17 Regarding criminal record of law enforcement,
18 haven't been asked that, Your Honor. I certainly
19 will explore that and get back with you at our jury
20 selection. But I intend to give the criminal records
21 of the witnesses.

22 THE COURT: All right. Mrs.~Lipinski, she said
23 she would give you any criminal records as far as the
24 witnesses. And any information she may have as for
25 jurors, I'm not going --

1 MRS. LIPINSKI: I'm not asking to look at the
2 record. I usually just ask them to flag them. I've
3 never worked in a solicitor's office where they
4 didn't run rap sheets on every juror that's called
5 in. If they say that's no longer their practice and
6 she's not looking at that, then we're, at least,
7 playing on the same field. But I think that if they
8 do have access to that information in terms of
9 selecting the jury, and then say we struck him
10 because he had a DUI, but I don't know who else had a
11 DUI, then I'm trying to ward that off at the pass.
12 That's the purpose of the motion and nothing more.

13 As to criminal records of law enforcement,
14 again, I've seen it, it is rare. It's pretty
15 extraordinary, but I feel the need to make it. We,
16 also -- this is not in there, but I meant to say it
17 originally, none of the law enforcement witnesses
18 they intend to call are on the solicitor's office
19 Giglio list. We would like for her to confirm or
20 deny that.

21 THE COURT: All right, I'm not going to require
22 NCIC records on the law enforcement.

23 Response on Giglio, Mrs. Scott.

24 MRS. SCOTT: For today, no, but I will double
25 check and confirm at 2:00.

1 THE COURT: Okay.

2 All right. Anything else?

3 MR. HOLCOMB: Nothing further from The Defense,
4 Your Honor.

5 MRS. SCOTT: No, Your Honor.

6 THE COURT: Anything else?

7 MRS. SCOTT: No, Your Honor. Just talk about
8 procedures, what's going to happen.

9 THE COURT: All right. The jury's coming back
10 at two o'clock. Are y'all good with an hour? Will
11 that give you enough time to grab something and then
12 start?

13 MRS. LIPINSKI: Yes, sir.

14 MRS. SCOTT: Yes, sir.

15 THE COURT: Pick the jury at 2:30, does that
16 work for y'all?

17 MRS. SCOTT: Yes, Your Honor.

18 MR. HOLCOMB: Yes, Your Honor.

19 THE COURT: Okay. All right. We'll be
20 adjourned until 2:30. Y'all may or may not have
21 given me any voir dire. Any additional voir dire
22 other than standard?

23 MRS. SCOTT: Your Honor, we do have voir dire.
24 I do believe what Defense counsel objected to with
25 regard to the immigration question should be added

1 given your ruling today.

2 THE COURT: All right. So I've got two
3 additional questions in addition to the standard voir
4 dire from The State. Question one, Do you or someone
5 you know or have known been a victim of domestic
6 violence? Number two, You or someone you know been
7 accused of domestic violence?

8 All right, any objection to that?

9 MR. HOLCOMB: No objection, Your Honor.

10 THE COURT: All right. Defense have any
11 additional voir dire questions other than the
12 standard?

13 MR. HOLCOMB: No additional ones.

14 THE COURT: All right. We'll just add these two
15 to my standard.

16 MRS. SCOTT: Correct, Your Honor. But I do
17 request for -- Defense counsel in her arguments
18 mentioned a reference of jury instruction regarding
19 immigration, if they had any bias of anyone who was
20 not originally born here in the United States.

21 THE COURT: All right. So what's the question
22 you want asked?

23 MRS. SCOTT: It was beautifully said when she --
24 I mean, April probably knows, but I can't recall
25 exactly how she said it.

1 THE COURT: That's a compliment. Do you
2 remember what you said?

3 MRS. LIPINSKI: I mean, if this is just going to
4 be a trial of niceness, it's going to be like
5 watching --

6 THE COURT: That's what I like to see, good
7 lawyers getting along.

8 All right, so what would be --

9 MRS. LIPINSKI: I mean, is any member of the
10 jury panel aware of any bias or prejudice in favor of
11 or against any person not of U.S. citizenship should
12 a witness or any other party's testimony be elicited
13 that calls into question such that you might not be
14 able to be fair and impartial witness in this trial?
15 Bias or prejudice against or in favor --

16 THE COURT: How about if I just ask, any member
17 of the jury panel have any bias or prejudice against
18 someone who may not be a U.S. citizen of the United
19 States?

20 Mrs. Scott, does that work?

21 MRS. SCOTT: Um.

22 THE COURT: Or give me suggestions.

23 Mrs. Lipinski is a little bit longer --

24 MRS. SCOTT: It's great. It sounds good and I
25 like it, but I do think it's probably too much from

1 the bench. So, perhaps, instead of saying someone
2 who is not a U.S. citizen, not born in the United
3 States. I know that sounds duplicative, but it
4 sounds softer to me.

5 THE COURT: You got any objection to that,
6 Mrs. Lipinski, Mr. Holcomb?

7 MR. HOLCOMB: I have no objection, Your Honor.

8 THE COURT: All right. So then, does any member
9 of the jury panel have any bias or prejudice against
10 anyone who was not born in the United States? Is
11 that what you're asking?

12 MRS. SCOTT: That is.

13 THE COURT: Okay. I'll add that to it. All
14 right.

15 MRS. SCOTT: Sorry, I guess that's all the
16 questions, but resides in the U.S. currently. I
17 guess I just. . .

18 MRS. LIPINSKI: That's commenting on the facts.
19 I think that may go too far.

20 MRS. SCOTT: All right. We'll finish it with
21 that.

22 THE COURT: All right. So does anyone have any
23 bias or prejudice against anyone who was not born in
24 the United States?

25 MRS. SCOTT: Yes, sir.

1 THE COURT: All right. We'll be adjourned until
2 2:30.

3 (WHEREUPON, a lunch break was taken.)

4 THE COURT: All right. Everybody present? Let
5 me make sure I'm pronouncing it right. So it would
6 be Nneka Rita Chidibere Okeke.

7 MRS. SCOTT: Yes, Your Honor. And it's Nneka.

8 THE COURT: Okay. So Nneka Rita Chidibere
9 Okeke; is that right?

10 MRS. SCOTT: That sounds good to me.

11 THE COURT: Okay. Now, how about number six,
12 Officer John --

13 MRS. SCOTT: It's Pryzbylo.

14 THE COURT: All right. Anything we need to take
15 up before we call the jury to come on up?

16 MRS. SCOTT: Yes, Your Honor. We had a motion
17 from Defense regarding NCIC's of jurors. Then when I
18 went back over lunch, we had made the motion to -- or
19 Defense made a motion to exclude prior bad acts and
20 that was I'm not sure on the record. We stated about
21 his driver's license being suspended.

22 THE COURT: Yeah, it was not on the record.

23 MRS. SCOTT: I need to address that issue on the
24 record, Your Honor.

25 THE COURT: Okay.

1 MRS. SCOTT: So in regards to that, that is, I
2 would assume, a prior bad act. However, that goes to
3 the argument that the two were having on the incident
4 date, that is what she would testify to. The Defense
5 counsel referenced keys. So in the interest of
6 explaining this, Your Honor, that there was a
7 question of could he drive the vehicle, she says no,
8 because your license is suspended. I'm not doing
9 this. So that prior bad act would need to be entered
10 in for the purpose of understanding the argument that
11 she was having. But it is something that we might
12 need to explore since this issue of him not having a
13 license.

14 THE COURT: So she is going -- she would testify
15 that they got in the argument because he was wanting
16 to drive and she said no, you can't drive because
17 your license is suspended?

18 MRS. SCOTT: Correct.

19 THE COURT: Okay.

20 All right. Mr. Holcomb or Mrs. Lipinski?

21 MRS. LIPINSKI: My concern is she's going to go
22 into why his license was suspended. Because when she
23 talks to law enforcement, she talks about a DUI and
24 Interlock and a whole bunch of other things I don't
25 think we should go into.

1 MRS. SCOTT: I agree.

2 MRS. LIPINSKI: She can limit it to you don't
3 have a license. She can say that, you can't drive,
4 you don't have a license.

5 THE COURT: What I was getting ready to say, it
6 was sort of a compromise in allowing her to say you
7 can't drive because you don't have a license.

8 MRS. SCOTT: That's fine.

9 THE COURT: I think that would accomplish what
10 you want without being too prejudicial. So I'll
11 allow you to testify along those lines.

12 MRS. SCOTT: Thank you, Your Honor. Then
13 lastly, Defense counsel referenced NCIC of jurors.
14 And I represented to The Court that I had not
15 reviewed any of NCIC's of the jurors and I was
16 unprepared to run 83. At that time, one of our
17 deputy solicitors was here and she stated that
18 someone in our office has run them even though I'm
19 unaware who did. And she stated that even though one
20 of our prior investigators, who used to give us this
21 stuff, she no longer works with us, she was
22 responsible for getting that information. They have
23 not replaced that person. So she said that that is
24 within our office. Like, we have done that and I
25 have not gotten that because I miss -- her name is

1 Andrea Phillips. I miss her. She used to send me
2 e-mails about NCIC's.

3 With that being said, Your Honor, our office has
4 run, not me, obviously, the solicitor's office runs
5 them and they do so because the clerk's office
6 requires that in order to facilitate the people they
7 subpoena can't even be eligible or qualify for the
8 jury. So that's the authority which they run it.
9 I've not been instructed unless you tell me, Judge,
10 that I can provide that document or any of that
11 information to Defense counsel based upon that's the
12 sole authority that we had to run it, was to provide
13 it to the clerk's office for qualification purposes.

14 THE COURT: All right, anything from The Defense
15 on that?

16 MRS. LIPINSKI: Your Honor, I didn't ask for
17 actual rap sheets. What I asked for -- and this is
18 where it's come up with me in the past is we go
19 through it. We make a Batson motion and they say
20 they excluded Juror A because even though they're
21 qualified, that if they weren't convicted of a crime,
22 it varied, you know, that was punishable up to a
23 year, they had a DUI. Well, I can't respond yes, but
24 you didn't strike this other juror who, also, has a
25 DUI. So I don't think it puts us on equal footing.

1 So the way it's been addressed in the past is
2 just a summary that says -- you know, there's usually
3 a cover sheet because they don't want to flip through
4 192 of them either, it says, you know, like arrest
5 for DUI, convictions for ABHAN. And I always look
6 for a summary of that information. And it may not be
7 triggered, but I do think to the extent The State has
8 access to that and we cannot honestly respond to
9 and/or make a Batson motion accordingly, then as a
10 rule of course made that motion in limine.

11 THE COURT: Is there a summary?

12 MRS. SCOTT: Yes, Your Honor. I prepared
13 something today during lunch, so in the event -- and
14 this is what you have to do, Judge, is you order me
15 to do this in order for me to comply --

16 THE COURT: Give her the summary?

17 MRS. SCOTT: Somewhat in a nutshell in trying to
18 comply with all these different rules, you have to
19 order me, Your Honor, to provide the information that
20 she's requesting. Then I need to respond accordingly
21 that first, we would need to get the strike sheet,
22 meaning whoever is going to be present actually in
23 this room, compare the people that are going to be
24 present in this room, Your Honor, to the summary of
25 the people that I know actually have convictions and

1 then provide that short pool of summaries to her so
2 that we are on the equal footing that she just
3 requested today.

4 THE COURT: So we need the strike sheet first to
5 be given --

6 MRS. SCOTT: You need to order me first to do
7 it, then I have to ask you to do it this way, Judge.

8 THE COURT: All right. Well, I'll order you to
9 do that.

10 MRS. SCOTT: Okay.

11 THE COURT: So then the next step, you would
12 need the strike sheet?

13 MRS. SCOTT: Yes, Your Honor, in order to
14 compare that strike sheet to the summary. And then
15 at that point, then provide to Defense counsel the
16 summary of the ones who are actually present for our
17 jury pool of any convictions that they may have.

18 THE COURT: As opposed to anybody else down
19 there in the pool?

20 MRS. SCOTT: Correct, that just really does not
21 comply with NCIC authority.

22 THE COURT: Okay. All right. That will take --
23 so we've got to get you the strike sheet first, then
24 compare. Then once that's done, you provide the
25 summary over to The Defense? Did I get that right?

1 MRS. SCOTT: Yes, Your Honor. And she will see
2 that I'm doing it rapidly. I'm not trying to play
3 games or anything. It will be quick.

4 THE COURT: Okay..

5 MRS. LIPINSKI: Your Honor, I'm not saying that
6 in any way.

7 MRS. SCOTT: Yeah, I'm with you. We're good.
8 She's right.

9 THE COURT: So that's what we do then, get the
10 strike sheet to you, right?

11 THE CLERK: (The clerk nods.)

12 THE COURT: So you'll need some time to look at
13 that?

14 MRS. SCOTT: It shouldn't take long. I mean,
15 the strike sheet -- sorry, Judge, no. It shouldn't
16 take long. About 30 names, I don't know.

17 THE COURT: Thirty-five names.

18 MRS. SCOTT: I just need to look at the number.

19 THE COURT: We'll just be at ease for a little
20 bit and give you an opportunity to look at that.

21 I'll just step off the bench, let y'all take a look
22 at it. Let me know when you're ready.

23 MRS. LIPINSKI: Thank you, Your Honor.

24 THE COURT: All right.

25 (WHEREUPON, a short break was taken.)

1 (WHEREUPON, State's Exhibits Nos. 1-4 were
2 marked for identification only.)

3 MRS. SCOTT: Your Honor, we are complete.

4 THE COURT: Complete. Ready to go.

5 MRS. SCOTT: Your Honor, pursuant to your order,
6 we have released the NCIC information. And for the
7 record, what we were provided was a strike sheet. We
8 then compared that to the summary that we had of the
9 NCIC that I'm aware of. We have handed over to
10 Defense counsel one as a summary. Only one will be
11 pulled today that has an actual NCIC concern and I've
12 given it to Defense counsel.

13 THE COURT: All right.

14 Mrs. Lipinski, is that correct?

15 MRS. LIPINSKI: Yes, Your Honor.

16 THE COURT: All right. Anything else before we
17 bring the jury up?

18 MRS. SCOTT: No, Your Honor.

19 MR. HOLCOMB: No, Your Honor.

20 THE COURT: All right. Bring them up.

21 MRS. LIPINSKI: Can I just --

22 You can bring them up.

23 I've never struck a jury with you, so this is
24 new territory. Do you make them come up here? If
25 not, do you mind, could I move over there? Because

1 when they stand up, I'd just like to be able to --

2 THE COURT: I do both, really. I'm trying to
3 think of what I've done recently. Started out in the
4 beginning a few years ago just having them stand up
5 where they are. But I think recently, I've just been
6 having them come up here, just right there.

7 MRS. LIPINSKI: That's fine. I try to turn. I
8 don't like my back being to them. I try to avoid
9 that.

10 THE COURT: Okay.

11 Y'all through with the strike sheets?

12 MRS. SCOTT: When you say through with them, I
13 think once we have them -- "

14 THE COURT: Y'all want to keep them?

15 MRS. SCOTT: Yes, sir.

16 THE COURT: Both y'all want to keep them?

17 MRS. LIPINSKI: We have notes on them.

18 MRS. SCOTT: We're keeping them now, Judge.

19 THE COURT: I'm going to let y'all do it this
20 time.

21 All right. First thing, I'm going to change my
22 mind. Because this room is one of the smaller
23 courtrooms and to have them cross over everybody, I'm
24 just going to have them stand up where they are.
25 It's a small courtroom here. It's just kind of close

1 quarters.

2 MRS. LIPINSKI: Do you mind if I move over
3 there?

4 THE COURT: I don't mind, no, y'all can move
5 over. I'm just going to let them stand up where they
6 are.

7 Going to pick two alternates, too; is that
8 correct?

9 MRS. SCOTT: Yes, Your Honor.

10 MRS. LIPINSKI: Yes, Your Honor.

11 THE BAILIFF: Ready for the jury?

12 THE COURT: Yes, sir.

13 (WHEREUPON, the jury venire entered open court
14 at approximately 3:40 p.m.)

15 THE COURT: All right.

16 THE BAILIFF: Jury present.

17 THE COURT: All right, thank you.

18 Good afternoon, ladies and gentlemen, I'm Judge
19 Morgan. I didn't meet y'all this morning. One of
20 our other judges qualified the jury and met you. But
21 I'm one of the resident circuit court judges here in
22 the 13th circuit and I welcome you to the Greenville
23 County courthouse.

24 We are about to start the trial of The State of
25 South Carolina vs. Levy Ernest Dunn, the third.

1 Mr. Dunn, would you stand up, please, and face
2 the jury?

3 (WHEREUPON, The Defendant stood.)

4 THE COURT: All right. Thank you, sir.

5 All right, ladies and gentlemen, Mr. Dunn has
6 been indicted for domestic violence of a high and
7 aggravated nature. Now, let me tell you, first of
8 all, this is simply an indictment. An indictment is
9 the method or manner in which a case is brought to
10 court on the criminal side. It is not evidence, it
11 is not proof of anything. It is simply the
12 indictment that is brought forward before you here
13 today.

14 This indictment alleges that on March 17th of
15 2021 that The Defendant did unlawfully cause physical
16 harm or injury to Nneka Dunn, a household member, or
17 did unlawfully offer or attempt to cause physical
18 harm or injury to Nneka Dunn, a household member,
19 with apparent present ability under circumstances
20 reasonably creating fear of imminent peril. Levy
21 Ernest Dunn, the third, committed the offense under
22 these circumstances manifesting extreme indifference
23 to the value of human life and the offense resulted
24 in great bodily injury to Nneka Dunn. All in
25 violation of section 16-25-0065. Again, this is

1 simply the indictment that brings the case before you
2 here today.

3 Now, is there any member of the jury panel who
4 is related by blood or marriage to either Mr. Dunn,
5 The Defendant, or Nneka Dunn, The Victim? Mrs.~Dunn
6 also is known as Nneka Rita Chidibere Okeke. So that
7 is Nneka Rita Chidibere Okeke.

8 Is there any member of the jury panel related by
9 blood or marriage to either of these individuals?

10 (There was no response.)

11 THE COURT: Does any member of the jury panel
12 have any close personal or social relationship with
13 either The Defendant or Mrs.~Dunn in this case?

14 (There was no response.)

15 THE COURT: All right. The following is a list
16 of potential witnesses in this case: Jackie Heil;
17 Courtney Fuller; Jennifer McDonald, Lieutenant Scott
18 Menzies; Corporal Brandon Davis; Officer John
19 Pryzbylo; Sergeant Allyson Wright; Mrs.~Dunn; Deputy
20 Steven Epps; Dr. Stephen Strasberg; Lieutenant James
21 Donnelly; Deputy Ryan Freeman; Charles Moore; Michael
22 Googy and Diane Kennedy.

23 Has anyone ever been related by blood or
24 marriage or had any close personal or social
25 relationship or know any of these potential witnesses

1 out here and we'll start the trial. Thank you.

2 (WHEREUPON, the jury left open court at
3 approximately 3:41 p.m.)

4 THE COURT: All right, we'll be at ease.

5 Mr. Holcomb, I didn't hear Mrs. Scott say
6 anything, I thought you jumped right in and started
7 striking.

8 THE CLERK: They didn't let me do my job.

9 THE COURT: So I didn't hear Mrs. Scott.

10 All right. We'll be in a short recess until
11 they come back out.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: All right. Everyone ready? Have
14 they selected someone?

15 BAILIFF: Yes, sir, they selected a foreperson.

16 THE COURT: All the witnesses sequestered?

17 MRS. SCOTT: Yes, Your Honor. We do have our
18 lead investigator here.

19 THE COURT: All right.

20 (WHEREUPON, the jury entered open court at
21 approximately 3:53 p.m.)

22 THE COURT: All right, Madam Clerk, swear the
23 jury.

24 THE CLERK: Please stand. The correct response
25 to the oath is, I will.

1 (WHEREUPON, the jury was sworn.)

2 THE CLERK: Thank you, please be seated.

3 THE COURT: All right, ladies and gentlemen of
4 the jury, we are starting the case of The State vs.
5 Levy Ernest Dunn, the third. Now, this is a criminal
6 case. As I explained to you just a little while ago
7 that Mr. Dunn has been indicted, but that indictment
8 is only that, an indictment. It is the method by
9 which the case is brought to trial before you. And
10 it is not to be considered evidence.

11 I don't know if any of you ever sat on a jury,
12 but it's a lot different than TV and in the movies.
13 It doesn't happen -- everything happens within an
14 hour. Something happens, the jury gets the case, you
15 have the argument, the verdict is over and that's it
16 and everybody goes home. It's a little bit
17 different. So with that, I ask if you would, to
18 have -- ask for your patience. Because sometimes it
19 doesn't go as fast as you would like for it to go,
20 issues come up that I have to deal with. And so
21 sometimes it doesn't go as fast as you'd like. So I
22 just ask for your patience.

23 Now, as I said, this is a criminal case. And
24 because The Defendant is here before you today, the
25 burden is on The State. The Defendant is denying

1 that he is guilty. So therefore, the burden of proof
2 is on The State in this case. And that burden is
3 beyond a reasonable doubt.

4 Our Constitution give us safeguards for
5 defendants who are charged and he has that in this
6 case. He has what we call the presumption of
7 innocence. And that presumption of innocence is with
8 him in this entire trial. And as I said, because The
9 State has the burden of proof, The Defendant does not
10 have to put up any evidence if they don't want to.

11 The Defendant is, also, not required under our
12 Constitution to testify if he decides to. And if he
13 does not testify, you are not to hold that against
14 him in any manner whatsoever. Now, again, the burden
15 of proof is upon The State to prove The Defendant
16 here guilty beyond a reasonable doubt.

17 Now, the case is about to start, it has started.
18 I'm giving you the opening instructions to this
19 trial. What's going to happen next is The State,
20 because they have the burden of proof, they will go
21 first and give what we call an opening statement.
22 The Defendant then has an opportunity, if he so
23 desires, to give an opening statement following The
24 State's. These are simply opening statements. It is
25 not evidence. It is simply each party's position and

1 what they anticipate the evidence will show you.

2 Now, once the opening statements are done, then
3 the evidence will be put before you. Once again,
4 because The State has the burden of proof, they go
5 first. They will put up their case before you.
6 After that, The Defendant can put up his case or
7 evidence in the case if he desires to do so. Again,
8 as I said, he is not required to do so because The
9 State has the burden of proof to prove him guilty
10 beyond a reasonable doubt.

11 Once all the evidence is in, then the lawyers
12 will give what's called a closing argument to you.
13 They will summarize all the evidence that's been put
14 before you and ask you to return a verdict in their
15 favor. So once the lawyers give their closing
16 arguments to you, I will then instruct you on what
17 the law is regarding this case. And once I do that,
18 I will then give you the case for your deliberations.

19 Now, keep in mind, you and I have two different
20 roles. We have roles in this case. You are the
21 finders of the fact in this case. And you are the
22 only ones that have that role. You and you alone
23 find the facts in this case. Part of finding the
24 facts involves credibility. The witnesses will come
25 before you and testify and you are to judge their

1 credibility, their demeanor, their bias, their
2 prejudice, what they were able to see, what they were
3 able to hear, things like that. So you and you alone
4 judge the credibility of the witnesses in determining
5 the facts in this case.

6 Now, my role is a little bit different. I can't
7 find the facts. That is not my duty. That's not my
8 role, that is not my responsibility. In fact, I
9 cannot be the one that finds the facts in this case
10 because that is your sole responsibility. I'm the
11 judge of the law. As I told you just a minute ago,
12 at the end of this case, I'll give you the case and
13 instruct you as to what the law is in this case.
14 Then you apply that law based on the facts that have
15 been put before you. Now, you may have some
16 preconceived notion as to what the law is or what the
17 law should be. And I'm bound to tell you and require
18 that you not follow what you think it is or what you
19 believe it should be. The law as I give it to you at
20 the end of this case is the law that you are to apply
21 in the matter.

22 Now, there may be some times, ladies and
23 gentlemen, throughout the trial where I may need to
24 send you out. I may need to take up some issues with
25 the lawyers. And it may be something that just needs

1 to be out of your presence. So don't hold that
2 against any of the parties in this case or their
3 lawyers. That's just part of the case and they are
4 representing their clients and they may need to take
5 some matters up with me. It may not be something
6 that y'all need to hear. There may be some times
7 when I can just handle the issue and bring them up to
8 the bench and keep you in here. That way, I don't
9 have to keep sending you in and out. We're not
10 holding anything back from you purposely, other than
11 there may be some things that I just need to handle
12 that needs to be outside your presence. Again, don't
13 hold anything against any of lawyers in this case or
14 their clients whatsoever.

15 One thing that does come up in trials that I get
16 asked is can we take notes? My policy is that I just
17 don't allow you to take notes. And let me tell you
18 why. One is that a lot of times when a witness is up
19 here on the stand and you're writing down your notes,
20 you may not be listening to what they're talking
21 about while you're writing down the notes. Kind of
22 like back in school when the teacher was talking, you
23 were trying to write the notes and you may have
24 missed what he or she was talking about while you
25 were trying to write the notes. Also, when you get

1 back in the jury room and somebody says, well, this
2 is what I wrote and therefore, it's true, it's not
3 necessarily always the case. So for that reason, I
4 just think it's best. I think you recall more by
5 paying attention and listening without trying to
6 write things down. So for that reason, I don't allow
7 note taking.

8 Last thing I want to tell you is that during
9 this case, do not discuss the case until I give it to
10 you to deliberate. And that includes when you're
11 back there on a break or if you go out to lunch or
12 any kind of time when you're together, please do not
13 discuss the case. Do not discuss anything about it.
14 Don't discuss the lawyers, don't comment on the
15 lawyers, the witnesses or anything like that. You
16 can talk about anything else in the world, weather,
17 college football coming up, baseball or whatever you
18 want to talk about you can talk about that all day
19 long. But please don't discuss the case until I give
20 you the go ahead.

21 The other thing that is important and it's
22 really important in today's times, and that's social
23 media. Please do not do any investigation on your
24 own during this trial. Once this trial is over and
25 you are excused from the trial, you can look up all

1 you want to, but please do not go on your phone. I
2 know that it is just what we all do. We immediately
3 go to our phone, try to look something up. Please do
4 not do that. Don't look up the witnesses, don't look
5 up The Defendant, don't look up the case, don't look
6 up the lawyers. Do not look up anything about this
7 case until you are excused.

8 Now, when you go home tonight you are probably
9 going to get questions from your family or friends
10 who are going to ask you about the case. They'll ask
11 you, tell me about it, what's going on, what's the
12 case about, who's been testifying. Please do not
13 discuss it with your friends or your family. And you
14 can tell them the judge has ordered me not to do so.
15 It is a serious violation if that is found out. I
16 just want to give you a heads up, it is a serious
17 violation, you know, any discussion about the case
18 with anyone until you're excused from the case.

19 And again, I know your friends and relatives may
20 want to find out about it and ask you a bunch of
21 questions. You just tell them I'll talk to you all
22 you want to know, I'll answer any questions you want
23 to know after this trial. And you can tell me, blame
24 it on me. You can say The Judge has ordered me not
25 to do it and I'll get in big trouble if I do. And I

1 know you won't, I know you will follow my
2 instructions as we go through the trial. So please
3 don't discuss the case, don't talk about it with
4 anybody, don't look it up on social media until I
5 tell you to do so.

6 All right. With that said, I'm going to
7 recognize The State for opening statement.

8 OPENING STATEMENT

9 MRS. WESTFIELD: May it please the Court, Your
10 Honor?

11 THE COURT: Mrs. Westfield.

12 MRS. WESTFIELD: Good afternoon, ladies and
13 gentlemen of the jury. My name is Elterrice
14 Westfield. I, along with cocounsel, Brittany Scott,
15 represent The State in this matter, The State vs.
16 Levy Dunn, who is charged with domestic violence of a
17 high and aggravated nature.

18 You just heard The Judge briefly mention the law
19 as he announced this case. But what does it take to
20 have domestic violence of high and aggravated nature?
21 In this case, the parties are married and were living
22 together. The Defendant inflicted physical harm or
23 injury to Nneka Rita Dunn and it was done with
24 extreme indifference to human life and great bodily
25 injury resulted.

1 On a rainy day, March 17th, 2021, Nneka arrives
2 home and heads to the bedroom to get settled in for
3 the night. She will tell you that instead of a
4 peaceful night at home, The Defendant begins to make
5 demands of her and, ultimately, strikes her face and
6 pushes her on the bed. She will tell you that The
7 Defendant pulls out a knife and stabs her. She'll
8 tell you about the pain and the fear that she felt.
9 She'll tell you about her last effort to make her way
10 out of that apartment alive, make her way down the
11 stairwell, all the way to the next apartment building
12 as she screamed for help the entire way. Meanwhile,
13 this Defendant left her helpless as he drives away in
14 her car. It would be weeks before he is found.

15 In this case, we see a community corralled
16 around this woman, Nneka Rita Dunn. They support her
17 in her stress, they became involved. They help in
18 this moment in her journey of survival in spite of.
19 You're going to hear from lay witnesses who were
20 enjoying this rainy night at home as well on
21 March 17th, 2021.

22 When Rita comes screaming for help, this
23 community rises to the occasion. When Jennifer
24 McDonald dragged her into her own apartment, applies
25 pressure to her wounds with her own linens. You're

1 going to hear from Courtney Fuller, who was flagging
2 down police to make sure they knew where to come when
3 they arrived on scene, all while taking photos of
4 Nneka Rita as she laid there in the breezeway
5 injured. Now, you'll hear from officers who assisted
6 Nneka Rita until EMS arrived. You'll hear from
7 forensics, who documented the condition of Rita in
8 this Defendant's apartment. But most importantly,
9 you'll hear from Nneka Rita herself and her journey
10 of survival.

11 Now, we, as The State, we do have the burden of
12 proof. And it's our job to prove to you that these
13 elements are met beyond a reasonable doubt. But what
14 does that mean? That means that if you're firmly
15 convinced that Levy Dunn committed this crime, then
16 you should find him guilty. At the end of this
17 trial, you will have been provided the facts you need
18 and the law to apply to this case. After hearing
19 testimony, we, The State, believe that we will have
20 satisfied our burden and ask that you find this
21 Defendant guilty of domestic violence of a high and
22 aggravated nature.

23 THE COURT: All right, Defense recognized.

24 OPENING STATEMENT

25 MR. HOLCOMB: Thank you, Your Honor, may it

1 please the Court.

2 Cocounsel.

3 Good afternoon, I want to thank you all for your
4 service here today. Sitting on the jury is one of
5 the most important civic duties that we as United
6 States citizens can perform. Mr. Dunn sits here
7 today before you an innocent man. Our Constitution
8 provides him with the presumption of innocence. The
9 burden of proof in this case, The State has to prove
10 Mr. Dunn guilty beyond a reasonable doubt on every
11 single element of the crime of domestic violence of a
12 high and aggravated nature.

13 I'm going to ask you to keep an open mind
14 throughout this trial. Pay close attention to
15 witnesses and their demeanor. And I'm going to ask
16 you really just pay close attention to the victim's
17 testimony. Some things in life appear one way on the
18 surface. When you start digging a little deeper,
19 they start to look a lot different.

20 I'm going to get back up here at the end and I'm
21 going to go through all the things we discussed at
22 trial and I'm going to ask you to find Mr. Dunn not
23 guilty.

24 THE COURT: All right, State call its first
25 witness.

JACKIE HEIL-DIRECT BY MRS. WESTFIELD

1 MRS. SCOTT: Yes, Your Honor.

2 MRS. WESTFIELD: Your Honor, The State calls
3 Jackie Heil.

4 THE CLERK: Please pause at the end of the
5 bench, place your left hand on the Bible, raise your
6 right hand.

7 JACKIE HEIL, after being duly sworn,
8 testified as follows:

9 THE CLERK: Thank you, please be seated. State
10 your name for the record.

11 THE WITNESS: Jackie Heil.

12 DIRECT EXAMINATION

13 BY MRS. WESTFIELD:

14 Q Good afternoon, Ms. Heil.

15 A Hi.

16 Q Now, where do you work?

17 A Simpsonville Police Department.

18 Q Okay.

19 THE COURT: Pull that microphone up. There we
20 go. Thank you.

21 BY MRS. WESTFIELD:

22 Q What are your duties there?

23 A I am a dispatcher. I, also, handle the NCIC
24 terminal, as well as training and any recordings.

25 Q Okay. Now, what type of calls do you all

JACKIE HEIL-DIRECT BY MRS. WESTFIELD

1 receive at the dispatch center?

2 A We receive all kinds. Regular nonemergency
3 calls, emergency calls.

4 Q Okay. Now, can you describe to the jury the
5 process of how you all receive 911 calls and how they're
6 handled?

7 A A call will come in on a special line. The
8 dispatcher on duty will go ahead and take the call, find
9 out what the needs are, if it is something needed for
10 police, fire or EMS, then transfer, if necessary. And get
11 the information if it's a police matter.

12 Q Okay. Now are these calls preserved?

13 A They are.

14 Q How are they preserved?

15 A On our system, it's called Equature.

16 Q Say that again.

17 A Equature.

18 Q Equature. Okay. Now, how are they stored? Are
19 they stored any special?

20 A Not really sure exactly how to answer that. I
21 mean, they're recorded -- excuse me, stored in a system.

22 Q Okay.

23 A For up to three years.

24 Q Okay. Now, are they preserved in the regular
25 course of business operation?

JACKIE HEIL-DIRECT BY MRS. WESTFIELD

1 A Yes.

2 Q Are you custodian of these calls?

3 A Yes.

4 Q Okay. And you did state that they are stored up
5 to about three years?

6 A Uh-huh.

7 Q Okay. Now, how long do you all keep the
8 recordings?

9 A If I'm not mistaken, I think it's like up to
10 five years. Because we would have to ask for them to go
11 into the system further than that three-year period to
12 retrieve that through 911.

13 Q Okay. Is there a written report that documents
14 when these calls come in?

15 A Any of the calls that come in as far as an
16 incoming 911 call?

17 Q Yes, ma'am.

18 A Okay. We would do that on the computer. If
19 someone is requesting a recording of a 911 call, then that
20 comes in through a telecommunicator communications
21 request.

22 Q Okay. What's that request called?

23 A It's just a request for telecommunication and
24 then the information filled out as far as the date, time
25 and place.

JACKIE HEIL-DIRECT BY MRS. WESTFIELD

1 Q Okay. And what is that document called for the
2 jury?

3 A It's a telecommunication request.

4 Q Do you refer to that as CAD?

5 A That is our computer system.

6 Q Okay. Now, when investigators or prosecutors
7 need copies of a particular 911 call and the associated
8 CAD, explain how they would receive that copy?

9 A They would submit a request for that particular
10 call and then go into the system, into the Equature, and
11 then either burn it on a disk or email it to whoever is
12 requesting it. And it's going to have all the information
13 as far as the date and time recorded and then the actual
14 call.

15 Q Okay. All right. I'm going to hand you what
16 has been premarked as State's Exhibit No. 1. Do you
17 recognize that?

18 A Yes.

19 Q Okay. How so?

20 A I signed off on it and the case number is
21 listed.

22 Q All right. Now, what do your initials mean on
23 this CD? What does it represent?

24 A I listened to that the tape -- excuse me, the
25 recording that was made for that case number.

JACKIE HEIL-DIRECT BY MRS. WESTFIELD

1 Q Okay. How many calls came in that's on this CD?

2 A Should be one.

3 Q Should be one?

4 A Uh-huh.

5 Q Now, is this recording or these recorded calls
6 on this CD a fair and accurate recording of your original
7 call that came in that day?

8 A It is.

9 Q Do you have the associated CAD with calls that
10 are on this CD?

11 A The printout?

12 Q Yes, ma'am.

13 A Uh-huh.

14 Q So you have it in front of you?

15 A I do.

16 Q Now, who placed the calls? You can use your CAD
17 to refresh your memory.

18 A There was no name listed in the CAD record for
19 me, but it looks like it was a neighbor in that apartment
20 complex.

21 Q Was there a phone number on there, a residence
22 of the call?

23 A There is.

24 Q Okay. Now, who were the dispatchers to these
25 calls?

JACKIE HEIL-DIRECT BY MRS. WESTFIELD

1 A Dispatcher Miller took this call.

2 Q Okay. And can you tell the jury when the call
3 was made?

4 A The call came in shortly after 8:00 o'clock on
5 March 17th, 2021.

6 MRS. WESTFIELD: At this time, Your Honor, The
7 State moves to enter Exhibit No. 1 into evidence.

8 THE COURT: Any objection from The Defense?

9 MRS. LIPINSKI: Can we just view it to see
10 what's on it? I always like to look at it first. No
11 objection.

12 THE COURT: All right. State's Exhibit No. 1 is
13 admitted in evidence without objection.

14 (WHEREUPON, State's Exhibit No. 1 was admitted
15 into evidence.)

16 MRS. WESTFIELD: Thank you, Your Honor.
17 Permission to publish to the jury?

18 THE COURT: You may.

19 MRS. SCOTT: Not yet, please.

20 THE COURT: All right.

21 MRS. SCOTT: All right.

22 MRS. LIPINSKI: Can we pause it real quick?

23 MRS. SCOTT: We're trying.

24 MRS. LIPINSKI: Can we approach real quick?

25 THE COURT: Yeah.

JACKIE HEIL-CROSS BY MRS. LIPINSKI

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of the
3 hearing of the jury.)

4 (WHEREUPON, State's Exhibit No. 1 was
5 published.)

6 MRS. SCOTT: Thank you, please answer any
7 questions The Defense may have.

8 THE COURT: All right, cross.

9 MRS. LIPINSKI: Just briefly.

10 CROSS-EXAMINATION

11 BY MRS. LIPINSKI:

12 Q So you're not the dispatcher that was on this
13 call, correct?

14 A That's correct, I was not.

15 Q Is that dispatcher still with Simpsonville
16 Police Department?

17 A She is.

18 Q Okay. But you're just, basically, the custodian
19 of records, also, in addition to your other duties,
20 correct?

21 A Correct.

22 Q And I could be wrong, so correct me if I am, but
23 if I call 911, there's almost like a central routing and
24 they kind of determine are you in Simpsonville, are you in
25 Fountain Inn, are you in Greenville County, that kind

JACKIE HEIL-CROSS BY MRS. LIPINSKI

1 thing? Or do they all come directly to you?

2 A It depends. It could hit a cell tower and it's
3 going to depend on that location. It could route it to
4 Simpsonville and actually be a Fountain Inn call. We
5 would, of course, get it over to the appropriate agency.
6 But most of them, any in the local area will come directly
7 into us.

8 Q But if there were any other calls that were
9 made, perhaps, from a different cell tower or something
10 like that, they would possibly could have gotten routed to
11 another agency and you wouldn't have possession of that,
12 correct?

13 A Possibly.

14 Q Then there are times where things happen and
15 there are multiple 911, like witnesses and other people
16 call 911, correct?

17 A Correct.

18 Q But this is the call that you were asked to
19 flag, correct?

20 A Yes.

21 Q But you don't know any of the people speaking on
22 this? You weren't the 911 operator who took this call,
23 correct?

24 A The only person I recognize is the dispatcher.
25 The caller, I do not.

JACKIE HEIL-CROSS BY MRS. LIPINSKI

1 Q All right. Because you made a comment about
2 somebody being a neighbor. You don't know if they were a
3 neighbor, friend, somebody visiting, anything like that?

4 A No, I don't.

5 Q All right.

6 MRS. LIPINSKI: That's all we have, Your Honor.

7 THE COURT: All right, any redirect?

8 MRS. WESTFIELD: Nothing further, Your Honor.

9 THE COURT: All right, you may step down. Thank
10 you.

11 MRS. WESTFIELD: Can we release the witness from
12 subpoena?

13 THE COURT: Any objection from The Defense?

14 MR. HOLCOMB: No objection.

15 THE COURT: All right, you're released from your
16 subpoena.

17 All right, next witness.

18 MRS. WESTFIELD: The State calls Courtney
19 Fuller, Your Honor.

20 MRS. LIPINSKI: Can we approach on a scheduling
21 matter?

22 THE COURT: Yeah.

23 (WHEREUPON, an off-the-record bench conference
24 was held in the presence of the jury but out of
25 the hearing of the jury.)

COURTNEY FULLER-DIRECT BY MRS. WESTFIELD

1 THE CLERK: Please pause at the end of the
2 bench, place your left hand on the Bible, raise your
3 right hand.

4 COURTNEY FULLER, after being duly
5 sworn, testified as follows:

6 THE CLERK: Thank you, please be seated. State
7 your name for the record.

8 THE WITNESS: Courtney Fuller.

9 DIRECT EXAMINATION

10 BY MRS. WESTFIELD:

11 Q Hi, Mrs. Fuller, good evening.

12 A Hi.

13 Q Now, how old are you?

14 A Thirty-five.

15 Q Do you work?

16 A I do.

17 Q Where do you work?

18 A Verizon Wireless.

19 Q How long have you been there?

20 A Ten years on September 10th.

21 Q Okay, good. Now, did you live at Waterleaf
22 Apartments back in March of 2021?

23 A I did.

24 Q Okay. And do you recall assisting a woman who
25 was bleeding outside that apartment?

COURTNEY FULLER-DIRECT BY MRS. WESTFIELD

1 A I do.

2 Q Okay. Tell The Court what happened, in your own
3 words, or how you became involved in helping her.

4 A I was finishing up work. This was late that
5 evening, probably around 9:00, 10:00, I'm not sure what
6 time. But I could hear something as I was getting off a
7 call and I was like -- it was like a faint sound. So I
8 was getting ready to go out the door to go pick up my
9 daughter and when I opened up the door, I saw a lady
10 laying on the ground. And I immediately ran and got my
11 phone and called 911 and was asking her if she was okay.

12 Q Okay. You were asking her was she okay?

13 A Yes, ma'am.

14 Q Okay. What else did you do when you saw this
15 woman?

16 A Called 911 and was screaming for help.

17 Q Okay. So you did call 911 screaming for help.
18 Could you tell The Court, just in looking at her, what you
19 observed from seeing her?

20 A She had cuts all on her face, blood was on the
21 ground and she was -- seemed to be in a lot of pain.

22 Q Did she tell you what her name was?

23 A I think during the 911 call is when I asked her
24 what her name was.

25 Q Okay. Had you ever met her before?

COURTNEY FULLER-DIRECT BY MRS. WESTFIELD

1 A Never seen her.

2 Q Okay. Now, while she was there in the
3 breezeway, you saw her bleeding. What else did you do?

4 A I took pictures.

5 Q Took pictures?

6 A Yes, ma'am.

7 Q Okay. All right. Ms. Fuller, I'm handing you
8 State's Exhibits marked 2, 3 and 4, do you recognize these
9 photos?

10 A Yes.

11 Q How so?

12 A I took them.

13 Q You took them, okay. Now, are they a true and
14 accurate depiction of the photos you took that day?

15 A Yes, ma'am.

16 MRS. WESTFIELD: Your Honor, we ask the Court --
17 or move to The Court that we enter State's Exhibit
18 Nos. 2, 3 and 4 into evidence.

19 THE COURT: All right, any objection from The
20 Defense?

21 MR. HOLCOMB: No objection.

22 THE COURT: All right. State's Exhibit Nos. 2,
23 3 and 4 are admitted in evidence without objection.

24 (WHEREUPON, State's Exhibits Nos. 2-4 were
25 admitted into evidence.)

COURTNEY FULLER-DIRECT BY MRS. WESTFIELD

1 MRS. WESTFIELD: Your Honor, we, also, ask
2 permission to publish the photos. Before I get her
3 off the stand, I want to ask her a couple questions,
4 okay.

5 THE COURT: All right.

6 BY MRS. WESTFIELD:

7 Q Okay, State's Exhibit No. 2, what do you see
8 here?

9 A What photo?

10 Q Okay, you should have a screen up there,
11 Ms. Fuller.

12 A There it is, okay. Thank you.

13 Q This is State's Exhibit No. 2. Could you
14 describe to the jury what you observed when you took this
15 photo?

16 A She was out of it. She was wasn't talking much.
17 She seemed to be in a lot of pain. She had cuts and stabs
18 all in her face.

19 Q Okay. All right. State's Exhibit No. 3. So
20 where -- let's back up. Where did she go? Did she just
21 stay out there?

22 A So from what I remember when I heard her coming
23 into our breezeway -- because she stayed in the building
24 beside me. She actually had to walk to my breezeway,
25 which is where she ended up.

COURTNEY FULLER-DIRECT BY MRS. WESTFIELD

1 Q Now, whose door is she lying by in this photo?

2 A She's lying in front of my neighbor's door.

3 Q Okay. Did she go into that neighbor's house?

4 A Yes, and that's on another picture where we
5 thought her husband was coming back. And when my neighbor
6 opened up the door -- because I knocked on her door and
7 let her know. She heard the hollering as well, so she
8 opened up her door. And we thought it was her husband
9 coming back, but it was actually another neighbor was
10 walking up as well because he said that he heard the
11 commotion. And she ran, like, crawled into that
12 neighbor's door.

13 Q Did you ever find out what that neighbor's name
14 was?

15 A Jennifer.

16 Q All right. State's Exhibit No. 3. Now, can you
17 describe to the jury what we see here?

18 A Yes, that's about the time the EMS and paramedic
19 got there. The guy in the gray shirt, he's -- yes, ma'am,
20 I think it's like a -- he lives -- well, he lived at that
21 apartment complex as well.

22 Q Okay.

23 A So I do remember when I was screaming for help,
24 he was the one that came down.

25 Q Okay. Now, State's Exhibit No. 4, I know it's a

COURTNEY FULLER-CROSS BY MR. HOLCOMB

1 little blurry, but describe to us here what we see.

2 A This was before anyone got there. That's
3 Jennifer leaning over putting paper towels on her face.

4 Q Okay. So that's Jennifer, like, behind her?

5 A Yes, ma'am, the white lady right there.

6 Q All right.

7 MRS. WESTFIELD: All right, nothing further.

8 Answer any questions The Defense may have.

9 THE COURT: All right, cross?

10 MR. HOLCOMB: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. HOLCOMB:

13 Q Good afternoon, Ms. Fuller. How are you doing?

14 A Good. How are you?

15 Q Pretty good. So you were in your apartment when
16 you heard noise, correct?

17 A Yes, sir.

18 Q So you weren't outside?

19 A No.

20 Q And you went out to help her?

21 A So I was getting off of work, leaving my
22 apartment to go pick up my daughter. And when I opened up
23 the door, that's when I saw her there.

24 Q So saw her there?

25 A Yes, sir.

COURTNEY FULLER-CROSS BY MR. HOLCOMB

1 Q You went outside?

2 A Uh-huh.

3 Q You called 911?

4 A I did.

5 Q And then she went into another neighbor's
6 apartment?

7 A Yes, because we thought her husband was coming
8 up, so she crawled into that neighbor's apartment.

9 Q So you went into the other neighbor's apartment
10 and you helped, correct?

11 A I did.

12 Q And before all this, though, you don't see
13 anything?

14 A No, I didn't.

15 Q You didn't hear anything?

16 A I just heard something that sounded like someone
17 was talking. Because I was on a call with a customer, so
18 I didn't hear any commotion or anything like that.
19 Because she stayed in the building beside me.

20 Q But when you went out, you saw her?

21 A Yes.

22 Q But before that, you didn't see anything?

23 A No.

24 Q Didn't hear anything?

25 A No.

COURTNEY FULLER-CROSS BY MR. HOLCOMB

1 Q You didn't see any man that matched Mr. Dunn's
2 description?

3 A No.

4 MR. HOLCOMB: Just one moment, Your Honor.

5 THE COURT: Yes, sir.

6 MR. HOLCOMB: I have no further questions for
7 this witness.

8 THE COURT: Any redirect?

9 MRS. WESTFIELD: Nothing further, Your Honor.

10 THE COURT: All right, you may step down. Thank
11 you.

12 MRS. WESTFIELD: Can she be excused from her
13 subpoena?

14 THE COURT: Any objection from The Defense?

15 MR. HOLCOMB: No objection, Your Honor.

16 THE COURT: All right, you are excused.

17 All right, next witness.

18 MRS. SCOTT: Your Honor, she's coming in. The
19 State calls Jennifer McDonald.

20 THE CLERK: Would you please pause at the end of
21 the bench. Please place your left hand on the Bible,
22 raise your right hand.

23 JENNIFER MCDONALD, after being duly
24 sworn, testified as follows:

25 THE CLERK: Thank you, please be seated. State

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 your name for the record.

2 THE WITNESS: Jennifer Ann McDonald.

3 CROSS-EXAMINATION

4 BY MRS. SCOTT:

5 Q Ms. McDonald, how old are you?

6 A I'm 50.

7 Q All right. Do you work?

8 A Yes.

9 Q Okay, where do you work?

10 A I work at Life MD.

11 Q All right. Now, were you working Life MD back
12 in March of 2021?

13 A No, no, ma'am.

14 Q All right. Did you used to live at Waterleaf
15 Apartments in March of 2021?

16 A Yes, yes, I did.

17 Q Okay. Now, earlier, we heard a 911 call, The
18 Court did. So do you recall assisting a woman that was
19 bleeding outside of your apartment when you lived in the
20 Waterleaf?

21 A Yes, ma'am.

22 Q I think it's important for you to tell the jury
23 what you remember, in your words, about that day?

24 A Okay. I think it was about 8:30, I was in bed
25 watching TV when I heard, like, banging on my outside of

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 my wall. I wouldn't say -- I have hearing aides in, I
2 don't hear very well, so at that time, I didn't even have
3 hearing aids. So I don't know how I actually even heard
4 her, but she was screaming really loud, too, so I guess
5 that probably helped.

6 So, at that point, I got up to go see what
7 was going on. I live alone and it was, like, 8:30, I
8 think. And that's kind of scary to open your door by
9 yourself even if you live in a really nice area. I was
10 kind of scared that maybe it was trick to get me to come
11 out. And when I looked outside my door, I did see that my
12 neighbor actually opened her door and I immediately opened
13 my door because she's a single woman, too, with a small
14 child. I was not going to leave her to just be by herself
15 out there.

16 So, at that point, I opened the door and I
17 looked out and there was a woman. She was on the floor
18 and she was bleeding and asking for help. I, of course,
19 tried to help her right away. And, at that point, I think
20 another neighbor, I believe, came walking from the walkway
21 near the parking lot towards my apartment and she saw --
22 the woman on the floor saw him and thought it was somebody
23 else, so she jumped up and pushed me into the doorway.

24 Q If I can stop you, you mentioned that other
25 neighbor that you saw that caused her to push into a

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 doorway, was that neighbor a male or a female?

2 A It was a man.

3 Q And did you recognize that to be a man that
4 lived in the neighborhood or a man that's in the courtroom
5 today?

6 A No, it wasn't anyone -- it was just one of the
7 neighbors, I believe. I don't know all of them.

8 Q Okay.

9 A Come to find out, it was just one of the
10 neighbors that had heard her and was coming out to help.

11 Q Okay.

12 A But by then, we had already -- she had already
13 got me to shut the door and lock it, but I literally went
14 back because I was scared my other neighbor was out there.

15 Q Okay.

16 A And that's when we -- I believe we called 911
17 and I asked for help for her.

18 Q We've already seen some photographs of inside
19 your apartment.

20 A I hope it wasn't messy.

21 Q Jennifer, this woman is in your house, did you
22 see any injuries on her?

23 A Yes. I believe it was around her neck area, I
24 think. I can't remember. I think it was the front, if I
25 remember right. I went and got some towels. I had a

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 white towel phase, so I ran and got a whole bunch of them
2 and went to stop her bleeding as hard as I could.

3 Q And we have State's Exhibit 4, I'm going to put
4 up. It's a little blurry here.

5 A Yeah.

6 Q Is that you here?

7 A Yes, ma'am.

8 Q Right here?

9 A Yes.

10 Q What are you doing here?

11 A I got kind of mad because they weren't pressing
12 hard enough where she was bleeding. And I'm sorry, I
13 understand breathing is important, but so is blood coming
14 out. So you have to press and stop the blood loss. I'm
15 kind of good in a bad situation, but once it's done, I
16 panic. But, at the time, I got a little rude with the
17 officer, actually. He wasn't helping.

18 Q Well, at some point, did you move out the way
19 when the professionals came in?

20 A Yes, ma'am, I did. I did.

21 Q All right. Are we still here in the apartment?

22 A Yes, they were on the floor. I think that
23 photo, if I'm right, I'm trying to -- I'm sorry, I'm
24 trying to see it right. I think that's the door -- no,
25 that's my living room here, the photo right here in the

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 black part.

2 Q I'm sorry, the black part?

3 A That's my living room area.

4 Q Okay.

5 A I think. And behind where the police officers,
6 the back, that's, like, to the back door -- to the front
7 door, sorry.

8 Q All right. Now, you mentioned that you used
9 your own linens. And we actually see you applying
10 pressure. How much blood was left in your apartment?

11 A Quite a bit. It was really bad. It was a lot
12 of blood. I never had a situation like this happen
13 before. And I -- like I said, I was just trying to help
14 her and save her.

15 Q Okay. Now, when she came in, did she tell you
16 anything in that state that she was in as to what happened
17 to her?

18 A Yes. She said that she had --

19 MR. HOLCOMB: Objection, hearsay, Your Honor.

20 THE COURT: Sustained.

21 THE WITNESS: Does that mean -- I'm sorry?

22 THE COURT: You can't answer that.

23 MRS. SCOTT: Your Honor, can I lay foundation
24 some more or just sustained?

25 THE COURT: You got an exception?

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 MRS. SCOTT: Excited utterance, Your Honor.
2 She's testified that the woman ran into her
3 apartment. She, also, testified that she was
4 actively pressing on blood for this woman. And she's
5 been talking about, although in a sweet tone, it's
6 definitely a very heightened situation. So the
7 statement of the victim, at that point, should be an
8 exception to the hearsay rule.

9 THE COURT: All right, Defense?

10 MR. HOLCOMB: Your Honor, I just say she can
11 testify to those statements herself.

12 THE COURT: You're talking about the victim?

13 MR. HOLCOMB: Yes, Your Honor.

14 THE COURT: An excited utterance -- you're not
15 trying to get in testimony from her through hearsay,
16 you're trying to get in through the victim; are you
17 not?

18 MRS. SCOTT: Well, Your Honor, I was going to
19 obviously ask the victim, but I believe that she can
20 state otherwise hearsay when the declarant was doing
21 an excited utterance.

22 THE COURT: I'll sustain it.

23 MRS. SCOTT: Yes, Your Honor.

24 BY MRS. SCOTT:

25 Q Going back to when she was in your apartment and

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 you were caring for her. At some point, First Responders
2 arrived. Do you remember who responded?

3 A Well, I, actually, asked the neighbor to go get
4 another neighbor that was a EMT because I knew that it
5 would take time because law enforcement would have to get
6 there and get the area protected to allow EMS in. So we
7 went and got the neighbor that lived on I think on the
8 third floor. And I didn't know what apartment, but I knew
9 he lived up there, and to go get him.

10 Q All right.

11 A Because I didn't know if I had enough to stop
12 the bleeding. I was scared that wouldn't be enough.

13 Q Did you arm yourself with anything while you
14 were out there?

15 A Oh, I have an handgun.

16 Q And what did you do with any handgun?

17 A I had it ready. I was willing to shoot somebody
18 if I felt they were going to come through the door and
19 hurt me or hurt her or my neighbor.

20 Q All right. You said that you lived alone?

21 A Yes, ma'am.

22 Q What were you working as in March of '21? I'm
23 now curious, what was your occupation then?

24 A I was HR for almost 18 years. But there are
25 crazy people. And I think, at that time, I was working at

JENNIFER MCDONALD-CROSS BY MRS. SCOTT

1 Ryobi and I had some threats and --

2 MR. HOLCOMB: Objection, relevance on this.

3 THE COURT: What's the relevance? Sustained.

4 MRS. SCOTT: We'll move on, Your Honor.

5 BY MRS. SCOTT:

6 Q I'm going back to, eventually, the First
7 Responders coming to your house. Would you tell The Court
8 what, if anything, you did with the blood that remained in
9 your apartment when she left?

10 A I was a little upset, which I think everybody
11 would be if you had that amount of blood in your house. I
12 was kind of panicking. They were still kind of getting
13 their stuff up and I tried to start cleaning. One of the
14 officers actually -- well, I asked if it was okay to clean
15 first. Because I wanted to make sure if they didn't need
16 any photos or anything. And then one of the officers,
17 actually, helped me clean up while I was doing that.

18 Q All right. Had you met that woman before that
19 day?

20 A I don't think so. I think I may have seen her
21 in the parking lot because it's a smaller community, small
22 apartment complex. But other than just -- because I have
23 a dog out a lot. When you walk a dog, you see people and
24 you may say hi. But not really nothing in no conversation
25 that I can remember.

JENNIFER MCDONALD-CROSS BY MR. HOLCOMB

1 MRS. SCOTT: Okay, answer any questions the
2 Defense counsel might have for you.

3 THE COURT: All right, cross.

4 MR. HOLCOMB: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. HOLCOMB:

7 Q Good afternoon, how are you doing?

8 A Good.

9 Q So I want to take you back to that night because
10 it's a little confusing. So you hear knocking on your
11 door, correct?

12 A It wasn't knocking on the door, it was banging
13 on the wall.

14 Q Banging on the wall. And you go out and that's
15 when you see her?

16 A Yes, sir.

17 Q Then you, also, see another neighbor who calls
18 911, right?

19 A Yeah. I think we -- I can't remember if we both
20 talked to 911. I think I talked to 911. I'm sorry, it
21 was kind of -- one, it was 2021 and I remember it being
22 kind of really upsetting, at the time, too.

23 Q So then she comes into your apartment after
24 that, correct?

25 A Yes. Yes.

JENNIFER MCDONALD-CROSS BY MR. HOLCOMB

1 Q And you're helping her and you're applying
2 towels to her neck, correct?

3 A Yes. Yes.

4 Q Okay. Then law enforcement, eventually, shows
5 up?

6 A Uh-huh.

7 Q You had a neighbor that was law enforcement?

8 A Yes.

9 Q They came down and helped, correct?

10 A Yes. Yes.

11 Q Now, prior to the banging on the wall, you don't
12 hear anything, right?

13 A No. I have hearing loss, so.

14 Q So you didn't hear any screaming?

15 A No.

16 Q Didn't hear any fighting?

17 A No.

18 Q And you didn't see any males that could fit
19 Mr. Dunn's description, correct?

20 A I don't know who Mr. Dunn is.

21 Q No black men? You didn't see any black men that
22 night?

23 A Not that I know of. But you've got to realize,
24 again, I have hearing loss where I can't hear stuff.

25 Unless it's literally almost in the room with me -- well,

JENNIFER MCDONALD-CROSS BY MR. HOLCOMB

1 now, I hear a lot better, but before I couldn't hear well.
2 I even had to put a doorbell on so that I could know when
3 someone was at my front door.

4 Q But you didn't see anything out of your windows,
5 right?

6 A No, I had no reason to be looking.

7 MR. HOLCOMB: Just one moment, Your Honor.

8 THE COURT: Okay.

9 MR. HOLCOMB: I have no further questions, Your
10 Honor.

11 THE COURT: All right, any redirect?

12 MRS. SCOTT: No, Your Honor.

13 THE COURT: All right, you may step down. Thank
14 you, ma'am.

15 THE WITNESS: Thank you.

16 THE COURT: Any objection to her being excused
17 from subpoena?

18 MR. HOLCOMB: No objection.

19 Your Honor, I'm just looking at the clock. I
20 think it may be appropriate time to break for today.

21 THE COURT: Yeah, come on up.

22 MRS. SCOTT: I've got one more witness, Judge.

23 THE COURT: Yeah, that's what I thought, come on
24 up.

25 (WHEREUPON, an off-the-record bench conference

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 was held in the presence of the jury but out of
2 the hearing of the jury.)

3 MRS. SCOTT: The State calls Brandon Davis.

4 THE CLERK: Please pause at the end of the
5 bench, place your left hand on the Bible, raise your
6 right hand.

7 BRANDON DAVIS, after being duly sworn,
8 testified as follows:

9 THE CLERK: Thank you, please be seated. State
10 your name for the record.

11 THE WITNESS: Yes, I'm Brandon Davis.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MRS. SCOTT:

15 Q Corporal, you're our last witness for the day.
16 I just called you corporal, so, first of all, where do you
17 work now?

18 A Yes, ma'am, I'm employed with the Town of Duncan
19 Police Department.

20 Q And what are your duties at Duncan now?

21 A I'm a master patrol officer.

22 Q What was your prior employment?

23 A I was with the City of Simpsonville, where I was
24 a corporal.

25 Q Okay. And how did you become involved in this

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 case?

2 A Yes, ma'am. So on March 17th of 2021, I was
3 notified by a neighbor that another neighbor of mine had
4 been stabbed.

5 Q All right.

6 MRS. SCOTT: I don't want the screen, I'm just
7 setting up. I don't want it.

8 BY MRS. SCOTT:

9 Q All right. I'm going to ask it again because I
10 was doing something I shouldn't have been doing. How did
11 you become involved in this case?

12 A Yes, ma'am, on March 17th, 2021, I was notified
13 by one of my neighbors that another neighbor of mine had
14 been stabbed.

15 Q Let's talk about the neighbor who notified you
16 about another neighbor.

17 A Yes, ma'am.

18 Q Can you describe the neighborhood that notified
19 you to come out?

20 A Yes, ma'am. And I may butcher his last name, so
21 I apologize, Mr. Googy. It was the black man with dreads.

22 Q All right. Do you know where, if any, place he
23 lived?

24 A Yes, ma'am. He resided in the 1000 building
25 with me.

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 Q Okay. All right. How did he notify you of
2 needing help? What did he do?

3 A Yes, ma'am. So me and my husband were -- we
4 just concluded dinner and we heard a loud and a rapid
5 knock on our front door.

6 Q Okay. And you answered that door?

7 A Yes, ma'am. I answered the door, that's when I
8 was greeted by Mr. Googy.

9 Q Let's first go to Google maps, our favorite
10 place to be. If I can now have -- I need to know what
11 building you were in. You said the 1000 building?

12 A Yes, ma'am.

13 Q All right. Okay. So the address of the 1000
14 building is Wiley Drive --

15 MRS. LIPINSKI: Your Honor, is this going to be
16 put in evidence or --

17 MRS. SCOTT: It's demonstrative, Your Honor.

18 MRS. LIPINSKI: Showed that to the jury, I don't
19 think you can do that, Your Honor.

20 MRS. SCOTT: Your Honor, you can under the rules
21 of evidence. This is to certainly to aide in his
22 testimony. He certainly said he lived in the 1000
23 building. This is a public document, Google maps,
24 just to show where he is other than actually taking
25 photographs of the entire building and then laying

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 for the entire jury everywhere he went.

2 THE COURT: Why don't you just put it in
3 evidence if it's the building?

4 MRS. SCOTT: I'm not sure how I can put this
5 website into evidence, Your Honor. And I don't
6 necessarily need to, but I need for him to tell us
7 where he was. Or, if anything, he would just have to
8 start talking about steps and that could be very
9 confusing to the jury.

10 THE COURT: All right.

11 MRS. LIPINSKI: Your Honor, I prefer old school
12 before we had Google maps. You can just print these
13 things out, put in a screen shot of the area you want
14 for Google maps and then show that to the jury.
15 There are ways to do it. And I think if you're going
16 to put anything before the jury, it has to be
17 preserved for purposes of the record. This isn't,
18 you know, a diagram of a -- you know, that an expert
19 is using of schematic of the apartment or something
20 like that. You're relying on the accuracy of Google
21 maps, I think we need to know what he's doing and I
22 think we have to preserve that for the record. It's
23 not that hard to print this stuff out to create a
24 digital image.

25 MRS. SCOTT: Excuse me, Your Honor, I apologize

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 for interrupting. It's not about how hard it is,
2 it's more about the old school preference. We know
3 that now in 2024, we can actually digitally go into
4 there. Your Honor, I would have to print out frame
5 by frame this apartment complex, and I will. We'll
6 just have to bring him in tomorrow. If that's
7 required by The Court, I certainly will. As opposed
8 to just --

9 THE COURT: I'll allow it. What I'm going to
10 ask you to do is print whatever you're referring to,
11 I'm going to ask you to print it. I'm going to ask
12 you to lay the foundation and put it into evidence.
13 You can print it later. I'll allow you to do that.
14 But it's really not demonstrative evidence. But I'll
15 allow you to use it.

16 MRS. SCOTT: Yes, Your Honor. And I will lay
17 some more foundation. I can take it off and then
18 allow him to do it first, and then prove it is
19 accurate and then bring it back for him and show it
20 again with his testimony.

21 THE COURT: Mrs. Lipinski, what's your
22 objection, really?

23 MRS. LIPINSKI: The objection is the record is
24 not preserved for appeal. You have the officer
25 testifying. You have items being shown to the jury.

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 And when it goes up on appeal and there's some
2 objection to that evidence later, you know, that
3 Google map that day isn't how it looked. He hasn't
4 authenticated it now and it's already in front of the
5 jury. So I just think that in order to preserve the
6 record on appeal, you save it as a digital image or
7 you print it out. I think photographs that you put
8 before a jury, whether it is from Google or from a
9 neighbor or anyone else should be properly preserved
10 for the purpose of the record on appeal. This isn't
11 a diagram or something like that. It's an aerial map
12 of the area and these are photographs of that. They
13 can print them out. It's not that hard to do. Then
14 the record is properly preserved.

15 THE COURT: All right. Take it down. I'll
16 allow you to question him, ask questions about it,
17 but make you take it down right now.

18 MRS. SCOTT: Yes, sir, Your Honor. I think in
19 the interest, Your Honor, I will print each frame of
20 Google maps out and make a storyboard for tomorrow.

21 BY MRS. SCOTT:

22 Q I need you tell us, you lived in the 1000
23 building?

24 A Yes, ma'am.

25 Q Okay. I need you to help us visualize this

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 building, okay?

2 A Yes, ma'am. So the 1000 building, pretty much
3 all of the -- most of the apartment buildings at Waterleaf
4 and Neely Ferry are three-story structures. There are
5 some two-story structures, but they are not the 1000 or
6 the 2000 building where the incident occurred and where
7 Mrs.~Dunn was located. So the 1000 building is a
8 three-story structure. I was located on the third story
9 of the structure in a corner apartment. Mrs.~Dunn is
10 actually located on the second floor below me off to -- if
11 you're looking at the building at our stairwell, I would
12 be in the upper right of the building. She would be
13 located on the second floor to the left of that same
14 stairwell.

15 Q Okay. Now, that someone has come to your door,
16 and then on that third floor building, tell the jury how
17 you got to that second floor building and what you took
18 with you?

19 A Yes, ma'am. So once Mr. Googy notified me of
20 that, I notified my husband that somebody had been
21 stabbed. For safety, because we don't know where the
22 assailant was at the time, I went and obtained my outer
23 carrier, which marks me as a police officer, my service
24 weapon and a radio. From there, I notified dispatch that
25 I would be responding to a stabbing and I would have

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 further details later, but that I was, also, in civilian
2 attire wearing my vest.

3 It was, at this time, that we exited the
4 house -- my apartment with Mr. Googy. We were ascending
5 the stairwell and on second floor is where I located
6 several droplets of blood that appeared to have originated
7 outside her apartment. Then we went downstairs to the
8 first floor. Again, if you're looking at the building, I
9 would have gone to my right, but coming out of the
10 stairwell of that building, I would have gone to the left
11 where we were escorted to the 2000 building.

12 Q Let me stop you.

13 A Yes, ma'am, I'm sorry.

14 Q Because you know where you are. We have not
15 been there.

16 A Yes, ma'am, sorry.

17 Q You said you went to a different building?

18 A Yes, ma'am.

19 Q Okay. How far is this other building?

20 A Less than 100 feet, if I have to say.

21 Q Is there any patch of grass or any parking lot
22 or anything that separates the building or are they
23 connected buildings?

24 A No, ma'am, it's a separate building. There's a
25 little patch of grass and then there's just a sidewalk

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 that connects the building to the front parking lot.

2 Q You go to another building?

3 A Yes, ma'am.

4 Q Now, you just mentioned the first floor or the
5 second or third floor on the other building?

6 A First floor.

7 Q All right. So now we're at the first floor.
8 Which apartment did you go to on that first floor of the
9 other building?

10 A It will be 101, so building 2000, so 2101.

11 Q Okay. What did you do when you got to 2101?

12 A Upon arriving to the apartment, I noticed that
13 two additional Simpsonville police officers were already
14 on scene. Officers Pryzbylo and Weatherington. I noticed
15 that there was a female in blue pants and a shirt who was
16 covered in blood with multiple wounds to her face and
17 neck.

18 Q All right. We have photographs here. State's
19 Exhibit 3. Now, you said we, who was the person that's
20 coming with you?

21 A My husband, Danny Keslar. He's a paramedic with
22 Greenville County EMS.

23 Q And he wasn't working that day?

24 A No, ma'am, he was, also, off.

25 Q All right. So could you identify some people

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 here in State's Exhibit No. 3?

2 A Yes, ma'am. Sorry. The lady on the ground is
3 Mrs.~Dunn.

4 Q Just the people that you know, it's okay.

5 A The gentleman that appears to be in the raincoat
6 in the far back, that appears to be -- yes, ma'am, Officer
7 Pryzbylo. And then the gentleman closet to us is Officer
8 Weatherington. Then the person over the top of her is my
9 husband.

10 Q What's that person doing on top of her?

11 A Yes, ma'am, Danny Keslar.

12 Q Okay. So since Mr. Keslar, your husband, was
13 doing that assisting of her, what did you do?

14 A Yes, ma'am. Obviously, I was providing scene
15 security. The other two officers were already rendering
16 some form of medical aid. And my husband, being a trained
17 paramedic, was actually trying to stop the bleeding and
18 was concerned for a stab wound she had to her neck that
19 looked like it may have penetrated almost close to her
20 esophagus.

21 Q Now, they're off duty and now, you're kind of on
22 duty. What kind of steps do you have to take to get
23 clearance to be doing what you're doing?

24 A So, obviously, I have -- I was in my
25 jurisdiction, but I, basically, notified dispatch that I

BRANDON DAVIS-DIRECT BY MRS. SCOTT

1 was going to be on scene with other officers. I would be
2 in civilian attire or in my outer carrier.

3 Q As providing security, were you the who cleared
4 for EMS and fire to come?

5 A Yes, ma'am. Once we determined that Mr. Dunn,
6 the suspect was no longer on the scene. That was
7 confirmed by Mrs.~Dunn as she stated that he took her
8 vehicle and fled.

9 Q Now, once they came in, what else did you do as
10 far as trying to locate the person who took the vehicle
11 and fled?

12 A Yes, ma'am. So Mrs. Dunn stated that she fought
13 to defend herself and she believes that she may have
14 caused some injuries to him. So I notified the Greenville
15 Health Authority, known as GMH, the GMH Police Department,
16 to check their local hospitals that there could be
17 somebody coming in with injuries and to notify the
18 Simpsonville Police Department.

19 Q All right. Before you left, did you debrief
20 with the other officers on scene?

21 A Yes, ma'am, I did. Until EMS and fire arrived.

22 Q Now, were you able to see her as she was
23 transported from that apartment where we saw her on the
24 floor into a stretcher?

25 A Yes, ma'am. So they -- because they couldn't

BRANDON DAVIS-CROSS BY MR. HOLCOMB

1 get the stretcher into the apartment, they had to escort
2 her out to the stretcher and meet in the stairwell. And I
3 don't know if it was due to loss of blood or the shock or
4 what have you, but Mrs. Dunn ended up collapsing on the
5 way there. They had to actually pick her up and transport
6 her to the stretcher.

7 Q Okay. And did you encounter Mr. Dunn, at that
8 time?

9 A No, ma'am. He was not on the scene, at the
10 time.

11 Q All right.

12 Answer any questions Defense counsel has
13 for you.

14 THE COURT: All right, cross.

15 MR. HOLCOMB: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. HOLCOMB:

18 Q Good afternoon, Officer Davis. How you doing?

19 A Doing good, sir. How are you?

20 Q Pretty good. So I want to take you back to that
21 night. So you lived on the third floor of that complex,
22 correct?

23 A Yes, sir.

24 Q And Mr. Googy came and knocked on your door,
25 right?

BRANDON DAVIS-CROSS BY MR. HOLCOMB

1 A Yes, sir.

2 Q Prior to Mr. Googy knocking on your door, you
3 didn't hear anything, right?

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

5 Q No screaming?

6 A Not that I can recall.

7 Q No fighting?

8 A Not that I can recall.

9 Q And you didn't see anything, right?

10 A No, sir.

11 Q So when you get down to the opposite building,
12 you started applying aid to Mrs.~Dunn, correct?

13 A No, sir, I was just scene security. My husband,
14 who's the trained paramedic, was the who applied and the
15 two additional officers had already attempted to stop the
16 bleeding.

17 Q So him and Officer Pryzbylo are rendering aid?

18 A Yes, sir.

19 Q So you're standing in front of the door?

20 A Yes.

21 Q Correct. And you hear Mrs.~Dunn say that she
22 attacked Mr. Dunn?

23 A Correct. To defend herself, yes, sir.

24 MR. HOLCOMB: Just one moment, Your Honor.

25 THE COURT: Yes, sir.

BRANDON DAVIS-CROSS BY MR. HOLCOMB

1 MR. HOLCOMB: Nothing further for this witness.

2 THE COURT: All right, any redirect?

3 MRS. SCOTT: No, Your Honor. May he be released
4 from his subpoena?

5 THE COURT: Any objection from The Defendant?

6 MR. HOLCOMB: No objection.

7 THE COURT: All right. You're excused from your
8 subpoena. You may step down.

9 THE WITNESS: Thank you, Your Honor.

10 THE BAILIFF: Watch your step.

11 THE COURT: All right, ladies and gentlemen of
12 the jury, that's going to be it for today. We will
13 start back tomorrow morning at 9:30. I did want to
14 -- I forgot to introduce a gentleman here, he is my
15 law clerk. His name is Adam Compton. He just got
16 out of law school, just took the bar exam last week
17 or week before last, so he is waiting on those
18 results. He will be with me for a year and he just
19 started with me last week. So he's my right-hand
20 man. That's who that is. He'll be with me up here
21 during the trial.

22 All right, again, please don't discuss the case.
23 Hope all of you have a good night and I'll see you
24 tomorrow morning at 9:30.

25 (WHEREUPON, the jury left open court at

1 approximately 5:11 p.m.)

2 THE COURT: All right, anything before we
3 adjourn for day? Anything from The State?

4 MRS. SCOTT: No, Your Honor.

5 THE COURT: Anything from The Defense?

6 MR. HOLCOMB: Nothing, Your Honor.

7 THE COURT: Just one reminder, I only allow the
8 witness -- I mean, the lawyer who is questioning the
9 witness to object. So any objections that need to be
10 made need to be made from the lawyer who's examining
11 the witness. Mrs. Lipinski made an objection there
12 and Mr. Holcomb was handling the witness. So just
13 keep that in mind.

14 MR. HOLCOMB: Yes, Your Honor.

15 THE COURT: All right, see y'all tomorrow
16 morning at 9:30.

17 MRS. SCOTT: Thank you, Your Honor.

18 (WHEREUPON, the proceedings were concluded for
19 the day to be reconvened on August 20, 2024.)
20
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25

1 August 20, 2024

2 (WHEREUPON, State's Exhibits Nos. 5-76 were
3 marked for identification only.)

4 THE COURT: All right, any matters we need to
5 take up before we bring the jury?

6 MRS. SCOTT: We're fine.

7 THE COURT: Okay. All right.

8 Yes, ma'am.

9 MRS. LIPINSKI: Just briefly, Your Honor, at
10 this time, we would renew The Defense's motion to
11 sequester witnesses. I don't know if there's anybody
12 in the courtroom, but I'd like to start off everyday
13 just to make sure people haven't snuck in that was
14 told to be here and unaware. Other than the victim
15 in the case, Agent Epps should be the only State's
16 witness present in the courtroom.

17 MRS. SCOTT: Correct.

18 THE COURT: Okay.

19 MRS. LIPINSKI: We made a motion about the rap
20 sheets of the lay witnesses. I wasn't given any
21 yesterday, but I would just like The State to affirm
22 that they didn't have any of that that should have
23 been turned over to us. We asked them to rerun the
24 rap sheet on the victim. They stated that they had
25 done so. I'd just like to state that on the record

1 that there's no rap sheets of any lay witnesses that
2 they -- anybody that testified yesterday or anybody
3 they anticipate today.

4 THE COURT: Is that correct, Mrs. Scott?

5 MRS. SCOTT: No, Your Honor. We did provide
6 Defense counsel the information regarding their
7 criminal records. There were none for any witnesses
8 that testified yesterday and, also, for today.

9 THE COURT: Okay.

10 MRS. LIPINSKI: We had made the motion for them
11 to identify any officers that were on their Giglio
12 list. I think Mrs. Scott said she would double check
13 that.

14 MRS. SCOTT: That's the part I didn't check. I
15 will double check that now, Judge. So we'll just
16 have to take a five-minute recess while I make a
17 phone call.

18 THE COURT: Can we move on? Do you need that?
19 Is there anybody coming?

20 MRS. SCOTT: Yes, Your Honor, two law
21 enforcement officers are about to testify in a
22 moment.

23 THE COURT: Okay.

24 MRS. LIPINSKI: I think it's something somebody
25 else can look into. Certainly, Mr. McCollum has the

1 ability as talented as he is.

2 I can even give you the old witness list,
3 Anthony.

4 THE COURT: All right. So he's going to do
5 that?

6 MRS. SCOTT: We still can start, Your Honor.

7 THE COURT: All right.

8 MRS. LIPINSKI: I'm fine if I get it by the time
9 they get done. I don't anticipate there will be any
10 problem. The Defense would, also, make -- and I
11 don't think The Court needs to hear testimony on
12 this. We would make a motion to suppress any
13 evidence that was found inside The Defendant and/or
14 victim's apartment. If you look at the affidavit for
15 the search warrant, it states that the officer went
16 in. Probable cause is based on exigent
17 circumstances. They did an exigent sweep of the
18 apartment. At that time, they had determined that
19 The Defendant had left in the victim's vehicle and
20 that the victim was located in another building.

21 Until the testimony yesterday, I really wasn't
22 clear how these apartment -- that they were in
23 completely separate buildings. That the victim had
24 moved further apart from the original area. But I
25 think the fact that she was located in another

1 building and they knew The Defendant had left the
2 scene, the exigent circumstances to do a protective
3 sweep desecrated. I think they could have secured
4 the apartment by posting an officer on the outside
5 and obtained a search warrant. The question is
6 whether or not they would have the probable cause
7 without the things that he identified in the
8 protective sweep to substantiate a search warrant.
9 So we would make a motion to exclude all evidence
10 based on that.

11 THE COURT: All right, let me hear from The
12 State.

13 MRS. SCOTT: Yes, Your Honor. We plan on
14 introducing testimony as far as this next officer who
15 secured the scene and then waited until the search
16 warrant was obtained. Then after that search warrant
17 was obtained, then they made entry into the apartment
18 and did a full search with forensics involved.

19 THE COURT: All right. I'll wait to hear what
20 that testimony reads.

21 MRS. LIPINSKI: And, Judge, so The Court
22 understands, what the probable cause is in the search
23 warrant is that protective sweep. So the fact that
24 they go get a search warrant later and then go in, my
25 argument is that he didn't have the basis to go in to

1 do the protective sweep and that's what they relied
2 upon as a basis for the search warrant in terms of
3 the probable cause. So it's not that -- it's a
4 timing issue that a very point of finesse, but that
5 is The Defendant's motion.

6 THE COURT: Any response, Mrs. Scott?

7 MRS. SCOTT: Your Honor, I'm going to read the
8 warrant one moment for a second there.

9 THE COURT: All right.

10 MRS. SCOTT: Your Honor, in regards to the
11 affidavit that was submitted, if I may read, on
12 March 17, 2021, the Simpsonville Police Department
13 responded to Wiley Drive regarding a female who
14 arrived at the apartment claiming to have been
15 stabbed by her husband, who fled the scene. The
16 victim suffered from several stab wounds to her face
17 and neck. Officer determine that she resided in
18 Apartment 1209. They went to clear the residence and
19 found evidence of blood and a struggle in the
20 apartment and it was empty. It was secured and the
21 victim was treated by fire and EMS and transported to
22 Greenville Memorial Hospital for further advanced
23 medical treatment. The --

24 THE COURT REPORTER: Brittany, slow down,
25 please.

1 MRS. SCOTT: I'm sorry. I forgot. I'll, also,
2 give you a copy of this.

3 THE COURT REPORTER: That's fine. Just slow
4 down. Thanks.

5 MRS. SCOTT: The affiant believes the items
6 listed above will be located at the incident location
7 and will aide and assist in the prosecution of this
8 case. It does reference a protective sweep as a part
9 of the reasoning for wanting to get a search warrant.
10 Now, leaving to see how to process the case.

11 But, Your Honor, it's not just for the sole
12 purpose of securing the apartment.

13 THE COURT: All right. So she's in a different
14 place, though, when they arrive, correct? And then
15 they determine that she lives at 1209. Although,
16 they said he fled the scene, he could have maybe fled
17 the scene right there. Couldn't he have fled the
18 scene of 1209? Talking about your exigent
19 circumstances? You're trying to argue that he had
20 gone, he had left and, therefore, there was no issue
21 there. But if she's found in another place and they
22 say he's fled the scene.

23 MRS. LIPINSKI: I think what we heard from the
24 911 call and the officer testified yesterday that
25 they knew he had left the area in her car. They're

1 not saying that he had fled back to the apartment.
2 She tells them what the car -- she sees him leave and
3 he's in her car, that it's a Toyota Rav-4, all of
4 those kinds of things. And when he states I did a
5 protective sweep, I found all this stuff. This is
6 the probable cause to get a search warrant to go back
7 in so we can collect the evidence, I think the search
8 warrant has to be limited to what they could see from
9 the outside. I don't think that they could use what
10 they saw in a protective sweep because I think at
11 that point, there weren't the exigent circumstances
12 to do the protective sweep because they knew that he
13 was gone, they knew the car was gone and they knew
14 she's in another building. They could have just as
15 easily posted an officer at the door and then tried
16 to establish probable cause --

17 THE COURT: I don't think, though, 911 said he's
18 gone, he's left. We know where he's gone. He's
19 drive off the scene and gone around somewhere. Maybe
20 they said he exits in a vehicle, but who's to say he
21 doesn't turn around, come back and go in that
22 apartment or go somewhere else or be at the scene or
23 still be available. Especially, when you have such a
24 incident that's occurred. Don't you have to, at
25 least, take the precautions and -- to make sure that

1 The Defendant or the perpetrator is possibly still
2 around. Doesn't extrinsic circumstances still exist
3 to some degree there? When you have a stabbing of
4 somebody in the area and this person lives there?

5 MRS. LIPINSKI: I just think it's a pretense at
6 that point when they don't have anything to suggest
7 that he's still in the building. There's nothing
8 about that. And she's in another building, she's
9 protected. I think they can establish probable cause
10 without using the basis of protective -- they could
11 have a protective sweep -- I mean, they have to have
12 some basis to go in there. And I just don't think it
13 -- when they know the entire thing has moved off site
14 to now sit there and say they could do a protective
15 sweep back there. They don't identify any witnesses
16 that see him in the area. They don't identify
17 anybody seeing him going in and out of the apartment.
18 They don't identify the car back in the area. They
19 could have just as easily posted an officer at that
20 apartment and got a search warrant and gone back in.

21 THE COURT: Isn't reasonable belief also -- and
22 I hear your argument. Isn't it, also, reasonable to
23 believe that he could have gone back to that
24 apartment? Even though he may have left that
25 particular -- where she was. He may have left in the

1 car, turned around and come back and gone into the
2 apartment or been in the area right there at the
3 apartment, gone in there. I mean, isn't that -- at
4 that stage of the game, so to speak, it's not clear
5 that -- although, they see him get in the car and
6 leave, there's no evidence, no testimony that I
7 heard, at least, from the 911 call that they knew
8 exactly where he went, exactly what location he was,
9 confirmed that necessarily -- that he necessarily
10 wasn't there. Isn't that reasonable to argue that
11 it's possible that he could have gone back to 1209?

12 MRS. LIPINSKI: I think it's an argument of
13 finesse. I just think that when they have evidence
14 to suggest to the contrary, the chronology should be
15 that we staged an officer, we got a search warrant
16 and then we did a protective sweep to make sure
17 nobody was in there and then we processed the scene.
18 They chose to base the probable cause based on that
19 protective sweep. That's what they identified in the
20 affidavit from the affiant.

21 So I think when that's what they put in there,
22 it's kind of -- you know, the fringe rule, the four
23 corners of it, that's upon which they rely. The
24 Defense believes the chronology is bad. They didn't
25 have to do that. And when they don't do that, if

1 they don't have the probable cause to make entry or
2 gain a search warrant, then I think it's a defective
3 instrument and anything seized as a result of it
4 should be suppressed as fruit of the poisonous tree.
5 But it's in The Court's discretion. We understand
6 it's a matter of finesse.

7 THE COURT: I note your motion. Your motion
8 will be denied at this time.

9 All right, anything else?

10 MRS. SCOTT: Your Honor, we were able to confirm
11 that none of the officers are on the Giglio list.

12 THE COURT: All right, anything else from
13 Defense?

14 MR. HOLCOMB: Nothing, Your Honor.

15 THE COURT: All right.

16 Let me address one thing yesterday. I always
17 try to make my rulings as accurate as possible. And
18 one of the rulings, I sustained an objection from The
19 Defense on Ms. McDonald who was going to testify as
20 to what the victim told her under the circumstances
21 there. I sustained that objection and the second she
22 walked off the stand, I recognized that I think it
23 really is an 803(2). It's an excited utterance. She
24 was there at the scene and under those circumstances
25 and made those comments. Ms. McDonald's testimony as

1 to what she was going to say would fall under 803(2).

2 So I bring this up in the event that any
3 additional testimony is brought out and The Defense
4 may want to object on those same grounds. And give
5 you the opportunity now before the jury comes in, if
6 there is any argument from The Defense, in the event
7 that additional testimony is brought out along those
8 lines. I just wanted to give you the opportunity to
9 make any argument on the record so I don't have to
10 send the jury out.

11 MR. HOLCOMB: No argument, Your Honor.

12 THE COURT: Like I say, we're all not perfect.
13 As soon as she walked off the stand I -- I recognized
14 that I think it's an 803(2) exception.

15 So all right, let's bring them in.

16 (WHEREUPON, the jury came into open court at
17 approximately 9:54 a.m.)

18 THE COURT: Very good. Good morning, ladies and
19 gentlemen, hope all of you had a good night. I
20 apologize we're running a few minutes behind, but we
21 have been handling some issues. And we were able to
22 kind of get that done before y'all came out so I
23 didn't have to maybe excuse you. We were able to
24 kind of get some issues taken care of ahead of time,
25 so that kind of benefits everybody and I don't have

1 to send you back out once you come in here. So I
2 apologize for that.

3 And sometimes we just have to do these things.
4 A lot of times, what I'll do is I'll handle some
5 issues so I don't have to keep sending you out. If
6 me and the lawyers can handle some issues, get those
7 resolved and that will keep you from having to go in
8 and out. So that's what we did this morning and we
9 got those resolved and we're ready to go on day two.

10 Recognize The State.

11 MRS. WESTFIELD: Good morning, Your Honor. The
12 State calls Lieutenant Scott Menzies.

13 THE CLERK: Place your left hand on the Bible
14 and raise your right.

15 SCOTT MENZIES, after being duly sworn,
16 testified as follows:

17 THE CLERK: Please be seated, state your name
18 for the record.

19 THE WITNESS: My name is Scott Menzies.

20 DIRECT EXAMINATION

21 BY MRS. WESTFIELD:

22 Q Good morning, Lieutenant.

23 A Good morning.

24 Q Where do you work?

25 A I work for the Simpsonville Police Department.

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 Q How long have you been there?

2 A Since 2017.

3 Q 2017. Now, did you have any prior employment
4 before?

5 A Yes, ma'am.

6 Q Where was it?

7 A I worked in Virginia for 13 years as a police
8 officer there and was, also, a sergeant there before I
9 left.

10 Q Okay. What is your position now at the
11 Simpsonville Police Department?

12 A I'm a lieutenant.

13 Q What are your duties now?

14 A I'm in charge of the day shift operations on
15 Robbie shift, so the day shift, I'm commander.

16 Q And were you working in that same capacity March
17 of 2021?

18 A Yes, ma'am, I was.

19 Q Now, were you dispatched to a residential area
20 on Wiley Drive the day of March 17th, 2021?

21 A Yes, ma'am, I was.

22 Q Can you give us the name of that apartment
23 complex?

24 A It's Waterleaf Subdivision. It's an apartment
25 complex.

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 Q What county is it?

2 A Greenville County in Simpsonville, yes, ma'am.

3 Q What was the nature of that dispatch call?

4 A It was a domestic disturbance. One of our
5 off-duty officers contacted us and he called it in as a 41
6 Alpha, which means officer needs immediate assistant,
7 calls for additional staffing.

8 Q And was there anyone else with you when you
9 responded to that call?

10 A Yes, ma'am. Several officers, to include
11 Officer Cory Adams and Officer Maggie Richardson.

12 Q Okay. And where did you initially respond?

13 A Initially, I went to apartment 2101, which is on
14 the ground floor at 2000. That is where our victim was at
15 the time.

16 Q Okay. And when you arrived there, what had you
17 learned about this woman?

18 A I had learned that she had been stabbed, she had
19 multiple wounds to her neck and face area.

20 Q Okay. Did you know what apartment she had come
21 from?

22 A Yes, ma'am. It was explained to me early on
23 that she was in apartment 1209, which was in a building
24 next to the building where she was located when we were
25 speaking to her.

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 Q When you got to apartment 2101, what did you
2 observe there?

3 A Mrs.~Dunn -- later identified as Mrs.~Dunn, she
4 was laying just inside the doorway. Officer Pryzbylo and
5 then an off-duty medic were rendering care to her or
6 assisting with her wounds.

7 Q I just want you to repeat this. You say she was
8 being treated at this apartment. And by who again?

9 A Officer Pryzbylo and, I believe, an off-duty
10 medic. And we had, of course, firefighters and EMS in
11 route as well.

12 Q Okay. Were you aware what she was being treated
13 for?

14 A Just again, the wounds to her neck and the face
15 area.

16 Q All right. Now, what were your next steps after
17 seeing this woman being treated here at this apartment,
18 2101?

19 A We learned that she was actually in apartment
20 1209 when the incident occurred. So from there, we were
21 concerned that there may be other parties involved. So I
22 went to -- myself, Officer Corey Adams and Maggie
23 Richardson went to apartment 1209.

24 Q Now, Lieutenant Menzies, since you took that
25 route from apartment 2101 to apartment 1209, my cocounsel

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 has created a storyboard for us for you to review based
2 off of Google maps?

3 A Yes, ma'am.

4 Q She's going to bring that up for you to review.
5 I believe it has been premarked as State's Exhibit No. 21.
6 Could you review that?

7 A Yes, ma'am.

8 Q Okay. Now, can you explain to The Court what
9 you see?

10 A Yes, ma'am. The top photograph is of building
11 -- the 2000 building, which is where we initially
12 responded. The bottom picture is the 1000 building and
13 that's where Mrs.~Dunn was during the incident.

14 Q Okay. Now, is what you see here a true and
15 accurate depiction of that apartment complex?

16 A Yes, ma'am, it is.

17 MRS. WESTFIELD: Your Honor, we move to have the
18 storyboard admitted into evidence as State's Exhibit
19 No. 21.

20 THE COURT: All right, any objection?

21 MR. HOLCOMB: No objection, Your Honor.

22 THE COURT: All right, State's Exhibit No. 21 is
23 admitted into evidence without objection.

24 (WHEREUPON, State's Exhibit No. 21 was admitted
25 into evidence.)

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 MRS. WESTFIELD: Permission to publish, Your
2 Honor?

3 THE COURT: Yes, ma'am.

4 BY MRS. WESTFIELD:

5 Q Now, Lieutenant Menzies, you stated that you
6 went from this entry -- can you point to it? You may have
7 to get up and stand up.

8 A Yes, ma'am, I can.

9 Q You went from the entry of 2101. Can you show
10 the jury where that entry to that breezeway is?

11 A Yes, ma'am. The 2000 building is here. The
12 breezeway where we entered initially where Mrs.~Dunn was
13 was either this breezeway here or there's another one, and
14 I believe it's this one on the bottom floor on the left.

15 Q All right. I want you to take a look at that
16 again. So if you're facing -- I'll explain it this way to
17 you. So if you were facing the apartment complex -- so
18 I'm going to show the jury. You're facing the apartment
19 complex here?

20 A Yes, ma'am.

21 Q What side is 2101 on?

22 A 2101 is on the right side.

23 Q Are you sure?

24 A Yes, ma'am, I believe so. The 2000 building is
25 here, the 1000 building is here. This would be the 1000

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 building.

2 Q So these are -- so this is the view of that
3 area?

4 A Yes, ma'am.

5 Q Okay. Now, you're saying this is the thousand
6 building?

7 A Yes, ma'am.

8 Q But I need you to share with The Court because
9 these is two separate buildings?

10 A Yes.

11 Q Okay. So what side of these two separate
12 buildings -- because you did state they were side-by-side,
13 correct?

14 A Yes, ma'am.

15 Q So tell The court what side 2101 is on. Since
16 those are two separate buildings.

17 A Yes, ma'am. This, I believe, is the 2000
18 building. This would be the 1000 building.

19 Q Okay.

20 A So we responded to this building first and this
21 is where I went afterwards, this building.

22 Q All right. Now, what level is apartment 2101
23 on?

24 A 2101 is on the bottom floor.

25 Q Okay.

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 A The ground level floor.

2 Q Okay. Now, when you went out here, what
3 direction did you walk?

4 . A When I left this complex here, this building
5 here, I went -- if you're, again, facing it, to the left.

6 Q Okay. Okay. Now, is the breezeway you entered
7 for apartment 1209 -- is that the breezeway you entered
8 for apartment 1209?

9 A This is apartment 1209. This is the breezeway
10 here specifically.

11 Q What level is 1209?

12 A 1209 is on the second story, first door on the
13 left.

14 Q Okay. Okay. Now, when you arrived at 1209,
15 what did you notice once you reached the door?

16 A The door was closed, but unlocked.

17 Q Okay. Now, finding that the door was unlocked,
18 what did you do next?

19 A We -- Officer Richardson and I, along with Corey
20 Adams, we entered the building. We announced Simpsonville

21 Police Department, if anyone is inside, make yourself
22 known. Not hearing anything, we entered the building.

23 Q So you said no one responded?

24 A Correct.

25 Q All right. Now, explain to The Court what steps

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 you took when going into the apartment and for what
2 purpose?

3 A We're specifically looking for anyone in the
4 building. More of what we call a protective sweep. So we
5 enter the building with our firearms and we search the
6 building for anyone. Not finding anyone, we backed out of
7 the room and closed the door.

8 Q Okay. Okay. Now, at some point, did you write
9 down what you observed in that apartment?

10 A Yes, ma'am, I did.

11 Q Was there anything -- is there anything you
12 have?

13 A Yes, ma'am, I have a copy of my supplement to
14 the report, yes, ma'am.

15 Q Do you have it with you today?

16 A Yes, ma'am, I do.

17 Q Now, upon entering that apartment, what did you
18 observe?

19 A I observed blood on the floors. Also, in the
20 bedroom, there was a large amount of blood on the ground,
21 blood on the bed. I, also, referenced in my report and
22 observed a black handle of what appeared to be the handle
23 of a kitchen knife.

24 Q Okay.

25 A But there was no blade attached to the handle.

SCOTT MENZIES-DIRECT BY MRS. WESTFIELD

1 Q Okay. Now, after observing those things, what
2 did you do next?

3 A Again, after searching the apartment, notifying
4 that there's no one there, we left the apartment, shut the
5 door. I had Officer Richardson stand at the entrance of
6 the door to not let anyone go inside.

7 Q Okay. Now, how was the scene secured?

8 A We secured it with police line tape, I do
9 believe. And, again, Officer Richardson was stationed at
10 the door directly in front of the apartment door.

11 Q Okay. At any point on scene, did you see a
12 Toyota Rav-4?

13 A No, ma'am, I did not.

14 Q Now, after securing the scene, did you brief
15 anyone else on your next steps?

16 A Yes, ma'am. I contacted our on call
17 investigator, Investigator Jim Donnelly.

18 Q Okay. Now, why did you contact Investigator
19 Donnelly?

20 A Our policy is significant and serious crimes of
21 this nature, it is our policy to contact an investigator.
22 And this was a very serious crime.

23 MRS. WESTFIELD: All right, thank you. Answer
24 any questions The Defense may have.

25 THE COURT: All right, cross.

SCOTT MENZIES-CROSS BY MR. HOLCOMB

1 MR. HOLCOMB: Yes, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. HOLCOMB:

4 Q Good morning, Officer Menzies. How you doing?

5 A Good, sir.

6 Q I just have a couple questions for you. So I
7 want to clarify. When you responded, you were in one
8 breezeway, right?

9 A Correct.

10 Q Then you went to a whole different breezeway in
11 a whole nother building, correct?

12 A Yes, that's correct.

13 Q And prior to arriving on scene, I mean, you
14 didn't hear anything, any kind of altercation, right?

15 A No, sir, I did not.

16 Q You didn't see any altercation?

17 A No, sir, I did not.

18 Q You didn't see anyone that would have matched
19 Mr. Dunn's description?

20 A No, sir, I did not.

21 MR. HOLCOMB: I have no further questions, Your
22 Honor.

23 THE COURT: All right, any redirect?

24 MRS. WESTFIELD: No, Your Honor.

25 THE COURT: All right, you may step down, sir.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 MRS. WESTFIELD: Can we excuse the witness from
2 the subpoena?

3 THE COURT: Any objection from The Defendant?

4 MR. HOLCOMB: No objection.

5 THE COURT: All right, you are excused from your
6 subpoena.

7 THE BAILIFF: If you would watch your step.

8 THE COURT: All right, next witness.

9 MRS. SCOTT: We need a moment, Your Honor.

10 THE COURT: All right.

11 (WHEREUPON, State's Exhibits Nos. 77-81 were
12 marked for identification only.)

13 MRS. SCOTT: We're ready.

14 THE COURT: All right, next witness.

15 MRS. SCOTT: The State calls Officer Pryzbylo.

16 THE CLERK: Please stop at the end of the bench,
17 raise your right hand.

18 JOHN PRYZBYLO, after being duly sworn,
19 testified as follows:

20 THE CLERK: Thank you, please be seated. State
21 your name for the record.

22 THE WITNESS: John Pryzbylo.

23 DIRECT EXAMINATION

24 BY MRS. SCOTT:

25 Q Where do you work?

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 A Simpsonville Police Department.

2 Q How long have you worked at the Simpsonville
3 Police Department?

4 A Since February of 2018.

5 Q All right. What was your prior employment
6 before? Where were you working before?

7 A Prior to the police department, I worked at the
8 Laurens County Sheriff's Office as a detention deputy and
9 I was in the United States Marine Corp.

10 Q Now, what's your position at the Simpsonville
11 Police Department currently?

12 A Currently, I'm a telecommunicator, 911
13 dispatcher.

14 Q And were you working in that capacity in March
15 of 2021?

16 A No, ma'am. I was a patrol officer in March of
17 '21.

18 Q Now, were you dispatched to a residential area
19 on Wiley Drive?

20 A Yes, ma'am.

21 Q Can you look at the State's Exhibit here, 21, is
22 that the apartment complex that you were dispatched to?
23 Is that the Waterleaf Apartments?

24 A Yes, ma'am.

25 Q Okay. And what was the nature of that dispatch

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 call?

2 A It was for an assault.

3 Q An assault on a male or a female?

4 A Assault on a female.

5 Q Was there anyone else with you when you
6 responded to that call?

7 A I was the first officer on scene.

8 Q As an officer, at that time, were you wearing a
9 body-worn camera?

10 A I was.

11 Q Have you reviewed it prior to your testimony
12 today?

13 A I have.

14 Q So I'm handing you what's been marked as State's
15 Exhibit No. 81. Now, it's a USB, but your body-worn
16 camera, is it recorded and stored for trial purposes or
17 prosecution purposes?

18 A It is. It's stored internally on the body
19 camera, then downloaded on a server internal at the police
20 department, which we then burn to a disk for trial
21 purposes.

22 Q All right. In regards to the audio on that USB,
23 is that a true and accurate depiction of the recording
24 that was saved of your body-worn camera from March 2021?

25 A It is.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 Q In particular, March 17th, 2021? The day,
2 March 17th, 2021?

3 A Yes.

4 Q Now, what's been changed about that particular
5 audio -- sorry, USB, of the body-worn camera?

6 A I'm not sure.

7 Q All right. If I were to show it to you --

8 MRS. SCOTT: Without the presence of the jury,
9 Judge.

10 THE COURT: All right, ladies and gentlemen, let
11 me just excuse you for a minute so we can take up
12 something.

13 (WHEREUPON, the jury left open court at
14 approximately 10:14 a.m.)

15 THE COURT: Yes, ma'am.

16 MRS. SCOTT: Your Honor, I do not want to lead
17 this witness, especially since I'm attempting to
18 introduce into evidence, but I do need to refresh his
19 recollection about this particular body-worn camera.
20 There's an obvious difference in this body-worn
21 camera 35 seconds in that I need him to testify to,
22 but I did not want to lead him to that. If I can
23 refresh him on this evidence, Your Honor.

24 THE COURT: All right.

25 MRS. SCOTT: Or I can just tell you what it is.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 But I'm in some strange territory here.

2 THE COURT: All right, any response,
3 Mr. Holcomb?

4 MR. HOLCOMB: I guess I'm just a little confused
5 on what's different than the other one.

6 MRS. SCOTT: It's audio. To comply with Rule 7
7 so I did not admit any hearsay in this body-worn
8 camera because most people are talking. So it's his
9 body-worn camera without any sound. So it has been
10 altered to comply with the rules of evidence and I
11 needed him to remember that.

12 THE COURT: All right, Mr. Holcomb?

13 MR. HOLCOMB: So just the video without the
14 audio portion of the entire incident?

15 THE COURT: So it's his body cam without audio?

16 MRS. SCOTT: Yes, sir. In order to comply with
17 the rules to not have all this hearsay evidence
18 inside all of this audio.

19 MR. HOLCOMB: Can we watch it, Your Honor?

20 THE COURT: Have they seen it?

21 MRS. SCOTT: They haven't, Your Honor.

22 MRS. LIPINSKI: I don't know what she's redacted
23 it to.

24 MRS. SCOTT: It is the complete body cam footage
25 without audio.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 THE COURT: So y'all have seen the complete body
2 cam video?

3 MR. HOLCOMB: Yes, Your Honor.

4 THE COURT: Okay. So Mrs. Scott is representing
5 to The Court that it is the complete body cam video
6 that y'all have seen, just without the audio. So is
7 there any issue or objection from The Defendant on
8 that? If y'all have seen the video and she's
9 representing to The Court that it's what y'all had,
10 the whole video without the audio, is there any
11 objection from The Defense?

12 MR. HOLCOMB: Well, I would say, maybe, The
13 Court needs to instruct the jury in some manner why
14 the audio was redacted.

15 MRS. SCOTT: I do so in my line of questioning.
16 I just didn't want to lead him. I think he knows now
17 what's going on.

18 THE COURT: I understand. I'll just hear how
19 she describes it to the jury and if I need to follow
20 up with that. What I normally do when body cams like
21 this, a lot of times we do redact it, not everything,
22 redact a lot of stuff, I just give the jury sort of
23 an instruction that things have been redacted by me
24 for various reasons. So they're not to take that
25 into consideration or think there's anything wrong

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1 with that, but I'll just wait until I hear her
2 question him. And if it satisfies me, then I'll just
3 let it go. If it doesn't, I'll give a further
4 instruction.

5 MR. HOLCOMB: Thank you, Your Honor.

6 THE COURT: All right, bring them back in.

7 (WHEREUPON, the jury entered open court at
8 approximately 10:18 a.m.)

9 THE COURT: All right, Mrs. Scott.

10 BY MRS. SCOTT:

11 Q Officer Pryzbylo, I messed up in what I stated.
12 There's a USB of the body-worn camera. As far as the
13 video, has the video portion of it been altered in any
14 way?

15 A No, ma'am.

16 Q As far as to the audio, has that portion of your
17 body-worn camera been altered in any way?

18 A Yes, ma'am.

19 Q That was me hearing your responses wrong, not
20 you replying wrong. I apologize. So with that being

21 said, we can't hear what people are saying in this video?

22 A Yes, ma'am.

23 Q But other than that, it's a true and accurate
24 depiction of your body-worn camera?

25 A Yes, ma'am.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 MRS. SCOTT: At this time, The State would like
2 to admit this into evidence, Your Honor. It has
3 complied now with the rules of evidence as there is
4 no hearsay within this USB.

5 THE COURT: Any objection from The Defendant?

6 MR. HOLCOMB: No objection, Your Honor.

7 THE COURT: That's 81?

8 MRS. SCOTT: Yes, Your Honor.

9 THE COURT: State's Exhibit No. 81 admitted into
10 evidence without objection.

11 (WHEREUPON, State's Exhibit No. 81 was admitted
12 into evidence.)

13 THE COURT: Ladies and gentlemen, there are
14 times where certain pieces of evidence are admitted
15 and some things are redacted from an evidentiary
16 standpoint by me for purposes of trial. So that
17 audio is -- there's nothing nefarious here because
18 the audio is not -- you're not going to hear the
19 audio, but that's due to some evidentiary issues in
20 the case.

21 So proceed.

22 MRS. SCOTT: Thank you.

23 BY MRS. SCOTT:

24 Q So we're going to have almost like a story, a
25 show where you're narrating this body-worn camera for us,

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 okay.

2 A Yes, ma'am.

3 MRS. SCOTT: We are ready.

4 BY MRS. SCOTT:

5 Q What's happening here?

6 A I arrived on scene, I'm being directed by a
7 resident of the apartment complex to where the incident
8 was going on, where the victim was on the ground.

9 Q We notice that the color keeps changing on this
10 video, why is that?

11 A It's an automatic setting from the body camera
12 that just detects light and it turns into a black and
13 white mode or full color, just depending on the ambient
14 lighting in the area that you're in.

15 Q So when you enter this apartment, what are you
16 immediately doing here?

17 A Assisting the resident of the apartment,
18 applying pressure to the victim's neck area where she had
19 some sort of impact wound.

20 Q Okay. And did you learn who that neighbor is
21 here?

22 A I don't believe as of yet. I believe I get her
23 identity later on.

24 Q Okay. Who just came on scene here? They
25 removed a towel of some sort.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 A That's an off-duty EMT that lives nearby. I
2 believe in the same building. He was made aware of the
3 incident and came to help provide aid.

4 Q Now, you referenced you had a military
5 background, Marine Corp. Do you have any medical training
6 yourself?

7 A I do, ma'am. Combat life saving, recognizing
8 different injuries to a person in different areas and how
9 to treat those wounds.

10 Q Where is some of these materials coming from
11 that are being used for this woman?

12 A The bandage that I originally handed the
13 off-duty EMT came from a personal med kit that I have.
14 Recognizing the wound and where it was, I determined that
15 was the appropriate bandage to give him. And the other
16 ones are the paper towels, I believe from a resident.

17 Q So what's your main agenda here with her
18 bleeding?

19 A Assisting, providing care to help treat any sort
20 of life-threatening injuries. He asked me for gloves just
21 because of the blood.

22 Q Who's providing you these gloves? Are others
23 officers now on scene?

24 A There are other officers on scene. Officer
25 Weatherington I know was there. He was assisting me in

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 getting gloves for the off-duty EMT. The gloves I had
2 were on my own person.

3 Q All right. Now, Officer, was she speaking at
4 this time?

5 A She was. She was concerned for her safety and
6 her life, at this point. She kept repeating over and over
7 again that she believed she was going to die. I was doing
8 anything I could verbally to just comfort her and allow
9 her to know that we were going to provide the best care we
10 could for her.

11 Q Now, this particular cloth that's used that
12 looks different than the others, what is that?

13 A I refer to this as an Ace bandage. It's
14 commonly referred to as an Ace bandage. It's just a
15 bandage that we use in any sort of neck wounds or anything
16 that is not on an extremity that can be treated with a
17 tourniquet or wound packing material. It's just something
18 to allow to apply pressure to the neck area where,
19 obviously, you don't want to cut off the airway for the
20 patient, but, also, stop any sort of massive hemorrhaging.

21 Q Now, what are you doing here? What do we see
22 here? Is that your hands here?

23 A Those are, those are my hands. That's my field
24 notebook where I take notes during initial investigations.
25 I'm asking the victim her name, how to spell it, her birth

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 date, general important information. I'm, also, asking
2 her general questions of what happened and how she got to
3 this point.

4 Q And why are we talking to her if she needs to be
5 treated?

6 A Just for the purpose and the nature of what's
7 going on, we wanted to figure out if we could locate or
8 identify a suspect quickly, who did do this in an attempt
9 to find and continue an investigation.

10 Q At this point, did you know if she was going to
11 make it or not?

12 A I don't know that, no. I'm not -- I knew just
13 from seeing the amount of blood and the injuries and where
14 they were that these injuries were very serious, but I'm
15 not medically trained enough to make that call. I knew
16 she had to be provided a higher level of care as quick as
17 possible.

18 Q Okay. Now, we're almost six and a half minutes
19 into this video, has fire and EMS arrived yet?

20 A I don't believe so. I know as soon as they do,
21 I step away just to give them room. Again, I'm not
22 medically trained not the way that they are. They have
23 been dispatched. We're just waiting on them.

24 Q And again, is she talking to you there?

25 A She is. She's --

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 Q You don't have to tell us what she says. She's
2 talking to you?

3 A Yes.

4 Q We're eight and a half minutes in, have EMS and
5 fire arrived?

6 A I don't believe so, not yet.

7 Q What are you doing now?

8 A This is where I'm standing up just to make room
9 for the fire department and EMS who just arrived on scene.

10 Q What time do you see the timestamp here? As far
11 as on actual video timestamp?

12 A I believe it's ten minutes and 35 seconds.

13 Q Did you learn her name?

14 A Yes. At this point, she was identified as
15 Jennifer McDonald.

16 Q What's happening here with her?

17 A They're just trying to put her in a better
18 position so that way they can access her medically, check
19 her vitals and where she's at. This is the fire
20 department.

21 Q In the dark shadows behind EMT and fire, who are
22 those people there in doorway standing?

23 A That's Officer Weatherington and Sergeant
24 Menzies at that time.

25 Q What are they doing at this time?

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 A Officer Weatherington was there to assist me.
2 He's standing by in case anybody else does need help, same
3 thing with Sergeant Menzies. That is Corporal Kellett,
4 also.

5 Q I see some hands pointing, what's happening
6 here?

7 A Ms. McDonald is briefly describing to me kind of
8 the incident of what happened, what led the victim to her
9 door and inside her apartment. She's, also, directing me
10 to her back door. I asked her if she would be willing to
11 provide a written witness statement. Just might be a
12 little bit easier for me to go out this door to retrieve
13 from the other officer versus having to interfere with the
14 victim's care being provided by the medical personnel.

15 Q On the body-worn camera, what's the weather that
16 day?

17 A It was raining. I can't recall if it's raining
18 specifically at this moment, but it had been raining.

19 Q Again, are you just -- what are you writing
20 here?

21 A I explained to her the written statement, just
22 advising her the process of how to fill the form out,
23 letting her know that this is her own statement, her own
24 words, she's giving it of her own freewill. Just general
25 instructions on how to complete the form.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 Q Okay. What's going on here, why did you turn
2 around?

3 A I believe the medic personnel, trying to assist
4 them standing up and moving her over to the stretcher, .
5 ambulatory, but I saw that she had collapsed. The victim
6 had collapsed. I went over to see if I could be of any
7 assistance of assisting them in lifting her up into the
8 stretcher.

9 Q All right. I paused this video at minute 18:38,
10 what do we see here on this door?

11 A I believe that's blood, bloodstain, blood mark.

12 Q Is that where she was sitting or standing?

13 A I believe so, yes.

14 Q Which one?

15 A She was laying there.

16 Q She was laying on that door.

17 A Oh, I'm sorry, she was sitting up. She was in a
18 seated position.

19 Q Okay. All right, what do we see here at minute
20 19:23?

21 A It's the entrance area of her apartment where
22 the victim was laying on the ground being provided medical
23 treatment in the doorway. There's several first
24 responders in the doorway assisting the victim getting to
25 the stretcher, I believe.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 Q In particular, if you could look down on the
2 floor at the hallway, what do you see?

3 A I believe a large amount of blood, clothing,
4 towels. There's, also -- and I don't know the actual
5 name, a piece of medical assisting getting patients vitals
6 quickly.

7 Q All right. All right. What are you and the
8 officers doing here?

9 A Sergeant Menzies is asking if I had talked to
10 her at all about the incident, gathered any information of
11 how this happened, communicating about personnel staff of
12 who's going to be going to the hospital and provide
13 security for the victim. I believe that was really all
14 the nature of this conversation.

15 Q And were you the one who was tasked with going
16 to the hospital with her?

17 A Yes, ma'am.

18 Q You mentioned it was to provide security for
19 her. Is it for anything else?

20 A Gather any information, any further interview
21 that's possible, depending on the victim and their medical
22 care, status at the time. But my main priority at this
23 point was just providing security for her. We, also,
24 communicated about Sergeant Menzies contacted our
25 investigation division, our on-call investigator, who

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 would be coming up to the hospital to speak with the
2 victim further.

3 Q All right. And what do you have here in your
4 hands?

5 A I was handed the victim's phone, which was
6 covered in blood. Corporal Kellett gave me a latex glove
7 just to put it in. I wasn't wearing latex gloves. Just
8 because the blood was on the phone, we put it inside a
9 glove just to keep blood not getting everywhere while I
10 transported the victim to the hospital.

11 Q So you gave that phone back to her?

12 A Yes, ma'am.

13 Q What are you doing here?

14 A I'm confirming with EMS personnel which hospital
15 that they're going to be transporting her to -- I'll be
16 close behind them, but just in case I got separated, I
17 would know which hospital they were going to.

18 Q Do you notice if she's wearing any shoes in this
19 photo -- or in this video?

20 A She's not.

21 Q All right. Now, we'll just leave that up. When
22 you arrived at the hospital, you said you were providing
23 security, how was -- where was she taken once you got to
24 the building, the hospital building?

25 A She was originally placed in an emergency room,

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 normal emergency room. Then I believe she was moved to
2 another room afterwards.

3 Q And you followed her as she moved from room to
4 room?

5 A Yes, ma'am.

6 Q At any point in time, did The Defendant show up
7 at the hospital while you were there?

8 A No, ma'am.

9 Q Now, I'm handing you what's been marked as
10 State's Exhibit, premarked 77, 78, 79 and 80. Do you
11 recognize what I just handed you?

12 A Yes, ma'am.

13 Q How so?

14 A I took these photos.

15 Q Are they a true and accurate depiction of what
16 you saw at the hospital when you went March 17th?

17 A Yes, ma'am.

18 MRS. SCOTT: At this time, I'd like to enter
19 these photographs into evidence, Your Honor.

20 THE COURT: Any objection from The Defendant?

21 MR. HOLCOMB: Judge, I would just object to
22 these being cumulative. They all show the same
23 thing.

24 THE COURT: All right, objection overruled.

25 State's Exhibit Nos. 77 through 80 are admitted into

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 evidence over objection.

2 (WHEREUPON, State's Exhibits Nos. 77-80 were
3 admitted into evidence.)

4 BY MRS. SCOTT:

5 Q Now, we had talked about you providing security
6 and that you had already talked with her a little bit on
7 scene, were you able to talk to her more at the hospital?

8 A No, no, I wasn't able to gather any further
9 information from her at hospital.

10 Q Okay. Why is that?

11 A Because of her medical status. The care she was
12 being provided by the medical personnel, she wasn't able
13 to provide anything verbal or written statement. I asked
14 and I didn't want to -- because of that, I wanted to make
15 sure that she was provided the care that she needed at
16 that time.

17 Q Okay. And you were able to get some
18 photographs?

19 A Yes, ma'am.

20 Q So let's take a look. Are these photographs a
21 full 360 of her?

22 A No, ma'am.

23 Q Did you have her stand up while you took photos
24 of her front and back?

25 A No, ma'am.

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 Q And why not?

2 A Again, because of her medical status, her
3 injuries. I didn't want to interfere with any medical
4 care that she was being provided.

5 Q I'm showing you what's been marked as State's
6 Exhibit 7, what do we see here?

7 A That the victim's left side of her face, I
8 believe, covered in blood, wet and dried, at least, two
9 large wounds in her neck area.

10 Q I'm going to show you what's marked as State's
11 Exhibit 78. Is this a different view than 77?

12 A This is, yes, ma'am.

13 Q What, if anything, do you notice about the way
14 her head is shaped here?

15 A The right side of her face is very swollen as
16 well as a large swelling on the forehead. An extreme
17 amount of swelling, I believe.

18 Q State's Exhibit 79. You mentioned that you were
19 not able to have her stand up. What, if anything, can you
20 see here, possibly, behind her? Do you notice anything
21 here in this area?

22 A Right above the connection on her, I believe
23 that's her left shoulder, she, also, had a laceration
24 puncture wound on her left trap, trapezius muscle area.

25 Q Okay. Can you tell us what we see here on her

JOHN PRYZBYLO-DIRECT BY MRS. SCOTT

1 lip?

2 A Another large cut. Bottom lip split open almost
3 the entire length.

4 Q All right. Is that maybe a better view of what
5 you were referring to, that area?

6 A Yes, ma'am.

7 Q What did you call that area?

8 A Her left trap. Left shoulder.

9 Q So what we notice is that we don't have a
10 photograph -- or tell me if you do, based off the ones
11 you've seen of the right side of her face?

12 A No, ma'am.

13 Q We don't, you said?

14 A No, ma'am, we don't.

15 Q Not of her back or front?

16 A No, ma'am.

17 Q Okay. What did you do with those photographs
18 that we just saw?

19 A They were downloaded and burned to a disk and
20 placed in property and evidence along with the case file.

21 Q I noticed in these photographs she's not wearing
22 clothes. Where are her clothes? Since you were with her.

23 A Her clothes were taken off and she was given a
24 hospital gown by the medical staff.

25 Q Were her clothes preserved?

JOHN PRYZBYLO-CROSS BY MR. HOLCOMB

1 A Yes.

2 Q How did your involvement end at the hospital?
3 Did you stay with her all day?

4 A No, I was there for a couple hours, I believe.
5 I was eventually relieved by Investigator Tedro.

6 Q And again, before you were relieved by
7 Investigator Tedro at the hospital, had you seen The
8 Defendant at the hospital?

9 A No, ma'am.

10 MRS. SCOTT: Answer any questions that The
11 Defense counsel may have.

12 THE COURT: All right, cross.

13 MR. HOLCOMB: Yes, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. HOLCOMB:

16 Q Good morning, Officer Pryzbylo, how you doing?

17 A Pretty good. How are you?

18 Q Good. So you're the first officer to respond on
19 scene?

20 A Yes, sir.

21 Q And you started administering aid to her?

22 A Yes, sir.

23 Q And she's telling you her version of the events,
24 correct?

25 A Yes, sir.

JOHN PRYZBYLO-CROSS BY MR. HOLCOMB

1 Q But at that point, you have no other knowledge
2 about what happened, right?

3 A No, sir.

4 Q I mean, you didn't see a fight or anything?

5 A No, sir.

6 Q You didn't see any kind of altercation?

7 A No, sir.

8 Q You weren't there before it happened, right?

9 A No, sir.

10 Q And when you get to the hospital, at that point,
11 there was no surgical intervention done, correct?

12 A I don't believe so.

13 Q And her bleeding had stopped?

14 A That, I'm not aware of.

15 MR. HOLCOMB: Just one moment, Your Honor.

16 THE COURT: All right.

17 BY MR. HOLCOMB:

18 Q So when you took those photographs back at the
19 hospital, nobody is applying any kind of pressure to the
20 wounds, right?

21 A No.

22 MR. HOLCOMB: I have no further questions, Your
23 Honor.

24 THE COURT: All right, redirect?

25 MRS. SCOTT: No, Your Honor.

1 THE COURT: All right, you may step down. Thank
2 you, sir.

3 MRS. LIPINSKI: Your Honor, can I ask for a
4 short break?

5 THE COURT: Step down, yes, sir.

6 All right, ladies and gentlemen, why don't we go
7 ahead and take our morning break here. Please don't
8 discuss the case and we'll bring you back out after
9 our break. Thank you.

10 (WHEREUPON, the jury left open court at
11 approximately 10:56 a.m.)

12 THE COURT: All right, we'll be in recess 15
13 minutes.

14 MRS. LIPINSKI: Thank you, Your Honor.

15 (WHEREUPON, a short break was taken.)

16 MRS. SCOTT: We're back, Judge.

17 THE COURT: Bring them out.

18 MRS. LIPINSKI: I may have a few objections, so
19 we don't go back and forth. She just handed them to
20 me. I'm almost done.

21 THE COURT: Take your time.

22 (WHEREUPON, there was brief pause on the
23 record.)

24 THE COURT: Yes, ma'am.

25 MRS. LIPINSKI: So I was handed a stack of,

1 like, 56, 57, 58, 59, 60, and 64 are all the same
2 bloodstain on the floor in the bedroom. And then you
3 get to 65 and they, basically, zoom in on that
4 bloodstain. I don't know why we need -- some of them
5 show some other stuff around the bloodstain, so maybe
6 that provides context of location. This is where I
7 think we're getting to the point of making it seem
8 like there's even more bloodstains than there really
9 are or we're getting to the point where it is
10 becoming cumulative and unduly prejudicial.

11 THE COURT: It's photographs of the same thing?

12 MRS. LIPINSKI: Yes.

13 THE COURT: If they're photographs of the same
14 thing, try to cull that down.

15 MRS. SCOTT: Yes, sir. Can I get the --

16 MRS. LIPINSKI: Particularly, the one that's
17 been zoomed in at the end.

18 MRS. SCOTT: All right. This was 56 that she
19 referenced. This is 56 -- I wrote the numbers down.
20 This shows -- this is the entry way into the bedroom.

21 Fifty-seven is now we're in the bedroom and shows
22 that off the bedroom is a bathroom. You do see the
23 bed in that. Fifty-eight is a picture now of the bed
24 and its relation to the -- I'm not seeing --

25 MRS. LIPINSKI: This is the bloodstain. This is

1 the bloodstain. This is the bloodstain. Then skip
2 it, do the bed. And this is the bloodstain. This is
3 the bloodstain. This is the zoomed-up view of the
4 bloodstain.

5 MRS. SCOTT: Nobody is in here, I mean, so is
6 the carpet in every photo. What I'm telling you for
7 this purpose is this is about the cover of the bed.

8 MRS. LIPINSKI: Those others photographs of
9 that.

10 THE COURT: All right. Y'all are moving them in
11 and out way too quick.

12 MRS. SCOTT: I'm sorry, Judge.

13 THE COURT: Some them are being cut off.

14 MRS. SCOTT: Yes, because I'm not paying
15 attention to what you can see.

16 THE COURT: Okay. I saw the first three. The
17 first three were okay. You're outside the bedroom,
18 then you go into the bedroom. You have a different
19 view of the bedroom there, that's okay. That's 50 --

20 MRS. WESTFIELD: Seven.

21 THE COURT: So 56 and 57 are okay. 58 is okay,
22 just a different view. There's the blood on the
23 left, so 58's okay. All right. What's the
24 difference in that one?

25 MRS. WESTFIELD: So in 58 -- I'm going to put it

1 back up here, Your Honor. We just see the bed and a
2 portion of the table that's in the bedroom. Then 59
3 shows the whole table where the TV is turned --

4 THE COURT: I think 59 does show a different
5 view of the room, so I'll allow that. All right,
6 that's a closeup view of the blood, I'm not going to
7 allow that.

8 MRS. SCOTT: It's not just the blood, Your
9 Honor, it's, also, a heater, which we may be able to
10 find someone else. There's, also, this electrical
11 cord and a placard. I don't want to skip out of
12 order, but remember 60.

13 THE COURT: All right. For the record, we're
14 looking at 60?

15 MRS. SCOTT: Yes, sir.

16 THE COURT: What's the purpose of showing the
17 cord and the heater?

18 MRS. SCOTT: Well, Your Honor, she will testify
19 to the actual struggle that she had right here at
20 this location where this heater was ripped from the
21 wall.

22 THE COURT: Okay. Go back to the one you had
23 before that, 59.

24 MRS. LIPINSKI: You can see the heater and the
25 cord.

1 MRS. SCOTT: It's going to require me to do
2 this, Judge, but the thing is is that the jury is not
3 going to have the ability to zoom like this when they
4 get back there. So the only way for them to close up
5 anything, Judge, is for us to, also, give them a
6 closeup view of something. But we, also, have to
7 give them an outward view of something because then
8 they won't have any actual context of the photo. If
9 for any reason we can provide the jury this projector
10 back when they go to the deliberation room, then we
11 would not need to have upclose --

12 THE COURT: What number is that?

13 MRS. WESTFIELD: Fifty-nine.

14 MRS. SCOTT: You were asking the basis --

15 THE COURT: Yeah, back up, zoom out a little bit
16 if you would. Okay, there we go. So that's 59. And
17 then 60, let me see 60. That's just a closeup
18 showing the cord and the heater. I'll allow that.
19 Let me see the next one. This is 61.

20 MRS. LIPINSKI: Those I didn't -- I skipped over
21 those.

22 THE COURT: Yeah, it's 56 to 60, then 64 and 65.

23 MRS. SCOTT: Yes, sorry. This is 64.

24 THE COURT: What's the difference in that and
25 59?

1 MRS. SCOTT: Yes, Your Honor, you can see in
2 this photograph the blood here on this thing and the
3 gloves here, which you could not see.

4 THE COURT: All right, I'll allow that. What's
5 the next one?

6 MRS. SCOTT: And then, this, finally, is the
7 closeup of this blood.

8 THE COURT: All right, I'm not going to allow
9 that.

10 MRS. SCOTT: Your Honor, may I --

11 THE COURT: I'll hear you.

12 MRS. SCOTT: Okay. The reference on here is
13 because the saturation of blood, we would have
14 testimony as to how the victim said she laid in this
15 particular area for a long amount of time. I know
16 that carpet absorbs and I'm afraid that if they don't
17 see the amount of blood that she had lost at his
18 apartment, the elements of substantial risk of death
19 could be put in question. But she's losing a lot of
20 blood, but in the same token, the carpet is absorbing
21 a lot of her blood at the same time.

22 THE COURT: All right, what's the objection from
23 The Defense?

24 MRS. LIPINSKI: They're zooming in just to
25 create that impression. Unless they have some kind

1 of expert who's going to talk about the absorption
2 rate. I think they're trying to create something
3 that they don't have. This is just to inflame the
4 passion -- they have eight other shots of this
5 bloodstain and giving it context. So unless there is
6 some reason that you have to dive that deeper, it's
7 just designed to inflame the passion and prejudice of
8 the jury. There's blood every -- over by the door.
9 There's probably of the 80 photographs, I would
10 venture to say six of them -- 60 of them have blood
11 in it. I just don't see the need to zoom in
12 artificially and create some kind of impression that
13 she doesn't have and that somehow without that, they
14 can't meet their burden.

15 THE COURT: What number is that?

16 MRS. LIPINSKI: Sixty-five.

17 THE COURT: All right. I find 65 is out. I do
18 think even if it's relevant, 403, that it's unfairly
19 prejudicial and substantially outweighs the probative
20 value. There's no probative value gain -- whatever
21 probative value is gained of showing a closeup of
22 blood absorption in a carpet is outweighed,
23 substantially outweighed by the prejudicial value.

24 Okay, is there another one?

25 MRS. LIPINSKI: The last one, 75, is a picture

1 of a knife that, at least, the forensic tech says she
2 doesn't believe is involved in the incident. There
3 are other knives they, also, located. They're not
4 putting those photos in. I just don't understand the
5 relevance of a picture of a toilet completely not
6 involved, but now we have a picture of a knife. I
7 just don't know what -- before they put it in, I
8 don't want the impression to be that that was the
9 knife or that was somehow involved.

10 MRS. SCOTT: She will [indiscernible] for the
11 sake of the pre-trial motion, this handle, Your
12 Honor, in reference to -- I think she has it.
13 There's probably a closer-up picture. This is not
14 the one, but I'll see if we can get there. I don't
15 know if I can do it, Judge. Oh, I might can. It's
16 for the jury to be able to see that the handle of
17 this knife here on the bed and the handle of the
18 knife that, although we're not stating this is the
19 weapon, had a similar handle to show the association
20 of where this weapon came from inside the home. She
21 will not say that this is a knife -- in fact, in her
22 report, she said --

23 THE COURT: All right. So it's looking -- if I
24 understand, The State's trying to argue -- or trying
25 to show that this is a similar knife that's in the

1 household, has the same handle as the knife handle
2 found on the bed in that other exhibit, photograph;
3 is that correct?

4 MRS. SCOTT: Yes, Your Honor.

5 THE COURT: Mrs.~Lipinski, what about that? I
6 think that's relevant.

7 MRS. LIPINSKI: We just feel -- I think it's
8 confusing to the jury because it isn't the knife. We
9 can handle on cross, Your Honor.

10 THE COURT: I understand. I'll allow that
11 exhibit. What was that again, 75?

12 MRS. SCOTT: Yes, sir.

13 THE COURT: All right, I'll allow that in.
14 Anything else before we bring them back in?
15 All right, anything else from The State?

16 MRS. SCOTT: I think she referenced a toilet.

17 THE COURT: The toilet, what's --

18 MRS. SCOTT: I don't know where it is, but there
19 is a picture of the second bathroom and the second
20 bedroom. And the reason for pictures of the house is
21 because they did search the house and in the event
22 that they need to know where these things are,
23 there's a bedroom and then there's a bathroom. And
24 these things were photographed and that's it, Your
25 Honor. But I do believe that they need to know --

1 THE COURT: Just the other rooms in the house?

2 MRS. SCOTT: Yes, sir.

3 THE COURT: All right. I'll defer and wait
4 until I hear the testimony. Most likely, I'll allow
5 that in. It's just showing the house. But I'll see
6 what the testimony shows and we'll handle it from
7 there.

8 All right, anything else from The State?

9 MRS. SCOTT: We're going to get these organized.

10 THE COURT: All right. I'll give you time. If
11 you want to organize them right now, I'll give you a
12 minute.

13 MRS. SCOTT: Judge, I stood up and talked mostly
14 about these motions.

15 THE COURT: Well, I'm fine --

16 MRS. LIPINSKI: I'll waive any objection.

17 THE COURT: I'm okay with y'all doing pre-trial
18 issues like this. It's just when during the
19 examination, when the witness is actually on the
20 stand, at that point, then it ends. I'm fine with
21 y'all at a stage like this to do it. Once the
22 witness takes the stand, then that's when I do not
23 allow it. But y'all are fine here.

24 MRS. LIPINSKI: When we got to the bloody
25 photographs, Mr. Holcomb tapped out.

1 THE COURT: Always good to have two lawyers in a
2 case. People don't realize how difficult it is to
3 try a case that have never done it before.

4 MRS. SCOTT: All right, we're ready.

5 THE COURT: Ready?

6 MRS. SCOTT: Yes, sir.

7 MRS. WESTFIELD: Yes, sir.

8 THE COURT: All right, Mr. Preston.

9 (WHEREUPON, the jury entered open court at
10 approximately 11:35 a.m.)

11 THE COURT: All right, State calls its next
12 witness.

13 MRS. SCOTT: Your Honor, State calls Sergeant
14 Allyson Wright.

15 THE CLERK: Place your left hand on the Bible,
16 raise your right hand.

17 ALLYSON WRIGHT, after being duly
18 sworn, testified as follows:

19 THE CLERK: Thank you, please be seated. State
20 your name for the record.

21 THE WITNESS: Allyson Wright.

22 DIRECT EXAMINATION

23 BY MRS. WESTFIELD:

24 Q Hi, Sergeant, how you doing today?

25 A Good. How are you?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 Q Good. Could you let The Court know where you're
2 employed?

3 A I'm employed with Greenville County Forensics.

4 Q . What's your current position there?

5 A I am currently a sergeant.

6 Q What are your duties?

7 A I supervise technicians that are under me, read
8 reports. I go out on calls with them and I take calls
9 myself. Then do other admin things.

10 Q Okay. Do you attend any mandated trainings?

11 A Yes. We have bi-annual trainings with the South
12 Carolina Criminal Justice Academy online. They do legal
13 updates twice a year. I have gone to a bloodstain pattern
14 analysis class in 2022. And for the past five years, I've
15 done bloodstain pattern analysis proficiency tests as
16 well.

17 Q Thank you for that. Now, what was your position
18 in March of 2021?

19 A I was a field training officer.

20 Q And what were your duties in being a field
21 training officer?

22 A I trained the new employees and take them on
23 calls that they haven't seen yet.

24 Q What were you dispatched for in this case?

25 A I was dispatched to process an assault

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 investigation.

2 Q Where did you respond?

3 A I responded to 1209 Wiley Drive in Simpsonville.

4 Q Is that an apartment complex?

5 A Yes, that's an apartment complex.

6 Q Okay. Is it -- okay, never mind. Now, what
7 date did you respond?

8 A March 17th of 2021.

9 Q Okay. Who else came with you?

10 A I had a technician with forensics come with me,
11 Technician Martin.

12 Q Now, when you arrived there, what did you do?

13 A When I first arrived, I made contact with
14 Investigator Donnelly, who advised the information we had
15 on the case at the time. He requested that I photograph
16 the scene, do video footage and collect any items of
17 evidentiary value. Then we did a initial walk-through to
18 see what the scene looked like.

19 Q So do you always do an initial walk-through, and
20 what's the purpose if you do?

21 A Yes, we do an initial walk-through so we can see
22 what we need to focus on at the scene. If there's any
23 evidence laying out. If there's any suspected blood
24 anywhere. That way, we know what we're walking into
25 instead of just starting to photograph it.

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 Q Did you generate a report outlining the steps
2 you took when you were processing the scene?

3 A Yes, I did.

4 Q Do you have it with you today?

5 A Yes.

6 Q Now, let's first talk about the weather
7 conditions that day. What were the weather conditions?

8 A It was pouring rain when we arrived on scene.

9 Q Now, how would the rain effect your
10 investigation or processing of the scene?

11 A The rain could possibly wash away any evidence,
12 such as suspected blood. If there's suspected blood out
13 there, the rain could have washed it away.

14 Q Given that it was raining, what, if anything,
15 were you able to document outside the apartment?

16 A At the entrance of the breezeway and in the
17 breezeway, we were able to observe suspected blood
18 droplets as well on the stairs going up to the second
19 floor.

20 Q Okay.

21 A There was, also, suspected blood on the wall
22 next to the railing of the stairs.

23 Q All right. So I'm going to show you a few
24 photos. I'm showing you what has been premarked as
25 State's Exhibit 5 through, let's see, 20. Can you take a

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 look at those?

2 A (The witness complies.)

3 Q Do you recognize these photos?

4 A Yes, I do.

5 Q How so?

6 A I took the photos.

7 Q Are they a true and accurate depiction of what
8 these photos that were taken?

9 A Yes, they are.

10 MRS. WESTFIELD: Your Honor, we move to have
11 these photos entered into State's evidence as Exhibit
12 5 through 20.

13 MRS. LIPINSKI: I know we saw them. I know the
14 rest of them -- are these all external or is there
15 internal? As to 20, that's probably all in sequence
16 images, we would renew our previous motion made this
17 morning regarding the search warrant because it does
18 document the inside of the house.

19 THE COURT: Your objection is noted on that.

20 Those are Exhibits 5 through 20, is that what
21 you said?

22 MRS. WESTFIELD: Yes, sir.

23 THE COURT: Other than that, 5 through 20
24 admitted.

25 Any objection to those?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 MRS. LIPINSKI: Only to 20 and to that previous
2 motion.

3 THE COURT: So Exhibits 5 through 20 are
4 admitted subject to The Defense's objection.

5 (WHEREUPON, State's Exhibits Nos. 5-20 were
6 admitted into evidence.)

7 MRS. WESTFIELD: Permission to publish, Your
8 Honor?

9 THE COURT: Yes, ma'am.

10 BY MRS. WESTFIELD:

11 Q All right. We're showing State's Exhibit No. 5.
12 Could you describe to The Court what we see here?

13 A This is the building that I responded to on the
14 incident date.

15 Q Okay. Could you list the -- what number do you
16 see there?

17 A One thousand.

18 Q Okay. State's Exhibit No. 6, can you describe
19 to The Court what we see here?

20 A This is, also, the building, it's the breezeway
21 that led up to the apartment.

22 Q Okay. And what are these little specks we see
23 here?

24 A That is rain.

25 Q Okay. Any other significant things in this

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 picture that you can recall?

2 A No.

3 Q Okay. Did you see anything, I guess, on the
4 sidewalks, in the parking lot when you arrived on scene?

5 A No, I did not see anything.

6 Q Is that due to the rain, maybe?

7 A Yes.

8 Q All right. State's Exhibit No. 7, can you
9 describe here what we see?

10 A This is the entrance of the breezeway.

11 Q Okay. Is there anything significant that you
12 can point out to the jury that you see?

13 A Yes. There is a suspected blood droplet on the
14 sidewalk.

15 Q I believe we have State's Exhibit No. 8, that is
16 a closeup of that?

17 A Yes.

18 Q Is that just a closeup of that particular area?

19 A Correct.

20 Q Okay. All right, State's Exhibit No. 9. Could
21 you explain to The Court what we see here?

22 A This is the breezeway leading to the stairs.
23 There are, also, suspected blood droplets on the ground
24 near the stairs.

25 Q Okay. State's Exhibit No. 10. What do we see

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 here?

2 A The suspected blood droplets near the stairs.

3 Q You placed a placard here as well?

4 A Yes.

5 Q Okay. All right, State's Exhibit No. 11. What
6 do we see here?

7 A The phenolphthalein test. We use the
8 phenolphthalein test to test the blood, suspected blood
9 droplet. If it turns pink as it does in this swab, it's a
10 positive result.

11 Q So this picture here is just the closeup of what
12 you have there by the placard, correct?

13 A Correct.

14 Q State's Exhibit No. 13 -- I mean 12, excuse me.
15 What do we see here?

16 A This is the staircase leading up to the second
17 floor of the building.

18 Q Okay. All right. State's Exhibit No. 13, what
19 do we see here?

20 A Suspected blood droplets on the stairs.

21 Q State's Exhibit No. 14?

22 A This is a closeup of the suspected blood
23 droplets on the stairs.

24 Q All right, thank you. State's Exhibit 15, what
25 do we see here?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 A As continuing up the stairs, there are
2 additional suspected blood droplets.

3 Q So we're gradually walking up the stairs?

4 A Yes.

5 Q All right, State's Exhibit No. 16?

6 A That's towards the top of the stairs and there
7 are additional suspected blood droplets.

8 Q Okay. State's Exhibit No. 17, what do we see
9 here?

10 A This is the wall by the railing on the stairs
11 and suspected blood.

12 Q You placed a placard there as well?

13 A Yes, and took a swab of this as well.

14 Q Okay. All right, State's Exhibit No. 18, what
15 do we see here?

16 A This is the top of the stairs with suspected
17 blood.

18 Q Okay. All right, State's Exhibit No. 19, what
19 do we see here?

20 A This is the second floor landing.

21 MRS. LIPINSKI: I can't tell if there's two or
22 three photographs.

23 THE WITNESS: This is the second floor landing.
24 The door on the left is the incident location that's
25 standing open.

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 BY MRS. WESTFIELD:

2 Q Okay. When you say the landing, can you
3 describe what we see in that back area?

4 A There are additional apartments back there.

5 Q What floor?

6 A This is the second floor.

7 Q So it's upstairs, correct?

8 A Yes.

9 Q What else do you see in this picture that's
10 significant? Near the door.

11 A There was yellow crime scene tape. And there
12 was a rug on the outside and inside of the door.

13 Q Okay. State's Exhibit No. 20, what do we see
14 here?

15 A This is the entrance of the apartment. There's
16 a rug right in front of the door, which had suspected
17 blood on it. There was suspected blood droplets on the
18 floor right inside the door next to the rug.

19 Q Now, I want to go back. Where was this door in
20 relation to the steps?

21 A It was directly to the left as you walked up the
22 steps.

23 Q Now, as you enter into the apartment, what's the
24 layout?

25 A This is a two-bedroom, two-bathroom apartment.

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 When you first walk in, there's a hallway straight ahead
2 and at the end of the hallway is the kitchen.

3 Q Okay.

4 A There's a door on the right of the front door,
5 which leads to a coat closet.

6 Q Okay.

7 A To the left of the kitchen as you're walking
8 down the hallway, there's a living room. When you're
9 standing in the kitchen looking at the living room,
10 there's the master bedroom and bathroom on the right and
11 then an additional bedroom and bathroom on the left.

12 Q All right. Now, giving your testimony, I'm
13 going to hand you -- my cocounsel is going to bring
14 State's Exhibit 76 up. It's a floor plan, an enlarged
15 floor plan. Do you recognize that?

16 A Yes.

17 Q Is it a true and accurate representation of what
18 you described to us in terms of the layout of the
19 apartment?

20 A Yes.

21 MRS. WESTFIELD: Your Honor, we move to enter
22 State's Exhibit No. 76 into evidence.

23 THE COURT: All right, any objection from The
24 Defendant?

25 MRS. LIPINSKI: No objection, Your Honor.

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 MRS. WESTFIELD: All right, State's Exhibit 76
2 is admitted into evidence without objection.

3 (WHEREUPON, State's Exhibit No. 76 was admitted
4 into evidence.)

5 MRS. WESTFIELD: Permission to publish, Your
6 Honor?

7 THE COURT: Yes, ma'am.

8 MRS. LIPINSKI: Only objection subject to
9 pre-trial motion.

10 THE COURT: All right, objection noted.

11 BY MRS. WESTFIELD:

12 Q All right, Sergeant, I'm handing you some more
13 photos marked as State's 22 through 35. Do you recognize
14 those?

15 A Yes.

16 Q How so?

17 A I took those photos.

18 Q You took those. Now, are they a true and
19 accurate depiction of the photos that you did take?

20 A Yes.

21 MRS. WESTFIELD: Your Honor, we move to The
22 Court that you admit State's Exhibits 22 through 35
23 into evidence.

24 THE COURT: All right, any objection from The
25 Defendant?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 MRS. LIPINSKI: I thought she already had and
2 you ruled subject -- are these new ones?

3 MRS. WESTFIELD: Yeah, another set.

4 MRS. LIPINSKI: What numbers are these?

5 MRS. WESTFIELD: 22 through 35.

6 MRS. LIPINSKI: Those are the ones I thought you
7 just ruled on. I could be wrong.

8 THE COURT: No, that was 5 to 20, then 76, now
9 22 to 35.

10 MRS. LIPINSKI: She showed them to me and I said
11 subject to our pretrial motion regarding the defect
12 of the search warrant.

13 MRS. WESTFIELD: Permission to publish?

14 THE COURT: All right. Admitted into evidence.

15 (WHEREUPON, State's Exhibits Nos. 22-35 were
16 admitted into evidence.)

17 BY MRS. WESTFIELD:

18 Q All right. This is State's Exhibit No. 22, can
19 you share with us what we see here?

20 A This is the mat on the front door and there's
21 suspected blood on the mat as well as on the floor in
22 front of it.

23 Q Okay. All right, State's Exhibit No. 23, what
24 do we see here?

25 A This is a hall closet that was near the front

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 door. And it was half way opened.

2 Q What do we see in the closet?

3 A There's clothing and shoes.

4 Q What type of clothing and shoes? .

5 A Looks like a jacket and man's shoes.

6 Q Okay. State's Exhibit No. 24, what do we see
7 here?

8 A This is, also, the hall closet and there's
9 suspected blood on the exterior of the door.

10 Q Thank you. State's Exhibit No. 25, what do we
11 see here?

12 A This is the hallway. There's suspected blood
13 droplets on the floor. There's three pairs of male shoes.
14 And there's, also, suspected blood on the walls.

15 Q Okay. What do we see towards the back of that
16 picture?

17 A That is the kitchen.

18 Q Okay. State's Exhibit No. 26, what do we see
19 here?

20 A This is the interior of the front door and the
21 exterior of the closet door. There's suspected blood on
22 both doors and the walls surrounding it.

23 Q Okay. What about the, I guess it would be if
24 you were to close that door, what wall is -- if you were
25 to close that door, what's on that back wall, that wall to

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 the side? I guess it would be to your right in your
2 picture.

3 A (There was no response.)

4 Q All right, what's this over here?

5 A The electrical panel.

6 Q What do we see on it?

7 A There's suspected blood on this as well.

8 Q All right, thank you. State's Exhibit No. 20.

9 Your Honor, I'm going to pin this picture
10 on our floor plan up here just to give the jury an idea.

11 MRS. LIPINSKI: Your Honor, I ask the witness do
12 it as she's the one that took the photo and not the
13 solicitor.

14 BY MRS. WESTFIELD:

15 Q Okay, I'll let you do it.

16 THE COURT: You're talking about putting the
17 poster board right there?

18 MRS. WESTFIELD: Yes, sir.

19 MRS. LIPINSKI: Direct her where to put it.

20 THE COURT: Yeah, you can direct her where to
21 put it.

22 BY MRS. WESTFIELD:

23 Q Show me where to put it.

24 A (The witness indicates.)

25 Q You see that she's pointing to this area where

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 the front door is?

2 MRS. LIPINSKI: Objection to Mrs.~Westfield
3 asking questions of the jury.

4 THE COURT: Sustained.

5 MRS. WESTFIELD: Okay.

6 BY MRS. WESTFIELD:

7 Q All right. State's Exhibit No. 27, what do we
8 see here?

9 A This is, also, the interior of the front door
10 and exterior of the closet door. And there's a pink
11 dumbbell that had suspected blood on it.

12 Q Okay. We see these pieces of yellow tape, what
13 is that?

14 A We use that tape to scale suspected blood to
15 show how big it is on the actual surface. Then we do
16 additional swabs to show directionality of the suspected
17 blood.

18 Q All right, thank you. State's Exhibit No. 28,
19 please tell us what we're looking at here.

20 A This is a closeup of the 3 lb dumbbell with
21 suspected blood on it.

22 Q And we see a placard here as well?

23 A Correct. I collected this as item No. 3.

24 Q Okay. State's Exhibit No. 29, what do we see
25 here?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 A This is still the hallway and there's suspected
2 blood on the floor as well as a shoe. I have a placard
3 No. 8 were I collected it as evidence.

4 Q All right. State's Exhibit No. 30, what do we
5 see here?

6 A This a closeup of the suspected blood that was
7 collected.

8 Q State's Exhibit No. 31?

9 A That's, also, phenolphthalein blood test with
10 positive results.

11 Q Number 32, what do we see here?

12 A This is the interior of the front door and the
13 wall next to the front door. And there's suspected blood
14 on both.

15 Q You put scales here as well?

16 A Correct.

17 Q State's Exhibit No. 33. Can you tell us what we
18 see here?

19 A This is a closer image of the suspected blood on
20 the interior of the front door. It appears that's some
21 sort of fabric --

22 MRS. LIPINSKI: I object at this point. I think
23 she's going into expert testimony and I don't think
24 she's been qualified as such.

25 THE COURT: Rephrase. Sustained.

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 BY MRS. WESTFIELD:

2 Q Sergeant Wright, can you explain to The Court --
3 and we asked you this question before, what trainings have
4 you had on bloodstain patterns?

5 A I had a basic bloodstain pattern analysis class
6 in 2022. And for the past five years, I've done a
7 bloodstain pattern analysis competency test.

8 Q Are these classes required for your position?

9 A No, they are not required.

10 Q How -- so taking these classes, do they help
11 make -- or give you more knowledge of what you're doing on
12 your job?

13 A Yes.

14 Q Now, in taking these trainings, do you rely on
15 these trainings when you have to go out to these incidents
16 of such nature?

17 A Yes, they do help with what we're looking at on
18 scene.

19 Q Did you rely on the trainings you've taken when
20 you went into this apartment and processed this apartment?

21 A Yes, from the competency test.

22 Q Okay. And based on your training and
23 experience, you're able to identify the type of
24 bloodstains here?

25 A Yes.

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 Q Okay. With that said, Sergeant, can you explain
2 to us what we see here?

3 MRS. LIPINSKI: Your Honor, object. She's not
4 been qualified as an expert. She's not been
5 proffered as an expert. There's no scientific
6 foundation laid for this. It meets the Daubert and
7 Frye standards. There's nothing about her previous
8 scientific knowledge or training.

9 THE COURT: All right, Mrs. Westfield.

10 Ladies and gentlemen, I'm going to excuse you
11 for just a minute and take up a matter. If you
12 would, please don't discuss the case.

13 (WHEREUPON, the jury left open court at
14 approximately 12:00 p.m.)

15 THE COURT: All right, Defense expert -- The
16 Defense objection is that this witness isn't
17 qualified as an expert under Rule 702 and that is
18 required to provide this testimony.

19 What The State's response to that?

20 MRS. WESTFIELD: One moment, Your Honor.

21 THE COURT: All right.

22 MRS. WESTFIELD: All right, Your Honor, our
23 response to that would be that she does have
24 specialized knowledge that will assist the jury, the
25 trier of facts, to understand the evidence that is

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1 presented to them today. She has the knowledge, she
2 has the skill, she has experience, she's taken some
3 training and she has the education to testify to that
4 matter.

5 THE COURT: What is her -- what is her
6 experience in scene investigations on this subject?
7 I mean, I see that she took the class in 2022. Then
8 she has taken the last five years some tests
9 involving bloodstain patterns. She said she's, also,
10 analyzed bloodstains patterns. What specific
11 testimony or experience has she done in analyzing
12 these bloodstain patterns? Other than I've got the
13 last five years taking the test. I've got the class
14 that she did take. And I thought I heard her testify
15 that she has experience in analyzing bloodstain
16 patterns.

17 MRS. WESTFIELD: I would ask, Your Honor, how
18 many cases has she worked that has this type of
19 evidence.

20 THE COURT: Okay. That question is posed to
21 you. Yes, ma'am. The witness may answer.

22 BY MRS. WESTFIELD:

23 Q How many other crime scenes have you worked
24 before this one where you had to analyze bloodstains?

25 A Probably less than 20.

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1 THE COURT: All right, what's The Defense's
2 objection?

3 MRS. LIPINSKI: Your Honor, first, she said she
4 received the training in 2022, that was after she did
5 this here. Second of all, I don't think that that is
6 necessary to say that it meets -- I think they still
7 have to establish the reliability of the science
8 pursuant to Daubert and Frye. To sit there and say
9 that just because she took a class and it might be an
10 emerging area -- the report I have, the only opinion
11 I was given notice of, was that she collected some
12 blood. There is something that says suspected blood
13 all throughout her report. Obviously, you've heard
14 that. They said suspected fabric impression.

15 I don't know where this is going in terms of are
16 we talking about trajectory and force,
17 directionality. She started to kind of lay out words
18 -- The Defense was never put on notice that they were
19 going to rely upon her in that fashion. Maybe
20 they're not going there, I don't really know. But
21 prior to her being qualified as an expert beyond just
22 in crime scene examination and preservation of
23 evidence, to go beyond that to say she's now going to
24 render an opinion of what that smear is and what it's
25 origin is, I think there's a greater heightened

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1 degree of certainty and scientific requirements to
2 get there. But they have to meet the necessary
3 standard to not only establish that she -- she said
4 less than 20, that could be two. I don't know what
5 that is. I don't know when it came. I don't know
6 what she scored on that test. I don't know that she
7 passed it. I don't know that she's been certified.
8 I don't know what collegiate training she has. They
9 haven't developed her as an expert other than she
10 passed an online class. That doesn't make anybody an
11 expert on anything.

12 THE COURT: All right, Mrs. Westfield.

13 MRS. WESTFIELD: Your Honor, I feel like there's
14 a lot of reaching going on here in this situation.
15 We just want her to describe what we see here. She's
16 not going to be making any type of conclusions.

17 THE COURT: Well, that was my -- I was waiting
18 through the testimony to see where you are going with
19 this.

20 MRS. WESTFIELD: We just want her to describe
21 what's in here.

22 THE COURT: All right. She can testify to what
23 she is -- what she sees, but as far as if you are
24 trying to get into testimony, an expert opinion as to
25 blood pattern or bloodstain pattern analysis, that's

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1 a different story.

2 So what is the State trying to get with this
3 witness?

4 MRS. WESTFIELD: So we just want her to pretty
5 much state that there's fabric impressions in these
6 particular bloodstains. Meaning that the victim at
7 some point might have touched that area and based on
8 what she had on, it leaves an impression, like a
9 print.

10 THE COURT: Mrs.~Lipinski, that's not really --
11 isn't that what she's observing, that she sees fabric
12 or something touched the blood? She's not -- I'm not
13 going to allow her to testify to blood pattern
14 analysis unless I hear more evidence or foundation,
15 which I thought was your initial objection.

16 MRS. LIPINSKI: That really -- I -- you know,
17 she has not been qualified even as an expert in crime
18 scene examination and evidence collection. So I
19 wanted to object before the cat was out of the bag
20 and everything like that. It is in the report that
21 there's suspected fabric impressions. If that's her
22 word, then that's her word. If she's going to go
23 further and say I have compared the fabric of the
24 victim's clothes to this and I think that's
25 consistent with that versus any other fabric or that

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1 left some kind fabric print, I think that's my
2 concern is that, you know, with the scaling and the
3 splatter. She used the word directionality that
4 we're now going to be able to tell that somebody is
5 moving left to right or up and down, none of that is
6 in her reports. The Defense wasn't put on notice of
7 it and I don't think they've established her
8 qualifications to do that. If she's going to limit
9 it to it appears to be a fabric impression in there,
10 then we're fine. But my concern was that certainly
11 The State has said they may try to extrapolate
12 farther that the victim's clothes left that. It
13 could have been anybody's clothes that left that.

14 THE COURT: All right, Mrs. Westfield.

15 MRS. WESTFIELD: Yes, sir, Your Honor. We don't
16 plan on using the blood splatter, any of that, just
17 fabric impression.

18 THE COURT: All right. That's all they're
19 saying they're limiting it to.

20 Now, you've got to limit it, though.

21 MRS. WESTFIELD: Yes, sir.

22 THE COURT: If it goes any further than that,
23 then I think you got -- we've got an issue and I
24 would not allow the witness to testify unless there's
25 more foundation on her qualifications. But I'll

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1 allow her to testify on that area. And nothing else
2 after that unless there's something that she can
3 testify to outside any kind of blood pattern
4 analysis, if that's what you're trying to get
5 eventually, okay.

6 Anything else you want to add to that?

7 MRS. WESTFIELD: No, sir.

8 THE COURT: All right, anything else before we
9 bring them back in?

10 MRS. WESTFIELD: Nothing.

11 MR. HOLCOMB: Nothing, Your Honor.

12 THE COURT: All right, let's bring them back in.

13 (WHEREUPON, the jury entered open court at
14 approximately 12:10 p.m.)

15 THE COURT: All right, Mrs.~Westfield.

16 MRS. WESTFIELD: Thank you, Your Honor.

17 BY MRS. WESTFIELD:

18 Q Sergeant Wright, we're going to look at this
19 photo again, State's Exhibit No. 33. Based on your
20 training and experience, what did you observe about this
21 bloodstain?

22 A That there was suspected fabric impressions.

23 Q What does fabric impression mean? What's the
24 meaning of that?

25 A It can mean some sort of clothing, blanket, some

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1 sort of fabric.

2 Q All right, thank you. State's Exhibit No. 34.

3 All right, State's Exhibit No. 34, what do we see here?

4 A Suspected blood splatter on the door.

5 Q All right, State's Exhibit No. 35, what do we
6 see here?

7 A This is the hallway wall with suspected blood on
8 it.

9 Q Okay. We see scales here as well, correct?

10 A Correct.

11 Q Okay. All right, bear with us. We have to put
12 a few things on the record.

13 MRS. LIPINSKI: No objection subject to the
14 search warrant motion we made earlier today, Your
15 Honor.

16 THE COURT: All right.

17 MRS. WESTFIELD: Your Honor, may we enter in
18 State's Exhibits 36 through 49?

19 MRS. LIPINSKI: I think she has to identify them
20 and authenticate them, but then we have that limited
21 objection.

22 BY MRS. WESTFIELD:

23 Q Do you recognize these?

24 A Yes.

25 Q How so?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 A I took the photos.

2 Q Are they a true and accurate depiction of the
3 photos that were taken?

4 A Yes.

5 MRS. WESTFIELD: Your Honor, we move to enter
6 State's Exhibits 36 through 49 into evidence.

7 THE COURT: All right, State's Exhibits 36
8 through 49 are admitted into evidence subject to
9 Defendant's previous objection.

10 (WHEREUPON, State's Exhibits Nos. 36-49 were
11 admitted into evidence.)

12 MRS. WESTFIELD: Permission to publish?

13 THE COURT: You may.

14 BY MRS. WESTFIELD:

15 Q Okay. State's Exhibit No. 36, what do we see
16 here?

17 A This is the kitchen wall to the hallway and
18 closet door in the background to the left. There's
19 suspected blood on the kitchen wall.

20 Q All right. I'm going to have you direct me to
21 place this picture on the floor plan.

22 A There.

23 Q All right, State's Exhibit No. 37. Can you
24 describe to us what we see here?

25 A This is the entrance to the second bedroom.

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1 Q Okay. So if we're facing that, what's to the
2 right?

3 A If we're facing that, the living room is to the
4 right, the kitchen is to the left.

5 Q What's behind it?

6 A The master bedroom.

7 Q Okay. All right, State's Exhibit No. 38, what
8 do we see here?

9 A This is the suspected blood on the kitchen floor
10 going towards the master bedroom.

11 Q State Exhibit No. 39, what do we see here?

12 A This is a closeup of the suspected blood.

13 Q Okay. In the kitchen, dining area?

14 A Correct.

15 Q That you just described, okay. There's a lot of
16 pictures of the floor. But what's in State's Exhibit No.
17 40, what do we see here?

18 A This is suspected blood on the floor by the
19 kitchen wall.

20 Q Okay. All right, State's Exhibit No. 41, what
21 do we see here?

22 A This is, also, suspected blood on the kitchen
23 floor. And there is, also, suspected blood on the column
24 in the kitchen.

25 Q All right. State's Exhibit No. 42, what do we

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 see here?

2 A This is a closeup of the suspected blood.

3 Q Here's that column?

4 A Yes.

5 Q Okay. All right. State's Exhibit No. 43, what
6 do we see here?

7 A This is the suspected blood on the kitchen wall
8 as well as on the column.

9 Q Okay. All right, State's Exhibit No. 44, what
10 do we see here?

11 A Suspected blood on the column.

12 Q State's Exhibit No. 45, what do we see here? We
13 have a lot going on in this picture. What do we see here?

14 A This is the kitchen island that had different
15 medications, cleaning supplies, and an envelope that said
16 I love my wife so much on both sides.

17 Q Okay. You have a placard there as well,
18 correct?

19 A Correct.

20 Q All right. State's Exhibit No. 46, what do we
21 see here?

22 A This is a closer image of the envelope that says
23 I love my wife so much.

24 Q Okay. All right, State's Exhibit No. 47, what
25 do we see here?

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1 A This is the other side of that envelope.

2 Q So it was written on both sides?

3 A Correct.

4 Q And there's a placard here as well?

5 A Yes, it was placard item 13.

6 Q Okay. All right, State's Exhibit No. 48,
7 explain to us what you see here.

8 A This is the back of the envelope that says I
9 love my wife so much with the placard next to it.

10 Q Okay. Now, what's this right here?

11 MRS. LIPINSKI: Objection, Your Honor. Unless
12 they lay a foundation and knowledge that she can
13 identify the substance.

14 THE COURT: She asked her what is it, so I'll
15 allow it.

16 THE WITNESS: When looking at it, it appeared to
17 be suspected blood.

18 BY MRS. WESTFIELD:

19 Q All right. And based on your report, what did
20 you find out about that there? Let me point back to it.

21 Based on your report, what did you find out that this was?

22 A I don't recall. Can I look at my report?

23 Q You may. Sergeant Wright, look at Page 3. You
24 got it?

25 A Yes.

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1 Q Okay. Could you let The Court know what that is
2 on that envelope?

3 A It was negative for suspected blood.

4 Q Thank you. All right, State's Exhibit No. 49,
5 what do we see here?

6 A That's a cell phone plugged in on the window
7 sill in the living room.

8 Q All right, thank you. I am about to hand you
9 what's been premarked as State's Exhibit 50 through 55.
10 Do you recognize these?

11 A Yes.

12 Q How so?

13 A I took the pictures.

14 Q Okay. Are these a true and accurate depiction
15 of the photos that you did take?

16 A Yes.

17 MRS. WESTFIELD: Your Honor, we move to have
18 State's Exhibit Nos. 50 through 55 entered into
19 evidence.

20 MRS. LIPINSKI: Without objection.

21 THE COURT: All right, State's Exhibit Nos. 50
22 through 55 are admitted into evidence without
23 objection.

24 (WHEREUPON, State's Exhibits Nos. 50-55 were
25 admitted into evidence.)

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1 MRS. WESTFIELD: All right, Your Honor,
2 permission to publish to the jury?

3 THE COURT: Yes.

4 BY MRS. WESTFIELD:

5 Q All right. State's Exhibit No. 50, what do we
6 see here?

7 A This is the second bedroom that was to the left
8 when you're standing in the kitchen facing the living
9 room.

10 Q What do we see in this bedroom?

11 A There's a bedframe and a box.

12 Q All right. State's Exhibit No. 51, what do we
13 see here?

14 A This is a bedroom closet. It contained clothing
15 and men's shoes.

16 Q Anything else you see there?

17 A There was a purse and a hat.

18 Q Okay. All right. State's Exhibit No. 52, can
19 you describe to us what you see here?

20 A These are additional photos of men's shoes in
21 the closet.

22 Q Okay. Looks like another location in the
23 closet?

24 A Yes, it's further into the closet.

25 Q Okay. All right. State's Exhibit No. 53, what

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1 do we see here?

2 A This is leading to the bathroom near that
3 bedroom.

4 Q Okay. All right, State's Exhibit No. 54, what
5 do we see here?

6 A This is the toilet seat was up and the bathroom
7 is fairly neat and orderly.

8 Q Okay. And State's Exhibit No. 55, what do we
9 see here?

10 A This is the sink, which was, also, fairly neat
11 and orderly.

12 Q All right.

13 MRS. LIPINSKI: Objection, Your Honor,
14 cumulative and they're prejudicial and the search
15 warrant motion.

16 THE COURT: All right.

17 BY MRS. WESTFIELD:

18 Q I am going to show you, Sergeant Wright, what
19 has been premarked as State's Exhibits 56 through 64. Do
20 you recognize these?

21 A Yes.

22 Q How so?

23 A I took the photos.

24 Q Are they a true and accurate depiction of the
25 photos that you took?

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1 A Yes.

2 MRS. WESTFIELD: Your Honor, we move for the
3 photos marked as State's Exhibit Nos. 56 through 64
4 be entered into evidence.

5 THE COURT: All right, State's Exhibit Nos. 56
6 through 64 are admitted into evidence subject to
7 Defense's prior objection.

8 (WHEREUPON, State's Exhibits Nos. 56-64 were
9 admitted into evidence.)

10 MRS. WESTFIELD: Permission to publish?

11 THE COURT: You may.

12 BY MRS. WESTFIELD:

13 Q All right. State's Exhibit No. 56, what do we
14 see here?

15 A This is the entrance to the master bedroom. You
16 can see the bed in the background.

17 Q What else do you see in that picture? You said
18 you see the bed in the background, what else do you see?

19 A There appears to be a shoe by the door.

20 Q All right, thank you. State's Exhibit No. 57,
21 what do we see here?

22 A This is in the master bedroom with the dresser
23 and the bed. And to the right is the master bathroom.

24 Q Okay. All right. State's Exhibit No. 58, what
25 do we see here?

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1 A This is the master bedroom bed. The blankets
2 are bunched towards the bottom of the bed and there is
3 suspected blood on the ground near the blankets.

4 Q Okay. All right. State's Exhibit No. 59, what
5 do we see here?

6 A This is additional suspected blood on the floor.
7 There's, also, a pink hand weight. The TV had been
8 knocked over, the fan had been knocked over. And there
9 were pieces of a black latex gloves laying on the ground.

10 Q All right. State's Exhibit No. 60, what do we
11 see here?

12 A This is a closeup of the suspected blood on the
13 floor. You can see the fan knocked over and there's the
14 shoe near it.

15 Q You said you see blood on the floor, do you see
16 blood anywhere else?

17 A It appears there's a little bit of blood on the
18 table that the TV was on. Then the blankets as well.

19 Q Okay. All right, State's Exhibit No. 61, what
20 do we see here?

21 A The suspected blood on the blankets. When we
22 pulled the blanket back and pulled the sheets back, we
23 located the suspected blood.

24 Q Okay. State's Exhibit No. 62?

25 A This is a closer image of the suspected blood

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 with the sheets.

2 Q Okay. State's Exhibit No. 63, what do we see
3 here?

4 A This is a closeup of the blanket bunched up
5 towards the bottom of the bed.

6 Q Okay. All right, State's Exhibit No. 64?

7 A This is the suspected blood at the foot of the
8 bed with a piece of the latex glove.

9 MRS. WESTFIELD: I'm sorry, Your Honor.

10 BY MRS. WESTFIELD:

11 Q All right. We're going to take up State's
12 Exhibit No. 58 to be placed on our floor plan here. And,
13 Sergeant Wright, would you let me know where to place it?

14 A Right here.

15 MRS. LIPINSKI: Your Honor, this wasn't part of
16 the group that I saw when we took a break. We would
17 object. If we could approach? 67 and 68 on the same
18 basis as before.

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of
21 the hearing of the jury.)

22 BY MRS. WESTFIELD:

23 Q All right. This is our last stack of photos.
24 I'm handing to you State's Exhibit Nos. 66 through 75. Do
25 you recognize these?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 A Yes.

2 Q Are they a true and accurate depiction of the
3 photos that you took?

4 A Yes.

5 MRS. WESTFIELD: Your Honor, we ask that we
6 enter State's Exhibit Nos. 66 through 75 into
7 evidence.

8 MRS. LIPINSKI: I believe you kept out 67 and 68
9 of this sequence, but subject to our previous motion
10 about the search warrant.

11 THE COURT: So the two we're talking about were
12 67 and 68?

13 MRS. WESTFIELD: Yes, sir.

14 THE COURT: All right. So State's Exhibits 66,
15 69, 70, 71, 72, 73, 74 and 75 are admitted into
16 evidence.

17 (WHEREUPON, State's Exhibits Nos. 66, 69-75 were
18 admitted into evidence.)

19 MRS. WESTFIELD: Yes, sir. Permission to
20 publish to the jury, Your Honor?

21 THE COURT: You may.

22 BY MRS. WESTFIELD:

23 Q All right. Sergeant Wright, State's Exhibit No.
24 66, what do we see here?

25 A This is the master bedroom with the table that

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 had the TV. There's suspected blood on the table leg and
2 on top of the table. And there's, also, pieces of latex
3 glove on the ground.

4 Q State's Exhibit No. 69?

5 A This is a closeup picture of the latex glove.

6 Q And there's a placard?

7 A Correct, I collected those.

8 Q Okay. State's Exhibit No. 70, what do we see
9 here?

10 A This is a knife handle without the blade that
11 was left on the bed.

12 Q Okay. All right, State's Exhibit No. 71?

13 A This is the closeup of the knife handle.

14 Q Okay. State's Exhibit No. 72, would you let us
15 know what we see here?

16 A This is the master bathroom and the door is
17 opened that led to the closet.

18 Q Okay. State's Exhibit No. 73, what do we see
19 here?

20 A This is, also, the master bathroom. There's a
21 different bathroom household items on the counter.

22 Q What type of items?

23 A There's lotions and cleaning supplies,
24 toothpaste and mouthwash, hair stuff.

25 Q And what do we see here in State's Exhibit No.

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1 74?

2 A There's additional medicine, hair stuff and a
3 wig.

4 Q Okay. State's Exhibit No. 75, what do we see
5 here?

6 A This was the knife that was found in the
7 kitchen, appeared to have a similar handle to the handle
8 that was found on the bed. But didn't appear to be used
9 in this incident.

10 Q Thank you. So is this particular handle, which
11 is State's Exhibit 71, similar to the handle that's in
12 State's Exhibit No. 75?

13 A Yes, it appeared to be similar.

14 Q Okay. So you referenced a few things with the
15 placards that we saw in the pictures. What does that
16 mean?

17 A The yellow placards are items that we collected.
18 So I collected different swabs of suspected blood, I
19 collected the dumbbell, I collected the pieces of the
20 latex glove and the knife handle.

21 Q Okay. What else did you do after you took the
22 photos? What else did you do at the scene? Can you speak
23 a little bit more in the mic?

24 A So I took additional photos. I scaled the
25 suspected blood on the wall. I put placards by the items

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 that I was going to collect. After that, I took photos
2 with the scale and with the placards, then we did video
3 footage of the scene as well before we collected all the
4 evidence. .

5 Q Now, I'm going to ask you to explain to the
6 jury, what did you collect? I think you kind of went out
7 a little bit. So if you don't mind explaining to the jury
8 what items you collected?

9 A I collected swabs of suspected blood. I
10 collected them from the outside on the ground near the
11 stairs, by the railing on the wall. On the inside, I
12 collected them on the front entry of the front door, the
13 hallway wall, exterior of the closest door, the wall next
14 to the front door, the kitchen wall, the column in the
15 kitchen and then the bedroom floor. I, also, collected
16 the knife handle, the envelope that had the handwritten
17 note on it in the kitchen, the pieces of the latex glove
18 and dumbbell that was by the front door.

19 Q Thank you. Sergeant, did you do a search of the
20 apartment besides documenting and collecting what was in
21 plain view?

22 A Yes, after we finished collecting the evidence
23 that we located, we did search for any additional items of
24 evidentiary value, such as a knife blade.

25 Q What, if anything, did that search yield?

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 A There was paperwork with The Defendant's name on
2 it in the master bedroom under the dresser. We did locate
3 knives in the kitchen that had a similar handle, but did
4 not appear to be used.

5 Q Okay. And what did your team do with the
6 evidence you collected, in the photographs that you all
7 collected?

8 A When we got back to the office, we uploaded the
9 photos to our data base. Then we put evidence into our
10 evidence lockers. Once everything is processed and ready
11 to be transported over to property and evidence, we'll
12 package everything and transport it over there.

13 MRS. WESTFIELD: Thank you. Answer any
14 questions the Defense may have.

15 THE COURT: Let me see y'all up here real quick.

16 MRS. LIPINSKI: Certainly, Your Honor.

17 (WHEREUPON, an off-the-record bench conference
18 was held in the presence of the jury but out of
19 the hearing of the jury.)

20 THE COURT: All right, ladies and gentlemen,
21 we're going to take our lunch break. So please
22 report back here and we'll start back at two o'clock.
23 So please don't discuss the case. Hope you enjoy
24 your lunch.

25 (WHEREUPON, the jury left open court at

ALLYSON WRIGHT-DIRECT BY MRS. WESTFIELD

1 approximately 12:39 p.m.)

2 THE COURT: All right, we'll recess for lunch.

3 Sergeant Wright, you are on the witness stand.

4 So you are not allowed to talk about the case,

5 discuss the case with anybody. You can talk about

6 anything else, but nothing about the case, okay?

7 THE WITNESS: Okay.

8 THE COURT: All right. We'll adjourn until two

9 o'clock.

10 MRS. LIPINSKI: Thank you, Your Honor.

11 MRS. SCOTT: Thank you, Your Honor.

12 (WHEREUPON, a lunch break was taken.)

13 (WHEREUPON, State's Exhibits Nos. 82-91 were

14 marked for identification only.)

15 THE COURT: All right, anything we need to take

16 up before we bring the jury in?

17 MRS. LIPINSKI: Not as to forensic witness, but

18 I believe another witness. They handed me something

19 they intend to use with the victim. Do you want to

20 hear those objections now?

21 THE COURT: All right.

22 MRS. LIPINSKI: State's Exhibit No. 82 is an

23 audio clip. We were provided that last week. We

24 weren't provided it ahead of trial. We weren't

25 provided it --

1 THE COURT: You got it when, last week?

2 MRS. LIPINSKI: Last week.

3 THE COURT: So prior to trial?

4 MRS. LIPINSKI: Yes, but, also, at the 11th hour
5 with no ability to investigate or time to investigate
6 or authenticate any of it. This is an audio and
7 reported to be whatever. We were given State's 88,
8 89 and 90 --

9 THE COURT: Let's go back to the first one.
10 What exactly is it?

11 MRS. LIPINSKI: It's an audio -- I guess they
12 can explain to you what they think it is.

13 MRS. SCOTT: I'm sorry, Your Honor. What was
14 the question?

15 THE COURT: What's the first one, the audio
16 there?

17 MRS. SCOTT: That is audio, Your Honor, of a
18 voice mail that this Defendant left this victim. And
19 Your Honor, in regards to this audio, this was
20 provided to the public defender's office back in
21 2022. It was based off a petition to rule to show
22 cause that I did in December where I referenced audio
23 recordings and text messages in a petition that was
24 filed with The Court September 9th, 2022. However,
25 we understood that there have been tons -- not tons,

1 that's -- maybe four public defenders on this case.
2 We met up to decide how much of this they still had,
3 given the physical files had been moved around. At
4 that point, I decided to upload that particular
5 audio, which wasn't uploaded into e-discovery. But
6 it is referenced in the petition, which we had that
7 hearing scheduled back in December. It was with --
8 who was the lawyer? Chris Shipman.

9 THE COURT: All right. What is the petition?

10 MRS. SCOTT: I petitioned the rule to show
11 cause. After this Defendant was arrested, Your
12 Honor, he made a bond. To have no contact with the
13 victim was one of the conditions. She then began to
14 receive multiple calls from him and some of them she
15 recorded. In addition to that, he, also, texted her.
16 So I filed that petition August 2nd of 2022. It
17 took, I feel like, three different times to
18 reschedule this and we finally had that hearing. And
19 there was a bench warrant issued for The Defendant's
20 arrest.

21 We are still checking to see -- I'm not sure if
22 it was last week. I want to say it was, at least,
23 two weeks ago that the audio came out to them where I
24 made sure that they had it, again. But I don't know,
25 Your Honor.

1 THE COURT: But it was submitted -- The State's
2 position is it was submitted back in 2022?

3 MRS. SCOTT: Yes, Your Honor. Number three in
4 my petition, if I may use this here?

5 THE COURT: All right.

6 MRS. SCOTT: I've got something else. I may
7 have a email, actually, to Chris. I wasn't prepared
8 for that. So I may have an email to Chris Shipman
9 about how I gave him the stuff.

10 THE COURT: Even if you don't have an email, it
11 is The State's position, though, that was provided to
12 them?

13 MRS. SCOTT: Yes, sir, but I, also, want to see
14 when Seth Holcomb got it because that is, also,
15 important to note, too. It looks like August the
16 8th, Your Honor, is when it was provided to him. I
17 don't believe that was last week.

18 THE COURT: All right. Anything in response
19 from The Defense? Sounds like they sent it back in
20 2022 and then on August the 8th.

21 MRS. LIPINSKI: To say that -- first of all, I'm
22 not sure what the relevance is. Clearly, this is
23 happening after the alleged event. We're not here on
24 a rule to show cause whether his bond ought to be
25 revoked, we're here whether or not he committed that

1 offense. The rules of evidence in terms of a rule to
2 show cause is is he having contact and those types of
3 things versus their ability to authenticate it. All
4 we have is this recording. The copy we got was on
5 August 8th, so I guess 12 days ago. But certainly
6 after the trial docket was published that they now
7 intend to use it not on a rule to show cause but now
8 in part of their case in chief. Really, at that
9 point, it's somewhat curious is that impeachment, if
10 he denies something were he to take the stand, but I
11 don't know how it advances The State's case in chief
12 of what he did three years prior.

13 THE COURT: Well, the issue, as I understand,
14 though, that you've raised is you didn't have it in
15 time and you just got it dropped on you.

16 MRS. LIPINSKI: I think there's a multitude of
17 objections. We didn't have time to authenticate it.
18 I don't think there's anything that traces it back to
19 a number that he gave. It's just a recording of her.
20 There's no timestamp on it that suggests this is when
21 it was in terms of correlating it back to that 2022
22 hearing and now we get it again. So I think, also,
23 there's an objection as to relevance. It's not
24 relevant as to what happened on March 17th of 2021.

25 THE COURT: Well, maybe -- and this is with the

1 victim who's going to testify; is that right?

2 MRS. SCOTT: Yes, Your Honor.

3 THE COURT: All right. I think probably just
4 address it at that time. As far as the timeliness in
5 providing it, I find that has been provided in a
6 timely matter and The Defendant is not prejudiced.
7 Even if The Defense didn't get it in 2022, which The
8 State represents to The Court that they did submit it
9 back two years, it was provided, according to The
10 State, on August 8th of 2024, which was prior to
11 trial. The trial started on August the 19th and that
12 was provided back on August the 8th.

13 Now, the other issues as far as relevance and
14 authentication, I think we just probably need to deal
15 with at the time it comes. I don't want to take
16 anymore time on that, at least, right now. I may
17 just have to excuse the jury at the appropriate time.

18 Is the victim getting ready to --

19 MRS. SCOTT: Yes, Your Honor, she is the second
20 witness after cross-examination of the forensic
21 technician.

22 THE COURT: Okay. Well, I reverse myself. I
23 think we need to discuss it then.

24 All right, I find that it is has timely -- been
25 timely provided to The Defense and there's no

1 prejudice as far as that issue.

2 All right, now, the other -- one of the other
3 objections is relevance. What exactly -- it's a
4 phone call; is that correct? .

5 MRS. SCOTT: Yes, Your Honor. The witness'
6 testimony is that she received phone calls from
7 unwanted numbers or unknown numbers, which prompted
8 her to then, again, to record to see what's going on
9 with why she's getting these calls. So when she
10 picks up this call, it is him. She can identify that
11 it's him. He definitely references that he's sorry
12 to her and talks about I just want to talk to you.
13 I'm sorry. I want to hear your voice. I do think
14 that is relevant, Your Honor, to this trial.

15 And then she would tell you -- or she would tell
16 The Court that this call she received in April of
17 2022. So no, it is not from March of 2021. However,
18 we submit to The Court that we have to tell the jury
19 as far as what happened and, also, to his
20 culpability. And him calling her after this incident
21 apologizing to her, leading up to the -- today even,
22 getting messages from him, is important for the jury
23 to know. That's what her testimony would be today.
24 They can certainly argue to timestamps or I think she
25 mentioned authenticating it as to the weight of this,

1 but I believe that's relevant to her testimony today,
2 Your Honor.

3 THE COURT: All right, they're audio recordings
4 of phone calls from The Defendant?

5 MRS. SCOTT: Yes, sir.

6 THE COURT: Okay.

7 MRS. SCOTT: And it's his voice on it.

8 THE COURT: All right. In the recordings, he is
9 -- what exactly is he saying?

10 MRS. SCOTT: Hello, I want to talk to you. I
11 just want to hear your voice. I'm sorry and --

12 THE COURT: So he does say I'm sorry?

13 MRS. SCOTT: Yes, sir.

14 THE COURT: Okay.

15 MRS. LIPINSKI: Your Honor, it doesn't reference
16 to what exactly. There's no -- we looked at her
17 phone. We downloaded it. There is an incoming call
18 from this number. There's no authentication beyond
19 her saying that's what it was and when it was. And
20 there's no context of that. We didn't have the
21 ability to examine her phone or see if there was
22 anything else, see if there was any context to either
23 of those things. I just feel The Defense is put on
24 --

25 THE COURT: Well, can't she authenticate --

1 MRS. LIPINSKI: They're trying to nexus between
2 this phone call, a year, we don't know what they're
3 talking about and the crime in question.

4 THE COURT: Well, can't she authenticate it by
5 saying that's his voice?

6 MRS. LIPINSKI: In terms of -- I think she can
7 say that's his voice, but she's not a phone company
8 person who can say yes, there's an incoming call on
9 this particular day or even a phone log where --

10 THE COURT: Well, can't she under 901
11 authenticate it based on the fact that it's a phone
12 call that she received and knows his voice? As his
13 wife, can't she authenticate it under 901? You know
14 the bar is low on authentication.

15 MRS. LIPINSKI: I understand that. But I think
16 they not only have to authenticate his voice, but,
17 also, when the call was made. Especially, when
18 there's no context and there's no verification of
19 that. It's just we have a voice mail where he says
20 that. And The Defense didn't have the ability to
21 examine her phone. Because we're not given her
22 phone, we're just given here's this recording 12 days
23 before trial.

24 THE COURT: Well, it sounds like you may have
25 possibly gotten it two years before trial as well.

1 So even it wasn't two years, it was still 12 days. I
2 think that's time enough to examine it. But
3 according to The State, it was actually two years
4 ago, so that would be plenty of time.

5 I want to hear the evidence, but I do think it
6 is relevant. And I do want to hear the
7 authentication. If there's an issue with the
8 authentication based on her testimony, then The
9 Defense can certainly raise that issue again. But if
10 she can authenticate the phone call and say that it
11 is him, I think that is enough to get around -- not
12 get around, I think that complies with 901.

13 All right. Any other -- was there was another
14 ground I think you had, relevance and authentication
15 -- well, I think that's it, relevance and
16 authentication; is that correct?

17 MRS. LIPINSKI: Yes, Your Honor.

18 THE COURT: All right. So at this stage, from
19 what I have here, it is relevant. I'll just have to
20 wait on the authentication. But if she can
21 authenticate his voice, then I find that sufficient
22 under 901. But I will hear the testimony and The
23 Defendant can certainly raise that issue and object
24 to it at the appropriate time, if the testimony does
25 not lay proper foundation under 901.

1 All right. Anything else?

2 MRS. LIPINSKI: We were given State's 83 through
3 87, photographs they say they took them of the victim
4 today. Never seen them before today. .

5 MRS. SCOTT: May I?

6 THE COURT: Tell me about that.

7 MRS. SCOTT: So Your Honor, we had two options
8 today, either to allow the victim to come off of the
9 witness stand and then approach the jury and show the
10 scars or to have photographs. So we are fine with
11 either one. However, some of the injuries are on her
12 back, which would require her to kind of disrobe in
13 some fashion in order for them to see. -

14 But part of this particular element of this
15 crime is disfigurement, permanent disfigurement. So
16 we do need to show something as of today as to how
17 she looks. We are prepared to have her step to the
18 jury, but then we were worried about that sympathy
19 element being prejudicial to have her kind of almost
20 personally advancing towards this jury and showing
21 them the scars. So we decided to take photographs of
22 her today with the timestamp so that it would be
23 something that was created today and have those two
24 options for the Court.

25 THE COURT: All right.

1 MRS. LIPINSKI: They easily could have put us on
2 notice of that when they put the trial docket out.
3 They knew when they were responding to the fact
4 because they failed to document the injuries on the
5 date in question and they're trying to clean that up.
6 They could have taken these photographs 30 days ago,
7 provided that, put The Defense on notice of that so
8 that we could have an opportunity to look at them and
9 see are they the same ones, do they match up to
10 examine that. But to sit there and drop them on
11 Defense counsel the day of trial and say here it is,
12 it's either that or she gets to, you know, disrobe in
13 front of the jury is just disingenuous.

14 THE COURT: Would you have any objection --
15 let's say the photographs weren't being submitted
16 here and the witness was simply going to get in front
17 of the jury and show the scars. Would have any
18 objection to that?

19 MRS. LIPINSKI: I think she can walk in front of
20 the evidence table. But I don't know that it needs
21 to, you know, be some kind of intimate connection
22 with the jury. I think they see it probably from the
23 witness stand, the fact that they need to do that.

24 THE COURT: Well, oftentimes, in a criminal case
25 or personal injury case on the civil side, that

1 happens all the time. You know, the particular
2 plaintiff who was been injured gets in front of the
3 jury and shows the injuries. It happens in criminal
4 cases as well.

5 Well, since The Defense is objecting to the
6 plaintiffs [verbatim] photographs, which --

7 MRS. LIPINSKI: If those are my only two
8 options, that's fine. But part of it is, you know,
9 it just seems disingenuous on the day of after we
10 have had multiple meetings with Mrs. Scott and
11 reviewed physical evidence, which you intend to rely
12 on them, to sit there and highlight that or to
13 provide these photographs from seven days ago."

14 So again, it's last minute, it's always this
15 kind of last minute pivoting where The Defense
16 doesn't have the ability to go get the other
17 photographs and cross reference them or anything like
18 that. There's a way to do this and it didn't need to
19 be done today.

20 THE COURT: All right, get back to my question a
21 minute ago, based on your supplemental argument
22 there. So it is The Defense's position that The
23 State would be required to tell you, all right, I'm
24 going to put up this particular witness and I'm going
25 to have her or him walk around and show some things

1 and I'm going to have the witness do this and then
2 I'm going to have the witness do that. Under that
3 scenario, is The Defense claiming that you're
4 required to be put on notice of that, which is really
5 what's going to happen here if sustain your objection
6 on the photographs?

7 MRS. LIPINSKI: If those are the two options,
8 then we'll go with the photographs, Your Honor. It's
9 just that it is a consistent pattern that we see in a
10 trial like this. The case is three years old. It
11 just seems to be that while we keep repeating
12 patterns that should be readily available for these
13 photographs to have been taken and for us to be put
14 on notice. Or this audio tape, which was originally
15 only produced in terms of a rule to show cause
16 regarding content after the fact and now is being
17 made in the case in chief even though it happened, at
18 least, a year after the fact. We had meetings
19 regarding evidence. When we had meetings regarding
20 the completeness of files. So I think that's just
21 something that The Defense -- but between the
22 pictures and having her walk, we'll live with the
23 pictures, Your Honor.

24 THE COURT: All right, let me address those for
25 the record for appellate purposes. First of all,

1 going back to the issue of the audio. The State
2 informed The Court that that audio was provided in
3 2022, so that was two years ago. The State has,
4 also, informed The Court that on August the 8th, 11 .
5 days before trial, that the audio was again submitted
6 to The Defendant. So from a timeliness aspect and a
7 prejudicial analysis, I find that there is no
8 prejudice based on the fact that The State says they
9 sent it to y'all two years ago and then again on
10 August the 8th.

11 As for the photographs, I will sustain the
12 objection as to the photographs and allow The State
13 to put the witness up in front of the jury if The
14 Defense requires that. I will sustain that objection
15 and not allow them to do that. However, as I
16 understand from The Defense, that considering that
17 there are two options, have the photographs or have
18 the witness in front of the jury, that The Defense
19 would rather have the witness -- I mean, have the
20 photographs instead of the witness go forward.

21 Did I say that correctly from The Defense, you'd
22 rather have the photographs?

23 MRS. LIPINSKI: Yes.

24 THE COURT: All right. All right, anything else
25 before we bring the jury in?

1 MRS. LIPINSKI: There's one more thing. We have
2 seen these text messages, but there's a lot of text
3 messages highlighting down which ones they were going
4 to use when we talked to Mrs. Scott before. We would
5 still probably at the time she moves to admit them,
6 raise an authentication issue because they appear
7 through an app and double encrypted, those type
8 things.

9 As to 88 and 89, it appears to be a message
10 where he says -- I'm sorry. Eighty-eight and 89
11 appear to be kind of similar to the audio in terms of
12 I'm sorry and we would make authentication issues at
13 the appropriate time.

14 Ninety and 91, he's asking to call her and then
15 there's even an extensive kind of sexually explicit
16 text at the top where it's not saying I'm sorry or
17 anything like that. The State [verbatim] would just
18 object to that as to relevance, Your Honor. It's
19 designed solely to fan the flames.

20 THE COURT: I'm at a little disadvantage to what
21 you're talking about.

22 THE CLERK: I'll hand it up to you, Your Honor.

23 MRS. LIPINSKI: Especially, 90 and 91.

24 THE COURT: All right, Mrs. Scott, let me ask
25 you, what about the part that Mrs.~Lipinski is

1 referring to up there at the top?

2 MRS. SCOTT: The sexually explicit?

3 THE COURT: Yes, ma'am.

4 MRS. SCOTT: We would submit that in these
5 particular cases, Your Honor, with the sorry,
6 there's, also, the reminiscing that often happens and
7 that just goes to culpability.

8 THE COURT: Well, the other texts are okay. I'm
9 a little concerned about the sexual part of that
10 first -- the start of that text chain. For the
11 record, it's dated July 16th, 2022.

12 MRS. SCOTT: Yes, Your Honor. I, also, had that
13 part of authentication of these messages is to, also,
14 know that this is him on the phone. He does
15 indicate, he says, I'm your husband. But, also, that
16 particular memory that he's engaging with her to
17 show, again, that this is a call that's being
18 received by her from him. We use that often to show
19 context in the event that someone tries to disguise
20 who they are when they call someone, but when the
21 very nature of what they're talking about or texting
22 about is something that only the two parties would
23 know, that, also, goes to authentication. But if it
24 is too sexually explicit, Your Honor, I can redact
25 it.

1 THE COURT: Yeah, I'm going to sustain that part
2 of the objection and just redact that particular
3 text, which starts out, I'm remembering. I won't
4 read the rest of it, but I remembering. That was at
5 8:00 a.m. on July 16th, 2022. I'll allow it going
6 forward starting at 8:01 a.m. And that is the text,
7 I want you, spelled U, only you, but allow it from
8 that point on. But I will sustain the objection as
9 to that particular part up there in the beginning.

10 MRS. SCOTT: Okay, yes, sir.

11 MRS. LIPINSKI: Your Honor, I don't believe the
12 victim was in here when we were having pretrial
13 motions regarding the kind of lines in the sand The
14 Court drew or what we were going to go into or what
15 The Defense was allowed to go into in terms of cross,
16 but, in general, my understanding is we would be
17 allowed to inquire as to her country of origin, that
18 she immigrated here at some point in the 2000's or
19 get to that date, what may or may not have been her
20 marital status while she was in Nigeria, her work
21 history, those kind of things. If we did that, we
22 pursued it along that line of questioning, whether
23 there was infidelity or a prior marriage is kind of
24 -- at that point, we would have opened the door to
25 anything about The Defendant's record or his prior

1 charges that involved her or any other victim. But
2 only if we migrated, I guess, into the new visa or
3 those type things, would The Defense necessarily be
4 opening the door to something more.

5 I just want to be clear, so that she, also,
6 understands -- and I don't want to cut her off, but the
7 line in the sand so that she, also, doesn't go into that
8 area trying to respond to a question, then it becomes
9 something that I think both parties are trying to avoid in
10 terms of how we present each of our respective cases.

11 THE COURT: That is correct.

12 Mrs. Scott, you agree with that?

13 MRS. SCOTT: I do agree. Since we're doing
14 clarification, I think that the question about the
15 infidelity, were you married before, again, renewing
16 our argument, if the question is asked and she
17 answers no, followup questions intending to then
18 impeach her on whether or not she's married would
19 allow The State to offer up reply witnesses in
20 regards to whether or not she is married.

21 THE COURT: Let me ask you, though, the issue is
22 not -- the issue before this jury is whether or not
23 The Defendant committed domestic violence of high and
24 aggravated nature.

25 MRS. SCOTT: Correct.

1 THE COURT: And the issue that would be brought
2 before this jury to determine or the facts
3 surrounding that, what the argument is, they're
4 arguing over things, doesn't trying to prove whether
5 married or not or going into those, isn't that
6 irrelevant?

7 MRS. SCOTT: I do think it's irrelevant, but I'm
8 asking Your Honor if she says I was not married
9 before -- I understand that question. Were you all
10 fighting that day? And isn't it true that you were
11 fighting over the fact that you were married before?
12 We weren't arguing about that. Well, weren't you
13 married before? No. If it stops there, fine, but if
14 it goes no, no, you were actually married before and
15 I have -- and then just start, you know, putting
16 cards on the table, at that point, I think that The
17 State then can then bring in additional information.
18 Because now my witness is being impeached as if she
19 was even married or not.

20 I am fine with the question being asked -- I
21 understand that it would be a natural flow to then
22 say well, aren't you married? But if she says no,
23 I'm asking that the question stop there. Because if
24 it continues on, then I believe The State should be
25 allowed, at that point -- because at that point, the

1 jury thinks she's lying about her marriage, her
2 credibility is a mess. So I need to be able to
3 rehabilitate that credibility. I just want to put
4 The Court on notice that that's what I would do.
5 Typically, I wouldn't go down and talk about family
6 court and whether or not marriage exist in Nigeria
7 and things, but I will have to if The Defense is
8 allowed to try to impeach her on her answer today, if
9 she's actually married.

10 MRS. LIPINSKI: Your Honor, I think this is
11 where I don't understand how those two are connected.
12 She could have been married before and still married
13 to Mr. Dunn and lied about the fact that she had a
14 prior marriage. One marriage doesn't necessarily
15 negate the other. They could have been arguing about
16 whether or not she was still having contact with her
17 previous husband. They could be arguing about any of
18 those number of kind of things.

19 If she's going to lie about being married, that
20 goes to her credibility. It doesn't -- she can lie
21 about the marriage in Nigeria and still be honest
22 about the marriage here. Those are two separate
23 things. And to say that she's somehow allowed to put
24 family court proceedings in, which would entail
25 extraneous matters, to somehow rehabilitate her, that

1 is not going to whether or not she had a marriage in
2 Nigeria because there's been no full investigation of
3 that by the family court. All they've done is we
4 find that there was a legal marriage here in
5 Greenville County and we dissolve that marriage.

6 So I don't think that one gets the other.
7 Really, the issue is trying to cut it off before we
8 get to some kind of new visa or deportation and that
9 she had some motive to fabricate all of that. The
10 Defense has agreed to honor those lines. But that
11 doesn't mean that I'm stuck with just her answer of
12 whatever she says. If she says that I was never
13 married in Nigeria, I didn't have a husband in
14 Nigeria, I don't have kids, whatever that is.

15 THE COURT: Well, if you -- go ahead.

16 MRS. SCOTT: Your Honor, I think I'm hearing
17 Defense counsel with that position and possibly
18 because I am aware of The Defendant's position, I'm
19 prepared for that. The Defendant's position has
20 always been that not only was she married in Nigeria,
21 she was still married in Nigeria when she came and
22 met him and married him. For example, just the
23 bigamy of it all. But if it's just about whether or
24 not she was married before and they're not going into
25 she was still married to that man, but either way, I

1 think we still get here, Your Honor. Because if
2 she's like no, no and then she's continuously probed
3 on this marriage that for her did not exist, I didn't
4 say pleadings. I mean, I'd probably have to bring in
5 witnesses through testimony about the Nigerian
6 process of weddings in order to -- I'm not sure what
7 they're doing.

8 It's true I can't give her my cards and she
9 can't give me her cards, I'm just putting The Court
10 on notice that if it gets to the point where we're
11 now questioning if she was married at all and then
12 sort of asking if she was married when she married
13 again, as in the fact of bigamy, then I'm going to
14 need to provide additional witnesses that aren't on
15 this list. But I guess if it goes down that route,
16 then we're going to have to do that. That's all,
17 Judge. I'll just wait for the testimony.

18 THE COURT: I've got to wait and see what it is.
19 I've got an idea what it's going to be, but I'm just
20 going to wait and see what it is. At that point,
21 we'll see where it goes.

22 All right, anything else from The Defendant?

23 MRS. LIPINSKI: Nothing, Your Honor.

24 MRS. SCOTT: I did show her that I changed it
25 like this.

1 MRS. LIPINSKI: That's fine.

2 THE COURT: All right, bring them in. Thank
3 you.

4 (WHEREUPON, the jury came into open court at
5 approximately 2:35 p.m.)

6 THE COURT: All right, ladies and gentlemen,
7 hope you all had a good lunch. You may hear this
8 from me several times as we go through, we've been in
9 here working since two o'clock. So we were able to
10 get some issues taken care of. In the long run -- I
11 know that doesn't make any sense to you right now,
12 but in the long run, it shortens the trial and makes
13 everything go smoother. I apologize for y'all having
14 to sit back there a little bit, but it keeps you from
15 having to sit back there a longer time down the road.
16 So I apologize.

17 All right, cross.

18 MRS. LIPINSKI: You want to get the witness
19 back?

20 THE COURT: We do need a witness.

21 MRS. LIPINSKI: Sorry, Your Honor.

22 CROSS-EXAMINATION

23 BY MRS. LIPINSKI:

24 Q Sergeant Wright?

25 A Correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q Okay. And I apologize, when I got your report,
2 they say Roller?

3 A Yes. I have been since married and changed to
4 Wright.

5 Q And you understand you're still under oath. I
6 understand we kind of broke your testimony up for lunch,
7 but just to make sure we're back all on the same page.
8 You do you understand you're still under oath as you give
9 this testimony?

10 A Yes.

11 Q You stated that you're Sergeant Wright now and
12 you're with the Greenville County Forensics Division,
13 correct?

14 A Correct.

15 Q And that's a multi-jurisdictional unit that
16 responds to multiple agencies, correct?

17 A Yes, it is.

18 Q So you don't work directly for the Simpsonville
19 Police Department like Lieutenant Donnelly or any of those
20 type things, correct?

21 A So we work for the Department of Public Safety.

22 Q So any of, basically, the agencies or most of
23 the agencies in Greenville who might not be able to
24 maintain their own forensics services division can call on
25 your unit's specialized response, correct?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A Yes, that's correct.

2 Q Now, you're a sergeant, so you're part of the
3 dispatching of those people as it relates to the crime
4 scene, correct?

5 A It goes through Greenville County dispatch
6 normally. Smaller agencies will sometimes dispatch us,
7 but yes, I help hand out what calls are going where.

8 Q Do you still respond to calls yourself today?

9 A I do.

10 Q Back in 2021, you were a sergeant then or were
11 you a lower rank?

12 A I was a field training officer.

13 Q All right. But then you were doing kind of more
14 work where you would respond to crime scenes and collect
15 evidence and all of that, correct?

16 A Correct.

17 Q That's how we got to -- so you're, obviously, at
18 that point, not the first person on the scene, correct?

19 A Correct, we're not first on scene.

20 Q So oftentimes by the time you get there, there
21 has been a protective sweep or some kind of walk-through
22 by The Defendant [verbatim] or you don't know exactly
23 what, as it relates to what the scene was and by time you
24 get there; correct?

25 A Correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q Certainly, law enforcement would make the effort
2 to, but they can, at times, disperse evidence, move
3 evidence, all of those kind of things, sometimes with
4 legitimate reasons, like, trying to locate things or
5 sometimes with just happenstance moving through your crime
6 scenes with a little less attention and detail that you
7 all like?

8 A Yes, that could happen.

9 Q Okay. They, obviously, don't get the same kind
10 of training you get in terms of how to preserve evidence
11 or the integrity of evidence or those type things,
12 correct?

13 A Correct.

14 Q And that's why they rely on your specialized
15 training in doing this, correct?

16 A Correct.

17 Q Oftentimes, before you respond to a scene, you
18 meet with a detective or you talk to a detective or other
19 officers, doesn't always have to be a detective or an
20 investigator, right? And they kind of give you a rundown

21 of this is kind of what we think is happening and that's
22 so you're not just flying blind, correct?

23 A Correct.

24 Q And then sometimes that turns out to be
25 accurate, sometimes it doesn't. You're not really the

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 ultimate be all of determining that, but that just helps
2 you guide your investigation of where you may or may not
3 go, correct?

4 A Correct.

5 Q And there are even times where you might respond
6 out to a crime scene that originally started at one
7 apartment and they may ask you to relocate to other
8 locations, correct?

9 A That's correct.

10 Q And so you would have the ability to not only
11 travel not just a targeted apartment, but if they needed
12 you to go to a different apartment or to a hospital or any
13 other area in order to obtain the secure evidence, either
14 you or somebody working with you in your unit would have
15 the ability to do it, correct?

16 A Yes, correct.

17 Q It's not you get one call and then you're done
18 kind of mentality?

19 A No.

20 Q No. Okay. And so on this day in question, you
21 have -- I see you have some paperwork. Those are your
22 reports in front of you, correct?

23 A Yes, that's my report.

24 Q So you get a report that there's some type, and
25 I'll use your words, sharp force trauma, correct?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A Correct.

2 Q And sometimes we hear lay people talk about
3 stabbing and those kind of things and we kind of use that
4 very recklessly, but you used kind of a more neutral sharp
5 force trauma because you don't know what the nature of
6 those injuries might be, correct?

7 A That's correct.

8 Q That just kind of puts you alert that you might
9 find sharp things or blood or suspected blood or those
10 type things when you get there, correct?

11 A Correct.

12 Q Because you would treat a crime scene like that
13 if there's something else -- if arson would have alleged
14 to have happened or something like that, you would be
15 looking for different things, correct?

16 A Correct.

17 Q But this time you knew there was sharp force
18 trauma. And the other information that you were given was
19 that the victim had taken a hand weight and hit the
20 suspect multiple times in the head, correct?

21 A That's correct.

22 Q All right. And that as you respond, they showed
23 you a bunch of picture of the multiple buildings. You
24 only went to one building; is that correct?

25 A Yes, that's correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q All right. And you were never solicited by any
2 members of the Simpsonville -- was Simpsonville Police
3 Department still on hand when you got there?

4 A Yes, they were still on scene.

5 Q All right. And so you were never directed to go
6 to any other apartment, any of the other vehicles or
7 anything like that, anything going on in the parking lot
8 or that type nature in terms of trying to locate evidence,
9 correct?

10 A No, the parking lot -- it was raining.

11 Q Right.

12 A So any suspected blood would have been washed
13 away. So we processed the one residence.

14 Q All right. But you do more than collect
15 suspected blood. I mean, that's not the only trick in
16 your bag, right?

17 A That's correct.

18 Q So there have been occasions where you might
19 have been given a path The defendant walked or a path the
20 suspect walked or a path the victim walked and said could
21 you just kind of walk this pathway and see if anything
22 gets dropped or left behind, a shoe, clothing, anything of
23 those type items. And you were in this particular case,
24 correct?

25 A Correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q And that's not lack of curiosity or effort on
2 your part, that's really the direction you're getting from
3 the Simpsonville Police Department, correct?

4 A Correct.

5 Q And that's for the most part, they control the
6 investigation, not you, correct?

7 A Correct.

8 Q All right. But you did state that you saw about
9 75 pictures of blood spatter, but you do talk about how
10 when you go up to the second floor apartment, correct,
11 it's on the second floor?

12 A Yes.

13 Q That you identify, at least, one other Ring
14 doorbell in that vicinity, correct?

15 A That's correct.

16 Q And you put that in your report, correct?

17 A Correct.

18 Q Have you ever had occasion as a forensics
19 officer to download or help a witness or a neighbor secure
20 that Ring video?

21 A No. That's not part of our job description,
22 that's up to the investigators.

23 Q All right. But you put it in your report so
24 that they are aware of it, that you have identified it so
25 they can follow up on it, fair enough?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A Yes.

2 Q Because, I mean, it's worth mentioning, right?

3 You could have left it out, right?

4 A Right.

5 Q But it is something you, who is trained to pay

6 attention to detail and those type things, to, at least,

7 see; correct?

8 A That's correct.

9 Q It's not your job to do a canvas of the area or

10 go through the apartment, but if in your path you see one,

11 you put it in there, right?

12 A Correct.

13 Q All right. And let me show you what's been

14 marked as State's Exhibit No. 19. Is a Ring doorbell in

15 this photograph?

16 A Yes, it appears on the neighbor's door.

17 Q All right. This is State's Exhibit No. 19. So

18 there's a door that's opened. That's the door you went

19 into, correct?

20 A That's correct.

21 Q And on the same side of the building, but moving

22 to the back of the breezeway, that's the Ring doorbell you

23 claim you saw, correct?

24 A Correct.

25 Q But you don't take a photograph of either the

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 two doors adjacent to these two, correct?

2 A That's correct.

3 Q All right.

4 . Sorry, Your Honor, I'm trying to keep these
5 in order for Mrs.~Westfield.

6 Now, you talk a lot about and identify a
7 lot of photographs that have what you say is suspected
8 blood, correct?

9 A That's correct.

10 Q And you took, you stated, some swabs of some
11 kind of questionable area trying to figure out is that
12 blood or is it not blood, correct?

13 A Yes, I tested an area outside as well an area
14 inside for presumptive blood test to say that it is
15 positive for blood.

16 Q But you, also, collected, as identified in
17 State's Exhibit No. 27, a pink dumbbell, correct?

18 A That is correct.

19 Q Going back to the information you were given, it
20 was this or, possibly, this dumbbell? You locate two
21 dumbbells in the area, correct, in the apartment?

22 A Correct. There were two in the apartment.

23 Q That you think, also, has some type of stain on
24 it, correct?

25 A That's correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q But there's no presumptive test done of that,
2 correct?

3 A Correct.

4 Q But you do collect it into evidence?

5 A I do.

6 Q All right. And then moving to State's No. 48,
7 this is a I love you envelope. In your report, you
8 actually -- you testified suspected blood, I know you
9 testified to it, but in your report, you label it as dirt,
10 correct?

11 A I tested it to see if it was suspected blood and
12 it came back negative.

13 Q Is that when you decided it was dirt or, first,
14 you didn't know, could have been, but I'm going to collect
15 it and test it?

16 A It appeared to be suspected blood, but I
17 collected it to test it anyways?

18 Q You did that back at the lab? You don't do that
19 at the actual apartment, correct?

20 A Correct, because I was going to process it for
21 latent fingerprints.

22 Q All right. We'll get to that in a minute. You,
23 also, State's Exhibit No. 49, identify a cell phone in the
24 living room, correct?

25 A That's correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q And you don't collect that cell phone, do you?

2 A No, I do not.

3 Q You, also, identify some other cell phones in
4 the apartment complex and you don't collect those either,
5 correct?

6 A Correct.

7 Q And at no point are you asked by Lieutenant
8 Donnelly to ever collect the victim's cell phone or
9 anything like that, correct?

10 A Correct.

11 Q All right. And in terms of the note, you don't
12 know how long that note had been there?

13 A That's correct.

14 Q It could have been a week old, a month old, a
15 year old? It was some other stuff on the kitchen counter,
16 but that's about all you know, correct?

17 A Correct.

18 Q And just identifying is it blood would not --
19 there would have to be more in-depth examination to
20 determine to whose blood it might belong, correct?

21 A Correct.

22 Q And that's true of any of the blood evidence you
23 collected, correct?

24 A Correct. I collected and our DNA lab would be
25 the one that examined it.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q And you're not the one that actually selects
2 evidence and ask for DNA analysis, that, again, is the
3 role of the detective; is it not?

4 A That is correct.

5 Q And then if I look to Page 2 and 3 of your
6 report, it appears that you take approximately 13 items
7 into evidence, correct?

8 A I believe it was 14 items.

9 Q Oh, and the DVD of your video?

10 A There's 11A and 11B.

11 Q Oh, I apologize.

12 A That's okay.

13 Q So between 14 and 15 pieces of evidence,
14 correct?

15 A That's correct.

16 Q And back at the lab, the only examination that
17 you do is this presumptive -- and you call it presumptive
18 because it's actually even conclusive, correct?

19 A Yes. We call it presumptive. If it test
20 positive for us, it could be animal, could be human.
21 That's for the DNA to take a further look at.

22 Q And there's even some mixture of bodily fluids
23 that could cause that presumptive test to test positive,
24 but actually not contain necessarily blood type cells,
25 correct?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A I believe so.

2 Q All right. So that's why we call it presumptive
3 and not definitive test, correct?

4 A Correct.

5 Q So even though there are these presumptive tests
6 around, they are not in and of themselves end all be all.
7 But the only thing you examined either on your own or at
8 the directive of law enforcement is this envelope, right?

9 A That is correct.

10 Q And of it, you identified latent fingerprints,
11 correct?

12 A Correct.

13 Q But there's no comparison ever done of those?

14 A I do not know. I turned latents to our latent
15 division and after that, I don't hear anything about it.

16 Q Oh. You were never made known of any?

17 A No.

18 Q All right. And you were never made known
19 whether or not any further testing was done on the ?

20 A No, I turned all the evidence in and I did not
21 hear anything else after that.

22 Q Or the one, two, three, four, five, six, seven,
23 eight, nine, ten swabs of suspected blood that you
24 collected, correct?

25 A Yep, I do not know what happened after I turned

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 it in.

2 Q All right. And showing you what's been marked
3 as State's Exhibit No. 75, which you've identified as a
4 knife you found in the kitchen, correct?

5 A That's correct.

6 Q For the most part, it's a completely black
7 knife, correct?

8 A Correct.

9 Q And there's something on that knife. You would
10 agree it's not clean, correct?

11 A Correct.

12 Q And you did no presumptive testing of that
13 knife, correct?

14 A Correct. I did not see anything that was
15 similar to suspected blood.

16 Q But it is all black?

17 A (The witness nods.)

18 Q And dried blood or other items just like that
19 envelope can appear to be one thing and not necessarily be
20 another, correct?

21 A That's correct.

22 Q And you don't have a limitation, like, you only
23 get 20 pieces of evidence from one crime scene and then
24 you've got to stop. You're not picking and choosing,
25 right?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A Correct.

2 Q So you clearly have the ability to do that,
3 correct?

4 A That's correct.

5 Q So you could have taken that knife back, say
6 it's black, say you don't know definitively and done the
7 same type of presumptive testing that you not only did
8 there, but, also, that you did back in the lab; correct?

9 A That's correct.

10 Q And you didn't do that?

11 A Correct.

12 Q You didn't do any scale measurements of this
13 knife or anything of that nature, correct?

14 A That's correct.

15 Q In addition to that, you actually said there
16 were some other ones, but you, also, discounted those as
17 well; correct?

18 A Correct.

19 Q But those appeared to be clean and unused or in
20 a drawer or something like; is that -- you remember those?

21 A I do not recall.

22 Q But your report says that there were other
23 knives found that you collected or didn't photograph,
24 correct?

25 A Correct.

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 Q And certainly, if you thought they were
2 pertinent or relevant, we would have, at least,
3 photographed them, if not collected them, correct?

4 A Correct.

5 Q And we didn't do that, correct?

6 A Correct.

7 Q All right. And then I want to show you just
8 quickly State's Exhibit No. 70. Is this the condition of
9 the bed as you find it or do you move the pillows and
10 clothing to place that marker there?

11 A I would have to look at the previous photos.

12 Q Okay.

13 Just one moment, Your Honor.

14 Let me show you what's been marked as
15 State's Exhibit 57 and 61. Does that help at all or not
16 really?

17 A It doesn't look like we moved the pillows.
18 Typically, we don't move them.

19 Q But you don't know whether or not the other
20 officers who preceded you to this crime scene had
21 disturbed the clothing on that bed, correct?

22 A I do not know.

23 Q Showing you what's been marked as State's
24 Exhibit 61, you did have to move the clothing to reveal
25 more of that bloodstain or no?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A Yes, I had to move the sheets and the comforter
2 to reveal that one.

3 Q All right. And of the handle that you say you
4 found in the bed versus in the kitchen that you didn't
5 collect, right? Just to be clear, you collected that as
6 AR-12, correct?

7 A Yes, that's correct.

8 Q And you did no testing on that handle whether it
9 be presumptive or for blood, correct?

10 A Correct. If it's a small enough item, our DNA
11 lab prefers to do their own testing on it. So I just turn
12 that into property and evidence.

13 Q And that's not your call whether or not they do
14 DNA on it?

15 A No, the investigator would have to request that.

16 Q But you did do fingerprint testing on your own
17 or at his directive on the I love you envelope?

18 A I do not recall.

19 Q You don't recall if you did that on your own or
20 you don't recall doing that?

21 A I recall doing that. I don't recall if he
22 requested it. Usually, if we collect an item that can be
23 processed, we'll process it back at the office.

24 Q Unless there's maybe DNA on it? I'm unclear.
25 Because you just said the reason you did the handle was

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 because there might be DNA, but, obviously, it could have
2 been DNA on the note, but you went ahead and tested that.

3 A The handle is not a suitable surface for latent
4 fingerprints, so DNA would be the best option. In this
5 case, I tested the suspected blood on the note. It did
6 not come back as positive, so I processed latent
7 fingerprints.

8 Q And do you know how to swab something for DNA,
9 correct?

10 A I do.

11 Q And you didn't on this particular occasion for
12 the knife handle, correct?

13 A Correct.

14 Q Were you ever asked to respond to the hospital
15 or was anyone in your department ever asked to respond to
16 the hospital to photograph the victim's injuries?

17 A No, we were not.

18 Q But clearly, you have had the occasion to do
19 that in other cases?

20 A Correct. The victim was in surgery when we were
21 on scene. After that, we were not requested.

22 Q You were not at the hospital, correct?

23 A Correct.

24 Q So you don't know whether she went into surgery
25 or not, correct?

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 A That is correct.

2 Q So that is speculation on your part when you say
3 she was in surgery, so you weren't asked to. All you know
4 is you weren't asked to, correct?

5 A We were advised she was in surgery while we were
6 on scene.

7 Q Okay. But there's not an unlimited nature of a
8 window that you can only get photographs of injuries
9 within a certain time period. Someone could have easily
10 responded to the hospital or out to her residence in the
11 days or hours following and, also, documented the nature
12 of those injuries, could they not have?

13 A They could have.

14 Q And you have been called upon to do that in
15 other cases; have you not?

16 A Yes, we have.

17 Q And you weren't asked to do that in this
18 particular time, correct?

19 A Correct, we were not asked.

20 Q And you weren't anything in terms of scaling
21 those injuries as it might relate to the knife handle or
22 anything of those nature, correct?

23 A That is correct.

24 Q You weren't asked to do any further
25 investigation into the type of knife, the brand that might

ALLYSON WRIGHT-CROSS BY MRS. LIPINSKI

1 have gone to or anything like that, correct?

2 A Correct.

3 Q So we collected all this evidence, but we didn't
4 do anything with it, correct?

5 A Again, I turned it in. After that, I didn't
6 hear anything else about it.

7 Q The only thing you took it on your initiative to
8 do was the envelope, correct?

9 A Correct. Everything else would have been DNA
10 evidence.

11 Q While you stated there was rain in the parking
12 lot and those type things, there was the ability to still
13 go out and follow her path to the other apartment, respond
14 to the other apartment and take photographs of anything,
15 see if there was anything discarded along the way
16 regarding shoes or anything like that and you were never
17 asked to do that by anyone?

18 A Correct.

19 MRS. LIPINSKI: Court's indulgence one moment,
20 Your Honor.

21 THE COURT: All right.

22 MRS. LIPINSKI: That's all we have of this
23 witness.

24 THE COURT: All right, redirect?

25 MRS. WESTFIELD: Briefly, Your Honor.

ALLYSON WRIGHT-REDIRECT BY MRS. WESTFIELD

1 THE COURT: All right, redirect.

2 REDIRECT EXAMINATION

3 BY MRS. WESTFIELD:

4 Q Sergeant Wright, when you collect the evidence,
5 what's the process after that?

6 A We collect the evidence and bring it back to the
7 office. We can process it for latents or do DNA first and
8 then process the latents. If it's just the DNA item, we
9 don't process it. We'll package it and bring it to
10 property and evidence.

11 Q So when you say packaging, what does that mean?

12 A We put it in the bag, put evidence tape to seal
13 it and bring it to property and evidence.

14 Q Is there anything else you do with that package
15 once you seal it?

16 A We put our initials and the date.

17 MRS. WESTFIELD: Nothing further.

18 THE COURT: Any recross?

19 MRS. LIPINSKI: No recross, Your Honor.

20 THE COURT: All right, you may step down. Thank
21 you.

22 All right, next witness.

23 MRS. SCOTT: Your Honor, may she be released
24 from her subpoena?

25 THE COURT: Any objection?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 MRS. LIPINSKI: She can.

2 THE COURT: She is hereby released.

3 MRS. SCOTT: Just need to set the computer up,
4 Judge. I'm sorry, Your Honor.

5 MR. HOLCOMB: Mrs. Scott, who have you called?

6 MRS. SCOTT: I haven't called anyone yet. I
7 have something in my contacts.

8 (WHEREUPON, there was a brief pause on the
9 record.)

10 MRS. SCOTT: We're ready. We're going to call
11 Nneka Dunn to the stand, Your Honor.

12 THE CLERK: Please stop at the end of bench
13 right here. Please place your left hand on the
14 Bible, raise your right hand.

15 NNEKA DUNN, after being duly sworn,
16 testified as follows:

17 THE CLERK: Thank you, please be seated. State
18 your name for the record.

19 THE WITNESS: My name is Nneka Rita Dunn.

20 DIRECT EXAMINATION

21 BY MRS. SCOTT:

22 Q Well, you're no longer last name Dunn and we'll
23 fix that in a second. What name do you go by now?

24 A Nneka Rita Chidibere Okeke.

25 Q How do you know Levy Dunn?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Levy Dunn was my husband.

2 Q When were y'all married?

3 A Got married 2018, May 2nd.

4 Q Is he in the courtroom today? .

5 A Yes.

6 Q He's at Defense counsel's table?

7 A Yes.

8 Q Now, in the course of your marriage, roughly,
9 how many residences or homes have you lived in with him?

10 A We lived, like, four places.

11 Q Were those homes single-family homes or
12 apartment complexes?

13 A Apartment complexes.

14 Q How old are you?

15 A I'll be 37 September 23rd.

16 Q Are you working?

17 A Yes.

18 Q We're going to ease into this. Do you recall
19 living at Waterleaf Apartments?

20 A Yes.

21 Q Is that the last apartment that you lived in
22 with your ex-husband, The Defendant?

23 A Yes.

24 Q How long had you lived in that apartment with
25 him?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A I think about four months.

2 Q Okay. Four months?

3 A Yes.

4 Q This occurred in March. So would that have been
5 2020 that you lived there?

6 A Yes, we moved in November of 2020 until March
7 17th.

8 Q Okay. Were you working then in March of 2021?

9 A Yes, I was working.

10 Q March 17th of 2021, do you recall if that was a
11 weekday or a weekend?

12 A It was a weekday.

13 Q Okay. So let's just start off about that day,
14 okay. What did you do that day when you woke up?

15 A I was sleeping, so later on, I went out to buy
16 food stuff that I want to cook. So when I go back in the
17 house, I walked inside the house.

18 Q Did you arrive from the store at nighttime or is
19 this the afternoon?

20 A It was at nighttime.

21 Q Okay. Now, tell us what happened when you just
22 walked in with the groceries?

23 A When I came inside the house, I smelled
24 something like a smoke. But I went straight to the fridge
25 to put my stuff that I bought in the refrigerator. He was

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 sitting in the living room.

2 Q Who's he?

3 A Levy Dunn was sitting in the living room. Then
4 I walk into the room to take my wig off. I'm putting it
5 in the bathroom. So when I went to the bathroom, I
6 noticed that he increased the volume of the television so
7 loud. And I'm paused in the room, I sat on the edge of
8 the bed. About this time, he come walk inside the room.
9 And I saw him with a glove in his two hands.

10 Q All right. When you say in his hands, you mean
11 he was holding them in his hands or were they on his
12 hands?

13 A He wore it on his hands.

14 Q He wore them on his hands?

15 A Yes.

16 MRS. LIPINSKI: Your Honor, Mrs. Scott keeps
17 repeating the answers given by the witness. I would
18 just ask that she let the witness speak for herself,
19 not for her to repeat it to the jury.

20 THE COURT: Just try not to repeat.

21 MRS. SCOTT: With the Court's indulgence, I'm
22 going to work on it.

23 THE COURT: I'm going to give you some
24 flexibility on that.

25

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 BY MRS. SCOTT:

2 Q Okay, we're talking about his gloves. You said
3 he wore it on his hands.

4 I'm only doing that because we stopped.

5 Tell me more about the color of these
6 gloves.

7 A It was a black glove.

8 Q All right. What, if anything, happened next?

9 A So when he came into the room, he asked me of my
10 car key. I want to ask why because I knew he didn't have
11 a license. He punched me and pushed me on the bed. And
12 cross me on the bed and start punching me. I was
13 surprised. I was like hold on, hold on, What is that?

14 He said, I'm about to kill you.

15 I said, Okay, Levy, please, let's talk. I
16 screamed. He said if I like, I should scream, that there
17 was nobody living under us anymore.

18 So by the time, you know, he pulls out the
19 knife out his back of pocket and stabbing me. I was
20 pleading. I said, Please, let's talk. He already stabbed
21 me here. I told him, Okay, please run. I'm not going to
22 report this to anybody, just let me go. I'm not going to
23 report it to anybody. He said it was too late. I was on
24 the bed struggling for my life.

25 We roll from the bed to the floor. So that

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 was then he still cross me on the floor. I was bleeding
2 on him. He put his hands on the wounds and presses. I
3 screamed, but he don't want to listen. I begged him,
4 okay, since you decided to kill me, can I just see picture
5 of my children. That is we put in the room, you know, the
6 room -- dresser in the room. But he refused because maybe
7 he thought when he get up, I'll run. So I was on the
8 floor. He gave me five minutes. He said in five minutes
9 time, I'm going to pass out.

10 Q Okay, before we do that, I do need to show you a
11 photograph that's already into evidence. You mentioned
12 the bed and covers. I'm showing you what's State's
13 Exhibit 59. When you say that you're lying there, where
14 are you lying? Where were you just laying?

15 A On the floor right there.

16 Q Now, for the record, I'm going to start
17 pointing, you tell me -- are you meaning here, on the
18 floor right here?

19 A Yes. That's where my head was.

20 Q As you laid there and your head was bleeding,
21 what else happened?

22 A So he tried to open my clothes to stab me in my
23 stomach. So I was struggling with his hands. I had
24 [indiscernible] his hands on my hands with the knife he
25 had in his hand. So he told me I turned everybody against

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 him. I turned his family against him and I turned the
2 pastor of the church we went to against him. I make him
3 look bad before everybody. I told him okay, please
4 forgive me if this how you feel. But he never listen.

5 Q And I want to be clear only for the purposes of
6 the way he spoke, not to repeat your response to me. He
7 was asking you or saying to you what again, that you had
8 done something -- could you just repeat that? I want to
9 make sure it's clear for The Court. He was accusing you
10 of what?

11 A He said I turned his family against him. And
12 the pastor of the church where we go to, he said I turned
13 him against him, too.

14 Q Okay. Now, as this is happening, you mentioned
15 that you were struggling. Tell me more about what's
16 happening. Where are you again?

17 A I was still on the floor when this was
18 happening, so he was on top of me. I told him, Levy,
19 please, I thought you loved me. He used his hand to cover
20 my mouth, cover my mouth. I was screaming thinking people
21 would hear me, but nobody heard me. So I stop talking.
22 At that time, I was weak. I pulled my neck by the side,
23 so that was when he now stood up and went to the living
24 room. So he now get up from the floor.

25 Q I'm sorry, who went to the living room?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Levy Dunn.

2 Q Okay. When he went to the living room, where
3 were you?

4 A I was still laying on the floor.

5 Q Doing what?

6 A I was on the floor helpless.

7 Q Once he went into the living room, what did you
8 do?

9 A I tried to get up to struggle to see if I could
10 make my way out the door because he told me I was dead, I
11 was dying, like he said.

12 MRS. SCOTT: All right, one moment.

13 BY MRS. SCOTT:

14 Q Before we get you anywhere else, I'm showing you
15 what's State's Exhibit 61. Do you recognize this bed
16 here?

17 A Yes.

18 Q This is your bed?

19 A The bed.

20 Q Can you tell us what happened here?

21 A That was when he stabbed me when we were on the
22 bed before we rolled to the floor.

23 Q State's Exhibit 3, you referenced when you
24 rolled to the floor, what is this here?

25 A It is the comforter he use to try to cover me

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 up.

2 Q I need you to explain this, how he would have
3 used the comforter to cover you up. What are you talking
4 about?

5 A While on the floor, when both of us was on the
6 floor, he tried to cover me up when I was screaming.

7 Q How did you get uncovered?

8 A I was struggling, struggling for my life. I was
9 taking it off.

10 Q All right. Now, you referenced that he had on
11 gloves. Do you know how those gloves got off?

12 A I don't know.

13 Q Okay. I see here -- let me get some better
14 pictures. State's Exhibit 59. Now, I know that you all
15 moved in in November, but do you typically keep your TV
16 lying flat like that on the table?

17 A No.

18 Q What about this heater, what is this here? I
19 might can get a better picture.

20 A Oh, I know.

21 Q One second, let me see what else we've got. All
22 right, this might be the only photograph I have of that,
23 actually. What is this here?

24 A That was a heater that we used in the bedroom.

25 Q And what led it to be in this position?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Because when I was on the floor struggling --

2 Q Stay on the mic for me.

3 A I'm sorry.

4 Q Say that again.

5 A I said when I was on the floor struggling, it
6 fell. It fell on the floor. The heater, excuse me.

7 Q All right, what is this here that I'm pointing
8 to?

9 A It's a remote control.

10 Q Okay. And here?

11 A Is a little dumbbell in the room.

12 Q Okay. Was it always just one dumbbell in the
13 room?

14 A No, used to be two.

15 Q So let's go to how they've been separated, okay.
16 What did you do as he's in the living room and you're
17 lying there? What's your next move?

18 A When I saw he left, I tried to escape. And I
19 pick up one dumbbell, in case on my way when I'm trying to
20 escape, I use it to protect myself.

21 Q You mentioned when you came home that you had
22 taken your wig off. What were your intentions when you
23 came home?

24 A What was my intentions?

25 Q What were you going to do that night?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A I was going to cook.

2 Q Okay.

3 A Because I work in the morning.

4 Q When you're running with this dumbbell, are you
5 fully clothed? Do you have all your clothes on?

6 A I have my clothes on.

7 Q What about shoes?

8 A I didn't have no shoes on.

9 Q So take us from your bedroom -- and now, I'm
10 going to bring up this floor plan. This is State's
11 Exhibit --

12 For the record, Your Honor, I think I've
13 messed up and not been putting those numbers on the
14 record.

15 April, I won't do it again.

16 For the purposes of this line of
17 questioning, Your Honor, I need to be close. I understand
18 that's typically not the rules. Permission to approach
19 the witness this close?

20 THE COURT: That's fine.

21 MRS. SCOTT: All right.

22 BY MRS. SCOTT:

23 Q This is State's Exhibit 24. Now, I've been
24 calling you Rita. What do you go by?

25 A I prefer Rita.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 Q Okay. Now, Ms. Rita, can you see this board?
2 Can you lean and see this board?

3 A Yes, ma'am.

4 Q So we're in the bedroom way over there, all
5 right. Just for the purpose of allowing her to see, I can
6 publish this to the jury again, I just need you to tell
7 me, you went from the bedroom, then what was your next
8 location?

9 A I was heading towards the -- to make it outside
10 the door.

11 Q All right. And in order to make it out the
12 door, what route did you have to take or did you choose to
13 take?

14 A When I was making it to the door, he came out
15 immediately from the living room, I guess. He said oh, so
16 you are still alive, you don't die. He start punching me,
17 then I was running towards the door, outside door,
18 outside, you know, by the laundry, by the side of the
19 laundry, you know, with my body pushing me towards the
20 door.

21 Q Let me stop you for just a minute. You went
22 from the bedroom. Did you go to the living room or the
23 kitchen in order to make it to this door you're talking
24 about?

25 A I didn't go to the kitchen, I just keep moving

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 straight on.

2 Q Past the --

3 A Through kitchen through the door.

4 Q Can you just -- so that I'm not doing this
5 myself, can you tell me, direct me where to point so that
6 we know which route you took, okay? So I'm going to
7 start -- and I'm going to put my back to the jury for a
8 minute. This is your bedroom. Will you tell me what
9 route you took to get to the door? Here's your bedroom,
10 where am I going?

11 A This way. This way.

12 Q Am I going the right way?

13 A Yes.

14 Q Okay, where do I go now?

15 A To the door here.

16 Q Did you go to the living room at all?

17 A Well, that's how the house is. You go from the
18 bedroom, down the hall, the kitchen is right beside my
19 room.

20 Q All right. You didn't pass any other markings,
21 you just went straight to the door?

22 A Yes.

23 Q Let's talk about how you got to that door in a
24 different way. We've got some photographs, State's
25 Exhibit -- this is State's Exhibit 4 -- 40. Will you tell

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 me what this is right here?

2 A It's an air freshener, the one you plug in the
3 wall.

4 Q All right. I'm going to show you State's
5 Exhibit 37, do you see that same air freshener in this
6 photograph?

7 A Like go forwards, like, half of it.

8 Q There?

9 A Uh-huh.

10 Q All right. So now that we've got some context,
11 what are we looking at here? What's in this doorway here?

12 A The second bedroom, if I'm not mistaken, that is
13 the second bedroom.

14 Q As you were running out of this apartment, did
15 you go into this bedroom?

16 A No.

17 Q As you're running out of that master bedroom,
18 did you go into this area here? And for the record, I'm
19 pointing to the right of State's Exhibit 37.

20 A No.

21 Q What is this right here that we see in 37? This
22 brown thing here?

23 A I don't know. You know, he been staying in the
24 living room by himself.

25 Q What is this?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Oh, that's a couch.

2 Q Okay. Now, instead of these two areas -- you
3 referenced a couch, do you see a couch here in this
4 photograph? Can you see from where you are?

5 A No.

6 Q It's a dark photo. Let me get a close up, Rita.
7 This is State's Exhibit 44, do you see a couch in this
8 photograph?

9 A Right here.

10 Q Okay. Am I pointing to the right place?

11 A Yes.

12 Q Let me state where I'm pointing, okay. Right
13 here is the couch?

14 A Yes.

15 Q Okay, what is this area here?

16 A Looks like --

17 Q Do you see a couch in this photograph?

18 A That's a walkway.

19 MRS. LIPINSKI: Your Honor, I need to know what
20 photograph?

21 BY MRS. SCOTT:

22 Q State's Exhibit 43, do you see a couch in this
23 photograph? Let me get closer to you.

24 A (The witness points.) It's so dark.

25 Q Do you see the couch?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes.

2 Q Okay, where is it?

3 A Right here.

4 Q Okay. Am I pointing to where you pointed?

5 A Yes.

6 Q All right. This couch here?

7 A Yes.

8 Q Okay. That might be a little -- now, this wall
9 here, do you know how this got here? I'm sorry, do you
10 know how this actual mark on this wall got here?

11 A Probably the struggle.

12 MRS. LIPINSKI: Objection as to speculation. If
13 she doesn't remember that encounter, that's one
14 thing, but she can't speculate.

15 THE COURT: The question was do you know, so she
16 can answer. Then if she doesn't --

17 MRS. LIPINSKI: Her answer was probably, though.

18 So my objection would be that she can't speculate
19 and start a sentence with probably know.

20 THE COURT: Rephrase your question. Sustain as
21 to speculation.

22 BY MRS. SCOTT:

23 Q You know, Ms. Rita, I need to know where all in
24 this house that you went while you were bleeding. So were
25 you in this area here?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes. It's the way to the outside. I think I
2 was there.

3 Q Okay. What about this photograph here, State's
4 Exhibit 26. And now we'll go to State's Exhibit 36, we'll
5 put them back later. Take a look at these for just a
6 second.

7 A (The witness points.)

8 Q All right, let me go to the projector here.
9 This is State's Exhibit No. 36. What is this wall here?

10 A It's the wall to the walkway to the door
11 outside.

12 Q Okay. And do we see the outside door in this
13 photograph, State's Exhibit 36? Do we see the exit of
14 this apartment?

15 A Yes.

16 Q Were you making your way to this door here that
17 we see on 36?

18 A Yes.

19 Q We, also, see a concentrated amount of stains on
20 the doors in the back of the photograph, can you tell us
21 were you in this area, too?

22 A Yes.

23 Q So now let's get to the part, you referenced
24 that you grabbed the dumbbell, he caught you there, get us
25 there, you're at the door, upon your master bedroom door,

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 what happens?

2 A When I was coming out of the door, immediately,
3 he saw me. He was in the living room. He met me on the
4 halfway and started punching me with the knife again and
5 stabbing me all over my head, my face, my back here. So
6 he was stabbing me and I was hitting the dumbbell on the
7 wall so that people could hear me.

8 Q All right. Now, did you make it to this door
9 here at the end? I'm going to point to it a little bit
10 better. Sorry. This door, what door is this?

11 A This door is the one like a little closet,
12 little closet.

13 Q Okay. Were you all struggling in this area,
14 too?

15 A Yes.

16 Q Were you bleeding when you were at this door as
17 well?

18 A Say that one more time.

19 Q Were you still bleeding when you came to this
20 door?

21 A Oh, yeah, I was bleeding very heavily. I was
22 bleeding.

23 Q What about here, this area here next to the
24 door, the front door, were you right here?

25 A Yes.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 Q Now, when you went to that door, was it opened
2 or closed as you're trying to get out?

3 A It was closed then.

4 Q Okay. So up here like this in State's Exhibit
5 26?

6 A Yes.

7 Q Tell us what's happening at this door.

8 A I was trying to open the door, he was pulling me
9 back and bent me over and stabbing me. So by the time I
10 just try to, you know, push him back. I push him back, I
11 use my leg on him, so he move back and I grabbed the door.
12 That's how I was able to make it outside.

13 Q I want to talk about where you pushed him on
14 him. Where on his body did you push on him?

15 A I used my feet. I hit him right here and he
16 move back.

17 Q You hit him where?

18 A On his private part. Sorry, excuse me.

19 Q That's fine. You, also, referenced the dumbbell
20 that you used. I need you to tell us the different ways
21 you used the dumbbell.

22 A Well, came out of the room when I was trying to
23 make it outside, I had it up -- like, when I saw him run
24 to me, I had it up to hit him to put across when I was
25 struggling. I held it so tight. That was when I was

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 moving to the door. So I was hitting the dumbbell on the
2 wall to alert people.

3 Q Do you know if you were able to actually get
4 some strikes on him with that dumbbell?

5 A I don't recall. Because I know I didn't hit him
6 on his head.

7 Q You didn't or you did?

8 A I didn't.

9 Q But do you think you hit him somewhere with that
10 dumbbell?

11 A I remember he held my hand up.

12 Q Okay. Were you trying to hit him with the
13 dumbbell?

14 A Yes, yes.

15 Q I want to be clear, were you attacking him this
16 night?

17 MRS. LIPINSKI: Objection as to leading, Your
18 Honor.

19 THE COURT: Sustained.

20 MRS. SCOTT: Okay.

21 BY MRS. SCOTT:

22 Q You referenced that you came home with
23 groceries, what were your intentions with the groceries
24 that day?

25 A I was about to make some food I would take to

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 work in the morning.

2 Q You, also, referenced that you taken your wig
3 off. Why did you do that?

4 A Because I was getting ready to cook. You
5 undress yourself and come to the kitchen.

6 Q And when he requested the keys, what was your
7 response to him?

8 A I told him I can't give him my car keys because
9 you don't have a license.

10 Q Now, we haven't gotten out this apartment. So
11 at some point, how do you get out?

12 A Well, when I open the door, I ran down and
13 screamed. Nobody help me. I saw a police car parked by
14 the apartment. I hit my hands on it. I thought maybe
15 there was an alarm in there, but nobody saw. I ran to the
16 next building, I hit the door, I hit the next one and call
17 for help. So they opened the door I said, Please help me,
18 help me, I'm dying. They asked me what happened, so I
19 told them my husband he tried to kill me. So that woman
20 drug me, she drug me inside her house. I was making call,
21 you know, so.

22 Q Okay. I want to show you State's Exhibits No.s
23 18 and 19. Let's start with 18, do you recognize this
24 item here?

25 A That is a doormat.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 Q Is this your doormat to your apartment or
2 someone else's?

3 A It's mine.

4 Q What's here? Sorry, y'all can't see that.
5 What's here?

6 A That's the stairs.

7 Q Is your door directly on that staircase?

8 A Yes, sir.

9 Q Next to that staircase?

10 A Yes.

11 Q And you went this way or a different way to get
12 down the stairs?

13 A I went this way down.

14 Q Okay. Let me use my pen. Tell me where to take
15 my pen.

16 A I had went down the stairs.

17 Q Is this correct what I'm doing?

18 A Yes.

19 Q Okay. The reason why I'm asking that, State's
20 Exhibit 19, is this your apartment here?

21 A Yes.

22 Q Okay. And there's -- are there other people
23 that live on this landing here?

24 A Yes.

25 Q Right here, is that the apartment?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes, someone was living there.

2 Q Over here?

3 A Yes.

4 Q Okay. Do you know if anyone was living here, do
5 you remember?

6 A I think some people were living over there,
7 yeah.

8 Q I need to know, why wouldn't you go this way,
9 instead of going, as State's Exhibit 18, this way? Why
10 didn't you go this way?

11 A There's no staircase that way. I'm running, I
12 don't want him to catch me. By the time I look, it would,
13 you know, be easy for him to get me. So I had to run far
14 away moving down the stairs.

15 Q Okay. Now, where is he as you were running down
16 the stairs? Well, let me not say running. How did you
17 get down the stairs?

18 A I just crawled down the stairs.

19 Q Were you bleeding as you were crawling down the
20 stairs?

21 A I was bleeding.

22 Q Let me show you State's Exhibits 12, 16 and 17.
23 State's Exhibit 12, are these the stairs that you went
24 down?

25 A Yes.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 Q State's Exhibit 17, did you use a railing of any
2 sort when you were going down?

3 A Yes, I was holding -- I was holding things as I
4 was going down.

5 Q I need you to demonstrate to the jury how you
6 went down the stairs, okay. And I don't need you to give
7 me -- you don't need to leave out a detail, but I need to
8 know did you go down the stairs in a normal fashion? When
9 you say crawling, what are you talking about? I need to
10 know how you went down these stairs.

11 A I was using my shoulder. I was holding the rail
12 moving slowly down to the downstairs, making it to the
13 downstairs.

14 Q Did you go in a zig-zag pattern or just
15 straight? Do you even remember that?

16 A I can't really remember. I know I was weak, so
17 I was supporting myself with the sides to downstairs.

18 Q Okay. Now, where is Levy Dunn as you escape
19 from the apartment?

20 A He was upstairs when I was running downstairs.

21 So by the time I make it down to the next building, I
22 turned and I saw him enter my car and zoom off.

23 Q Let's talk about zooming off. Zooming off
24 where? What did he do to zoom off?

25 A I don't know.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 Q Did he --

2 A I know --

3 Q Go ahead.

4 A I know he was running. That's all I know.

5 Q Did he get in a vehicle?

6 A Yes.

7 Q What vehicle did he get in?

8 A My car.

9 Q Had you given him the keys?

10 A He took it from my pocket when I was on the
11 floor.

12 Q You saw him get into the car. Where were you
13 headed when you saw him get into the car?

14 A I was heading to the neighbor's. I looked over
15 as he zoom off.

16 Q I'm sorry, say that last part again.

17 A To the neighbor's, to the neighbor that I ran
18 for help. I told them that I saw him. When the neighbor
19 told me he was coming towards the way, I was coming
20 downstairs, I said, No, I saw him in get in my car and
21 zoom off.

22 Q It's that last little part I don't know. I want
23 to make sure April can get that. What are you -- are you
24 saying something after the car or is -- how about this,
25 when you speak sometimes, I just need you to speak up,

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 okay?

2 A Okay.

3 Q Okay. All right. So we've had photographs of
4 you and one that was printed. State's Exhibit 2, a
5 photograph -- is this you in this photograph?

6 A Yes.

7 Q And what's happening here?

8 A That's when I fell on the floor.

9 Q Did you think anyone was coming to help you?

10 A Yes.

11 MRS. LIPINSKI: Objection as to speculation.

12 THE COURT: Sustained.

13 BY MRS. SCOTT:

14 Q Had you, at this point, attempted to get other
15 people to help you?

16 A Yes.

17 Q As you're running to the next building, what, if
18 anything, are you doing to get someone to notice you?

19 A I scream and I knock on two doors before they
20 came out.

21 Q We have you entering into an apartment, State's
22 Exhibit 3, I'm going to show that to you. Do you recall
23 being here?

24 A Yes.

25 Q In this woman's apartment?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes.

2 Q Did you know this woman?

3 A No, I never met her before on the day it
4 happened.

5 Q What about -- we heard testimony that there's a
6 man here off duty, did you know this man?

7 A No.

8 Q And here again, did you know this woman?

9 A No.

10 Q I need to go a little out of order and take you
11 back to your apartment. State's Exhibit 46. Whose
12 handwriting is this on that envelope?

13 A It's Levy.

14 Q And I'm going to show you the other side of that
15 envelope, State's Exhibit 47. Whose handwriting is it on
16 this side of the envelope?

17 A It's Levy.

18 Q State's Exhibit 23, 24 and 25, whose shoes are
19 these?

20 A It's Levy's shoes.

21 Q At the top of that closet?

22 A It's still his shoes.

23 Q Here?

24 A His shoes.

25 Q State's Exhibit 59 and 28. Let's talk about 28.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 I probably should have gotten a photograph for reference,
2 so I'm going to show you first State's Exhibit 27. Right
3 here, is this the dumbbell you used?

4 A Yes.

5 Q Was it paired with what we see in State's
6 Exhibit 59?

7 A There was a pair of this one.

8 Q I'm going to show you State's Exhibit 49. Do
9 you recognize this cell phone?

10 A One I recognize is the ear plug.

11 Q Okay, the air pod?

12 A Yes.

13 Q This right here?

14 A Yes.

15 Q Who does that belong to?

16 A It's Levy's phone.

17 Q Okay. What about this phone, do you know who
18 that phone belongs to?

19 A I would say his phone, but I'm not sure because.

20 Q I'm showing you State's Exhibit 51. As far as
21 these shoes here, who shoes are these?

22 A My shoes and his.

23 Q Which shoes are yours? Are these your shoes?

24 A Yes.

25 Q Okay. Are these your shoes?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes.

2 Q Are these?

3 A Yes.

4 MRS. LIPINSKI: Objection as to relevance. We
5 don't need to go through and identify every pair of
6 shoes in the house.

7 MRS. SCOTT: Leeway, Judge.

8 THE COURT: Overruled.

9 BY MRS. SCOTT:

10 Q Right here, is this your -- are these your items
11 or his?

12 A Yes, my items.

13 Q Okay. How about as we go over here, are these
14 your shoes or his?

15 A From here is mine. The rest is his.

16 Q I'm sorry, I'm sorry. From here to where?

17 A Stop at the red is mine, then from the blue and
18 white, the other one is his.

19 Q All right, thank you. After you received
20 treatment or medical assistance at that apartment that you
21 ran to, do you remember going somewhere else after the
22 apartment? I'll ask a better question. After State's
23 Exhibit 3, after here in this lady's apartment, where did
24 you go?

25 A To the hospital.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 Q While you were at the hospital, State's Exhibit
2 78?

3 A Oh.

4 Q Did Levy Dunn come to the hospital?

5 A No.

6 MRS. LIPINSKI: Objection, Your Honor, as to
7 speculation.

8 MRS. SCOTT: I'll rephrase it.

9 BY MRS. SCOTT:

10 Q Did you see Levy Dunn come to this hospital?

11 A No.

12 Q There's a photograph of your bed, I'm going to
13 find it. State's Exhibit 70. State's Exhibit 71. I need
14 to know what this is here? You want me to give it to you?
15 Do you know?

16 A I don't remember.

17 Q Okay. Let's talk about the other item. Right
18 here, what is that?

19 A That was head of the knife.

20 Q Now, it may be -- let me just ask, did you have
21 a knife already in that bedroom in March of 2021?

22 A No.

23 Q Do you know how this knife got here, this knife
24 handle?

25 A The knife he -- what he was using to stab me

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 when we were on the bed.

2 Q Well, the blade is gone. Do you know where the
3 blade went?

4 A I think he took it --

5 MRS. LIPINSKI: Objection as to speculation,
6 Your Honor.

7 THE COURT: Sustained.

8 THE WITNESS: I don't know.

9 BY MRS. SCOTT:

10 Q Okay. Now, how long -- you stayed a few days --

11 MRS. LIPINSKI: Your Honor, can we approach real
12 quick?

13 (WHEREUPON, an off-the-record bench conference
14 was held in the presence of the jury but out of
15 the hearing of the jury.)

16 THE COURT: All right, ladies and gentlemen of
17 the jury, good time to take your afternoon break, so
18 that's what we're going to do. So please don't
19 discuss the case. Thank you.

20 (WHEREUPON, the jury left open court at
21 approximately 3:50 p.m.)

22 THE COURT: All right, we'll be in recess about
23 ten minutes.

24 MRS. SCOTT: Thank you, Judge. Can she just go
25 to the sequestration room?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 THE COURT: Yeah.

2 Mrs.~Dunn, you're still on the stand so you
3 can't talk to anyone about the case, okay.

4 THE WITNESS: Okay.

5 THE COURT: All right, break for about ten
6 minutes.

7 (WHEREUPON, a short break was taken.)

8 THE COURT: All right. Bring them back in.

9 (WHEREUPON, the jury entered open court at
10 approximately 4:05 p.m.)

11 THE COURT: All right.

12 BY MRS. SCOTT:

13 Q I want to talk about your stay at the hospital.
14 Roughly, how many days did you stay?

15 A Three plus -- a week plus.

16 Q So you felt like a week plus?

17 MRS. LIPINSKI: Objection, Your Honor, as to
18 leading.

19 THE COURT: I'm going give her a little leeway
20 under 611 for this particular witness.

21 MRS. SCOTT: Thank you, Your Honor.

22 BY MRS. SCOTT:

23 Q Now, while you were at the hospital, let's first
24 talk about Officer Pryzbylo, do you recall someone taking
25 photographs of you?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes.

2 Q Do you recall someone else coming to the
3 hospital to take your clothes?

4 A No.

5 Q Do you remember how your clothes got off of you?
6 Because I've got some photographs, let's see here.

7 State's Exhibit 79. And I'll just show you the portions
8 that are relevant. Are you wearing your clothes here?

9 A No, no.

10 Q Do you know where your clothes went?

11 A No.

12 Q Do you remember if you took your clothes off or
13 someone else?

14 A Somebody else, not me.

15 Q Did you help investigators attempt to locate
16 Levy Dunn?

17 A Yes.

18 Q You mentioned that your car or the Toyota was
19 taken, what, if anything, were you missing when that car
20 was taken?

21 A My credit card, my IDs.

22 Q Okay. Was your credit card used at any point in
23 time?

24 A Yes.

25 Q Where or when was your credit card used? I

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 don't know need a date. Were you in the hospital or out
2 of the hospital?

3 A I was in the hospital. I was in the hospital.

4 Q Did you let law enforcement know that your
5 credit card was used?

6 A Yes.

7 Q Do you remember where it was used?

8 A I remember the caseworker help me to find out
9 that it was used in North Carolina.

10 Q All right. Do you know if Levy used to live in
11 North Carolina?

12 A Yes, he lives in North Carolina.

13 Q He lives --

14 A His family.

15 Q All right. The Toyota that he drove off in,
16 what year is it?

17 A It's 2021.

18 Q Okay. Did it have any kind of navigation system
19 in it?

20 A Yes.

21 Q Did you assist officers with getting information
22 from that navigation system?

23 A Yes, I went to Toyota, but they say they won't
24 give me the information. They give it to the officer.

25 Q But did you give them consent to give that

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 information to the officers?

2 A Yes.

3 Q Now, at some point, you were discharged from the
4 hospital? Can you tell The Court before you were
5 discharged, do you remember any of the procedures that
6 were done on you, if any? While you were at the hospital?

7 A No. They stich me. I was having stitches on
8 the wounds on my back, everywhere. They clip stitches all
9 over my wound.

10 Q Okay. Were you given any followup instructions
11 after you were discharged?

12 A Yes.

13 Q What were those, do you remember?

14 A They ask me to go to the primary doctors. Also,
15 I went to remove the stitches. Then after that, I went
16 back again to the hospital. When I was having serious
17 headache and neck pain, I went back again to the hospital.

18 Q Now, let's talk about when you're out of the
19 hospital. Have you had any contact after you left the
20 hospital with Levy Dunn?

21 A Yes.

22 Q How so?

23 A I knew somebody from unknown number that called
24 me in the midnight. And he said -- I can't remember what
25 all he told me that time, but after that, the next call

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 was an officer had called me.

2 Q I'm sorry, what did you just say?

3 A Office had called me after him. I think at the
4 same time, yeah.

5 Q Okay. Did you get a lot of calls from a unknown
6 number?

7 A Yes.

8 Q What did do then when you started getting these
9 calls from a unknown number?

10 A I start recording it. I, also, screen shot the
11 messages and called law enforcement.

12 Q When you say you started recording it, I'm
13 handing you what's marked as State's Exhibit 82. Did you
14 provide one of those recordings to me?

15 A Yes.

16 Q Okay. Now, before we talk or listen to
17 anything, how do you know it's him on the recording?

18 A I know him.

19 Q You know him?

20 A Yeah.

21 Q How long had y'all been married?

22 A Before it happened, we were married for three
23 years, if I'm not mistaken.

24 Q In regards to this particular call that you gave
25 me, do you remember the month and year of that call?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A April 2022.

2 Q And it is a recording that you made?

3 A Yes, I record him.

4 Q Now, on this, is this a true and accurate
5 recording or copy of the recording that you made of him
6 calling you April of 2022?

7 A Yes.

8 MRS. SCOTT: At this time, The State would like
9 to admit this into evidence, Your Honor.

10 THE COURT: Any objection from The Defendant?

11 MRS. LIPINSKI: Subject to our previous
12 objection, Your Honor.

13 THE COURT: All right, objection overruled.
14 State's Exhibit 82 is admitted into evidence over
15 objection.

16 (WHEREUPON, State's Exhibit No. 82 was admitted
17 into evidence.)

18 MRS. SCOTT: All right, we're not ready yet.
19 We're just going to get it set up.

20 (WHEREUPON, there was a brief pause on the
21 record.)

22 MRS. SCOTT: Okay, we're ready.

23 THE COURT: All right.

24 (WHEREUPON, State's Exhibit No. 82 was
25 published.)

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 BY MRS. SCOTT:

2 Q You mentioned there was other ways that he
3 communicated with you, through text messages. I'm going
4 to show you what's been premarked as State's Exhibit 88,
5 89, 90 and 91. Do you recognize what I just handed you?

6 A Yes.

7 Q What are they?

8 A On July 7th, 2022.

9 Q Are these text messages?

10 A Yes.

11 Q From what phone number?

12 A From his phone number.

13 Q Now, how do you know that's him texting you?

14 A He say here, he said, I am your husband.

15 Q Don't read it yet.

16 A I'm sorry.

17 Q But could you tell that was him?

18 A Yes, I know.

19 Q And you referenced the date, what date did those
20 come in?

21 A July the 8th, 2022.

22 Q All right. Are they all from July 8th or are
23 they from varying days?

24 A And July the 9th and July the 16th.

25 Q Are those a true and accurate depiction of the

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 text messages you received from him?

2 A There's a lot, but this is the one I present.

3 MRS. SCOTT: Your Honor, at this time, The State
4 would like to admit these into evidence. I'll give
5 the numbers again.

6 MRS. LIPINSKI: Subject to the previous
7 objection.

8 THE COURT: State's Exhibit 88, 89, 90, and 91
9 are admitted into evidence over objection.

10 (WHEREUPON, State's Exhibits Nos. 88-91 were
11 admitted into evidence.)

12 BY MRS. SCOTT:

13 Q I want to first draw your attention to this,
14 what does that say?

15 A WhatsApp.

16 Q Now, we have a photograph message here -- oh,
17 wait, sorry, it says message was deleted. Did you delete
18 this message or him?

19 A He did.

20 Q So what date is on State's Exhibit 88?

21 A July 7th.

22 Q What year?

23 A 2022.

24 Q Now, this occurred when you were harmed in March
25 of 2021 in the apartment? Did that happen back in March

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 of 2021?

2 A No.

3 Q When did this happen to you here where you were
4 hurt? What year was this?

5 A Oh, March 17th, 2021.

6 Q All right. So here we are in 2022. What time
7 of day did you receive these messages?

8 A At midnight, 1:00 a.m.

9 Q Will you read out this time?

10 A It is 1:00 a.m., there's 2:00, 5:00 a.m.,
11 there's 2:10.

12 Q Now, also, would you read out State's Exhibit
13 89, what time this is, this time?

14 A 2:00 a.m., 2:10 a.m.

15 Q So, originally, we were at July 7th, going into
16 -- let's get to July 8th. Did you finally respond?

17 A Yes. I said, Who the hell is this?

18 Q Now, what time of day is this? What time?

19 A That was 1:28 a.m.

20 Q Now, I want to point to this. What does that
21 say for us?

22 A It says, [indiscernible] I love you.

23 Q What language is that?

24 A It's tribe language.

25 Q Is that your language?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Yes.

2 Q Had you taught him that?

3 A Yes.

4 Q State's Exhibit 90, what time of day are these
5 messages coming in starting at the beginning here?

6 A There's one at 1:34 a.m., there's one at 1:35,
7 1:36 a.m., 1:37 a.m.

8 Q And again, is this the same message that you
9 mentioned to us before?

10 A Yes.

11 Q Okay. And again, July -- can you tell us these
12 dates here?

13 A This is July 9th, 2022.

14 Q And lastly, State's Exhibit 91, what date do we
15 have here?

16 A July 16th, 2022.

17 Q Again, I see here there were some messages that
18 were deleted. Did you delete those messages?

19 A No, he did.

20 Q Lastly, you referenced a minute ago about
21 followup, but you mentioned some pain. So do you
22 experience any pain now from what happened to you in March
23 of 2021?

24 A Yes, I still experience pain.

25 Q Tell us where you experience pain.

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A I have constant back and neck pain that comes
2 all the time.

3 Q Now, we took some photographs of you today. Do
4 you have any permanent injuries from what happened to you
5 in March of 2021?

6 A Yes.

7 Q I'm handing you what's been premarked State's
8 Exhibit 83 through 87. Do you recognize what I just
9 handed you?

10 A Yes.

11 Q Is that a true and accurate depiction of how you
12 look today?

13 A Yes.

14 Q Okay. Were those photographs taken of you
15 today?

16 A Yes.

17 MRS. SCOTT: At this time, The State would like
18 to enter these into evidence, Your Honor.

19 THE COURT: All right, any objection from The
20 Defendant?

21 MRS. LIPINSKI: Subject to previous objection,
22 Your Honor.

23 THE COURT: All right, State's Exhibit Nos. 83
24 through 87 are admitted into evidence over objection.

25 (WHEREUPON, State's Exhibits Nos. 83-87 were

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 admitted into evidence.)

2 BY MRS. SCOTT:

3 Q First, I'm showing you State's Exhibit 77, okay.

4 This is at the hospital -- I'm sorry, where were you in
5 this photograph again?

6 A In the hospital.

7 Q Okay, calm down. Now, this is State's Exhibit
8 83?

9 A Yes.

10 Q What do we see here?

11 A A scar.

12 Q Where is that scar?

13 A On my jaw.

14 Q On where?

15 A My neck.

16 Q Right here? Is there a scar on the neck?

17 A Yeah, on my jaw.

18 Q What about here?

19 THE COURT: Just talk into the microphone a
20 little bit.

21 THE WITNESS: Sorry, yes.

22 BY MRS. SCOTT:

23 Q What about here?

24 A It's still the scar on my face.

25 Q Let's look, what is this a photograph of?

NNEKA DUNN-DIRECT BY MRS. SCOTT

1 A Scar on my mouth.

2 Q Are you pointing to your mouth right now in the
3 courtroom? Okay, right there, is that where you're
4 pointing?

5 A Yes.

6 Q State's Exhibit 87, what is this here?

7 A The knife when he stab me on my neck.

8 Q State's Exhibit 85, what is here?

9 A It's a scar of the knife when he stab me on my
10 back.

11 Q And here?

12 A Second scar.

13 Q Now, I notice here that there is a tattoo. Did
14 you have that tattoo March of 2021?

15 A No.

16 Q Why did you get it?

17 A I use it to cover scar on my back.

18 MRS. SCOTT: Answer any question that the
19 Defense counsel might have for you.

20 THE COURT: All right, cross.

21 BY MRS. SCOTT:

22 Q I'm sorry, did you want to respond more?

23 A Yes, I said I use it to cover the scar on my
24 back.

25 MRS. SCOTT: Yes, ma'am.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 THE COURT: All right, cross.

2 CROSS-EXAMINATION

3 BY MRS. LIPINSKI:

4 Q Ma'am, I want to call you the name that you're
5 comfortable with me calling you, all right. We've heard
6 you introduced as Rita Dunn, right? But then we've, also,
7 heard you called Nneka, right? Rita Dunn Okeke; is that
8 correct?

9 A Nneka.

10 Q Nneka. So is Rita like a nickname of Nneka or
11 is that just a nickname you use?

12 A It's my English name.

13 Q It's your English name?

14 A Yes.

15 Q But you were born in Nigeria, correct?

16 A Yes.

17 Q And your name at birth was Nneka Chidibere
18 Okeke?

19 A Nneka Rita Chidibere Okeke.

20 Q Nneka Rita Chidibere Okeke?

21 A Nneka Rita Chidibere Okeke.

22 Q Now, Okeke, you had the name Okeke at some
23 point?

24 A That's my last name.

25 Q That is the last name that was on your passport

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 went you came over here, correct?

2 A Yes, ma'am.

3 Q But you are known by different versions of that
4 Nneka Rita Chidibere Okeke, correct?

5 A No. Nneka Rita Chidibere Okeke.

6 Q Okay. And at some point mid 2015, 2017, you
7 come to the United States, correct?

8 A Yes.

9 Q And you were working, at that time, for an
10 insurance company; is that correct?

11 A No.

12 Q You were working for what kind of company?

13 A I was not working with insurance company. I was
14 doing -- working at Ulta as a makeup artist.

15 Q I didn't understand that. If you can just
16 describe the kind of work you did when you came here?

17 A I was working at Ulta Beauty as a make-up
18 artist.

19 Q A makeup artist?

20 A Yes.

21 Q And I'm sorry, the microphone, sometimes it can
22 help and sometimes it can hurt. I don't mean to belabor
23 the point. You had worked for an insurance company in
24 Nigeria, is that correct, Royal Insurance Company?

25 A No.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q You never worked for them?

2 A Yes.

3 Q Had you always worked as a makeup artist?

4 A That's what I do. I do a little business.

5 Q But here in America, you worked for, like, a

6 label printing company or some other type companies,

7 correct?

8 A No printing company.

9 Q No?

10 A I work in [indiscernible], that's a printing

11 company.

12 Q A printing company?

13 A Yes.

14 Q That's what I said. I think at some point, one

15 of the pictures of your shirt might have even had one of

16 their logos on it, correct?

17 A Yes, I used to have a logo.

18 Q You weren't doing makeup artist stuff for them,

19 right?

20 A Yes.

21 Q You're doing makeup artist for a printing

22 company?

23 A No.

24 Q So my question was, and I don't mean to confuse

25 you, that's really not my goal, all right. So listen to

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 my question, if you don't understand, feel free to ask me
2 to restate it. You had worked at some point for a makeup
3 company. At some point, you immigrate to the United
4 States sometime between 2015 and when you marry Mr. Dunn
5 2018, correct?

6 A No.

7 Q No?

8 A I used to visit America 2015. I visit, I went
9 back. I came again 2016. I visit, I went back. I came
10 2017, that was when I had met Mr. Dunn.

11 Q Then you get married in 2018?

12 A Yes.

13 Q And I think you're working at companies that are
14 near one another; is that right?

15 A Huh-uh.

16 Q Okay. But you are working kind of the
17 Simpsonville, Gray Court area around that time, correct?

18 A Yeah, Fountain Inn.

19 Q Fountain Inn?

20 A Yes.

21 Q Fountain Inn can kind of -- Simpsonville,
22 Laurens kind of overlaps down there, correct?

23 A I just know that's Fountain Inn.

24 Q All right. And you stated over the course of
25 the time you knew Mr. Dunn, you lived in approximately

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 three to four apartments, correct?

2 A Yes.

3 Q And on -- and then you stated at one point, you
4 referenced children. Those are children that are back in
5 Nigeria, correct?

6 A Say that one more time.

7 Q Your children reside in Nigeria?

8 A Yeah.

9 Q They are not children you have with Mr. Dunn,
10 correct?

11 A Yes, yes.

12 Q They're children you have with Mr. Dunn?

13 A No, no, I said no.

14 Q Okay. The children that you have are from
15 Nigeria?

16 A Yes.

17 Q They are not children that you have with
18 Mr. Dunn, correct?

19 A Yes.

20 Q They are children you have with another man in
21 Nigeria?

22 A Yes.

23 Q And he, also, lives there, correct?

24 A Yes.

25 Q In closer proximity to your children than you?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 He lives there near your children; is that correct? They
2 live near their father?

3 A Yeah, he's their father.

4 Q Again, I don't mean to confuse you. At some
5 point, you move here to work for a label or print company,
6 correct?

7 A No, I came here for a tourist visit. I came
8 here for a visit.

9 Q That's how you met Levy Dunn?

10 A Yes.

11 Q And that you've done some work as a makeup
12 artist, but then when you came to the United States, you,
13 also, did some work for companies here in town?

14 A Yeah, I work for [indiscernible], auto body,
15 that's where I work when I was with him.

16 Q All right. And you stated -- when Mrs. Scott
17 started taking you through the day, you stated you had
18 gone to Wal-Mart, correct?

19 A Who take me?

20 Q You had gone to the store to buy food?

21 A Oh, yeah.

22 Q I thought you said you went to Wal-Mart, did you
23 go to a different store or is that where you went?

24 A I went to Wal-Mart. I went to Dollar General,
25 too.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q And you stated at some point in the later
2 evening hours, you go back home, correct?

3 A Yes.

4 Q And that you are going -- you said you put your
5 food away, right? You put the food in the refrigerator?

6 A Yes.

7 Q Then you're going to go into the bedroom or the
8 bathroom and you take your wig off and just kind of relax
9 before you start cooking food for the next day?

10 A That's what I was going to do.

11 Q All right. But you -- at that time when you get
12 home, he's in the living room, correct?

13 A Yes.

14 Q And you said there's a really loud video
15 playing?

16 A The television.

17 Q The television?

18 A Yeah, once I walk into the room, he turn the
19 volume on the television so loud.

20 Q All right. And that you then go -- you then go
21 into your master bedroom, right? You all shared a
22 bedroom, correct?

23 A That's the master bedroom.

24 Q All right. There's no bed in the other bedroom,
25 right?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A There was no bed in the other bedroom.

2 Q I think there was a bedframe maybe on the floor
3 we saw?

4 A Yes.

5 Q But that you go in there, right?

6 A I didn't go in there.

7 Q You went in the master bedroom?

8 A Yes.

9 Q And the master bath?

10 A Yes.

11 Q And you state that you were going to take off
12 your wig, right?

13 A Yes.

14 Q Just kind of start relaxing for the night,
15 correct?

16 A When I took off my wig to the bathroom, I came
17 to the living room. Because in the bedroom, I heard a
18 loud noise of the television. That was why I sat back on
19 the edge of the bed.

20 Q I'm confused because you said you came into the
21 living room, but then you go back into the bedroom and you
22 sat on the edge of the bed?

23 A No. When I came out from the bathroom, then I
24 sat on the bed.

25 Q All right. We'll move on. I don't know at this

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 point we're getting anywhere. So at some point, he comes
2 into the bedroom and first -- your testimony is first ask
3 you about your car keys, correct?

4 A Yes.

5 Q And at that point, you say you don't want to
6 give him the keys. And then a fight develops between the
7 two of you, correct?

8 A By the time I'm questioning why do you want my
9 car key, you don't have a license, he already punched me
10 and push me into the bed.

11 Q Before you could even respond?

12 A Yes.

13 Q So knocks you back down on the bed?

14 A Yes.

15 Q But then at some point, you notice he's wearing
16 a glove or gloves? You said both, so I don't know.

17 A He has two gloves in his hands when he came in.

18 Q Just in his hands?

19 A One is in his hand when he walked to the room.

20 Q Okay.

21 A Yes.

22 Q Okay. But that's after he punched you in the
23 head?

24 A No. He had the gloves together with him.

25 Q Okay. So he comes in there wearing gloves

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 demanding your keys?

2 A Yes.

3 Q You hadn't had a conversation when you got home,
4 like, hey, now, that you're home, can I have the keys?
5 That happens once you get back in the bedroom?

6 A I didn't have any conversation. When I walk
7 into the house, I smell the smoke and he was acting funny.

8 Q I'm back in the bedroom now. When he comes into
9 the bedroom to ask you about the keys, prior to that, you
10 had not had any previous conversation about the keys,
11 correct?

12 A No.

13 Q He didn't text you while you were at Wal-Mart,
14 hey, when you get home, can I take the car, nothing like
15 that?

16 A No.

17 Q So your testimony here is he just walks into the
18 bedroom with gloves on his hands and before -- demands the
19 keys and before you can even respond starts punching you,
20 right?

21 A Yes.

22 Q Okay. And that you're knocked back on the bed,
23 right?

24 A Yes.

25 Q But then further on, Mrs. Scott asked you how he

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 managed to take your car and you state at some point
2 during this struggle he manages to reach into your pocket
3 and take the keys?

4 A No, when I was on floor.

5 Q Oh, on the floor?

6 A Yes.

7 Q Not this original time when he punched you, he
8 doesn't get the keys then?

9 A No.

10 Q No. At that point, you say he then gets a
11 knife, right?

12 A Yes.

13 Q But you haven't seen a knife up until then,
14 right?

15 A No.

16 Q No. So then you stated that there's some type
17 of physical altercation on the bed, right?

18 A That's when he pushed me on the bed and cross me
19 over, start punching me, bit me in the hand right here.

20 Q He bit your hand?

21 A Yes. With his teeth.

22 Q Okay. When you're in the hospital and Officer
23 Pryzbylo is there, do you show him a bite mark or
24 anything?

25 A Yeah, I showed him.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q Do you know if he took a photograph of that?

2 A I can't recall.

3 Q You can't recall?

4 A Yeah.

5 Q But no reason that you would know he would
6 ignore that because you remember having that conversation
7 with him?

8 MRS. SCOTT: Objection, Your Honor, speculation
9 as to how Pryzbylo would know?

10 THE COURT: Sustained.

11 BY MRS. LIPINSKI:

12 Q He didn't dismiss that? He didn't say oh,
13 that's not a big deal or anything like that to you, did
14 he?

15 MRS. SCOTT: Your Honor, I think this question
16 has been asked and answered.

17 MRS. LIPINSKI: Your Honor, she was given --

18 THE COURT: Overruled.

19 BY MR. HOLCOMB:

20 Q And then at some point, you get knocked on the
21 floor, correct?

22 A Yes.

23 Q And then you state you get stabbed, correct, on
24 the floor?

25 A On the bed.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q On the bed you're stabbed, then knocked to the
2 floor?

3 A Yes.

4 Q But not stabbed again on the floor?

5 A He was on top of me pressing the one he stabbed
6 already.

7 Q He already stabbed you?

8 A Yes.

9 Q And he's pressing on that one.

10 A Yes, he pressing so hard. I was bleeding.

11 Q But at some point, he leaves you there?

12 A Yes. Because he told me in five minutes time I
13 will be gone. So I stop talking to him because I was
14 pleading for him to leave me and just go. So when I stop
15 talking to him --

16 Q I just want to go back to that. You talk about
17 the fact that at some point during this altercation, there
18 is quite a -- there's an exchange between the two of you
19 where you talk about I won't press charges and just go
20 and, you know, just go ahead and he's talking about other
21 things to you. Then you're talking about looking at a
22 picture of your kids and all of that, right?

23 A Yes.

24 Q That all happens while you're in the bedroom,
25 correct?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A Yes, when I was on the bed, that was when I told
2 him to run, to leave me and just go. I won't press him.

3 Q But then you say even on the floor, there's even
4 more conversation between the two of you?

5 A Yes.

6 Q So even though you've been stabbed like places
7 here, on the throat, busted lip, you're still having this
8 conversation with him in the bedroom?

9 A On the floor, yes.

10 Q And he's -- all right. Then you two go back and
11 forth, right? Then at some point, he leaves you and tells
12 you he's going to come back in five minutes?

13 A No, he didn't say he was going to come back in
14 five minutes. He said in five minutes time, I will die.

15 Q But he leaves you? You're alone in the bedroom?

16 A He left me when I stopped talking. I put my
17 neck by the side and I stop talking to him and that's when
18 he left.

19 Q So at some point he leaves you, right, and goes
20 back out into the living room?

21 A He left and went into the living room.

22 Q At that point, you stayed there for a little bit
23 on the ground, but then at some point, you pick up a
24 dumbbell, correct?

25 A Yes.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q But we know when you get to the neighbor's
2 house, right, that you have your cell phone, correct?

3 A Yeah, my cell phone was in my pocket.

4 Q In your pocket?

5 A Yes.

6 Q Okay. And at that point, he's in the living
7 room, correct?

8 A No, that time, I run. Nothing in the house when
9 I was running.

10 Q But at some point, you're in the bedroom alone,
11 correct?

12 A Yes.

13 Q All right. And at some point, you grab a
14 dumbbell, correct?

15 A Yes.

16 Q You have a cell phone, correct? You said it was
17 in your pocket?

18 A I didn't have my cell phone in my hand. The
19 only thing I had was the dumbbell to try to make it out of
20 there.

21 Q That's not my question. I'm not trying to argue
22 with you.

23 A Okay.

24 Q But at the time that you're in the bedroom, you
25 have your cell phone on your person?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A Yes.

2 Q Somewhere?

3 A Yes.

4 Q Right. And at -- he doesn't take that from you,
5 correct?

6 A No.

7 Q Because you still have it when you get to the
8 neighbor's house, correct?

9 A Yes.

10 Q And that you get up, correct?

11 A Yes.

12 Q And that you make the decision then you're going
13 to run for the door or something, right?

14 A Yes, I was trying to run out to go get help.

15 Q But you could have closed the bedroom door,
16 correct?

17 A I didn't close any door.

18 Q You could have closed the bedroom door, correct?

19 A Yeah.

20 Q You could have locked it, correct?

21 A I don't think there's any need for that. When
22 you are running for your life, you don't have to close any
23 door behind you. You just keep running.

24 Q Right, but he's out there and you're in the back
25 bedroom, correct?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A He's not in the back bedroom, he's in the living
2 room.

3 Q That was my question. He's in the living room.
4 To get to the door so you can get out of the apartment,
5 you would have had to go by him, correct?

6 A Yes. Yes.

7 Q At that point, you don't think he's left the
8 apartment, correct?

9 A No.

10 Q He's still there?

11 A Yes.

12 Q Yes. So you had the option, I'm not saying it
13 was a better decision or worst decision than what you did,
14 but you had the option because he is out of the bedroom to
15 lock the door, correct?

16 MRS. SCOTT: Your Honor, if I can just say she's
17 already answered this question.

18 THE COURT: Overruled.

19 BY MRS. LIPINSKI:

20 Q You had that option? I'm not saying it was a
21 better or worst option, but you had that option because he
22 is not in the bedroom with you at that point, correct?

23 A Yeah, but he wasn't in the bedroom with me. But
24 once I came out from the door, I look at him coming.

25 Q Okay. But you state at some point you're left

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 on the floor in the bedroom. That's when you see the pair
2 of dumbbells. You decide that's the one thing you can
3 pick up, right?

4 A Yes.

5 Q So you do that and decide to run for the door?
6 You don't lock the bedroom door? You don't lock the
7 bathroom door? And you don't use the cell phone that is
8 on your person to call 911?

9 A No.

10 Q And you state that part of the reason you don't
11 scream is nobody is living beneath you, right?

12 A That was what he told me.

13 Q That's what he told you, but you knew there were
14 other people in your vicinity, correct?

15 A People living opposite of us, but I don't know
16 why he told me that, like, I could scream hard, but nobody
17 would hear me.

18 Q I'm not asking you what he told you, Ms. Okeke.
19 What I'm asking you is you knew that you weren't living in
20 an apartment building that was completely vacate other
21 than you and Mr. Levy Dunn, correct?

22 A Yes.

23 Q You knew other people lived there, correct?

24 A Yes.

25 Q Whether they were below you, beside you, across

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 from you, any of those kind of things, there were other
2 occupants of that building, correct?

3 A Yes.

4 Q All right. And then you state that he's in the
5 living room when you exit the bedroom, correct?

6 A Yes.

7 Q And that you then make the decision, basically,
8 to try and get to the back door to get out, correct?

9 A To the front door.

10 Q All right. All right. I mean, was there more
11 than one door in that apartment building?

12 A Front door and then balcony.

13 Q Oh, a balcony?

14 A Yes.

15 Q But you're on the second floor?

16 A Yes, ma'am.

17 Q So whether we call it a back door or a front
18 door, the door to the breezeway is where you're trying to
19 get, correct?

20 A Yes, ma'am.

21 Q And that you decide to -- and all we have to do
22 is go the width of that living, kind of kitchen, dining
23 room all in one area, right?

24 A Yes.

25 Q And that you state somewhere around the kitchen,

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 he attacks you again?

2 A No, just came out from the door. He said, Oh,
3 you are still alive. That's when we start struggling
4 again.

5 Q That's when you're trying to fend him off with
6 the dumbbell?

7 A I try to hit him with the dumbbell and he
8 grabbed my hands.

9 Q And you told law enforcement you were able to
10 strike him multiple times, do you remember that?

11 A I didn't say multiple times, I tried to multiple
12 times.

13 Q But you struck him?

14 A No, I know he grabbed my hand from up.

15 Q But the officers even called the hospital
16 thinking he's going to show up there with his injuries.
17 You remember that?

18 A They ask me --

19 MRS. SCOTT: Objection.

20 THE COURT: Hold on just a minute. Hold on.

21 Just a minute.

22 What's your objection?

23 MRS. SCOTT: Well, the question was well,
24 officers even did this, do you remember that? Your
25 Honor, actually, I'll say exactly what she said,

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 officers even called the hospital, don't you remember
2 that?

3 THE COURT: So what's your objection?

4 MRS. SCOTT: Your Honor, speculation, I
5 apologize. How would she know about what officers --

6 MRS. LIPINSKI: Your Honor, she responded with
7 what the officers asked her and that she had that
8 conversation with them.

9 THE COURT: You're asking what the officers told
10 her?

11 MRS. LIPINSKI: I'm saying do you remember
12 having the conversation with the officers --

13 THE COURT: That question's okay.

14 MRS. LIPINSKI: -- where you said you struck him
15 and they said they were going to make sure -- they
16 were calling the hospitals to make sure --

17 THE COURT: Well, that's where the objection
18 came in.

19 MRS. LIPINSKI: I understand, but she can recall
20 that conversation.

21 THE COURT: She can recall the conversation, but
22 she can't testify as to what those officers said.

23 BY MRS. LIPINSKI:

24 Q But you remember having that conversation with
25 him about his potential injuries, correct?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A No.

2 Q You don't remember that now?

3 A I don't remember his potential injuries.

4 Q Okay. But you have this dumbbell in your hand,
5 correct?

6 A Yes, ma'am.

7 Q If you can save your life, you're going to use
8 it, correct?

9 A Yes.

10 Q You're not going to just thug the wall with it
11 or hold it in your hand, right?

12 A Yes, ma'am.

13 Q I mean, your testimony is you're fighting for
14 your life, so if you have the opportunity to do it, you
15 would, wouldn't you?

16 A Yes.

17 Q You stated at some point in the kitchen area,
18 near the kitchen, there's like an island, right? Do you
19 understand what I mean by that?

20 A No, ma'am.

21 Q You don't know what I mean by the --

22 A Island, no.

23 Q Remember Mrs. Scott showed you this floor plan
24 of all the apartments, right?

25 A Yes, ma'am.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q Try and move this picture out of the way. This
2 countertop sink area in the middle?

3 A Okay, yes, ma'am, I know.

4 Q All right. Some people call it an island, we'll
5 call it a countertop. You say around that area in the
6 kitchen -- because that's the kitchen, right?

7 A Yes, ma'am.

8 Q That he comes from behind and starts stabbing
9 you from behind now, correct?

10 A Say that one more time, please.

11 Q You stated previously that at some point in the
12 kitchen area, he's in the living room, as you're running
13 for the back door that he comes and he starts stabbing you
14 from behind and you're bent over, remember that?

15 A Yes.

16 Q But other than these wounds to your top
17 shoulder, you don't have further injuries lower on your
18 back, correct?

19 A I don't have lower on my back. I have here on
20 my shoulder.

21 Q But you stated that you were bent over and that
22 he is stabbing you from behind, correct?

23 A Yes, I went like this and he's stabbing from
24 behind.

25 Q And those are separate and apart from the

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 injuries you stated you received in the bedroom, correct?

2 A Yes, ma'am.

3 Q At some point, you, also, even testified that
4 he's stabbing you on your stomach and trying to your get
5 clothes off?

6 A Tried to.

7 Q But you don't have any injures to your abdomen?

8 A No, ma'am.

9 Q You [indiscernible] this bite mark, but you
10 never lift up your shirt and say there's any defensive
11 wounds, strikes, cuts, nicks, bleeding, anything like that
12 in your abdomen area at any time, correct?

13 A Yes, ma'am.

14 Q All right. And showing you State's Exhibit No.
15 2, that's a picture of you when you were still outside of
16 the neighbor's house, correct?

17 A Yes.

18 Q At that point, while your shirt has come up a
19 little, your clothes are fully intact, correct?

20 A Yes, ma'am.

21 Q And that you have on some type of capri pants
22 that are -- I don't want to say tight, but they're not
23 loose, capri kind of. They went to about your knee,
24 correct?

25 A Yes, they're shorts.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q Okay. So going back to the bedroom, there's --
2 you say you're stabbed in the bedroom, you're stabbed in
3 the kitchen and then there's something by this thermostat,
4 right? You know what I'm saying, the air freshener, the
5 thermostat? Remember Mrs. Scott's questions about that?

6 A Yes.

7 Q Do you understand what I mean when I say
8 thermostat?

9 A Thermostat?

10 Q Control the air?

11 A Oh, yes, ma'am.

12 Q Okay. Then you get to the back door and that's
13 where there's another allocation, correct?

14 A Yeah, the front door.

15 Q All right. That leads to the breezeway, the
16 breezeway door, not the balcony door, right?

17 A Yes, ma'am.

18 Q And you state there's some kind of altercation
19 there. And you still have the dumbbell in your hand there
20 because you kind of drop it there at the door, correct?

21 A Yes, ma'am.

22 Q And you say there's more stabbing there,
23 correct?

24 A Yes.

25 Q But despite all this, you're able to get the

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 back door opened?

2 A Yes.

3 Q That you get down out of that building, correct?

4 A Yes, ma'am.

5 Q All right. And Mrs. Scott showed you State's
6 Exhibit No. 12, your apartment would have been at the top
7 of those stairs, right?

8 A Yes.

9 Q Then showed you State's 17 because there's -- so
10 if you come out of your apartment, right, as you come out
11 of your apartment, the wall to the apartment, right, as
12 you're going down those steps is on your right side,
13 correct?

14 A Yes.

15 Q All right. But looking at you now, the injuries
16 to your neck are to the left-hand side, correct?

17 A Yes.

18 Q All right. And then we get to the ground at the
19 neighbor's house, No. 2, you stated at that point, you
20 just kind of lay down. At that point, you're kind of
21 exhausted, right?

22 A Yes, ma'am.

23 Q Because you have gone not just from one
24 building, but you've gone out, you saw a police car,
25 right?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A Yes.

2 Q You said you tried to bang on the police car,
3 you tried to bang on another car to try to set off the
4 alarm, you're screaming trying to get anybody to help you,
5 correct?

6 A Yes, ma'am.

7 Q But you're all the way down to this other
8 breezeway. When they showed you this picture, you didn't
9 know if anybody was coming to help you, the person
10 rendering aid is taking the picture, correct?

11 A Yes.

12 Q Then at some point, there's some other people
13 showing up, you get scared that he might come around so
14 you jump up and they get you into this other apartment
15 building, right?

16 A Well, I was running to the next building. So I
17 thought that I saw him when he turned the vehicle. So
18 when I run to woman that helped me, she asked me if he was
19 coming behind me and I told her no. She said, don't worry
20 if he's coming, we will help each other. I have a gun to
21 protect us. That's what she told me. And ran out trying
22 to get help for me.

23 Q You lay down outside, but at some point, you
24 stated that you got spooked he might be coming back. You
25 jump up and at that point, decide to go into this other

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 apartment, correct?

2 A No, I was laying outside. That was the people's
3 apartment, that's where I was laying.

4 Q This isn't outside in State's Exhibit No. 2?

5 A Yeah, it was like in their apartment.

6 Q Right. But in State's No. 3, you move inside?

7 A Yeah, they moved me inside.

8 Q So at some point, you were able to get inside,
9 correct?

10 A Yes, ma'am.

11 Q All right. And they take you to the hospital
12 and you stated that you stayed there a week plus, correct?

13 A Yes, if I'm not mistaken.

14 Q Would it surprise you to learn that you were
15 discharged four days later?

16 A Okay.

17 Q All right. And you stated that at some point,
18 he took your ID and your credit cards and used them,
19 correct?

20 A Yes, ma'am.

21 Q All right. But he didn't take that off your
22 person?

23 A He took it from my purse, my pocketbook.

24 Q Your pocketbook?

25 A Yes, ma'am.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q But the keys he somehow got from your person?

2 A Say that one more time.

3 Q The keys weren't in your purse?

4 A The keys?

5 Q Uh-huh. The keys to your car, were they in your
6 purse?

7 A No, he took the key when I was on the floor. He
8 took it from my pocket.

9 Q But everything else was in your purse?

10 A Yeah, my credit card was in my purse in my car.

11 Q You left your credit car in your car?

12 A In a pocketbook.

13 Q In a pocketbook?

14 A A small, like a wallet. I leave it in my car.

15 Q You left that in your car?

16 A Yes, ma'am.

17 Q So the only thing you walk upstairs with is your
18 keys and food?

19 A Yes.

20 Q Okay. All right. But the argument that you're
21 having you say this entire time is over whether or not he
22 can have the keys to your car, correct?

23 A Say that one more time.

24 Q The argument is -- you claim the argument that
25 day is whether or not he can have the keys to your car,

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 correct?

2 A We don't have a argument, he just asked for the
3 car key. I was like I'm surprised he's asking for the car
4 key because I knew you don't have a license to drive.

5 Q Okay. But you saying you can't have the car key
6 started the argument. Are you just saying he attacked you
7 for no reason now?

8 A No, that's not what I'm saying. He asked for
9 the car key, I didn't give it to him. But after I finish
10 talking, like, responding to him and he punched me and
11 pushed me on the bed.

12 Q Just not about the keys now?

13 A It was about the key.

14 Q You just said it wasn't about keys because
15 couldn't respond about the key.

16 A It was about the key.

17 Q It is about the key?

18 A It's about the key.

19 Q All right. So your testimony today is that it
20 was about keys and that at some point when you're in the

21 bed or on the floor, that he reaches into your pocket and
22 gets those keys from you, correct?

23 A Say that one more time, please.

24 Q When you're separated from the keys, when he
25 gets the keys from you, right, that is in the back master

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 bedroom, correct?

2 A Yes, on the floor.

3 Q All right. Instead of taking your keys and
4 leaving, he goes out into the living room, correct?

5 A Yes.

6 Q And waits. Then you lay on the floor for while
7 and there's something about five minutes, then at some
8 point, you pick up the dumbbell and decide to run to the
9 breezeway door, correct?

10 A That was what happened.

11 Q That's what happened?

12 A Yes.

13 Q And all of this over whether or not he will give
14 you those keys, correct?

15 A I didn't ask for the key. I didn't ask him to
16 give me the key back or anything. He take the key -- he
17 took the key when I was helpless on the floor.

18 Q All right. But that's what he originally says
19 to you when he just comes into the bedroom, right?

20 A Say that one more time.

21 Q He originally demands the keys? You go in, take
22 the wig off, going to sit down, going to relax. He comes
23 in and says I want the keys to the car, correct?

24 A Yes, ma'am.

25 Q So all of this is over that, correct?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 MRS. SCOTT: Objection, Your Honor, to her
2 summarizing what all this is about. At this point,
3 this witness had explained.

4 THE COURT: Sustained, let's move on.

5 BY MRS. LIPINSKI:

6 Q Let me show you what's been marked as 88, 89, 90
7 and 91, those are text messages you claim you got from
8 Mr. Dunn, correct?

9 A Yes, ma'am.

10 Q But those are from WhatsApp, correct?

11 A Yes.

12 Q Which in this photograph, it says they're double
13 encrypted, correct? Messages and calls are encrypted,
14 right?

15 A Yes.

16 Q This is never a number you called him at,
17 correct?

18 A I never called him.

19 Q So WhatsApp is you can go on and it's not
20 actually tied to a number, you can create kind of a new
21 number, correct?

22 MRS. SCOTT: Your Honor, she said correct, so I
23 believe The Defense is testifying as to what WhatsApp
24 is at this point.

25 MRS. LIPINSKI: Just asking her if she knows and

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 I'm trying --

2 THE COURT: Overruled.

3 MRS. LIPINSKI: She's the one authenticating
4 this. I'm allowed to go into her ability to do that.

5 THE COURT: Overruled.

6 THE WITNESS: Repeat the question.

7 BY MRS. LIPINSKI:

8 Q So WhatsApp is you can go in and create a
9 profile and text someone not necessarily from your phone
10 number, but from a new number that WhatsApp gives you,
11 correct?

12 A It's a download. You download it on your phone
13 through the app store. Then you create it and start
14 texting or calling.

15 Q It's used a lot of times for international
16 because it kind of works for like texting international
17 folks, correct?

18 A It's everywhere, yes.

19 Q So you even use it not just to communicate with
20 Mr. Dunn, but with other people, correct?

21 A I do, yes.

22 Q Even relatives in Nigeria?

23 A Yes.

24 Q So there are people there that even before this,
25 before, during and after, you were communicating with in

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Nigeria?

2 A Yes.

3 Q And the person in these text messages uses
4 Nigerien language, correct?

5 A The text messages is in Nigerien language.

6 Q It's not all in English. You had to translate
7 them for us?

8 A Oh, yeah, just on one line used Nigerien
9 language.

10 Q But there's State Exhibit No. 89 where that
11 appears, correct?

12 A Right.

13 Q And on State's Exhibit No. 90 where that
14 appears, correct?

15 A Yes.

16 Q So there's two text messages alleged to be in --
17 what language is that?

18 A Is Igbo language.

19 Q And that is your native tongue, correct?

20 A Yes.

21 Q English would be your second language, right?

22 A Yes, ma'am.

23 Q All right. And you do have a husband in
24 Nigeria, do you not?

25 A No.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q You had one at one time, correct?

2 A No.

3 Q You were never married to your children's
4 father?

5 A No, we're coparenting.

6 Q You're coparenting?

7 A Yes, ma'am.

8 Q But you were never married to him?

9 A Yes, ma'am.

10 Q And you don't communicate with him through
11 WhatsApp or any other means?

12 A I don't communicate with him for a long time.

13 Q But he is still the father of your children,
14 correct?

15 MRS. SCOTT: Objection, Your Honor --

16 THE WITNESS: He's the father of my children.

17 THE COURT: Hold on.

18 MRS. SCOTT: At this point, I think we're not in
19 relevant territory. I don't know why we're talking
20 about often how she talks --

21 THE COURT: Overruled for now. Give you a
22 little leeway. Move on.

23 While she's marking, let me see the lawyers.

24 (WHEREUPON, an off-the-record bench conference
25 was held in the presence of the jury but out of

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 the hearing of the jury.)

2 (WHEREUPON, Defendant's Exhibits Nos. 1-3 were
3 marked for identification only.)

4 THE COURT: Ladies and gentlemen, I'm going to .
5 excuse you just for a few minutes.

6 (WHEREUPON, the jury left open court at
7 approximately 5:04 p.m.)

8 THE COURT: All right, let me hear from
9 Mrs. Scott.

10 MRS. SCOTT: Your Honor, originally, I objected
11 to the relevance because this line of questioning is
12 pertaining to text messages through WhatsApp. I'm
13 thankful that you called a recess because I didn't
14 know there were about to be some photographs shown.
15 This is exactly the testimony that I was talking
16 about since Monday. I believe Defense counsel is now
17 trying to introduce photographs from a Nigerien
18 wedding to authenticate whether or not she was
19 married. I told The Court that if we were to do
20 this, then we would start to have to litigate whether
21 or not these documents represent that.

22 And so I just wanted The Court to be aware that
23 I think it is not relevant. I think if it is she
24 needs to proffer it as to why she believes this is
25 relevant. And if so, The State would need to, also,

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 rehabilitate as to actual foundation of whether or
2 not this is a marriage.

3 THE COURT: Mrs.~Lipinski, what's the relevance
4 of the fact of whether or not she was married or not
5 in Nigeria to this domestic violence case?

6 MRS. LIPINSKI: Well, twofold, Your Honor.
7 First, The State put in these text messages from
8 WhatsApp. In it, there is Igbo language, somebody
9 referencing her husband. She admits that she
10 communicates with people from Nigeria via that app.
11 So first and foremost, I think it goes to do you have
12 a relationship where these could come from somebody
13 else who meets that description. Whether in Nigeria
14 they use the same language as husband, whether it is
15 a sanction marriage, not sanction marriage, whether
16 they got divorced or any of those type things, there
17 still could be someone in Nigeria that she's admitted
18 that she communicated with who's the father of her
19 children who could also be behind these text
20 messages.

21 So The State chose to go there and because she's
22 the only one authenticating it because there's no
23 phone tying it back to Mr. Dunn or anything else,
24 then I think The Defense is allowed to call into
25 question that these could have come from somewhere

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 else.

2 Moreover, as we have said in other lines of
3 questioning is that the argument really could have
4 been about these photographs, about whether or not
5 she had this language, about whether or not she was
6 being faithful to him. And I think we're allowed to
7 present our own defense and allowed to explore that.
8 She can deny the photographs, that's fine. She can
9 say yes, that's me. She can say that's me, but I
10 wasn't getting married. She can say that's not the
11 father of my children. But I think I'm allowed to
12 confront her that somebody matches that description
13 in Nigeria that could, also, be texting her and
14 saying these things to her, particularly in Igbo
15 language, and that could have been a bone of
16 contention between her and Mr. Dunn.

17 THE COURT: Mrs. Scott.

18 MRS. SCOTT: I disagree, Your Honor. First, she
19 stated that she's not married. She does not have a
20 husband. During our pretrial motions, I was told to
21 redact even more that would have authenticated that
22 this is not whoever this man is in the photographs.

23 Also, Your Honor, in regards to the fight being
24 about the photographs, we've heard none of that. It
25 was maybe possibly going to be a fight about whether

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 or not there was another man involved, but not about
2 some photographs and some evidence that he found
3 about these photograph, that's new. It still hasn't
4 been presented.

5 Again, Your Honor, the question was asked is she
6 married. Reply, No. Then the question was asked,
7 Well, what about the children's father, did you marry
8 him?

9 No.

10 Then another question was asked about, Well, do
11 you talk to a man in Nigeria through WhatsApp or
12 family in Nigeria?

13 Absolutely, she said, Yes.

14 Now, we have already heard her testimony that
15 the one line, I'm going to repeat it twice, the one
16 line in her native language is a line that she taught
17 him. Your Honor, I believe that this is sufficient.
18 If we go into this with these photographs, we are now
19 in a domestic violence high and aggravated trial
20 about to go into the nature of these photographs,
21 what these photographs are. If they're going to be
22 entered into evidence, I have no other choice than to
23 actually now start talking how this is not her
24 husband.

25 Now, we have to go into that, now we're going

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 into the perception of this man. Do they think that
2 that's her husband? We're doing too much, Your
3 Honor. Now, we have to speculate that the phantom
4 man The Defense wants us to believe is behind these
5 text messages, he think that he's her husband. She
6 said he's not her husband. We should stop it there,
7 Your Honor.

8 THE COURT: I'll let you respond, Mrs.~Lipinski.

9 MRS. LIPINSKI: Briefly, Your Honor. Whether he
10 used the word as husband in Nigeria, whether it's a
11 marriage, whether or not they have a -- and I'm not
12 trying to be derogatory in any way, but the Nigerien
13 equivalent of that, she, obviously, had multiple
14 children with this man, there's some type of
15 connection with him for some period of time who could
16 be texting her along those veins. And whether it's
17 real or not, that could have been an issue where
18 somebody was driving a wedge in their marriage.

19 I think that I'm allowed both in terms of
20 authenticate the credibility of WhatsApp from an
21 unknown origin other than from this witness, but,
22 also, what was the nature of this argument? I'll tie
23 it up. We'll get there with a little leeway. I'm
24 not going much further than this, but I should be
25 allowed to, at least, present these pictures to her

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 and ask her if she can identify the people in them,
2 if she's ever seen them, whether that reflects a
3 wedding ceremony or other romantic ceremony with this
4 man who's the father of her children.

5 THE COURT: But she's testified that she's not
6 married to this man and she testified that she does
7 have communications through WhatsApp with family and
8 people in Nigeria. And she has testified that this
9 was a text message from him, from The Defendant. But
10 where do you make -- where do you get the link to
11 then jump into whether or not they're married or not?
12 And then we're going to go down the hole of
13 determining whether she's married or not. As I told
14 you yesterday, told everyone yesterday, this is a DV
15 HAN case and I don't want to get to trying whether or
16 not somebody in Nigeria is married. She testified
17 that she's not. But I think it may open the door to
18 some degree to start trying issues in the case as to
19 whether or not the witness is married down there. I
20 don't want to do that. I don't think that's relevant.
21 I think --

22 MRS. LIPINSKI: Your Honor --

23 THE COURT: She's testified that they -- she
24 testified that the argument was not over that.
25 There's no testimony about that.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 MRS. LIPINSKI: I understand that, but I don't
2 have the option of letting her testify and me calling
3 her. This is the one opportunity I have to confront
4 her with this, that the argument could have been
5 worth more. I think The Defense has gone through the
6 line the questioning about the fact that he got the
7 keys and didn't leave, that this argument was worth
8 more. She does --

9 THE COURT: You actually asked her about three
10 or four times about whether or not the argument was
11 about the keys.

12 MRS. LIPINSKI: I understand that. I apologize,
13 you know, you've given us a lot leeway. I'm trying
14 to get there as fast as I can that there was this
15 other issue in their marriage. And it doesn't say
16 that that marriage was negated, it just said there's
17 another relationship in your life. Whatever label
18 she wants --

19 THE COURT: She's already testified to that.
20 You actually crossed her about that, whether or not
21 she has a relationship. She says she does. The
22 father of her children lives down there in Nigeria
23 and that they live close to her -- or their father.

24 MRS. LIPINSKI: She tried to say it was limited
25 to coparenting, but I think I'm allowed, in terms of

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 credibility, whether she's being truthful that the
2 relationship was beyond just coparenting.

3 THE COURT: Well, what do the pictures show?

4 MRS. LIPINSKI: All right, Mrs. Scott, what
5 about the -- I assume you've seen these photographs?

6 MRS. SCOTT: Let me look at them. I haven't
7 seen them. I saw them over April's shoulder, sort
8 of.

9 THE COURT: Take them and let Mrs.~Westfield
10 look at them.

11 MRS. SCOTT: Okay. Your Honor, if this is in
12 response to coparenting, response -- her question was
13 what's your relationship with the man?

14 And she said, Coparenting.

15 The fact that before you have children, there is
16 a dating period, we hope, you know, that's what that
17 might be. But, Your Honor, again, the question was,
18 what is your relationship with this man now?

19 And she said, Well, just coparenting. We don't
20 really talk.

21 At that point, that's there. I don't think we
22 can start just trying to grasp at straws and try to
23 connect it to these pictures.

24 I renew my argument about going into the
25 validity of what this is. We are out of relevant

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 territory. This is not proper for impeachment. I
2 just believe this is improper.

3 THE COURT: What do -- who took those pictures
4 and where are they from?

5 MRS. SCOTT: I'll let them tell you where they
6 got the photos.

7 MRS. LIPINSKI: We got them from my client. So
8 someone sent them to him, Your Honor. I didn't get
9 them from The State.

10 And what it goes to is, it doesn't have to be a
11 legitimate fear in his mind. It doesn't have to be
12 the veracity of these kind of things. If somebody in
13 Nigeria, as I said, trying to put a wedge in the
14 marriage, all those kind of things, that could have
15 been the subject. There's been questions about the
16 video, all of this. There's other things. It's not
17 going to be much longer, it's just going to be -- if
18 she had said yes, I had a romantic relationship. We
19 were never married, now, we're coparenting. But
20 she's trying to say no, there's no relationship, no,
21 there's no husband. She's not acknowledging there
22 was even, as Mrs. Scott said, a dating relationship.
23 I'm just trying to establish that, that she does have
24 another significant relationship with someone in
25 Nigeria. She has children over there. There could

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 be jealousy or other issue.

2 THE COURT: Through your questioning, you
3 established that her children live in Nigeria, that
4 they don't live here. In fact, you asked her two or
5 three times the same question. Your children don't
6 live here? Your children don't live with you? Your
7 children live with somebody else? You went over and
8 over with that.

9 So I think you accomplished that, that she does
10 not live here with her children and that her children
11 live somewhere down there in Nigeria. You, also,
12 asked her did they live with their father. You asked
13 her, These are not children of Mr. Dunn, are they?

14 And she said, No, they're not.

15 And they're children with another man and that
16 man lives in Nigeria. You asked her a couple times
17 about that as well. You said again -- you asked her
18 whether or not the children lived near her father --
19 or the father of the children and she said they did.
20 And so you have somebody that has a relationship,
21 obviously, because they had children together.

22 So going back to your argument just now, you've
23 established that. You've established that the
24 children -- her children live in Nigeria, her
25 children do not live here with her, her children live

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 near the father of their children and they live in
2 Nigeria. So you've established everything that you
3 just set forth of what you wanted to establish. It
4 sounds like you accomplished what you wanted to
5 accomplish. That there's somebody in Nigeria, that
6 she had a relationship with somebody in Nigeria, that
7 that person is the father of her children and they
8 live in Nigeria. So everything what you're talking
9 about to try to prove that, well, it could be
10 somebody that she's communicating with down in
11 Nigeria. It could be somebody who had a relationship
12 with her in Nigeria. It could be somebody who had a
13 relationship with her in Nigeria and driving a wedge
14 between the relationship. So to me, it sounds like
15 you accomplished what you just were arguing.

16 The fact that you then go the step of a picture
17 from your client you say that shows whatever that is
18 on those photographs is just too far. I think you've
19 established what you wanted to establish. And it was
20 to make that argument to the jury that there is

21 somebody down in Nigeria who is the father of her
22 children that could possibly be driving a wedge
23 between Mr. Dunn and this witness.

24 So for those reasons, I'm not going to allow the
25 photographs into evidence and cross on it. I think

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 The Defendant has made ample progress from their
2 strategy in determining or proving that there is
3 someone down in Nigeria who happens to be the father
4 of her children who she could be -- who, arguably,
5 according to The Defense argument, could be driving a
6 wedge between the two. So think The Defense has
7 gotten what they want, so I'm not going to allow the
8 photographs or the cross-examination about the
9 marriage.

10 All right, bring them back in.

11 MRS. LIPINSKI: Your Honor, can we take a
12 five-second restroom break?

13 THE COURT: Yes.

14 Just for logistical purposes, we'll finish up
15 this witness for the day. Then what I'm going to do
16 is I'm going to start early in the morning, probably
17 at 9:00. So what are you --

18 What's it looking like from The State's point of
19 view for tomorrow?

20 MRS. SCOTT: We're nearly done. I had the
21 property and evidence to come in through Diane
22 Kennedy today, just that she did get it and put it in
23 the storage closet. But she can come -- she was my
24 last witness today. Is it possible -- I don't think
25 she -- I don't know, I don't know. I asked them, but

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 I don't think she --

2 THE COURT: She just has --

3 MRS. SCOTT: She's bringing the evidence in that
4 was collected that was testified to by Deputy Wright
5 -- sorry, Sergeant Wright. She's bringing in all the
6 evidence. I had her bring it in today so that we
7 could get it into the storage locker. I don't
8 anticipate her being a long witness, but maybe it
9 might be, according to The Defense. I'd like to get
10 her done. She's been here since 3:30.

11 THE COURT: Yeah, I would like to possibly get
12 through if we can. We've still got
13 cross-examination. Let me just see how the rest of
14 this goes, then we'll determine if -- and that's your
15 last witness?

16 MRS. SCOTT: For today, yes, Your Honor.

17 THE COURT: Then how many tomorrow?

18 MRS. SCOTT: I've got a doctor, I told him 9:30
19 to be here. The one that I originally requested
20 remote. If I need to tell him to come here earlier,

21 I can.

22 THE COURT: You do, nine o'clock.

23 MRS. SCOTT: Yes, sir, I'll text him.

24 THE COURT: So you've got that doctor and then
25 how many other witnesses, potentially?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 MRS. SCOTT: Then I have a Deputy Freeman and
2 Investigator Donnelly.

3 THE COURT: Okay. All right, bring them in.
4 (WHEREUPON, the jury entered open courtroom at
5 approximately 5:21 p.m.)

6 THE COURT: All right.

7 MRS. LIPINSKI: I'm just going to try and tie it
8 back in, but I promise I understand The Court's
9 ruling.

10 THE COURT: All right.

11 BY MRS. LIPINSKI:

12 Q So you have three children in Nigeria, correct?

13 A Yes, ma'am.

14 Q Obviously, at some point, you had some kind of
15 romantic relationship with their father, right?

16 A Yes.

17 Q That you had these three children with him,
18 correct?

19 A Yes.

20 Q And drawing your attention to State's Exhibit
21 No. 90, when you go to the top, it says, You know me now.
22 So there appears to be some confusion about who they said?

23 A [Indiscernible]

24 THE COURT REPORTER: Ma'am, I can't hear you.

25 THE WITNESS: This is Levy's number. This

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 number is a South Carolina number. He texted me on a
2 regular phone, so this is the one I provide. If you
3 want me to provide more, I can.

4 BY MRS. LIPINSKI:

5 Q But the first one says, You know me now;
6 correct?

7 A Yes, ma'am.

8 Q All right. One of them states, You know who I
9 am; correct?

10 A Yes.

11 Q All right. And the audio call that Mrs. Scott
12 played with you, you started off going, Who's this? Do
13 you remember that at the beginning?

14 A Yes.

15 Q All right. And you did, after you got out of
16 the hospital, at some point, go back to Simpsonville
17 Police Department. You go there -- actually, let me back
18 up. So you say that you two are arguing about these keys
19 back at the apartment, correct?

20 MRS. SCOTT: Objection, Your Honor, asked and
21 answered.

22 MRS. LIPINSKI: Your Honor, I'm just trying to
23 get --

24 THE COURT: Overruled.

25 MRS. LIPINSKI: Thank you.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 BY MRS. LIPINSKI:

2 Q So there's some argument about these keys and
3 before you can even deny him the keys, he's hitting you.
4 But you, also, state he's playing a really loud video on
5 the TV, correct?

6 A He increased the volume on the television.

7 Q And that video -- he's not playing some type of
8 romantic ceremony video of you and this man, that's not
9 what that argument is about, is it?

10 A No.

11 Q He just randomly turns up the TV really loud?

12 A When I went to the room.

13 Q When you went to the room?

14 A Yes.

15 Q But had nothing to do with --

16 MRS. SCOTT: Objection, Your Honor, at this
17 point --

18 THE WITNESS: No.

19 MRS. SCOTT: -- to that question.

20 MRS. LIPINSKI: Your Honor, I think the witness
21 ought to --

22 THE COURT: I'll give you a little leeway. Move
23 on.

24 BY MRS. LIPINSKI:

25 Q It's that video coming up, that is what

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 precipitates Mr. Dunn going in the bedroom, correct?

2 A Which video? I'm sorry.

3 Q You're the one that said there was a really loud
4 video?

5 A Volume.

6 Q Volume?

7 A Yes, of television.

8 Q Something is playing on the television, correct?

9 A Television was loud, that's all I can tell you.

10 Q But there's just a wall between the living room
11 and your bedroom, correct?

12 A Yes.

13 Q And it's so loud, you said at one point a
14 hundred decimals, correct?

15 A Yes, ma'am.

16 Q So you could hear what that was about?

17 A Yeah, like noise or whatever he was watching.

18 Like, I don't remember what he was watching if I go inside
19 the house.

20 Q But you could hear it, correct?

21 A Yeah, I hear noise.

22 Q And despite this really loud video that you say
23 was playing, you're able to be in that bedroom and have
24 this whole conversation about I want to see a picture of
25 my kids and five minutes this, you know, I want the keys

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 to the car? You're still able to hear him and communicate
2 with him, correct?

3 A Yes, that was when I was on the floor and he was
4 across me on the floor. I was begging, pleading for him
5 to leave me. That was when I asked for my children's
6 picture since he decided I would die. Let me just take
7 look at it, which he refused.

8 Q And you stated the followup care that you got as
9 a result of this is you had to go back and get the
10 stitches out, correct?

11 A I had to remove the stitches.

12 Q Right.

13 A All right.

14 Q But that was the only followup care when the
15 hospital sent you home that you needed to do, correct?

16 A I went back again in the hospital because I was
17 having constantly headache and it was so bad that it put
18 me in the hospital for a whole day saying I had -- blood
19 pressure was high. That was the next one I go for the
20 followup.

21 Q Okay. So you had high blood pressure that was
22 causing you to have headaches?

23 A No, when you're having headache, I think it's
24 part of it.

25 Q Okay. Do you remember them coming to you in the

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 hospital and asking you if you were okay to go back to
2 that apartment? Remember them sending you a social worker
3 for that?

4 A I told them, no, I can't go back to the
5 apartment.

6 Q You don't remember telling them you're okay,
7 they've changed the locks, they're going to increase the
8 patrol area?

9 A No, they told me if I want to return to my
10 apartment and I told them I can't withstand the trauma.
11 They told me they would give me another one, another
12 apartment, but I said I don't want to be around it.

13 Q So you don't remember telling the hospital they
14 didn't need to find alternative placement for you or
15 anything?

16 A I don't remember. I need to find a place to
17 stay.

18 Q And to your recollection, you stayed there a
19 week and a half, correct?

20 A In the hospital?

21 Q You stayed in the hospital a week and a half?

22 A Yeah, but I'm not sure.

23 Q But then following this when you got out, you on
24 your own went to the Simpsonville Police Department,
25 correct?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A Yes, I went to Simpsonville Police Department.

2 Q And you spoke with Lieutenant Donnelly there?

3 A Yes.

4 Q At that point, you already said that you --
5 whether in the hospital or shortly thereafter, I think you
6 said somebody in the hospital helped you that possibly
7 your credit card was being used in North Carolina,
8 correct?

9 A Yes, ma'am.

10 Q Do you ever provide that credit card or other
11 information to Lieutenant Donnelly?

12 A I think I showed him -- not showed, but I think
13 I showed him, but I'm not sure.

14 Q But certainly, if he would have asked for it,
15 you would have given it, right?

16 A Yes, I would.

17 Q And then you state that -- you testified today,
18 I heard for the first time, that you went to Toyota,
19 something about the navigation and they said they wouldn't
20 give it to you, but if law enforcement went they might be
21 able to get it?

22 A Yes.

23 Q But at that point, you already had the car back,
24 correct?

25 A No, I didn't have the car back.

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 Q You didn't have the car back?

2 A No, ma'am.

3 Q But you never went alongside of Lieutenant
4 Donnelly or anybody else with Simpsonville so that you
5 could give consent or they could get that information,
6 correct?

7 A No [indiscernible].

8 Q All right. I'm showing you what's been marked
9 83 through 87. Those pictures were taken today, correct?

10 A Yes, ma'am.

11 Q With the help of the prosecution, correct? One
12 of their people took these photographs of you?

13 A Yes.

14 Q You didn't take them yourself?

15 A I didn't take them myself.

16 Q You didn't have a friend take them?

17 A No, I didn't take them myself.

18 Q So you clearly had the time and opportunity to
19 show them any type of lingering injuries, whether they be
20 to your back, your stomach, your trunk, that they needed
21 to photograph, correct?

22 A Yes, ma'am.

23 Q And the only ones you pointed to were the cheek,
24 the neck and kind of this upper shoulder kind of back
25 area?

NNEKA DUNN-CROSS BY MRS. LIPINSKI

1 A Yes, and the mouth.

2 Q Right, from here over, right?

3 A Yes, ma'am.

4 Q Again, nothing lower back?

5 A The shoulder.

6 Q No injury to your stomach, no scarring on your
7 stomach?

8 A No, ma'am.

9 Q No scarring on your trunk?

10 A No, ma'am.

11 Q No cut on your side when he's trying to get into
12 your pocket for the keys or anything like that?

13 A No.

14 MRS. LIPINSKI: Court's indulgence one moment.

15 THE COURT: All right.

16 MRS. LIPINSKI: That's all we have of this
17 witness.

18 THE COURT: All right, redirect?

19 MRS. SCOTT: No, Your Honor.

20 THE COURT: You may step down.

21 Mrs. Scott.

22 (WHEREUPON, an off-the-record bench conference
23 was held in the presence of the jury but out of
24 the hearing of the jury.)

25 THE COURT: All right, ladies and gentlemen,

1 that's it for today. We're going to start back
2 tomorrow morning at 9:00 instead of 9:30. We're
3 going to start back at nine o'clock tomorrow morning.
4 As I mentioned to you, please don't discuss the case
5 with any friends, family. Don't look on social media
6 or do anything until after you reach a verdict. So
7 hope all of you have a good night. See you all at
8 nine o'clock tomorrow morning.

9 (WHEREUPON, the jury left open court at
10 approximately 5:32 p.m.)

11 THE COURT: All right, so tomorrow we'll start
12 with storage or whoever got the evidence. Then you
13 have the doctor, then Investigator Donnelly, then
14 another police officer?

15 MRS. SCOTT: Yes, Your Honor. Investigator
16 Donnelly would be last, the officer would be before
17 Investigator Donnelly.

18 THE COURT: Okay. All right. Okay. All right.

19 MRS. LIPINSKI: I'm not going to inquire
20 tonight, but just so I can have a conversation with
21 him possibly. Mrs. Scott said, at some point, she
22 was going to try and get some other documents out of
23 the clerk of court in North Carolina. I was just
24 curious if they had that so I can review those with
25 him.

1 THE COURT: Mrs. Scott, do y'all have any
2 documents from North Carolina?

3 MRS. SCOTT: Your Honor, I need to check my
4 email. I asked them to send that to me. I need to
5 check that. I'm looking right now.

6 MRS. LIPINSKI: We don't need to stay here. If
7 she can forward it to me, I can try and talk to him
8 first thing in the morning. I was just trying to do
9 as much as we could.

10 THE COURT: All right, anything we need to
11 address on the record before we adjourn?

12 Anything from The State?

13 MRS. SCOTT: No, Your Honor.

14 THE COURT: From The Defense?

15 MRS. LIPINSKI: Nothing from The Defense, Your
16 Honor.

17 THE COURT: Okay. All right, we're off the
18 record.

19 (WHEREUPON, the proceedings were concluded for
20 the day to be reconvened on August 20, 2024.)

21

22

23

24

25

1 MRS. LIPINSKI: When we get to the evidence,
2 that's it. If the person who collected that item is
3 going to testify today, that's fine.

4 THE COURT: All right. Anything else before we
5 bring the jury in?

6 MRS. LIPINSKI: No, Your Honor.

7 THE COURT: Anything else, Mrs. Lipinski
8 Mr. Holcomb?

9 MR. HOLCOMB: Nothing, Your Honor.

10 THE COURT: All right, bring them in.

11 (WHEREUPON, the jury entered open court at
12 approximately 9:20 a.m.)

13 THE COURT: All right, good morning, ladies and
14 gentlemen, hope you all had a good night. We are
15 ready to proceed.

16 State, call your next witness.

17 MRS. SCOTT: Yes, Your Honor, the State calls
18 Diane Kennedy.

19 THE CLERK: Place your left hand on the Bible
20 raise your right hand.

21 DIANE KENNEDY, after being duly sworn,
22 testified as follows:

23 THE CLERK: Thank you, please be seated. State
24 your name for the record.

25 THE WITNESS: Diane Kennedy.

DIANE KENNEDY-DIRECT BY MRS. SCOTT

1 DIRECT EXAMINATION

2 BY MRS. SCOTT:

3 Q Where do you work?

4 A Simpsonville Police Department.

5 Q How long have you worked with the Simpsonville
6 Police Department?

7 A Since 2017.

8 Q What is your job description there?

9 A The property and evidence custodian and records
10 clerk.

11 Q Tell us what that is.

12 A The property and evidence side, which takes up
13 the majority of my time, anytime officers bring in
14 property or evidence, it could be a video or items, they
15 place them in a temporary storage area, then I retrieve it
16 from there and I put it up. Basically, it's an inventory.
17 So I keep track of where things are and keep them secured
18 until they're needed.

19 Q As far as the temporary storage area, can you
20 describe that area?

21 A It's a basic locker system that has keys to it.
22 There's individual keys that go to each of the 12
23 individual lockers of different sizes. Then I have a main
24 pass key that is kept locked in my office. There's only
25 three of us that have keys to property and evidence. I

DIANE KENNEDY-DIRECT BY MRS. SCOTT

1 have two assistants that help me from time to time and we
2 are the only ones that have access to those keys.

3 Q All right. Do you keep a record or a log of the
4 transport and exchange of these photos or items that you
5 have in evidence?

6 A I do. It originally starts with the officer
7 puts it into what we call law tracks, which is RMS, a
8 Report Management System. And they put all the details of
9 the item into that system. When I take it out of
10 temporary storage, I assign it a location based on its
11 size and what the item is. Then it's assigned in the
12 system that way.

13 When it comes time, like for court today,
14 to take out, I will go to that location, pull the item
15 out, log back into our Report Management System, assign it
16 to me today for court. Then there would be a written log
17 where I handwrite on it as well as in the computer
18 generate a log of the day and time it was taken out.

19 Q We saw you carry a bag with you, can you tell
20 us, do you have any property and evidence log reports with
21 you today?

22 A I do.

23 Q Do you have all of them in regards to all of the
24 evidence collected today?

25 A For this case, yes.

DIANE KENNEDY-DIRECT BY MRS. SCOTT

1 Q I'm sorry, for this case?

2 A Yes.

3 Q Could you pull those out for me, please?

4 A (The witness complies.)

5 Q What's all the property and evidence on this
6 case that you're custodian of?

7 A If you don't mind, if I could read?

8 Q That's fine. I wouldn't expect you to memorize
9 that.

10 A There's clothing worn by the victim, a black
11 knife handle with one broken piece, an empty envelope with
12 a handwritten note on the side. There's ten buccal swabs,
13 a pink cap dumbbell, pieces of a black latex glove, a
14 photo copy of an envelope, a disk containing body camera
15 footage, a CD of crime scene photos, a DVD of the scene
16 collected at Wiley Drive, a CD of photos recovered from
17 victim's car, CD containing a victim's interview.

18 Q All right. Now, spread those out for me. I
19 want to talk about the one where you referenced the
20 victim's clothing. Okay. What do these log sheets
21 indicate from start to finish? Generally, what do the log
22 sheets have on them?

23 A If I start kind of at the top and go left, what
24 I'm seeing, it starts out with the Simpsonville Police
25 Department, which just identifies it as coming from our

DIANE KENNEDY-DIRECT BY MRS. SCOTT

1 department. For incident number, in this case, it would
2 list 05-21-004937. And then it has my location on it,
3 which is G, which is where I put larger items, 00874.
4 Then once again --

5 MRS. LIPINSKI: Your Honor, I hate to interrupt,
6 I don't know what document -- I've seen some property
7 and evidence, but I don't know what document to which
8 she's actually referring. Just so I can --

9 BY MRS. SCOTT:

10 Q Can you tell -- now that Defense counsel has
11 this in front of her, where did these particular items
12 originate from?

13 A Under the note section, it says Prisma Health
14 Greenville Memorial Hospital, 701 Grove Road, Greenville
15 South Carolina, 29605. The note section is where the
16 officers put where the item that they had originally came
17 from.

18 Q Okay. And what officer is responding to get
19 those clothes at Prisma, 701 Grove Road?

20 A It's signed at the bottom by David Tedro, who
21 was 404 and his star number was 255.

22 Q And according to that log sheet, when did he
23 collect those clothes?

24 A The date and time in is March 18th, 2001 at two
25 o'clock in the morning.

DIANE KENNEDY-DIRECT BY MRS. SCOTT

1 Q Then where did the clothes go after that?

2 A So he would have put it in the temporary
3 storage, then that's where I would have picked it up.
4 There's a kind of a timestamped more detailed sheet that
5 comes with it that's stapled to the copy we had. And in
6 there, underneath where it has the listing of where the
7 date is, it shows for me a date out, which was the same
8 date, March 18th, 2021, at 8:45 in the morning. So I
9 removed it from the temporary storage. Right underneath
10 there, it says a date in of March 18th, 2021, time in at
11 8:45, placed into property and evidence. Then after that,
12 it shows where it has been taken out of property and
13 evidence by the officer or myself.

14 Q So could you now bring out the item that you're
15 talking about?

16 A (The witness complies.)

17 MRS. LIPINSKI: Your Honor, before we go any
18 further, I do think The Defense will renew their
19 objection. Also, Tedro did not testify. He did not
20 identify that these are the items that he collected
21 or whatever she has in that bag, reportedly match
22 that. We believe that this is a fatal flaw in the
23 chain of custody for these items and, as such, we
24 would move that there not be any questioning until
25 Officer Tedro testifies.

DIANE KENNEDY-DIRECT BY MRS. SCOTT

1 MRS. SCOTT: Your Honor, I don't believe that's
2 required for the chain of custody. There was
3 testimony from Pryzbylo that he was relieved by
4 Investigator Tedro in order for Investigator Tedro to
5 collect photos -- well, hopefully, to collect photos,
6 but Pryzbylo did that for him, and to collect
7 clothing. And at that point, he said he saw him do
8 that. Now, he did not see him transport it to
9 property and evidence, but then we have the evidence
10 custodian with her log, which is the customary and
11 ordinary practice of business, that she found it in
12 the storage locker at 8:45 the next day.

13 THE COURT: All right. I think State v. Rowell,
14 obviously, Court of Appeals, State v. Ashley, which
15 is one that happened over 15 years ago, that says as
16 long as the custody is established as far as
17 practical, that it is admissible. So based on those
18 holdings, that case law and the testimony and
19 evidence that's been presented, I'll overrule the
20 objection and allow the evidence.

21 MRS. SCOTT: All right, at this time, The State
22 would move into -- I probably need to make a formal
23 motion, Your Honor. Thank you. Move into evidence
24 the clothes.

25 THE COURT: All right, the evidence is admitted

DIANE KENNEDY-CROSS BY MRS. LIPINSKI

1 into evidence over the objection of the Defendant.

2 (WHEREUPON, State's Exhibit No. 113 was marked
3 for identification and received into evidence.)

4 BY MRS. SCOTT:

5 Q Just for purpose of this being your ordinary
6 practice of business, would you just release the seal on
7 this bag? I'm not asking you to do anything else with the
8 items inside the bags. I'll move it out of the way.

9 A (The witness complies.)

10 MRS. SCOTT: Since you've already referenced all
11 the other items that were collected, please answer
12 any questions that The Defense counsel may have.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MRS. LIPINSKI:

16 Q So, obviously, you weren't there when Officer
17 Tedro allegedly took these into his custody, correct?

18 A Correct.

19 Q And you don't know whether or not he got that
20 off the nurse or off a [indiscernible] at the hospital or
21 where he got those items, correct?

22 A Correct.

23 Q And so -- because you, for the most part, stay
24 in your office, right?

25 A Correct.

DIANE KENNEDY-CROSS BY MRS. LIPINSKI

1 Q You don't go out in the field and follow them
2 around and make sure whatever they do is correct, right?

3 A That's correct.

4 Q And not anything nefarious on the part of law
5 enforcement, but there's a lot of evidence that comes in
6 and out, correct?

7 A Correct.

8 Q Some officers are better than others in terms of
9 keeping up with things, being due diligent and documenting
10 things very well? They all try to do their best, but
11 given the amount of calls that are responded to, there are
12 instances where evidence does get mishandled, correct?

13 A I would assume, yes.

14 Q Put the wrong case number on something, we log
15 it into the wrong case, we leave it in our car too long,
16 God knows what. Again, not anything other than probably
17 being overworked, but those things can happen, correct?

18 A Yes, they can happen.

19 Q All right. And so other than to say that bag
20 came to you and that you brought it to court here today,
21 that's about all you can tell about that bag,
22 specifically?

23 A That's correct.

24 Q You don't examine evidence, test evidence or do
25 anything with the evidence, correct?

DIANE KENNEDY-CROSS BY MRS. LIPINSKI

1 A Correct, I do not.

2 Q But you do on occasion check evidence out for
3 the person doing the examination, correct?

4 A Correct, yes, I do.

5 Q So Greenville County has their own DNA lab,
6 their own drug lab, their own chemical lab, their own
7 fingerprint people, all of that, correct?

8 A Correct.

9 Q And even if you're not relying on them, SLED,
10 the state crime lab or the State Law Enforcement Division,
11 maintains a big brand new shiny lab down in Columbia,
12 correct?

13 A Correct.

14 Q Have you ever been down there?

15 A Yes, I have.

16 Q All right. So there is on occasion where
17 officers in your department say could you take items four,
18 seven and eight on this particular case to SLED and submit
19 it for further examination, correct?

20 A Correct.

21 Q And in this case, no evidence was checked out
22 for that purpose?

23 A Um --

24 Q Well, let me ask you this, let me limit it, let
25 me focus that to why we're today. These clothes were

DIANE KENNEDY-CROSS BY MRS. LIPINSKI

1 never checked out, correct?

2 A Not --

3 Q For examination by SLED or the crime lab?

4 A Correct, I have not taken them to Greenville or
5 Columbia to SLED.

6 Q The broken knife handle was never taken out for
7 examination? If you want to go through that.

8 A I don't think so, but I would prefer to just
9 double check. Correct, I did not, no. For that one,
10 Greenville County did originally have it, so Greenville
11 County had it in their possession and then I picked it up
12 and brought it back to P&E. So I cannot say anything that
13 they did or did not do while they had it in their
14 possession, only that I picked it up from them and put it
15 into P&E.

16 Q Never went to SLED?

17 A I did not take that to SLED.

18 Q And normally -- the dumbbell was never tested or
19 checked out for further testing and examination?

20 A No, it was not.

21 Q And you said buccal swabs. Kind of swabs for
22 any kind of blood, saliva? When you say buccal, it's kind
23 of a one size catchall, right?

24 A Correct. It would be a little more specific
25 within each of the swabs of the -- description of what it

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 was from and the technician from Greenville that took that
2 swab.

3 Q Because you don't know what the swab is, you
4 just know you've got some swabs?

5 A That's correct. When I pick those up from
6 Greenville, they're already sealed and everything. I just
7 bring them and put them into property and evidence in
8 Simpsonville.

9 MRS. LIPINSKI: All right, thank you, nothing
10 further, Your Honor.

11 THE WITNESS: All right, any redirect?

12 MRS. SCOTT: No, Your Honor.

13 THE COURT: All right, you may step down.

14 Next witness.

15 MRS. SCOTT: Dr. Stephen Strasberg.

16 THE CLERK: Please stop at the end of the bench,
17 place your left hand on the Bible, raise your right
18 hand.

19 STEPHEN STRASBERG, M.D., after being
20 duly sworn, testified as follows:

21 THE CLERK: Thank you, please be seated. State
22 your name for the record.

23 THE WITNESS: Stephen Strasberg.

24 DIRECT EXAMINATION

25 BY MRS. SCOTT:

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 Q Good morning.

2 A Good morning.

3 Q Where do you work?

4 MRS. LIPINSKI: Your Honor, we would stipulate
5 to his expertise if she just wants to move to that
6 point.

7 THE COURT: All right.

8 MRS. SCOTT: Yes if she's fine with it, Your
9 Honor.

10 THE COURT: You're fine with that?

11 MRS. SCOTT: Yes, sir. If she's fine. I just
12 ask that you make a finding that. . .

13 THE COURT: What's the area he's going to be
14 qualified?

15 MRS. SCOTT: Actually, he wasn't going to be
16 qualified, but he is board certified in emergency
17 medicine.

18 THE COURT: Board certified in?

19 MRS. SCOTT: Emergency medicine.

20 THE COURT: Emergency medicine. All right.

21 No objection from The Defense, the witness is
22 qualified as a board certified physician in emergency
23 medicine.

24 Ladies and gentlemen, in a trial, witnesses can
25 normally only testify as to facts in the case, what

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 they saw, what they heard, what they smelled.
2 They're not allowed to give opinions. They're only
3 allowed to give what they saw, observed, heard, et
4 cetera. The rules do allow certain witnesses who by
5 education, experience and knowledge are classified as
6 an expert witness. And those witnesses, the
7 exception to the rule, they get to testify as to any
8 opinions. And so again, lay witnesses cannot give an
9 opinion, but expert witnesses can. So this witness
10 has been qualified as an expert in emergency
11 medicine.

12 All right, Mrs. Scott.

13 MRS. SCOTT: Thank you, Your Honor.

14 BY MRS. SCOTT:

15 Q You, also, hold board certification in advanced
16 emergency medicine [indiscernible], correct?

17 A Yes.

18 Q How long have you been board certified?

19 A For nine years.

20 Q Where do you currently work as far as with
21 Prisma? What are your duties there?

22 A I work at Prisma Health Upstate. I do work at
23 Greenville Memorial Hospital, as well as some other
24 hospitals.

25 Q Do you work in the emergency unit?

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 A Yes.

2 Q At times?

3 A I work in the emergency department.

4 Q And were you working there March of 2021?

5 A Yes.

6 Q Now, did you examine and assess a woman by the
7 name of Nneka Rita Dunn?

8 A Yes.

9 Q I think what we'll do, we have medical records,
10 but I have page ten that I'm handing you. What day did
11 you access Ms. Nneka Rita Dunn according to those medical
12 records?

13 A March 17th, 2021.

14 Q How did she arrive to the ER?

15 A By EMS.

16 Q When a patient arrives to the emergency room,
17 does her treatment team document her medical care while
18 she's staying there?

19 A Yes, it gets compiled into the medical record.

20 Q Now, I want to draw your attention to the
21 medical note that you made on Page 10 there, are you
22 listed as a critical care provider for her?

23 A Yes.

24 Q Okay. Why was critical care even necessary
25 here?

1 A Too -- so it was necessary to treat, prevent
2 imminent or life-threatening deterioration of the trauma.

4 | A She was a trauma level one.

5 Q Is that the lowest or the highest level of
6 trauma?

7 | A That is the highest level.

8 Q Okay. Now, what injuries did you access on her
9 when she came in? Let me see if I can get you some
10 medical notes to that. Let's do Page 64, Page 415. What
11 injuries did you assess for her when she came?

12 A Multiple stab wounds to her face, neck, scalp,
13 lip.

14 Q Okay. Anything to any other parts of her body?

15 | A Her neck as well as her shoulder.

16 Q Now, I'm going to show you what's already been
17 marked into evidence as State's Exhibit 80. All right, so
18 we're getting the laser, but in the event that we don't
19 have it -- we do have it.

20 Doctor, behind you is a screen that we can
21 all see with you. If you don't mind kind of turning to
22 the side. Would you point to us some of the injuries that
23 you accessed on that day and where they're located?

24 | A So she has injury to her --

25 MRS. LIPINSKI: Laser doesn't work. If he

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 stands and uses his hand, it might be better.

2 BY MRS. SCOTT:

3 Q Do you mind?

4 A No.

5 Q I know it's difficult when you're in front of
6 all these people having to stand.

7 A So she has lacerations to her lip, her neck,
8 multiple here. She's got lacerations to her face here,
9 here. She's got a laceration to her shoulder here.

10 Q I have another photograph, sir, State's Exhibit
11 78. What do you observe about her injuries here?

12 A So she, also, has swelling to her face here, to
13 her forehead up there, plus there's a laceration on the
14 bridge of her nose there.

15 Q All right. Now, you referenced -- you can have
16 a seat. You referenced scalp, what, if any, documentation
17 that you have in front of you is related to her scalp
18 injuries?

19 A From what I recall from reviewing the records, I
20 believe there was a CT of her head.

21 Q All right. Now, from the photographs that you
22 see, we cannot see her entire face, what, if any,
23 documentation do you have about what's going on on the
24 right side of her face? I'll put up 78 again.

25 A She has a laceration on the right side of her

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 ear, right here, sorry.

2 Q Her back is, also, not photographed. What
3 documentation do you have of any injuries to her back?
4 And you know what, let's get Page 256 of her medical
5 records. I think that's putting you at a disadvantage,
6 Doctor. I apologize. If you could and that would be
7 better, would you just document the wounds that you see
8 here in this chart?

9 A Yes. So this is from the trauma flow sheet, so
10 she has a wound on the left side of her mouth, left lower
11 lip, left posterior neck is here, and then left lateral on
12 the head. Then she has a laceration to her right ear and
13 then her left upper back.

14 Q And what are they calling that wound to the left
15 of her back?

16 A A stab wound.

17 Q Now, I want to turn your attention to your
18 critical care notes, back to that Page 10, what did you do
19 after assessing her condition when you saw her like this
20 on March 17th?

21 A I developed a treatment plan. I discussed with
22 a consultant, ordered labs and ordered imaging.

23 Q What overall was her treatment plan?

24 A Her treatment plan was to be admitted to the
25 trauma service, trauma ICU to have her wounds closed. And

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 then part of her treatment plan was to have the CT scans
2 performed, then later she had that esophagram performed as
3 well.

4 Q Let's talk about her CT scans. What area of her
5 body was CT scanned?

6 A She underwent CT scan of her head, neck, chest,
7 abdomen and pelvis.

8 Q And what is -- you said esophagram?

9 A Yes.

10 Q What is that?

11 A That is a test to see if there is an injury to
12 the esophagus. More or less, patients drink a contrast
13 material under fluoroscopy and they see if there's any
14 leak.

15 Q So I want to talk about that CT scan.

16 Do we have 64? Does he have it already?

17 All right, if I can turn your attention to
18 64. What is noted regarding her CT scan?

19 A Arterial injuries to the left external carotid
20 branch.

21 Q Where is that on her body?

22 A In her neck.

23 Q Is that visible here or is this something
24 internally you're talking about?

25 A Internal.

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 Q Okay, given that it's an internal injury, I need
2 to ask you a couple more questions. What is an issue, if
3 any, when you have an arterial injury to your left
4 external carotid branch?

5 A Potentially, blindness, paralysis, hematoma,
6 bleeding to sudden death.

7 Q That same page references another injury, will
8 you tell us what that is?

9 A The left submandibular injury.

10 Q What is that?

11 A That's referring to the anatomical location and
12 that would be -- can I?

13 Q Yes.

14 A Both of these would be considered left
15 submandibular.

16 Q And what is that particular significance if you
17 have a injury there?

18 A For her, it was -- there was concern that she
19 injured her submandibular gland and the salivary glands,
20 but that is, also, where her carotid artery goes to and
21 any injury in that area could lead to injury of the
22 trachea and esophagus.

23 Q I think we know this, but do we need our trachea
24 and our esophagus in order to survive, sir?

25 A Yes.

STEPHEN STRASBERG-DIRECT BY MRS. SCOTT

1 Q So what's the game plan given these injuries
2 that you all had?

3 A She was monitored closely in the ICU to see if
4 the injury to the artery was expanding or getting worse,
5 see if it would compromise her airway. She underwent --
6 she had consultation by ear, nose, throat, ENT, to
7 evaluate and they did an esophagram to see if there was
8 any perforation of the esophagus.

9 Q How long was she treated at Prisma? When did
10 she discharge? We know she went in March 17th, when did
11 she leave?

12 A I believe she was discharged on the 22nd,
13 March 22nd.

14 Q What was required of her -- I think, maybe, I
15 have some discharge paperwork for you. Page 37 and 38.
16 What was required of her in order to be safely discharged
17 from Prisma?

18 A She had to pass a swallow study. She had to be
19 able to tolerate liquids. Her [indiscernible] had to be
20 improving.

21 Q Was she given any followup instructions once she
22 was discharged?

23 A Yes, she was to continue antibiotics, return in
24 approximately five days for suture removal.

25 MRS. SCOTT: Answer any questions The Defense

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 counsel might have for you.

2 THE COURT: All right, cross.

3 MRS. LIPINSKI: Just briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MRS. LIPINSKI:

6 Q Good morning, Doctor. How are you?

7 A Good, how are you?

8 Q Part of -- one of the other things you do in
9 terms of the discharge is to ask -- sometimes is to ask a
10 social worker to meet with the patient to make sure they
11 have appropriate support and care once they leave the
12 hospital, correct?

13 A Yes.

14 Q We don't just shove them out the back door and
15 say hope you do okay. We try to make sure that if you
16 need followup care, if you have somebody to take you home,
17 all of those kind of things. You have social workers in
18 the hospital who help do that, correct?

19 A Yes.

20 Q And you were looking at a discharge summary. I
21 want to draw your attention to Page 86. Does it indicate
22 the hospital had a social worker that met with her?

23 A Yes.

24 Q Does it indicate that the social worker asked
25 her if she felt safe to return--

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 MRS. SCOTT: I'm concerned about what the social
2 worker is saying as to hearsay. I didn't ask
3 questions as to what anyone said in my line of
4 questioning.

5 THE COURT: Mrs. Lipinski.

6 MRS. LIPINSKI: It's actually what the victim
7 told the social worker, so I think at that point, it
8 would come in as a statement of the patient for the
9 purpose of medical care. He's reviewing her
10 discharge summary and the conditions of that which
11 this follow up.

12 THE COURT: Lay the foundation for it. I'm
13 going to sustain that part, so lay the foundation,
14 then I'll let you.

15 BY MRS. LIPINSKI:

16 Q Part of that is for the team to determine
17 whether or not it is safe for the patient to return home,
18 correct?

19 A I'm sorry, can you repeat the question?

20 Q Part of that discharge assessment is, is this
21 person ready to be discharged, correct?

22 A Yes.

23 Q And you would go over with the patient that you
24 understand these are the meds we want you to take, do you
25 understand the protocols we want you to follow, if you

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 need somebody to drive you home, all of those kind of
2 things, correct?

3 A Yes, sir.

4 Q That's all part of the hospital's assessment of
5 is this patient ready to be discharged on the 22nd,
6 correct?

7 A Yes.

8 Q And at that time, did hospital staff speak with
9 her about her discharge plan?

10 A According to the record, yes.

11 Q And that's the record that you would normally
12 refer to and rely on in your everyday course of business,
13 correct?

14 A Yes.

15 Q And does Ms. Dunn or Ms. Rita Dunn, the patient,
16 indicate she feels safe to return home? To the apartment?

17 A I can read the -- you want me to read from the
18 record?

19 Q Sure.

20 A Patient stated --

21 THE COURT: Mrs. Scott has objected to this part
22 of the testimony.

23 MRS. LIPINSKI: This is a statement of the
24 victim, it's a medical --

25 THE COURT: Come up.

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of
3 the hearing of the jury.)

4 THE COURT: Ladies and gentlemen of the jury,
5 I'm going to excuse you just for a minute to handle
6 something. I'll bring you back out here in just a
7 minute.

8 (WHEREUPON, the jury left open court at
9 approximately 9:59 a.m.)

10 THE COURT: All right, an objection has been
11 raised as to any testimony the doctor may give as to
12 what the victim in the case told someone as far as
13 whether or not they felt safe to go back. Is that a
14 fair summary, an accurate summary of generally what
15 the testimony is going to be?

16 MRS. LIPINSKI: Yes, that they did an assessment
17 whether or not her discharge plan was complete. They
18 made sure she had some place to go. They made sure
19 that she had people who would check on her. They
20 made sure she knew what her prescriptions were. They
21 gave her five days of medicine and had a followup
22 with that. They made sure she understood to come
23 back, come back to get her stitches out. And during
24 that assessment, they ask her, Do you feel safe to go
25 home?

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 the jury comes back?

2 THE COURT: You can get ready.

3 MRS. LIPINSKI: All right.

4 (WHEREUPON, the jury entered open court at
5 approximately 10:12 a.m.)

6 BY MRS. LIPINSKI:

7 Q So obviously, in your work in the emergency
8 room, when you bring a patient in and you do kind of -- as
9 you went through with Mrs. Scott, you know, an assessment
10 of what we're looking at and what her injuries are and
11 those type things are, correct?

12 A Yes.

13 Q She showed you some pictures of the victim.
14 There's a lot of dried blood on her face, correct?

15 A Yes.

16 Q Sometimes that can just be blood that's migrated
17 from other wounds and sometimes that can be other smaller
18 scrapes or other things like that beneath it, correct?

19 A Yes.

20 Q All right. And so at that point, when you're
21 assessing her, you don't wash her all off, you're looking
22 at the major wounds, the ones that are the most
23 significant ones, correct?

24 A When are you talking about?

25 Q When you assess her, right? You start with the

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 worst and work your way down, correct?

2 A Yes.

3 Q And when she comes into the emergency room, is
4 her bleeding under control or do you get it under control
5 rather quickly?

6 A When she comes in, we're able to get her
7 bleeding under control.

8 Q All right. The pictures that you were shown,
9 she, at that point, hasn't been sutured up, correct?

10 A Correct.

11 Q And so Mrs. Scott asked you about some of her
12 injuries and I'm just going to draw your attention to Page
13 33. Is this, also, part of the Prisma notes?

14 A Yes.

15 Q All right. And I'm just going to try to do
16 this. It says there is no hard signs of vascular injury,
17 correct?

18 A Yes.

19 Q There is -- I'm reading upside down. No hard
20 signs of airway injury, correct?

21 A Yes.

22 Q And when they talk about the artery injury, it
23 says it was not felt to be significant to warrant
24 expiration?

25 A Yes.

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 Q So while there was a potential of these other
2 injuries -- and, certainly, you kept an eye on her to make
3 sure they weren't lingering or worsening once she came in,
4 at least, in the scans, the CT scans and the other things
5 that you did, all of those things for the most part
6 yielded negative results, correct?

7 A I'm sorry, repeat the question.

8 Q You did a CT scan?

9 A Yes.

10 Q Do you remember any indication that she had any
11 cranial fractures, any bleeding on the brain, any
12 concussion protocols, any of those type things?

13 A That's a lot of different things. So there was
14 no skull fracture and there was no bleeding on the brain.

15 Q And you talked about her nose, there was no
16 broken nose?

17 A Not that I recall.

18 Q No occipital -- kind of any fracture or injury
19 to her jaw, I don't know what to call it, I went to law
20 school for a reason. There's a bone that kind of runs

21 into your eye that when people get hit, it tends to get
22 kind of fractured or damaged a lot?

23 A There was no fractures.

24 Q No skeletal injuries; fair to say?

25 A There was no fractures.

STEPHEN STRASBERG-CROSS BY MRS. LIPINSKI

1 Q Okay. And the esophageal study didn't reveal
2 any further injury, correct?

3 A Correct.

4 Q All right.

5 All right, Court's indulgence one moment,
6 Your Honor, I apologize.

7 THE COURT: Take your time.

8 BY MRS. LIPINSKI:

9 Q And this may be the wrong page, but it was the
10 one that -- let me show you Page 191. We talked about a
11 number of injuries, but is it fair to say that there were
12 five specific injuries, kind of generally around her head,
13 I won't go into all those words, you put stitches in?

14 A This is not the suture note.

15 Q Okay. Do you remember how many places you put
16 stitches in?

17 A I have to look at the note.

18 Q Could it have been six?

19 A It could have been.

20 Q Okay. Were you the one that sutured her?

21 A No.

22 Q Okay. And one last question, just looking at
23 Page 38, it says after the ENT that she was advancing as
24 tolerated, meaning she was improving as they expected? Am
25 I reading that correctly?

STEPHEN STRASBERG-REDIRECT BY MRS. SCOTT

1 A Can you point where you're -- yes, advancing as
2 tolerated.

3 Q All right. And that means she's improving the
4 way you would expect her to improve, correct?

5 A Yes.

6 Q No reason to keep her in the hospital beyond
7 March 22nd, correct?

8 A Correct.

9 Q And the followup care was just to get her
10 stitches out and to take some type of medication for her
11 stitch -- you know, for her laceration wounds, correct?

12 A It was antibiotics to prevent infection.

13 Q So you don't recall her being put on any pain
14 medication or anything like that?

15 A As part of her discharge, no.

16 MRS. LIPINSKI: All right.

17 MRS. SCOTT: A brief redirect.

18 THE COURT: All right.

19 REDIRECT EXAMINATION

20 BY MRS. SCOTT:

21 Q I need to make sure because we were talking
22 external, the wounds, but to be clear, internally, did she
23 have an injury to her -- let me say it correctly here.
24 Did she have an arterial injury to the left external
25 carotid branch?

STEPHEN STRASBERG-REDIRECT BY MRS. SCOTT

1 A Yes.

2 Q Okay. Are we going see this in these
3 photographs?

4 A No.

5 Q And that was revealed after her CT scan?

6 A Yes.

7 Q Okay. And did she have a left submandibular
8 injury?

9 A Yes.

10 Q Okay. Is that -- that is on the photographs?

11 A Yes.

12 Q Now, going back to the carotid branch --
13 arterial injury to the left external carotid branch, what
14 risk, if any, of that injury did she face?

15 A With that, she faced exsanguination, so
16 life-threatening bleeding, expanding hematoma, so would
17 have expanded, included her airway, blindness or
18 paralysis.

19 Q Okay. And what about that left submandibular
20 injury?

21 A That's how she would have sustained the external
22 carotid injury.

23 Q What was that injury -- if that injury was not
24 treated, what could that result in?

25 MRS. LIPINSKI: Your Honor, asked and answered I

STEPHEN STRASBERG-RE CROSS BY MRS. LIPINKSI

1 think over those risks.

2 THE COURT: I'll allow it. Overrule.

3 THE WITNESS: Could you repeat the question?

4 BY MRS. SCOTT:

5 Q What would that injury -- if not treated, what
6 could that lead to?

7 A It could have led to death, perforation of
8 trachea, perforation of esophagus. In her case, it looks
9 like it penetrated the submandibular gland.

10 MRS. SCOTT: Thank you. No further questions.

11 THE COURT: All right, any recross?

12 MRS. LIPINSKI: Just one, Your Honor.

13 RECROSS-EXAMINATION

14 BY MRS. LIPINSKI:

15 Q All the things you talked about, blindness,
16 paralysis, she didn't experience any of those symptoms,
17 did she?

18 A No.

19 THE COURT: All right, anything else,
20 Mrs. Scott?

21 MRS. SCOTT: No, sir.

22 THE COURT: All right, you are excused. Thank
23 you.

24 All right, next witness.

25 MRS. SCOTT: The State calls Deputy Freeman.

RYAN FREEMAN-DIRECT BY MRS. SCOTT

1 THE CLERK: Please place your left hand on the
2 Bible, raise your right hand.

3 RYAN FREEMAN, after being duly sworn,
4 testified as follows:

5 THE CLERK: Please be seated.

6 DIRECT EXAMINATION

7 BY MRS. SCOTT:

8 Q All right, what's your full name? I was not
9 listening. What's your name?

10 A Ryan Adam Freeman.

11 Q Where do you work?

12 A The Greenville County Sheriff's Office.

13 Q And what's your position at the Greenville
14 County Sheriff's Office?

15 A I'm a master deputy in our medical services
16 unit.

17 Q Were you working in that capacity in April of
18 2021?

19 A No, ma'am, I was assigned to uniform patrol. I
20 was assigned to the echo platoon.

21 Q So I want to talk to you about your involvement
22 in this case. How did you encounter The Defendant, Levy
23 Dunn?

24 A It was on April 6th. We had information that
25 Simpsonville PD had signed a warrant for domestic violence

RYAN FREEMAN-DIRECT BY MRS. SCOTT

1 high and aggravated, I believe it was. We were given the
2 vehicle description, tag number, things of that nature,
3 and the address they believed he was at.

4 Q What address was that?

5 A It was 104 Old Homestead Road.

6 Q Was that -- what county is that in?

7 A Greenville County.

8 Q So did you go out to that address?

9 A Yes, ma'am. While patrolling, I drove by the
10 address and observed the vehicle in the driveway.

11 Q Okay. What did you do when you saw that
12 vehicle?

13 A I called my sergeant, notified him and got other
14 deputies headed to my direction.

15 Q Well, did that vehicle stay at the location
16 where you saw it?

17 A No, ma'am. The vehicle backed out -- pulled out
18 of the driveway, went down Old Homestead and turned onto
19 Old Farris Bridge Road, which then connects into Farris
20 Bridge.

21 Q What happens next?

22 A As other deputies were headed in my direction,
23 they encountered the vehicle. We confirmed it was the
24 suspect vehicle, the plate number and description, things
25 of that nature and they performed a traffic stop.

RYAN FREEMAN-DIRECT BY MRS. SCOTT

1 Q How does this traffic stop occur? What did they
2 do?

3 A I was pulling up as it had occurred, but there
4 was a patrol vehicle in front of the vehicle, one behind
5 it. Then they were giving commands to the driver to show
6 his hands and things of that nature.

7 Q So this is pulled over, it's just in the middle
8 of the roadway?

9 A Yes, ma'am, I believe so. It was a lane of the
10 roadway.

11 Q And who was driving that vehicle?

12 A The Defendant, ma'am.

13 Q Was anyone else in the vehicle?

14 A No, ma'am, he was the sole occupant.

15 Q Well, since you mentioned that you took him into
16 custody, what did you do with the vehicle?

17 A It was towed. We called the next on rotation,
18 turned out to be Francis Marion, it was took to their lot
19 after inventory was conducted.

20 Q Okay. When a car is towed, what's that
21 procedure like?

22 A We call for the next tow service on rotation.
23 We then go through complete inventory just to ensure
24 there's any valuables in it we need to document. Then
25 once the tow truck gets there, we transfer custody to

RYAN FREEMAN-DIRECT BY MRS. SCOTT

1 them.

2 Q Now, when you had taken The Defendant into
3 custody, did you observe any injury of significance on
4 him?

5 A No, ma'am.

6 MRS. SCOTT: All right, answer any questions
7 that Defense counsel may have.

8 THE COURT: All right, cross.

9 MR. HOLCOMB: We have no questions for this
10 witness, Your Honor.

11 THE COURT: All right, Deputy Freeman, you may
12 step down. Thank you.

13 All right, next witness.

14 MRS. SCOTT: Your Honor, it's the State's last
15 witness. Are we good to go or do we need a break?

16 THE COURT: They're the bosses. Y'all need a
17 break right now? Y'all okay? You okay? Anybody
18 want a break?

19 (There was no response.)

20 THE COURT: All right.

21 MRS. SCOTT: The State calls Lieutenant
22 Donnelly.

23 THE COURT REPORTER: Judge, I'd like a short
24 break, please.

25 THE COURT: All right, my other boss. Let's

RYAN FREEMAN-DIRECT BY MRS. SCOTT

1 take a short restroom break. She's been in here for
2 a couple hours. We've been working before y'all came
3 in, so we need to take a break. So give y'all a
4 little break.

5 (WHEREUPON, the jury left open court at
6 approximately 10:26 a.m.)

7 THE COURT: All right, be in recess.

8 (WHEREUPON, a short break was taken.)

9 MRS. SCOTT: Your Honor, you want the witness to
10 take the stand?

11 THE COURT: Yes. Has he been sworn in?

12 THE CLERK: No.

13 THE COURT: Okay, let's wait. Let's just wait
14 until the jury comes in. Maybe they did want a break
15 after all.

16 MRS. LIPINSKI: Is the jury ready?

17 MRS. SCOTT: I think they're taking a break.

18 MRS. LIPINSKI: Oh, okay. I just didn't want
19 you to be waiting on Mr. Holcomb. He had to step out
20 to deal with a client. And I have this witness.

21 THE BAILIFF: They're ready, if you are.

22 THE COURT: Oh, yeah, that's what I'm saying,
23 we're ready.

24 MRS. LIPINSKI: I thought we were waiting on
25 him. I apologize, that's what I realized.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 THE BAILIFF: I thought we were waiting on him.

2 MRS. LIPINSKI: Hard to find good help these
3 days, Your Honor.

4 (WHEREUPON, the jury entered open court at
5 approximately 10:40 a.m.)

6 MRS. LIPINSKI: All right, Mrs. Scott.

7 MRS. SCOTT: Thank you, Your Honor. The State
8 calls Lieutenant Donnelly.

9 THE CLERK: Place your left hand on the Bible,
10 raise your right hand.

11 JAMES DONNELLY, after being duly
12 sworn, testified as follows:

13 THE CLERK: Thank you, please take a seat.
14 State your name for the record.

15 THE WITNESS: James Donnelly.

16 DIRECT EXAMINATION

17 BY MRS. SCOTT:

18 Q Where do you work?

19 A Simpsonville Police Department.

20 Q What are your duties at the Simpsonville Police
21 Department?

22 A I'm the administrative lieutenant in charge of
23 hiring, accreditation, property and evidence records.

24 Q Okay. Were you working in that capacity in
25 March of 2021?

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 A I was not. I was an investigator at the time.

2 Q Okay. Well, how long have you been an
3 investigator?

4 A Seventeen years.

5 Q I want to talk about your role in this case,
6 what was it?

7 A I was the on-call investigator.

8 Q What's an on-call investigator?

9 A We rotate two weeks every month. Every rotation
10 takes two weeks to be on call for anything they need an
11 investigator to come out to respond.

12 Q So let's go through your investigation since
13 you're the on-call investigator. Beginning at the
14 incident location, when you arrived on scene, tell us what
15 happens.

16 A I arrived on scene. I was notified by Sergeant
17 Menzies. I arrived to the apartment and met with him and
18 was briefed. Everything they had learned up to that point
19 in the investigation. At this time, Ms. Dunn had already
20 been transported to the hospital. They had done a
21 protective sweep of the apartment to locate the suspect.
22 And during that time, they noticed evidence of the crime
23 that occurred in this apartment, which is what I used for
24 the search.

25 Q So you said the victim, Ms. Dunn, was already at

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 the hospital?

2 A She was.

3 Q Okay. What did you do in order to make sure
4 that she was?

5 A We initially made sure that an officer went to
6 the hospital with her. I, also, send Investigator Tedro,
7 who responded with me to relieve Officer Pryzbylo at the
8 hospital.

9 Q You referenced that The Defendant was not on
10 scene when you arrived or --

11 A No.

12 Q Okay. How about any witnesses, were they on
13 scene when you arrived?

14 A They were. And I asked to make sure we had
15 gotten written statements from each one of them.

16 Q Okay.

17 A They were all residents of the apartment
18 complex.

19 Q Now, since The Defendant was not on scene and we
20 know where Ms. Rita is, what efforts did you take in order
21 to locate him on that day?

22 A With the information gathered, I put out a BOLO
23 to the surrounding agencies, which is a Be On The Lookout
24 For, to try and locate the vehicle and Mr. Dunn.

25 Q And what surrounding agencies did that BOLO go

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 out to?

2 A That BOLO went out to Greenville County,
3 Greenville City, Mauldin, Fountain Inn, Laurens County,
4 Highway Patrol and Greenville County Highway Patrol.
5 Prisma Health was, also, notified. They have their own
6 police department.

7 Q In Greenville County, we've got another hospital
8 system.

9 A They have St. Francis Hospital, but they don't
10 have their own police department.

11 Q Now, this be on the lookout, what is tasked?
12 What are you asking them to be on the lookout for?

13 A To locate Mr. Dunn and the vehicle that was
14 taken.

15 Q What type of vehicle are they looking for?

16 A It was a '21 Toyota Rav-4, black in color.

17 Q Did you provide them the tag number?

18 A I did.

19 Q Okay. Now, given that you -- well, you
20 confirmed that someone was with the victim at the
21 hospital, did you go to the hospital on that day?

22 A No.

23 Q Okay. Are you aware of what was taken from her
24 on that day?

25 A Yes. When Investigator Tedro responded to the

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 hospital, I requested that he collect the victim's
2 clothing.

3 Q Okay. Did you debrief with him once he met up
4 with the victim there?

5 A I did.

6 Q Okay. Did you request of him to check for
7 anything?

8 A I asked him to check to see if she had any
9 defensive wounds, what kind of injuries she suffered.

10 Q So defensive wounds, what is that?

11 A Generally, defensive wounds are injuries caused
12 from an attack or generally focused on the hands and
13 looking for evidence of any kind of skin under the
14 fingernails, things of that type.

15 Q Okay. And you said that he stated there were or
16 were not?

17 A There were injuries, but there was no defensive
18 wounds once on her hands.

19 Q Okay. Now, what steps did you take -- since you
20 referenced a warrant of some sort after a protective
21 sweep, what steps did you take to get into this house,
22 what steps?

23 A Based on the information I received from the
24 witness statements and the officers had conducted the
25 protective sweep and the evidence that they saw, that an

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 altercation had occurred in the apartment, I used that
2 information to obtain a warrant.

3 Q Did you have another officer go and get that
4 warrant?

5 A No, I had Officer Rickerson, who was on scene,
6 stand by. She kept secure of the scene. And I responded
7 to the police department in order to obtain the search
8 warrant and meet with The Judge.

9 Q Once it's approved, what happened?

10 A Then I come back and Officer Rickerson served
11 the search warrant.

12 Q Okay. Did you ask anyone to come inside the
13 apartment with you?

14 A I did. I contacted Greenville County forensics
15 to come respond.

16 Q What did you do when they arrived?

17 A I briefed them on the situation of what I knew
18 up to that point.

19 Q Them being how many technicians, do you
20 remember, came out?

21 A Two.

22 Q All right, we've already got some photographs.
23 How would you describe the condition of this apartment?
24 Is it fully furnished? Lived in?

25 A It appeared to be sparse, like very minimal

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 furniture.

2 Q How were you able to determine who resided at
3 this apartment?

4 A Paperwork found inside the apartment.

5 Q Okay. What do you mean paperwork? I don't need
6 to know what the paperwork is, but what's on the
7 paperwork?

8 A Documentation that had their names on it.

9 Q Okay. Did you, also, run any kind of
10 residential history search on Levy Dunn?

11 A I did.

12 Q Were you able to, also, confirm this address on
13 Wiley Drive as a residential search?

14 A I did.

15 Q I need to show State's Exhibit -- let's start
16 from the front. State's Exhibit 23. What do we see here?

17 A It appears to be a picture of the front hall
18 closet.

19 Q Okay. And what's inside of the front hall
20 closet?

21 A Sneakers and clothing.

22 Q I need to know, were you able to determine the
23 gender of these sneakers?

24 A They appear to be male sneakers.

25 MRS. LIPINSKI: Your Honor, object to gender of

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 the sneakers. I don't know that --

2 THE COURT: Sustained, lay some foundation.

3 MRS. SCOTT: Absolutely, Your Honor.

4 BY MRS. SCOTT:

5 Q We heard testimony in State's Exhibit 51 about
6 these particular shoes. Let's start here. Can you --
7 let's see here. State's Exhibit 51 and State's Exhibit
8 52, are they of the same closet?

9 A Yes, appears to be.

10 Q All right. Okay. And just for the record, what
11 shoes are these? Do you know the make and model of these
12 type shoes?

13 A They look like Nikes.

14 Q Do these shoes have any kind of value, sir?

15 MRS. LIPINSKI: Objection as to relevance, Your
16 Honor. I don't understand how that's germane to why
17 we're here today.

18 MRS. SCOTT: We're getting there, Judge.

19 THE COURT: All right. Get there.

20 BY MRS. SCOTT:

21 Q Let's talk about items that were in that house.
22 Did you find any electronics in that house?

23 A. Yes, ma'am.

24 Q Okay. Any electronics with any value?

25 A Yes, ma'am.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 Q Okay. Did you find shoes in that house of
2 value?

3 A Yes, ma'am.

4 Q All right. And all those things were in that
5 apartment when you came?

6 A They were.

7 Q Now, was this door -- did you have to get a key
8 to go into this apartment?

9 A No, ma'am, it was unlocked.

10 Q This apartment was unlocked?

11 A Yes, ma'am.

12 Q Okay. Now, let's talk about my story board. On
13 this floor plan of State's Exhibit 76, there are three
14 additional State's Exhibits on there, which is 26, 36 and
15 58, can you see that?

16 A I can now.

17 Q We did this yesterday. Now, I'm going to go
18 back over there, but I'm going to start with this photo
19 here.

20 A Okay.

21 Q What's significant about that photo of that
22 bedroom?

23 A It's disheveled.

24 MRS. LIPINSKI: Your Honor, if we could just for
25 the record identify the item numbers so we understand

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 what he's referring. I know we've heard it multiple
2 times.

3 MRS. SCOTT: Fifty-eight. I'll stay up here.
4 Fifty-eight.

5 BY MRS. SCOTT:

6 Q What the significance of these items that you
7 see here in this bedroom?

8 A Like I said, it's disheveled like there's some
9 kind of altercation.

10 Q And I need you to tell me what looks disheveled
11 to you?

12 A The bed is in disarray. There's, obviously,
13 some blood on the floor, a knocked over heater in the
14 corner right there.

15 Q Do you notice any blood in this photograph?

16 A Yes, ma'am, I see most of it on the floor.

17 Q And you said most of it, is it concentrated in
18 one area in this photograph?

19 A Generally, on the floor.

20 Q Now, we've seen other photos of blood elsewhere,
21 but as far as on the floor here, it's just there on that
22 particular area?

23 A I mean, there's some on the table, the smaller,
24 but the majority of it is in that area.

25 Q Okay. Now, I want to take us to State's Exhibit

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 36. Can you see that?

2 A Uh-huh.

3 Q All right. Would you describe what you see here
4 in 36?

5 A Some type of suspected blood smear on the wall,
6 which is going towards -- from the bedroom going across
7 towards the front door next to the kitchen.

8 Q Then lastly, what does State's Exhibit 26
9 indicate to you?

10 A It appears to be suspected blood on the wall --

11 MRS. LIPINSKI: Object to speculation, Your
12 Honor. He hadn't been qualified as an expert.
13 There's been multiple testimony from other people as
14 to the same evidence. Just don't know why we're
15 speculating.

16 THE COURT: Yes, rephrase and add some
17 foundation to it. Sustained.

18 MRS. SCOTT: Your Honor, I -- yes.

19 BY MRS. SCOTT:

20 Q You've been an investigator for how long?

21 A Seventeen years.

22 Q Roughly, how many scenes have you investigated?

23 A Quite a few. I couldn't give you an answer,
24 honestly.

25 Q More than three?

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 A More than probably a hundred.

2 Q At least, gets me somewhere with that?

3 A Yes, ma'am.

4 Q Now, as part of being an investigator these many
5 years and that many of cases, do you assess crime scenes?

6 A I do.

7 Q Do you make determinations on how to prepare and
8 how to process crime scenes and investigate based off what
9 you observed?

10 A I do.

11 Q Okay. Now, let's talk about what we're
12 observing here. What do you observe as an investigator of
13 17 years with the Simpsonville Police Department?

14 A It appears --

15 MRS. LIPINSKI: Your Honor, I'm just going to
16 object on the phrase. She uses a very colloquial
17 term about what we're observing, which the jury is
18 the ultimate trier of fact. It should be what they
19 interpret from his testimony and not Mrs. Scott
20 vouching for the evidence or giving her version of
21 the evidence.

22 THE COURT: Rephrase as to what he observed.
23 Sustained. I'll allow the testimony as to based on
24 his experience.

25 MRS. SCOTT: All right, you asked me to rephrase

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 it to what --

2 THE COURT: Rephrase it to what he observed.

3 The objection is --

4 MRS. SCOTT: I did ask what did he observe?

5 MRS. LIPINSKI: I think you said what did we
6 observe. You don't say what he --

7 BY MRS. SCOTT:

8 Q We, that's the way I speak. Not we, you. What
9 did you observe?

10 A I observed what I believed to be suspected blood
11 on the wall and appeared to be some kind of altercation or
12 physical activity.

13 Q Okay, I understand that. As far as this spread
14 of this particular blood, sir, what do you see here? What
15 does that indicate to you?

16 MRS. LIPINSKI: Your Honor, unless he's an
17 expert on blood splatter or blood spread, which I
18 don't think we've gotten to that level or anything to
19 the scientific foundation, I think that question is
20 inappropriate.

21 MRS. SCOTT: I'll move forward, Your Honor.

22 BY MRS. SCOTT:

23 Q You referenced it indicated a struggle based on
24 the disarray?

25 A Yes, ma'am.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 Q Let's go to the front door again. There was a
2 dumbbell found at that front door?

3 A There was.

4 Q Okay. Also, there were some gloves found.

5 Let's get that photograph up.

6 Were the gloves found at the front door or
7 were they found in the master bedroom or in the hallway?

8 A They were in the bedroom.

9 Q What's significant about this photo?

10 A They were in pieces and they're turned inside
11 out, like they were taken off.

12 Q I've got a closeup of that bed I'd like to
13 present. We heard testimony from Diane Kennedy about a
14 black knife handle with one broken piece and no blade
15 collected from the bed. Did you observe this particular
16 knife handle on that day, March 17th?

17 A I did.

18 Q Okay. What, if any, significance does a knife
19 handle in the bed have to you?

20 A It doesn't appear it needs to be there. It's
21 not normal. It's not normal for someone to have a knife
22 in their bed.

23 Q Now, once you were with forensics, and I know
24 the process is a length of time, at any point, did Levy
25 Dunn return to the apartment while you all were in there

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 taking photographs and looking for evidence?

2 A No, ma'am.

3 Q Well, since he's not there, what did you do next
4 as far as after you left this apartment? How did you
5 secure it?

6 A We notified the property management and asked
7 them to secure it for us and left a copy of the search
8 warrant in the apartment?

9 Q So what was your next steps after getting this
10 particular evidence?

11 A After getting updated on the information of the
12 victim and the evidence we collected, I was scribing a
13 warrant for domestic violence.

14 Q Domestic violence? What did you charge him
15 with, sir?

16 A Domestic violence high and aggravated.

17 Q Okay. Now, do you have that warrant with you
18 today?

19 A I do.

20 Q And you served that warrant on him?

21 A I did not serve it, I signed it.

22 Q What is documented as his height and weight?

23 A 6-foot, 265 pounds.

24 Q Now, once you obtained that arrest before you,
25 what did you do?

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 A We entered him into NCIC.

2 Q What does entered him into NCIC mean?

3 A So we take the warrant and we enter it into the
4 National Crime Information Computer, which is run by law
5 enforcement. That's how we communicate with each other to
6 indicate cars are stolen, people are wanted.

7 Q So is it just his identifiers? What about that
8 vehicle?

9 A No, the vehicle was entered along with him.

10 Q And you said National -- or NCIC, who is
11 actually getting this?

12 A Any law enforcement agency in this nation would
13 run it.

14 Q Now, what other steps did you take to find Levy
15 Dunn?

16 A I was contacted by the victim, who notified me
17 that her credit car was used, that was left in the car, in
18 Rocky Mount, North Carolina, at a Speedway gas station.

19 Q What date?

20 A That was on March --

21 MRS. LIPINSKI: Objection as to hearsay, Your
22 Honor. Unless he can verify that, I don't think he
23 can testify what date it was used.

24 THE COURT: Mrs. Scott.

25 MRS. SCOTT: I asked the date that he was

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 notified by her about the credit card.

2 MRS. LIPINSKI: I'm sorry, the indication of the
3 question was what date the credit card was used. If
4 it's what date the victim spoke to him, we have no
5 objection to that.

6 THE WITNESS: She contacted me on March 19th of
7 2021, I'm sorry.

8 BY MRS. SCOTT:

9 Q Now, you referenced Rocky Mount, North Carolina?

10 A Yes, ma'am.

11 Q Earlier, we talked about you running a
12 residential search. Did you find a Rocky Mount address in
13 his residential history?

14 MRS. LIPINSKI: Objection as to residential
15 search, Your Honor. We were not provided with any of
16 those documents, nor is it reflected in this. It
17 would be hearsay because he's relying on a database
18 that is not documented.

19 THE COURT: Doesn't that fall under State v.
20 Rice?

21 MRS. LIPINSKI: I think if he says I ran a
22 search and this is what I did as a result of it,
23 that's one thing. If he says these are what that
24 search says, then he's going to testify as to that
25 database. I think somebody from that database would

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 have to give those results.

2 THE COURT: All right, wouldn't it come under
3 State v. Rice, though, as part of his investigative
4 duties?

5 MRS. LIPINSKI: Further objection, Your Honor,
6 we were never given any documentation --

7 MRS. SCOTT: We haven't got to that, Judge.

8 THE COURT: All right, come up here.

9 (WHEREUPON, an off-the-record bench conference
10 was held in the presence of the jury but out of
11 the hearing of the jury.)

12 THE COURT: Objection is withdrawn according to
13 counsel.

14 BY MRS. SCOTT:

15 Q Was the Rocky Mount address within that
16 residential history you ran?

17 A Yes.

18 Q So what's your next steps now that you have a
19 Rocky Mount address?

20 A I contacted the Rocky Mount Police Department
21 and provided them with the information about the active
22 warrant and asked them for assistance.

23 Q Now, I need to know about what county Rocky
24 Mount, North Carolina is in.

25 A Edgecombe County, I think.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 Q Okay. I'll just go ahead and refer to your
2 report as far as what counties did you search for The
3 Defendant?

4 A Well, it was Rocky Mount Police Department and,
5 also, Edgecombe and Nash County.

6 Q Okay. So other than that transaction on Rita's
7 card, did you research anything else of hers?

8 A Sorry.

9 Q I draw your attention to one of your reports
10 dated April the 6th.

11 A Yeah, recovered the vehicle.

12 Q But I'm asking about -- no, sir, I'm asking
13 about other than the transaction on Rita's card, did you
14 research anything else of hers? Research, sir?

15 A Oh, I'm sorry, yeah, her car. We weren't sure
16 about her car. We knew it had a GPS system on it, but it
17 wasn't activated. So I contacted CSC Company, it's kind
18 of like OnStar. And with the victim's assistance, we got
19 her activated and were able to ping the car, which is when
20 we came up with the Old Homestead Road address.

21 Q All right, what date was it that you're pinging
22 this car?

23 A That was on April 6th of 2021. And she, also,
24 provided me with some numbers that she said she was
25 getting strange phone calls from. We tried to research

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 those. We found, like, what company, but we couldn't
2 trace them to anybody in particular.

3 Q All right. Did you know the address that the
4 Toyota was pinged at, the last known address?

5 A That was the Old Homestead Road address.

6 Q Could you say the full address for us?

7 A It's 104 Old Homestead Road in Greenville.

8 Q And you were notified that the car was located
9 at Old Homestead Road?

10 A Initially, we asked Greenville County to go out
11 and look for it.

12 Q Okay.

13 A When they first went out, once we got that ping,
14 they said they went by the address and didn't find it. We
15 asked them not to make any contact, just to not alert
16 anybody that we were looking. But the vehicle was -- I
17 was notified that it was located.

18 Q So let's talk about that date. You asked them
19 to look for it April 6th, did they find it April 6th?

20 A It was found on April 7th of 2021.

21 Q So they did not find it April 6th, but did you
22 ask them to look for it on April 6th?

23 A I'm sorry, yes.

24 Q Then it was located on what date?

25 A On April 7th.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 Q So what happened to the vehicle once it was
2 found?

3 A Greenville County had it towed. I guess off one
4 of their local rotation lists.

5 Q What did you do once it was towed?

6 A I responded up to the vehicle, along with the
7 victim.

8 Q When you say you responded up to the vehicle,
9 where did you respond?

10 A To the tow yard. To Francis Marion Towing.

11 MRS. SCOTT: One moment.

12 BY MRS. SCOTT:

13 Q I'm handing you what's been premarked as State's
14 Exhibits 92 through 112. And as you look through them, if
15 you can put them back in numerical order for me. Do you
16 recognize those? You don't have to organize them. I
17 think that's more of a mom thing. Do you recognize those?

18 A I do.

19 Q All right. And how so?

20 A These appear to be pictures I took that day.

21 Q And they're a true and accurate depiction of the
22 vehicle that you saw on April the 8th?

23 A They are.

24 Q Okay. Now, when you went out to the tow yard
25 and you say you brought some folks with you. Let me know

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 who they are.

2 A Sure. I brought the victim with us and the
3 victim's advocate.

4 MRS. SCOTT: The State would like to admit these
5 into evidence, Your Honor, at this time.

6 THE COURT: Any objection from The Defendant?

7 MRS. LIPINSKI: No objection, Your Honor.

8 THE COURT: All right. What are the numbers?

9 MRS. SCOTT: 92 through 112.

10 THE COURT: All right, State's Exhibits 92
11 through 112 are admitted into evidence without
12 objection.

13 (WHEREUPON, State's Exhibits Nos. 92-112 were
14 admitted into evidence.)

15 BY MRS. SCOTT:

16 Q When you got this vehicle, what did you do when
17 you got this vehicle?

18 A I photographed it first and then I searched it
19 after getting consent to search from the victim.

20 Q In general, in general, when you searched it,
21 what, if anything, did your search reveal?

22 A It appeared to be lived in.

23 MRS. LIPINSKI: Objection, speculation, Your
24 Honor.

25 THE COURT: Overruled.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 BY MRS. SCOTT:

2 Q What did you see?

3 A It appeared to be lived in, people's clothes.

4 There was items like deodorant and things like that.

5 There was food containers. There was receipts. There was
6 a cell phone package.

7 Q All right, so let's look --

8 MRS. SCOTT: This is State's Exhibit what?

9 MRS. WESTFIELD: Ninety-seven.

10 BY MRS. SCOTT:

11 Q Look at 97, what do we see? What's by the
12 steering wheel, sir?

13 A There?

14 Q Yes.

15 A It appears to be like remnants of a cigar or
16 cigarettes.

17 Q Okay. Do we see food items here in State's
18 Exhibit 97?

19 A I do, there's a McDonald's cup and bag.

20 Q And 98, what's that a photograph of?

21 A Looks like it's the door panel of maybe the
22 driver's side door.

23 Q All right. State's Exhibit 100, what we got
24 here?

25 A It's the center console with crumpled up

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 receipts. Looks like some ear buds and phone charger.

2 MRS. WESTFIELD: 101.

3 BY MRS. SCOTT:

4 Q 101.

5 A Appears to be some kind of bag.

6 MRS. SCOTT: Next one.

7 MRS. WESTFIELD: 102.

8 THE WITNESS: Some grocery store bags, food
9 bags.

10 MRS. SCOTT: Next.

11 MRS. WESTFIELD: 103.

12 THE WITNESS: More food containers.

13 BY MRS. SCOTT:

14 Q Let's go back to that State's Exhibit number --
15 this is State's 103, what do we have here?

16 A Looks like the registration for the vehicle.

17 Q And whose name is here?

18 A Ms. Dunn, yeah, Nneka Dunn.

19 Q State's Exhibit 104?

20 A Looks like a trac phone, box for a trac phone
21 that was opened.

22 Q It was opened?

23 A Uh-huh.

24 Q State's Exhibit -- is that the remainder of the
25 package?

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 A I believe so.

2 MRS. SCOTT: Next photograph?

3 MRS. WESTFIELD: 106.

4 BY MRS. SCOTT:

5 Q What do we have here?

6 A It's a receipt from Family Dollar.

7 Q Are you able to look at the location to that
8 Family Dollar?

9 A Yes, it says store number 130, 2424 Old Buncombe
10 Road, Greenville.

11 Q What about the date that you see at the bottom
12 of this receipt?

13 A Yep, it says 4/6 of 2021.

14 MRS. SCOTT: All right. Next photograph?

15 MRS. WESTFIELD: 107.

16 THE WITNESS: Appears to be more food containers
17 and Febreze.

18 MRS. WESTFIELD: 108.

19 THE WITNESS: That was the clothing in the
20 trunk.

21 BY MRS. SCOTT:

22 Q You referenced something about these clothes?

23 A The shirts were, like, 3X size.

24 Q All right, let's talk about the shirts. Which
25 shirts are you talking about?

JAMES DONNELLY-DIRECT BY MRS. SCOTT

- 1 A Men's tee shirts.
- 2 Q What color are they?
- 3 A Blue.
- 4 Q The blue tee shirts?
- 5 A Yeah.
- 6 Q What other color shirts do we see?
- 7 A I believe there's a white one there, too.
- 8 Q Just one white one?
- 9 A I think there's a bundle of them.
- 10 Q Any significance about the bundle of white
- 11 shirts that you indicated in your report?
- 12 A They appeared to be just purchased and not used.
- 13 MRS. SCOTT: Okay.
- 14 MRS. WESTFIELD: 109.
- 15 BY MRS. SCOTT:
- 16 Q Is that another view of the back --
- 17 A It is. Between the seats down there, there's
- 18 some more HBA items.
- 19 Q HBA items?
- 20 A Men's care or like shampoo, deodorant.
- 21 Q Let's just zoom in on what you're talking about.
- 22 A I'm pointing over here.
- 23 Q What are you reading there?
- 24 A Right here where it says Dove Men.
- 25 MRS. SCOTT: Continue.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 MRS. WESTFIELD: 110.

2 THE WITNESS: That's the front passenger seat
3 with more food bags from Spinx, looks like, and
4 McDonald's.

5 MRS. SCOTT: All right.

6 MRS. WESTFIELD: 111.

7 THE WITNESS: Glove compartment.

8 MRS. WESTFIELD: 112.

9 THE WITNESS: That appears to be the back
10 driver's side seat. And there's some shoes and phone
11 box and some towels looks like bought from a
12 Wal-Mart.

13 BY MRS. SCOTT:

14 Q And did you photograph this vehicle?

15 A I did.

16 Q All different angles?

17 A I did.

18 Q So that's a lot of photographs. You
19 photographed this. Did you search this car as well?

20 A I photographed it first. I photographed it
21 before I searched.

22 Q Okay.

23 A That's why I photograph before I do anything.

24 Q All right. And now, we heard testimony about
25 going in there. Did you get consent to get into this

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 vehicle?

2 A I did. I got written consent from the victim
3 prior to doing that.

4 Q Okay. Since you searched it, what else, if
5 anything, did you find other than what you photographed
6 here?

7 A I found the victim's wallet, which was still
8 missing, which included her driver's license and social
9 security and credit cards.

10 Q And we heard testimony from Sergeant Wright, she
11 states that she does forensic testing all the time. Did
12 you call her to come out there?

13 A I did not.

14 Q Why not?

15 A Based on my search, I didn't find any kind of
16 evidence that would lead me to -- physical evidence that
17 ties into the actual assault.

18 Q You didn't see a knife?

19 A No. I didn't see any trace of any blood or
20 anything like that.

21 Q Well, once we've gone through this vehicle and
22 you searched it, what did you do?

23 A I released it to the victim.

24 Q You released it to who?

25 A The victim.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 Q Okay. What did you do with the photographs that
2 we just saw, that stack?

3 A I burned them to a CD and placed them into
4 evidence.

5 Q So talking about evidence, I want to go ahead --
6 we have entered into evidence the victim's clothes. I'm
7 going to ask you to open this bag up for me. Come on
8 down. That bag.

9 A (The witness complies.)

10 Q I just need you to pull out the shirt. All
11 right. I'm going to have my cocounsel put up a photograph
12 that we have.

13 MRS. SCOTT: State's Exhibit what?

14 MRS. WESTFIELD: Two.

15 MRS. SCOTT: Let's turn it where it kind of
16 makes a little bit more sense. Yeah, that's it.

17 BY MRS. SCOTT:

18 Q Let's put this shirt up in a manner which
19 someone would wear it.

20 A This is the back of the shirt.

21 MRS. SCOTT: Chip clip it for the record onto a
22 white board. Let me get some more chip clips.

23 BY MRS. SCOTT:

24 Q Okay, let's see. All right, just for the
25 record, what do you see here on -- these logos on this

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 shirt?

2 A Red stain, possibly suspected blood.

3 Q What about these icons?

4 A World Cup Rugby.

5 MRS. SCOTT: Do we have a photograph other than

6 --

7 MRS. WESTFIELD: This one?

8 MRS. SCOTT: That's it.

9 BY MRS. SCOTT:

10 Q Okay, would you say this is the same shirt here
11 that is in photograph -- State's Exhibit --

12 MRS. LIPINSKI: Your Honor, object, this is
13 speculation. They can lay the chain, but the victim
14 had been transported. He never saw it on her.

15 THE COURT: All right, rephrase.

16 MRS. SCOTT: We'll just rephrase the question.

17 BY MRS. SCOTT:

18 Q Let's just talk about the shirt. Let me get --
19 I need you to point or mark any rips in the back of this
20 shirt. We heard testimony about wounds to her shoulder.
21 Do you see anything on that shirt in the back?

22 A Yes, ma'am, there's one here. And another one.

23 Q You have to speak up because I've got,
24 Ms. April, my court reporter.

25 A There's one right here in the upper shoulder.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 There's one just below just to your left. There's one
2 here. Then there's one there.

3 Q All right, thank you, you may have a seat.
4 While this photograph is up --

5 MRS. SCOTT: What number is that again,
6 cocounsel?

7 MRS. WESTFIELD: Number two.

8 BY MRS. SCOTT:

9 Q Okay. Does she have any shoes on in this
10 photograph?

11 A No, ma'am.

12 Q Are there any shoes in that bag?

13 A No.

14 Q Okay.

15 MRS. SCOTT: Your Honor, I have a question. Am
16 I allowed to put gloves in just regular trash? Okay.

17 BY MRS. SCOTT:

18 Q Speaking of gloves, let's go -- I think we have
19 already talked about the ripped gloves with your
20 testimony.

21 MRS. WESTFIELD: State's Exhibit 69.

22 BY MRS. SCOTT:

23 Q Those were collected as well?

24 A Yes, ma'am.

25 Q And there was, also, a knife handle.

JAMES DONNELLY-DIRECT BY MRS. SCOTT

1 MRS. WESTFIELD: Yes, State's Exhibit 71.

2 BY MRS. SCOTT:

3 Q Black knife handle, that knife handle there?

4 A Yes, ma'am.

5 Q That was collected as well?

6 A It was.

7 Q Now, we heard testimony from Rita about her
8 receiving calls after April 7th, were you made aware or
9 did you request any conditions of him having or shouldn't
10 have contact with Rita?

11 A Yes, ma'am. At the bond hearing, she was
12 requesting no contact.

13 Q When you leave, you're going to have to put that
14 back up.

15 A Okay.

16 Q Say that again. Was he to have contact --

17 MRS. LIPINSKI: Your Honor, can we approach just
18 briefly?

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of
21 the hearing of the jury.)

22 BY MRS. SCOTT:

23 Q I was not listening because I had my back
24 turned. I do need you, when you're done --

25 A Yes, ma'am.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q -- to pick that up.

2 But please answer any questions that
3 Defense counsel may have for you.

4 THE COURT: All right, cross.

5 MRS. LIPINSKI: If you want to do that right
6 now, we can set that exhibit down. That might be a
7 better play, Your Honor.

8 MRS. SCOTT: Think we can use a push pin.

9 CROSS-EXAMINATION

10 BY MRS. LIPINSKI:

11 Q Let's start with that shirt. You don't ever
12 respond out to the hospital?

13 A I did not.

14 Q You never go there to interview the victim?

15 A I did not.

16 Q You never go there to collect evidence?

17 A I did not.

18 Q You never go there or send anyone there to
19 photograph her injuries other than Officer Pryzbylo, who
20 took down, while he was sitting there at her bedside --

21 A I sent Investigator Tedro.

22 Q All right. But other than that night, when he
23 would have told you that these are all the pictures he
24 took, correct?

25 A Yes. He just told me he took pictures.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q But you're the lead investigator?

2 A Correct.

3 Q You're the case agent?

4 A Yes.

5 Q You were, ultimately, the one responsible for
6 what we collect? All the evidence, do we do a thorough
7 investigation, you were the one who can command other
8 people to do things, like Tedro, Pryzbylo or any of these
9 officers or the forensic technicians, you have that
10 authority as what evidence is collected and what evidence,
11 additional evidence, is sought out, correct?

12 A Correct.

13 Q You don't send somebody out there -- as a
14 lieutenant, they come back and they're like well, I took
15 one picture, I think I'm good and you look at it. You
16 would have the authority to go do better, go back out
17 there, correct?

18 A Yes.

19 Q And so you received information that she had an
20 injury to her back, correct?

21 A Yes.

22 Q Or her trapezoid area, correct?

23 A Yes.

24 Q And you just testified that there's a couple
25 tears on the shirt and all that, but that -- within 24

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 hours of those injuries, there is no photographs of those
2 injuries taken, correct?

3 A No.

4 Q No?

5 A No.

6 Q So when you get up in front of the jury and you
7 say that there are these tears and that's kind of where
8 her injuries are, nobody, at the time that's happening, is
9 making any effort to actually see if that overlaps,
10 correct?

11 A Well, it appeared that way to me.

12 Q It appeared?

13 A It appeared that way.

14 Q But at the time the injuries are fresh, at the
15 time you can see what is a contemporaneous injury to this
16 alleged assault, there is no photograph of any injury
17 other than the ones sitting at a bedside and pretty much
18 is this side of her face, correct?

19 A Well, you can see the injury to her shoulder.

20 Q You can see it kind of from the front, but

21 nobody gets her to sit up, nobody takes any measurements
22 of it?

23 A No.

24 Q Nobody puts a scale beside it, none of that,
25 correct?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A Correct.

2 Q And you clearly had the ability and resources to
3 do that, correct?

4 A Yes.

5 Q And you don't even go out to the hospital the
6 next day to check on the victim, let alone interview her,
7 correct?

8 A Our victim's advocate went out. I did not, I
9 was working.

10 Q Okay, you were working. Let's get to that. So
11 you stated that the next day, I believe -- well, actually,
12 I could be wrong. Two days later, on the 19th, correct?
13 Right?

14 A On the what?

15 Q You got a report that says 3/19. You got that
16 in front of you? If not, I can give you a copy.

17 A I've got it. I've got to get to it.

18 Q All right. The victim, correct, from the
19 hospital allegedly calls you and gives you this story
20 about possibly Mr. Dunn using her credit card somewhere in
21 North Carolina, correct?

22 A I'm sorry, I'm still trying to find it.

23 Q That's okay.

24 A It got mixed up in my paperwork.

25 Q Here, let me make it easy. I'll let you borrow

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 my copy.

2 A All right. Thank you.

3 Q March the 19th, the victim calls. We've heard
4 all about this. Credit card possibly being used in North
5 Carolina, correct?

6 A Yes.

7 Q Possibly at a gas station, correct?

8 A Speedway.

9 Q Right. You have investigated property crimes
10 before; have you not?

11 A Yes.

12 Q So you could have gone to the hospital and went
13 to Ms. Dunn and said, how did you get this information,
14 did you bring up your bank account, what's the credit card
15 number, can I get a search warrant, can I interview that,
16 can I identify exactly what gas station it was being used,
17 could I reach out to that gas station, could I get a video
18 to see if any of that is being corroborated, and you don't
19 do any of that?

20 A I contacted Rocky Mount.

21 Q That wasn't my question. My question was, upon
22 receiving information from the victim, allegedly, and in
23 the hospital bed still, that her credit card is being used
24 by the person that attacked her and that she is feeding
25 you an investigation, not what you're doing, here is --

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1 here, I think he has my credit card, you don't do anything
2 to corroborate, confirm or document that in terms of bank
3 account information, finding the credit card, finding the
4 gas station or anything like that? I'm not asking did you
5 call Rocky Mount and tell them to be on the lookout for
6 him, I'm asking did you do anything to followup on the use
7 of the credit card?

8 A I don't recall. I don't think I did. I would
9 have documented that.

10 Q So that's a no?

11 A Yes.

12 Q And you do admit that here, you stated that he
13 still had her credit card. The fact that he just used it
14 that one time, those are the types things that in a
15 property crime investigation, you can readily get from gas
16 stations, bank records and those type things?

17 A Correct.

18 Q All right. And that, also, may have provided,
19 if we had gone into that, if he ever used it any other
20 time or his location, anything, but right now, the only
21 thing we have is what the victim is telling you, correct?

22 A Yes.

23 Q And you did some kind of resident search that
24 says he might be associated, right, with Rocky Mount,
25 correct?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A Correct.

2 Q All right. Let's talk about the day in
3 question. You respond out at 2300 hours, correct?

4 A Yes.

5 Q I'm not really good at military time, but I'm
6 going to go with 11 p.m.?

7 A That's correct.

8 Q All right. The alleged incident is alleged to
9 have occurred at what time?

10 A 19:40 or 2000 hours. They responded at 2000
11 hours, so, roughly, 8:00 p.m.

12 Q 8:00 p.m. You get there four hours later,
13 right?

14 A That's when I was called, yes.

15 Q Right. When you go out there, you state that
16 the first thing you do is to make sure they have taken
17 some statements from the witnesses, correct?

18 A Yes.

19 Q But by that, you mean she allegedly went down
20 the next breezeway where she encountered a couple of the
21 neighbors, correct?

22 A Correct.

23 Q And the statements you took were from a couple
24 of those neighbors and, possibly, one other who's around,
25 right?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A That's correct.

2 Q Do you go knocking on all the doors in the
3 apartment complex?

4 A I -- like you said, I had gotten there at 2300.
5 I was briefed by Sergeant Menzies as to what they found.

6 Q Did they tell you they had gone to every
7 apartment in her building?

8 A I don't recall if -- I asked if they knocked on
9 doors, but I don't recall what they got.

10 Q In any of the reports that you generate or that
11 you were given as part of the lead case agent, are you
12 aware of anywhere it says that any of your officers went
13 door-to-door in her building or the building where your
14 other officers locate her to identify other potential
15 witnesses?

16 A Not that I'm aware of.

17 Q No. Other than the forensic technician seeing
18 one Ring camera as she goes into the apartment, do you or
19 any of your other officers walk around to see whether or
20 not any other Ring doorbells or Ring videos or those type
21 of things are present in this apartment complex?

22 A That was the only one.

23 Q Did you go to that?

24 A Did I go to it, no.

25 Q No. So we identify one, but we don't even go

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 there to see what it says, correct? We don't go there,
2 knock on the door, you have a Ring doorbell? Something
3 happened next door. I was wondering if you caught
4 anything? Can we just look at the feed? You've done that
5 before, right?

6 A Yes.

7 Q But you didn't do it here?

8 A I did not.

9 Q You didn't do it at the apartment that was
10 across the door from where they lived?

11 A There wasn't a Ring doorbell there.

12 Q Is that in your report?

13 A No, it's in the pictures.

14 Q It's in the pictures of the door completely
15 opposite of their apartment?

16 A No.

17 Q So it's not in the pictures? There's no
18 documentation whether or not that apartment has a Ring
19 doorbell, correct?

20 A That's correct.

21 Q And there's nothing in your report that even
22 indicates you bothered to look, correct?

23 A No.

24 Q All right. Is there any effort -- you stated
25 that you talked to property management and you asked them

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 to come secure the apartment that night, is there any
2 indication that you had any conversation with them as to
3 whether or not there is any video surveillance that they
4 maintained at this apartment complex, at the mailboxes, in
5 the parking lot, in any common areas or anything like
6 that?

7 A Nothing that's documented, but I've worked a
8 previous case there, so I know what their cameras' angles
9 are and they don't have anything. They have inside the
10 pool area. They have inside the building. But they don't
11 have anything in the driveways.

12 Q You've worked previous cases there?

13 A I have.

14 Q And as far as you know. But pool areas, you can
15 drive by the pool area and still see a car driving by?

16 A It's surrounded by the buildings.

17 Q Surrounded by the buildings?

18 A Yes, ma'am.

19 Q But you don't know -- alleged, he leaves and
20 goes in her apartment. You don't know his path; do you?

21 A I don't.

22 Q You don't know whether he stayed in the area, do
23 you?

24 A I don't.

25 Q You don't know if he went and hid at the pool,

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 do you?

2 A I was told he left in the vehicle.

3 Q But you don't know where he went, do you?

4 A I don't.

5 Q You don't know if he went down on the other side
6 of the apartment complex, do you?

7 A I don't.

8 Q And there's no documentation of that other than
9 you just now saying I know this area and I know he
10 couldn't have been captured, but I didn't look?

11 A No, I said that I know the video camera system,
12 that I'm familiar with it.

13 Q All right. But you don't inquire as to whether
14 or not there's any Ring doorbells or anything like that,
15 correct?

16 A No, ma'am.

17 Q And you don't canvas that building or the other
18 building where the victim is located, correct?

19 A I did not canvas it, no.

20 Q So no reports were given to you that any of the
21 other officers involved in this investigation went to
22 apartment 1201, knocked on the door, no one answered, went
23 to apartment 1202, knocked on the door, white male
24 answered, gave this name, says he didn't hear anything or
25 see anything, went to this door? You do know how to

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 document, how to canvas an area?

2 A Yes, ma'am.

3 Q That wasn't given to you?

4 A It was not.

5 Q And even just not that night, you could have
6 gone out subsequent days after that and done that,
7 correct?

8 A Yes, ma'am.

9 Q And you didn't?

10 A No, ma'am.

11 Q Matter of fact, there's testimony from the one
12 off-duty officer that worked for you at the time, right?

13 A It was.

14 Q And he states at some point -- he actually lived
15 upstairs in this building, correct?

16 A I don't recall which building he lives in.

17 Q All right. But it would be pertinent that if he
18 lived upstairs in the actual building where this alleged
19 assault could have occurred, correct? And he states he's
20 with his husband. His husband is an off-duty EMT. They
21 both respond. You could have gotten a statement from that
22 off-duty EMT, could you not have?

23 A Yes.

24 Q He's married to one of your employees at the
25 time, correct?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A Yes.

2 Q But there's no statement taken from him?

3 A I didn't get one, no.

4 Q Even though he is the one, right, providing the
5 most acute care, right? He's probably the first one
6 there, even before the on-duty EMTs, the fire department
7 and all of those people respond, correct?

8 A Correct.

9 Q So when you interview the victim, she describes
10 the assault to you and she tells you that the fight is all
11 about the keys, correct?

12 A Yes.

13 Q When Mr. Dunn is allegedly stopped in the car,
14 do you take possession of those keys?

15 A The keys were with the vehicle.

16 Q That wasn't my question. These are the keys,
17 what the entire fight is about. Surely, you took the keys
18 and said is there blood on them, what do they look like,
19 how big are they, how bulky are they, what do they
20 ultimately go to, are they his set of keys, her set of
21 keys, are these the keys? You did that, right?

22 A I got the keys. The keys were with the vehicle.
23 It was already towed, so.

24 Q But you never examined them?

25 A I looked at them before I opened the car.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q Did you document that?

2 A No, ma'am. I mean, just...

3 Q No?

4 A I had them in my hand. I looked at them. It's
5 not like it was anything to document.

6 Q This is what the whole fight is about, right?
7 This is what these two are having this physical
8 altercation about, right?

9 A Yes, ma'am.

10 Q You testified and multiple other witnesses
11 testified there's blood here, there and everywhere, right?
12 She even admits that she arms herself with a dumbbell.
13 She tells you that she struck him with it multiple times.
14 And you don't put anywhere in your report that when you
15 finally locate what this entire fight is about that you
16 take the time and effort to examine these keys, photograph
17 them independently, possibly take them into evidence or
18 that's the only set of keys, return them to her, look at
19 their condition, anything like that, no?

20 A I didn't, no.

21 Q Okay. So you do ask Officer, I think, Pryzbylo
22 and Tedro, I'm probably hurting both of their name, and I
23 apologize being Lipinski, but, hopefully, you know who I'm
24 talking about. Does she have any defensive injuries on
25 her at the hospital, correct? Defensive injury is a term

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 that we do use in this field, but it can be misleading,
2 right?

3 A Yes, ma'am.

4 Q Because to tell an offensive versus defensive
5 injury, there's tell-tell sign of that, right? What we
6 know is people who are involved in a struggle that
7 sometimes you see things like cuts on the hand, abrasions
8 to the hand, swelling of the hand, cuts, right?

9 A Uh-huh.

10 Q And she has described being the victim of
11 several sharp force trauma attacks, right? And what your
12 officers say when they look at her hands is they don't see
13 any of those defensive injuries, correct?

14 A Correct.

15 Q And they don't photograph that, correct?

16 A I don't believe I saw any pictures of that, no.

17 Q I mean, we don't even photograph the injury of
18 the back, so you're not going to photograph her hands who
19 don't have anything there. Is there any time that you
20 receive indication that she had any injuries to her
21 stomach or her lower back, right?

22 A No.

23 Q So the most part -- and I don't want to get too
24 technical, but we're talking about shoulder height and
25 above are the injuries?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A Correct.

2 Q All right. But certainly, if she had told you
3 that there were other injuries, near her pocket, all of
4 that kind of stuff, you would have looked for those kind
5 of things?

6 A I would.

7 Q And you never got that during your actual
8 investigation, correct?

9 A That's correct.

10 Q All right. We took a picture of this knife
11 handle, correct?

12 A Yes, ma'am.

13 Q Are you one that locates it or they've already
14 found that because you get there like four hours later?

15 A It was in plain view. It was just sitting where
16 it was photographed.

17 Q Right, but you don't know if they had to pull
18 the covers back to get it there?

19 A They didn't tell me that.

20 Q They didn't tell you they did, but they, also,
21 didn't tell you they didn't, correct?

22 A Right.

23 Q So you don't -- all you know is when you get
24 there, that's where it is, correct?

25 A Correct.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q And there appears to be some kind of head
2 covering, hair net?

3 A It's a hair net.

4 Q Beside it, correct?

5 A Correct.

6 Q There's no indication that you ever scaled the
7 knife to find out how long the handle is, correct?

8 A That blade, no, I didn't photograph it.

9 Q All right. Officer Roller, now Wright,
10 testified that you do find -- I mean, it's a kitchen,
11 there are some pots and pans and whatnot, dishes in the
12 sink, right?

13 A Right.

14 Q You located -- I believe, there are a couple
15 knives in the drawer that might still have like a cover on
16 them or something, but they appear to be clean; is that
17 fair to say? Do you remember that?

18 A Yes.

19 Q If you didn't see that, please?

20 A I recall grabbing one of the knives because it
21 looked similar to the other one.

22 Q So there's one she photographs where it still
23 has a blade and there's something --

24 A That's the one I'm actually holding.

25 Q That you're holding?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A Yes.

2 Q But you never do a side-by-side?

3 A No, I didn't want -- we hadn't collect that yet,
4 so I didn't want to.

5 Q But that knife, you -- even though there does
6 appear to be something all over it, correct?

7 A Yes.

8 Q You don't collect that?

9 A No, it didn't appear to have any suspected blood
10 or anything like that on it.

11 Q There's something all over it?

12 A It is.

13 Q That knife is black?

14 A Uh-huh.

15 Q Blood can appear differently on black surfaces?
16 Dried blood can appear to be like ketchup, right?

17 A Right.

18 Q I mean, I've gotten my husband's shirt out of
19 the laundry and thought it was ketchup and found out
20 later, he nicked himself shaving and it's blood. I mean,
21 it can be different things, right?

22 A Sure.

23 Q So you've done all these findings of all this
24 stuff, but you find a knife that has debris, it's black.
25 It's not, obviously, mustard, it's not yellow, it's not

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 white, and you don't collect that knife?

2 A No, ma'am.

3 Q There is some kind of words on the handle of
4 that knife, correct?

5 A Correct.

6 Q Any effort to do in all your internet searches
7 whether what's the -- is it part of a knife set, what is
8 the size of this blade, what does this handle go to, what
9 does the original knife look like, anything like that?

10 A No.

11 Q All right. Showing your report from -- oh, I'm
12 sorry. I'm not that scary, I promise. So in your report
13 from 3/18 of 2021, right? And that's for the most part
14 the day in question when you review the crime scene,
15 correct?

16 A That's correct.

17 Q And it says -- here we go -- that in looking for
18 the knife, you looked in the bed, the sink, drawers and
19 the trash cans?

20 A Yes, ma'am.

21 Q All right. So we --

22 A We were looking for the knife blade.

23 Q The knife blade?

24 A Yes.

25 Q That's right, I apologize. But you don't lift

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 up the mattresses? You don't take all the bedding off the
2 bed? You don't go through all the items in the closet?

3 A We did lift up the mattress. It's pretty common
4 for people to hide things under the mattress.

5 Q But do you strip the bed?

6 A I don't know we stripped it, but we flipped it
7 over.

8 Q You flipped one sheet and looked like a blood
9 stain and you don't peel it back even more? There's
10 pillows, there's pillowcases. There's a duvet or a duvet
11 comforter and all that kind of stuff, correct?

12 A Uh-huh.

13 Q And for the most part, this is happening on the
14 floor. There's some other stuff on the floor as well,
15 correct?

16 A Yes.

17 Q But for the most part, you focus your search on
18 trash cans and some drawers?

19 A That wasn't done until after -- we waited until
20 after she photographed that we searched for the blade.

21 Q All right. But in your report, the only areas
22 you say without success we checked on the bed, the sink,
23 the drawers and the trash can?

24 A I was indicating those as other areas that we
25 searched.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q Okay. You talk about this glove. And I've
2 heard it said glove and I've heard it say gloves. There's
3 no effort -- it's in pieces, correct?

4 A It is.

5 Q There's no effort by anyone to lay it flat or
6 reconstruct it to determine if we're talking about one
7 glove or two gloves? We just collect them?

8 A We just collect them, yes.

9 Q It could have been one if you put it back
10 together for all you know?

11 A Possibly.

12 Q All right. There is in the incident location a
13 cell phone that is plugged in, correct?

14 A Yes.

15 Q We don't collect that phone?

16 A I did not.

17 Q You do know you have the ability to collect
18 phones?

19 A I do.

20 Q Do you know that you have the ability to
21 download phones?

22 A I do.

23 Q You didn't do that in this particular case?

24 A No, ma'am.

25 Q All right.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A It wasn't part of my search warrant.

2 Q Wasn't part of your search warrant?

3 A It was not.

4 Q Okay. But you could have identified the phone
5 and then gotten another search warrant, correct?

6 A Possibly.

7 Q You could have -- and you didn't do that?

8 A No.

9 Q All right. There's some comments that you made
10 about Mr. Dunn and the victim reporting to you there was
11 possibly contact after the incident in question, correct?

12 A Yes.

13 Q You were made aware of that, correct?

14 A Yes.

15 Q The victim, after she got out of the hospital,
16 she comes to see you, right? You don't go to her, she
17 comes in the office, I think?

18 A Yes, ma'am.

19 Q And correct me if I'm wrong, what day does she
20 first come in to see you after being discharged from the
21 hospital on March 22nd?

22 A Let me find my supplement.

23 Q I believe it's April 6th, but.

24 A It may be.

25 Q At least, a week later?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A Yes, ma'am.

2 Q So at that time, she has her phone in her hand,
3 correct?

4 A Yes, ma'am.

5 Q And you could have at any time just looked
6 through her phone, not even get a search warrant, just by
7 consent? Can you bring up the transaction where he's
8 alleged to have used your credit card and you don't do
9 that?

10 A No, ma'am.

11 Q Okay. And when she makes known to you that she
12 believes she's receiving contact from this unknown number
13 and you're trying to determine who's making these calls,
14 you don't look at her phone to examine these text
15 messages, to download them or anything like that?

16 A No, ma'am. I think I asked her to save them.

17 Q Right. But you have the ability when she's
18 there that day to go through her phone and you don't?

19 A I just asked her to save them.

20 Q That's not my question. You do not
21 independently verify or look at those messages when she is
22 there in your office?

23 A No, ma'am.

24 Q You don't, at that point, look at her phone to
25 corroborate whether or not this credit card is being used?

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 A No, ma'am.

2 Q You don't even take down the credit card number
3 and/or the financial institution to which it is
4 associated?

5 A She didn't provide it to me, no.

6 Q You could have asked?

7 A I could have.

8 Q You didn't, correct?

9 A Yes.

10 Q All right. And you stated right at the end that
11 when you went through the car, there was a driver's
12 license, social security card. Did you ever know that she
13 actually had a social security card being international?

14 A No, just what she reported to me.

15 Q You don't do any search of that?

16 A No.

17 Q You don't do like a driver's license check
18 either to see if she has an American driver's license?

19 MRS. SCOTT: Objection, Your Honor.

20 MRS. LIPINSKI: I'm just asking if he documented
21 these items, the same as the credit card.

22 THE COURT: What's your basis?

23 MRS. SCOTT: Your Honor, when she referenced
24 identification, she just kept going. I didn't know
25 where we were going, so I think it's cumulative at

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 this point.

2 MRS. LIPINSKI: He stated that those items
3 weren't there in the car and I'm just trying to make
4 sure did we ever obtain that they actually exist.

5 THE COURT: All right, overruled.

6 BY MRS. LIPINSKI:

7 Q You don't run a driver's license check?

8 A No.

9 Q And you don't do anything to identify any of the
10 other items she says allegedly were in the car when the
11 car was taken that night?

12 A No, ma'am.

13 Q Do you find like a purse or anything?

14 A There was a small bag.

15 Q A small bag?

16 A Pinkish, multi-color.

17 Q Wait a minute. Try not to violate -- try not to
18 get Mrs. Scott mad at me. You don't know the condition of
19 this car before it was taken, right?

20 A No, ma'am.

21 Q You said there were some Wal-Mart bags? The
22 victim stated she had been to Wal-Mart on the day of the
23 alleged assault, correct?

24 A That's correct.

25 Q You don't go through any of those Wal-Mart bags,

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 do you?

2 A Did I go through them?

3 Q Yeah.

4 A Some -- most of them were empty. There was some
5 towels in the other one.

6 Q But you don't go through them, that was my
7 question?

8 A Yes.

9 Q You do go through them?

10 A Yes.

11 Q To identify whether or not there are any
12 receipts or anything?

13 A Yes, correct.

14 Q Showing you State's Exhibit No. 101. That's the
15 bag?

16 A Yes, ma'am.

17 Q Is it possible that's a feminine hygiene item?

18 A Could be.

19 Q All right. But she doesn't ever pull out and
20 says, you know, here's my purse and here's my wallet, but
21 nothing's in it or the only thing left in it is my gift
22 card from McDonald's that doesn't have anything on it or
23 anything like that?

24 A No.

25 Q All right. So you collect the dumbbell,

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 correct?

2 A Yes, ma'am.

3 Q Or you didn't?

4 A No.

5 Q Forensics collects the dumbbell?

6 A She did.

7 Q You never asked for that to be tested?

8 A I did not.

9 Q You understand you have that ability?

10 A I do understand.

11 Q You understand The State of South Carolina has
12 the resources to test that?

13 A Yes, ma'am.

14 Q Both for blood or DNA?

15 A Yes, ma'am.

16 Q There's a handle on that dumbbell that could
17 have been tested for fingerprints, correct?

18 A I'm not sure if that surface is suitable for
19 fingerprints.

20 Q But it's possible?

21 A It's possible.

22 Q If it was a slick handle, the wrapper was still
23 on it, that might be suitable, correct?

24 A Possible.

25 Q Just like the knife handle could have, also,

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 been tested?

2 A It could have been tested, but it wasn't
3 suitable I don't think.

4 Q For fingerprints?

5 A For fingerprints.

6 Q Not DNA?

7 A Not DNA.

8 Q Not blood?

9 A Not blood.

10 Q It is suitable for those two things?

11 A Possibly.

12 Q Well, it's suitable? I'm not saying you're
13 going to get it?

14 A Yes.

15 Q Possibly is the result. Suitable is -- for the
16 most part, you can swab anything for DNA. You might not
17 get it, but whereas fingerprints requires specific
18 surfaces, sometimes DNA can be left on any type of item,
19 correct?

20 A I suspect.

21 Q And you didn't do that?

22 A I did not.

23 Q Forensics collected multiple blood swabs,
24 correct?

25 A That's correct.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q And you didn't test any of those?

2 A I've never sent that stuff. It was just in
3 evidence.

4 Q Clothes were collected, correct?

5 A That's correct.

6 Q You never sent any of those?

7 A No, ma'am.

8 Q So the victim gives you the information about
9 the credit card and you never corroborated that, correct?

10 A I did not corroborate the credit card other than
11 --

12 Q Forensics give you evidence you never test,
13 correct?

14 A Yes.

15 Q You asked the victim to go find out about the
16 Toyota Rav-4 information and the ping, correct?

17 A Yes, ma'am.

18 Q You don't go do that?

19 A No, I contacted them because they wouldn't give
20 her the information.

21 Q You called them together, correct?

22 A She gave me the number to call because they
23 wouldn't give her the information.

24 Q All right.

25 A I spoke to a female named Brittany at SCS.

JAMES DONNELLY-CROSS BY MRS. LIPINSKI

1 Q This is your report from April 6th?

2 A Yes, ma'am.

3 Q The first paragraph, it says, I'm in contact
4 with the victim and asked that she contact Toyota?

5 A Yes.

6 Q So you don't contact Toyota at first, you send
7 her to do it?

8 A To avoid having to get a search warrant to do
9 it.

10 Q But then she comes back and they allow you to do
11 it together?

12 A That's correct.

13 Q And at that point, you're, at least, able to get
14 a ping, correct?

15 A Yes, that's correct.

16 Q But you, also, know because you testified you're
17 familiar with this company, you contacted that company,
18 that they can do more than just ping it. They can track
19 where your car has gone, correct?

20 A I don't know, I just asked about pinging for
21 location.

22 Q All right. But you could have done that?

23 A I could have asked, sure.

24 Q Because they could have tracked from the moment
25 that car leaves the apartment and where it goes?

NNEKA DUNN-REDIRECT BY MRS. SCOTT

1 A It wasn't activated until we called.

2 Q But you don't know what they couldn't have
3 downloaded off that system?

4 A I don't know what their capabilities are if it
5 wasn't activated.

6 Q So other than the evidence that comes to you,
7 you don't actually go out and seek out or have tested or
8 corroborated any of the information you were given?

9 A (There was no verbal response.)

10 MRS. LIPINSKI: Nothing further.

11 THE COURT: Redirect?

12 MRS. SCOTT: Just briefly.

13 REDIRECT EXAMINATION

14 BY MRS. SCOTT:

15 Q Lieutenant, this occurred March 17th of 2021,
16 were you looking for The Defendant then?

17 A Yes.

18 Q Okay. Let's go to -- let's go a couple of
19 weeks. March 25th, had you found The Defendant then?

20 A No.

21 Q Okay. When did we find this Defendant? We,
22 that's -- when did you locate this Defendant?

23 A I believe that was April 6th or 7th.

24 Q I need you to tell us when, not I believe.

25 A Sorry. I want to say it was April 6th.

NNEKA DUNN-REDIRECT BY MRS. SCOTT

1 Q Is that confirmed or?

2 A I'm sorry, hold on one second. April 7th is
3 when he was arrested.

4 Q That's when he was arrested?

5 A Yes.

6 Q But from March 17th to April 7th, did you
7 attempt to find this Defendant?

8 A Yes.

9 MRS. SCOTT: Thank you.

10 THE COURT: All right, any recross?

11 MRS. LIPINSKI: No, Your Honor.

12 THE COURT: All right, you're excused, thank you
13 sir.

14 All right, State call your next witness.

15 MRS. SCOTT: The State rest, Your Honor.

16 THE COURT: All right, ladies and gentlemen,
17 that is The State's case. As a result of that, I've
18 got -- I'm required to take some matters up with the
19 lawyers, so I'm going to excuse you. Please don't
20 discuss the case.

21 (WHEREUPON, the jury left the courtroom at
22 approximately 11:55 a.m.)

23 THE COURT: Let's take a five-minute restroom
24 break.

25 (WHEREUPON, a short break was taken.)

1 MRS. SCOTT: All right, any motions?

2 MRS. LIPINSKI: May it please the Court, Your
3 Honor, at this time, The Defense would make a motion
4 for directed verdict in favor of The Defendant. We
5 believe The State has failed to meet their burden of
6 proving criminal domestic of a high and aggravated
7 nature. We believe they've failed to meet their
8 burden. That this was great bodily injury or should
9 have resulted in great bodily injury manifesting an
10 extreme indifference to human life. We don't believe
11 there's been sufficient evidence to present that
12 issue to the jury. We believe the evidence falls
13 short of that and as such, the issue should not be
14 presented to the jury.

15 We take this opportunity to renew all previous
16 objections, all pretrial motions. Mainly, the search
17 warrant motion that the evidence admitted was seized
18 in violation of my client's Fourth Amendment right,
19 specifically, it was a result of a protective sweep
20 that need not be done. That was the basis of the
21 search warrant and as a result of that, all evidence
22 garnered and admitted from the apartment should have
23 been excluded. So we take this opportunity to renew
24 all those objections and motions. And moreover, The
25 State in this case has failed to meet their burden.

1 THE COURT: All right, Mrs. Scott.

2 MRS. SCOTT: Your Honor, in response to Defense
3 counsel's motion regarding directed verdict, we do
4 believe given in light most favorable to The
5 Plaintiff, The State, Your Honor, that we have
6 satisfied that in order for it to go to the jury.

7 In regards to great bodily injury, the
8 definition of great bodily injury is substantial risk
9 of death. And we heard today from Dr. Strasberg
10 about the substantial risk she had, he specifically
11 said death. He, also, referenced some other
12 life-threatening positions when he talked about the
13 trachea and esophagus. We, also, heard from the
14 victim, Your Honor, about her permanent
15 disfigurement. And we introduced photographs of her
16 face after this incident that she still has today.

17 THE COURT: All right.

18 MRS. LIPINSKI: Just briefly in response?

19 THE COURT: Yes, ma'am.

20 MRS. LIPINSKI: I don't mean to belabor the
21 point. I would note that criminal domestic violence
22 first degree, also, has an element of great bodily
23 injury and to that extent, the two overlap.
24 Therefore, I believe that it's not just focused on
25 the nature of the victim's injuries, but, also,

1 evidence manifesting an extreme indifference to human
2 life, which raises it.

3 I don't believe any of the other circumstances
4 of high and aggravated nature, which I believe is
5 during the commission -- those aren't alleged in the
6 indictment. There are some other ones during the
7 commission, like, while the victim is pregnant or
8 some -- I think there's something about a robbery and
9 those type things. Those aren't in the indictment,
10 so I don't think The State can rely upon those to
11 meet -- to distinguish this CDV HAN from CDV first.
12 So I believe they are required to focus on that
13 circumstance of aggravation. I would just point that
14 out to The Court. The great bodily injury in and of
15 itself won't carry today.

16 THE COURT: All right. As you know, it's
17 whether or not the existence or nonexistence of
18 evidence and if there's any direct evidence or any
19 substantial circumstantial evidence proving the
20 accused's guilt and the motion must be denied. I
21 think the evidence provides both direct evidence and
22 substantial circumstantial evidence.

23 As to the issue of great bodily harm, I think
24 the evidence is sufficient to show that there is
25 evidence of great bodily injury due to the nature of

1 her injury, the victim's injuries. The testimony
2 from both the doctor and the victim herself and from
3 the eyewitnesses as to the condition she was in and
4 the injuries that were inflicted upon the victim. So
5 I do find that there is evidence of great bodily
6 injury and circumstances that manifest an extreme
7 indifference to the value of human life. So the
8 motion as to that ground is denied.

9 As to the search warrant, my ruling still
10 stands. I deny the motion as to the search warrant.
11 Those were made pretrial. In addition, to the
12 testimony that there was possibly -- or that The
13 Defendant had fled the scene, they didn't necessarily
14 know where he was, although, there was some testimony
15 about possibly getting into a vehicle. There was,
16 also, testimony from another police officer who said
17 that there was an understanding there may have been
18 others involved. So I think that, also, allows
19 extrinsic circumstances there in the event there were
20 others involved, so going to the apartment was
21 reasonable and does evidence extrinsic circumstances.
22 So on those grounds, the motion will be denied.

23 All right, any other motions?

24 MRS. LIPINSKI: Just real quickly, and I didn't
25 include this, but on appeal, they always do this. I

1 would, also, renew specifically The Defense's motion
2 to be allowed to go into the victim regarding her
3 prior marriage or relationship in Nigeria, her
4 children, that that was possibly -- infidelity or
5 alleged infidelity may have been the purpose of that
6 argument. We were cut off from doing that. I would
7 just renew that motion now for the purposes of
8 preserving the record.

9 THE COURT: I note your motion. And we did go
10 through that extensively during the trial. So the
11 motion will be denied -- or my ruling on that in the
12 admissibility of evidence stands. So I note your
13 objection and note your motion.

14 All right, anything else from The Defendant?

15 MRS. LIPINSKI: I believe now might be the
16 appropriate time if The Court wants to do the
17 colloquy regarding his decision to testify, Your
18 Honor.

19 THE COURT: Hold on just a second. Okay.

20 EXAMINATION

21 BY THE COURT:

22 Q Mr. Dunn, please stand, sir. We have now
23 reached the stage of the trial where I'm required to
24 explain and go over with you certain rights that you may
25 have in this case. If you don't understand anything I

LEVY DUNN-EXAMINATION BY THE COURT

1 say, you let me know. If you need me to repeat anything,
2 you let me know as well.

3 A Yes, sir.

4 Q You have the right as part of your defense to
5 claim the protections given to you by the Fifth Amendment
6 of the Constitution of the United States. And the
7 amendment states in part that no person shall be compelled
8 in any criminal case to be a witness against himself.
9 That means that you cannot be required to testify in this
10 case. You have the right to testify on your own behalf.
11 However, no one can make you testify here today. This a
12 personal right that you have and no one can waive this
13 right except you.

14 If you do decide to testify you will be
15 subject to the same rules that govern other witnesses who
16 have testified here in the trial. And you may be examined
17 and cross-examined on any relevant issue in this case. In
18 addition, if you have any convictions involving dishonesty
19 or false statement or crimes punishable by imprisonment
20 for more than one year and The Court determines that the
21 probative value of admitting this evidence outweighs the
22 prejudicial effect to you, then The State will be able to
23 introduce that record to attack your credibility.

24 Does The State have any such testimony or
25 evidence?

LEVY DUNN-EXAMINATION BY THE COURT

1 MRS. SCOTT: We do, Your Honor.

2 THE COURT: All right, what is that?

3 MRS. SCOTT: In referencing North Carolina, we
4 admitted an assault on a female NCIC where he
5 received five years suspended to 12 months probation.
6 And that would fall under carrying more than one
7 year. He, also, has -- I apologize domestic third
8 degree in 2020.

9 THE COURT: All right. Assault on a female was
10 when?

11 MRS. SCOTT: It was from -- 2016, Your Honor, is
12 when the judge signed the sentencing sheet.

13 THE COURT: Domestic violence. What's the other
14 one?

15 MRS. SCOTT: The domestic violence third degree
16 is not a charge, Your Honor, however, I guess I need
17 to tell you it's all impeachable. So DV third degree
18 in 2020, Your Honor.

19 THE COURT: Any potential --

20 MRS. SCOTT: Yes, sir.

21 THE COURT: -- impeachment evidence.

22 MRS. SCOTT: DV third in 2020. Your Honor, I
23 don't believe given the case law, malicious injury to
24 personal property would satisfy the moral turpitude.
25 I do have a prostitution offense from 2022, Your

LEVY DUNN-EXAMINATION BY THE COURT

1 Honor. I'm inquiring if that would qualify moral
2 turpitude?

3 THE COURT: Well, the standards are not moral
4 turpitude under 609.

5 MRS. SCOTT: We're only doing the 609, Your
6 Honor?

7 THE COURT: That's the only thing that South
8 Carolina allows.

9 MRS. SCOTT: Well, Your Honor, crimes of moral
10 turpitude, I believe to be of forgery, theft.

11 THE COURT: Those are crimes -- 609 requires --
12 several categories of 609 and one of them is crime
13 punishable by more than one year or a crime -- that
14 requires a 403 analysis or a crime of dishonesty,
15 which does not require a 403 analysis. Then you have
16 ten-year limit on everything.

17 MRS. SCOTT: Your Honor, I'm confusing moral
18 turpitude with -- I apologize, a case next week. And
19 I apologize, Your Honor, I meant crimes of
20 dishonesty. Going back to that goes into the
21 misdemeanor larceny from 2005, a common law forgery
22 from 2005, an assault and inflicting serious injury.
23 However, that is a misdemeanor because it carried
24 over one year in North Carolina from 2006.

25 MRS. LIPINSKI: Your Honor, just the record she

LEVY DUNN-EXAMINATION BY THE COURT

1 provided me last night is that he pled to assault on
2 a female and it was lesser included offense. She
3 does say he was charge with a serious injury, but the
4 information she provided last night, if you look -- I
5 pulled up North Carolina code, he pled to a lesser
6 offense on that assault on a female. And that was
7 the code that I was able -- this is why I look for
8 certified convictions is this -- the sentence may
9 still trigger it and he may still open the door, but
10 I do not see that that was the conviction that he
11 actually pled to on the information that she provided
12 me last night.

13 THE COURT: Well, at this stage, too, we're not
14 arguing whether it is. We'll deal with that at the
15 time. But right now for purposes of the colloquy --

16 MRS. LIPINSKI: It was, at least, an assault on
17 a female charge that potentially can be used against
18 him. I advised him of that this morning.

19 THE COURT: Okay, what else?

20 MRS. SCOTT: That's it, Your Honor.

21 BY THE COURT:

22 Q Okay, so Mr. Dunn, those are potential
23 convictions that may be used to impeach you if I
24 determine, as I said, that the probative value of
25 admitting that for impeachable purposes outweighs the

LEVY DUNN-EXAMINATION BY THE COURT

1 prejudicial effect to you. So those are potential
2 convictions out there that could be used against you in
3 cross-examination if The Court allows that to occur.

4 So if you decide to testify, Mr. Dunn, this
5 decision is your decision, it must be freely, voluntarily
6 and intelligently made with the knowledge of the
7 protections that you have under the United States
8 Constitution. And this, again, is your decision. And
9 again, with the knowledge that you have that you are
10 protected under the Constitution and the consequences as a
11 result if you do decide to testify.

12 So if you do not decide to testify and you
13 decide to exercise your protection under the Constitution,
14 I will tell the jurors they cannot give the fact that you
15 did not testify any consideration whatsoever. And there
16 is to be absolutely no prejudice to you because you did
17 not testify. But it is left entirely up to you whether or
18 not you want to testify. And you may talk with your
19 lawyers or if you have any family or friends here in the
20 courtroom, I don't know if you do, but anyone you want to,
21 but the final decision must be yours. And it's entirely
22 left up to you.

23 Now, do you have any questions of me or
24 want me to repeat anything?

25 A I want to discuss it with my attorney.

LEVY DUNN-EXAMINATION BY THE COURT

1 Q I just want to make sure that you understood
2 everything that I told you. And I'm going to step off the
3 bench and give you the opportunity to discuss it with your
4 attorney.

5 If you would let Mr. Preston know that,
6 Mrs. Lipinski.

7 MRS. LIPINSKI: We will, sir.

8 THE COURT: Then come get me.

9 MRS. LIPINSKI: Thank you, Your Honor.

10 (WHEREUPON, a short break was taken.)

11 BY THE COURT:

12 Q All right, Mr. Dunn, have you made that
13 decision?

14 A Yes, sir.

15 Q And what is that decision?

16 A I'm not going to testify.

17 Q You're not going to testify?

18 A No, sir.

19 THE COURT: All right. Thank you, sir.

20 MRS. LIPINSKI: Well, Your Honor, I believe for
21 purposes of the record that The Defense has to rest,
22 then I have to renew all the motions I just made,
23 which I don't want to belabor it. I know time is of
24 the essence.

25 THE COURT: My next question was going to be

LEVY DUNN-EXAMINATION BY THE COURT

1 does The Defense have any testimony to put up?

2 MRS. LIPINSKI: No, we do not. The Defense
3 formally rest, Your Honor, and we would renew the
4 motions we just made for directed verdict and renew
5 any motions, any objections to the evidence, the
6 search warrant issue, the desire to go more into the
7 Nigeria issue and the other objections The Defense
8 raised.

9 THE COURT: All right, The Defendant's motions
10 are noted and my rulings as previously made here at
11 the directed verdict stage of The State's case still
12 stand.

13 All right. Logistics -- well, first of all,
14 charges. One thing I want to see and ask if either
15 or both of you have any proposed charges on a DV.
16 The DV statutes and charges are very difficult and
17 complex, as we all know. Do either of you have any
18 proposed charges? Have you discussed any proposed
19 charges with each other on the domestic violence
20 indictments at this time? Do you have any proposed
21 charges?

22 MRS. SCOTT: I do, Your Honor. And I was
23 working on some a little bit last night for us to
24 talk about. If I can send it to your clerk, I could
25 possibly have that conference now. It's only because

1 of the lesser includeds and all the ways you get to
2 here and get to there. So if you give me a second to
3 log in remotely and I can get into actually my
4 desktop or, Your Honor, we can do this and come back
5 30 minutes prior. I'm open --

6 THE COURT: My thought is I need to do something
7 with the jury. So I think -- my thought is to take a
8 break to allow everyone to get some lunch, especially
9 the jury, allow them to get some lunch. During this
10 break, y'all can discuss the potential charge. Then
11 once y'all do that, then we can gather again to
12 discuss the charge.

13 My charge, excluding the domestic violence
14 charge, will be my regular charges. Just give me a
15 minute.

16 (WHEREUPON, there was a brief pause on the
17 record.)

18 THE COURT: All right. I intend to charge
19 them -- I'll discuss the indictments, that that is
20 not evidence. Then I will charge them on the duties
21 of the jury and the trial judge, presumption of
22 innocence, reasonable doubt, what is evidence --
23 actually, what is not evidence, statements, arguments
24 of the lawyers, questions and objections, direct and
25 circumstantial evidence, credibility of witnesses,

1 expert witnesses, since we have had one. I will give
2 the charge on The Defendant's right to remain silent
3 and not testify, intent, criminal intent. Then we
4 get to the domestic violence charges, going through
5 those. Then I will charge -- I, also, give a
6 sympathy charge, then I'll go to the duty to
7 deliberate. So those will be my charges.

8 MRS. LIPINSKI: If I can -- you may have said
9 it, and I apologize. What reasonable doubt language
10 do you use?

11 THE COURT: Let me -- all right, I'll just read
12 it. The State has the burden of proving The
13 Defendant guilty beyond a reasonable doubt. Some of
14 you may have served as jurors in civil cases where
15 you were told that it is only necessary to prove that
16 a fact is more likely true than not true, such as by
17 the greater weight or preponderance of the evidence.
18 Here, it must be beyond a reasonable doubt.

19 Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of The Defendant's guilt.
21 There are very few things in this world that we know
22 with absolute certainty and in criminal cases, the
23 law does not require proof that overcomes every
24 possible doubt.

25 If, based on your consideration of the evidence,

1 you are firmly convinced The Defendant is guilty of
2 the crime charged, you must find The Defendant
3 guilty. If, on the other hand, you think there is a
4 real possibility that the Defendant is not guilty,
5 you must give The Defendant the benefit of the doubt
6 and find him not guilty.

7 Also, leading up to that --

8 MRS. LIPINSKI: It was mainly firmly convinced
9 versus hesitate to act. Some judges do a hybrid,
10 some do one or the other. I was really looking for
11 that. Thank you, Your Honor.

12 THE COURT: Then I do the presumption of
13 innocence prior to that.

14 MRS. LIPINSKI: Okay.

15 THE COURT: So the only thing really to discuss
16 is the domestic violence charges. And obviously,
17 we've got the lesser included offense issue.

18 So why don't we do this, Mrs. Scott has agreed
19 to take a look at that and discuss with the Defense
20 on a charge and if y'all can come to an agreement on
21 a charge, obviously that --

22 MRS. LIPINSKI: Makes your life a lot easier.

23 THE COURT: Yes, yes. And from appellate
24 purposes, too, it would just make a lot more sense.
25 But if you can't, we'll go from there. So why don't

1 we -- so it's a quarter till 1:00 now. Are y'all
2 okay to come back at 1:30? Will that give y'all
3 enough time or do you need an hour?

4 MRS. SCOTT: In that timeframe, we're going to
5 be conferencing.

6 THE COURT: Yeah. Would an hour be enough or do
7 you need to come back at two o'clock?

8 MRS. LIPINSKI: I think two o'clock might be
9 better. I'll try and communicate with her so we can
10 -- if we can come to an agreement, if not, we might
11 reach out and try to find you a little bit earlier.

12 THE COURT: Just do that. I was getting ready
13 to tell you if y'all do come to an agreement, just
14 let me know. I'm going to stay here. I'm not going
15 anywhere to lunch, so I'll stay here. So why don't
16 we then come back here at 2:00. And hopefully, in
17 the interim, y'all can agree to a charge. If not, we
18 can discuss it. I'll tell the jury maybe come back
19 at 2:15, so that will give us a little bit of leeway.
20 So let me bring the jury and let them know.

21 Mr. Preston.

22 MRS. LIPINSKI: I apologize, I forgot about
23 them.

24 (WHEREUPON, the jury entered open court at
25 approximately 12:47 p.m.)

1 THE COURT: All right, ladies and gentlemen, we
2 took care of the required matters. As you heard, The
3 State has rested. And The Defense has rested. So
4 all of the evidence is in before you. And so all
5 that is left for the closing arguments of the lawyers
6 to give to you and then my instructions to you on the
7 law and for you to deliberate.

8 So I'm going to excuse you for lunch and ask
9 that you report back at 2:15. At that time, we'll
10 have the closing arguments of the lawyers. So again,
11 please don't discuss the case. I'll see you back
12 here at 2:15.

13 (WHEREUPON, the jury left open court at
14 approximately 12:48 p.m.)

15 THE COURT: All right, we'll be in recess until
16 2:00. If y'all need to talk to me, I'm here. I'm
17 not going anywhere. Just let me know, I'll be glad
18 come back to you, come back to chambers, we can do
19 that, whatever y'all want.

20 MRS. LIPINSKI: Thank you, Your Honor.

21 MRS. SCOTT: Thank you, Your Honor.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: All right, during the lunch recess,
24 some information has come to the Court's attention
25 that three jurors at the -- were eating lunch at the

1 Society Sandwich Shop downtown and were overheard
2 talking about the case. And this report came from
3 some members who are familiar with the case. And
4 one, apparently, with The Defense and another someone
5 else with the public defender's office who were in a
6 booth behind these three jurors.

7 So we discussed in chambers the situation, and
8 what I'm going to do is I'm going to bring the entire
9 jury panel out as a whole. I'm going to question
10 them and ask if anyone went to the Society Sandwich
11 Shop. If there are jurors that raise their hand, I'm
12 going to excuse all of them. Then I'm going to bring
13 each one of those individuals out for questioning on
14 the record.

15 Does The State agree with that process?

16 MRS. SCOTT: Yes, Your Honor.

17 THE COURT: And does The Defense agree with that
18 process?

19 MRS. LIPINSKI: Yes, Your Honor.

20 THE COURT: Bring them out.

21 (WHEREUPON, the jury came into open court at
22 approximately 2:14 p.m.)

23 THE COURT: All right, ladies and gentlemen, I
24 have a question that I need to ask of the jury.

25 During the lunch hour, did any member of the jury

1 panel go to Society Sandwich Shop to eat lunch? If
2 you went to Society, okay. All right. I'm going to
3 excuse everybody for right now. If you would go back
4 to the jury room and I'll give you further
5 instructions.

6 (WHEREUPON, the jury left open court at
7 approximately 2:42 p.m.)

8 THE COURT: All right, let the record reflect
9 that three jurors did raise their hands that they did
10 go to the Society Sandwich Shop.

11 So with that, if you would bring one of the
12 three. I don't know their names, but one of the
13 three.

14 MRS. LIPINSKI: Your Honor, after you question
15 one of them, if he could be put in an empty room so
16 they don't go back in there and talk to the jurors
17 about what your question was.

18 THE COURT: Yeah, I was going to do that.

19 EXAMINATION

20 BY THE COURT:

21 Q All right, yes, sir, what's your juror number
22 please, sir?

23 A Forty.

24 Q All right, you are Mr. Chandler?

25 A That's correct.

JUROR NO. 40-EXAMINATION BY THE COURT

1 Q Now, you raised your hand that you were at the
2 Society Sandwich Shop?

3 A Yes, sir.

4 Q Were the two other jurors that raised their
5 hands with you?

6 A Yes, we were at the same table.

7 Q Now, during lunch or any time before or after
8 lunch there at the Society Sandwich Shop, did y'all
9 discuss the case in any manner?

10 A No.

11 Q And I don't mean as far as -- when I say in any
12 manner, I mean, discussing anything about The Defendant's
13 guilt, the number of years he could be sentenced if found
14 guilty or any other discussion about anything involving
15 this trial?

16 A No.

17 Q No? None at all?

18 A No.

19 THE COURT: All right, I'm going to excuse you
20 for right now.

21 Mr. Preston, put --

22 THE BAILIFF: I can put him in the other jury
23 room.

24 THE COURT: Thank you.

25 THE BAILIFF: Please, sir.

JUROR NO. 29-EXAMINATION BY THE COURT

1 THE COURT: Bring the next one out.

2 EXAMINATION

3 BY THE COURT:

4 Q Yes, ma'am, what is your juror number?

5 A I'm 29.

6 Q All right, you're Ms. Burger?

7 A Correct.

8 Q All right, you were one of the jurors that
9 raised your hand that went to the Society Sandwich Shop;
10 is that correct?

11 A Yes, sir.

12 Q Now, the two other jurors that raised their
13 hand, were those the two jurors that you went to the
14 sandwich shop with?

15 A Uh-huh.

16 Q Now, during lunch, did you and the other two
17 jurors have any discussion about this case? And that
18 discussion would mean anything? It's not limited to the
19 testimony. It can be anything about this case, whether
20 The Defendant is guilty or not guilty or how much time he
21 would serve or any other matter about this case? Was
22 there any discussion among the three of you about this
23 case?

24 A I don't recall that discussion, no.

25 Q Did you have any discussion whatsoever?

JUROR NO. 49-EXAMINATION BY THE COURT

1 A We talked about lots of different things.

2 Q Did you talk about this case at all?

3 A No. I don't recall talking about it.

4 Q Okay, you don't recall. Did you have any kind
5 of discussion at all about it?

6 A I mean, maybe about how much longer we were
7 going to be here, yeah.

8 Q That's the only decision you had about the case?

9 A Yes.

10 THE COURT: All right, thank you, ma'am.

11 JUROR NO. 29: You're welcome.

12 THE COURT: Maybe --

13 THE BAILIFF: Other courtroom?

14 THE COURT: Other courtroom, yeah. Get the
15 third one.

16 EXAMINATION

17 BY THE COURT:

18 Q Yes, sir, what's your juror number?

19 A Forty-nine.

20 Q Forty-nine. All right, you are Mr. Kodak? Is
21 that how you pronounce it?

22 A Yes, sir.

23 Q All right, you're one of three jurors who raised
24 their hand that went to Society Sandwich Shop?

25 A Yes, sir.

JUROR NO. 49-EXAMINATION BY THE COURT

1 Q Anytime during lunch, did you have any -- did
2 the three of you or any of the three of you have any
3 discussion about this case at all?

4 A No, sir.

5 Q Discussion would include anything at all about
6 this case?

7 A No, sir.

8 Q The number of years he could get if he was
9 convicted or guilty or not guilty or anything at all about
10 this case?

11 A Not that I recall.

12 Q Okay, you say not that you recall.

13 A I don't remember speaking of anything about the
14 case.

15 Q As you stand here today, is it your statement to
16 The Court that you or any of the others had any
17 conversation about this trial?

18 A That's correct.

19 THE COURT: All right, thank you, sir.

20 THE BAILIFF: Sir, please follow me.

21 THE COURT: All right. Well, we've got all
22 three of them saying they did not have any
23 discussion.

24 MRS. LIPINSKI: The Defense would still make a
25 motion for a mistrial, Your Honor. I don't believe

1 there's reason on the part of the two people I'm
2 willing to proffer their testimony would fabricate
3 this story. I think that it's curious that what was
4 overheard was about the number of years it might
5 carry and joking about a not guilty verdict.

6 I will note -- and this is my demeanor. The
7 Court is, obviously, free to -- all three seem to, I
8 think curiously, I don't recall for something that
9 happened moments ago. I think when they made those
10 comments, the lady in blue and white looked up at the
11 ceiling. She wasn't making direct eye contact. I
12 think one of the gentleman kind of looked away or
13 looked down, was what I took -- was concerns that I
14 had that they were being candid. Always a concern
15 here is that they feel like they've done something
16 wrong and that they don't want to get into any
17 trouble and I understand that. But you, also, now
18 the situation of putting them back in the jury and
19 allowing them to decide and does that impact his
20 ability to get a fair and impartial trial? So The
21 Defense still feels that a mistrial is warranted
22 giving the circumstances and memorialize the
23 testimony to protect the record.

24 THE COURT: All right, before I go to
25 Mrs. Scott, let me hear from Ms. Walker here? Then

1 what was the name of your?

2 MRS. LIPINSKI: Ms. Burkette.

3 THE COURT: Okay. If you'll find Ms. Walker.

4 Then while we're doing that, Ms. Burkette, if
5 you can come up here. You can just stand right
6 there. I just want to speak you. For the record, we
7 did have a meeting in chambers with all counsel and I
8 brought in Ms. Burkette and Ms. Walker.

9 So Ms. Burkette, as I understand, you were at
10 Society Sandwich Shop, I guess that's what it's
11 called.

12 MS. BURKETTE: Yes, sir.

13 THE COURT: What do you recall seeing and
14 hearing at lunch?

15 MS. BURKETTE: So the girl and the guy with the
16 goatee, their backs were to me, so I heard more the
17 first guy who came. He had said -- he joked about
18 not guilty and started laughing. He said something
19 about 20 years. And somebody said, No, I think it's
20 five. When they were asking for the check, he said,
21 What are they going to do, fire us? Then they got up
22 and left.

23 THE COURT: When he said what are they going to
24 do, Fire us? Was that in relation to being late?

25 MS. BURKETTE: Being late getting back because

1 it was five minutes till 2:00.

2 THE COURT: So the things that you heard were
3 the five to 20 -- tell me again what they said.

4 MS. BURKETTE: One of them said something about
5 20 years. Then they said, No, we think it's five.

6 THE COURT: Okay. Then what was the other
7 statement, guilty or not guilty?

8 MS. BURKETTE: One of them -- I don't know which
9 one it was, but one of them said, Not guilty and
10 started laughing.

11 THE COURT: All right, do you recall anything
12 else?

13 MS. BURKETTE: No, sir.

14 THE COURT: Thank you, ma'am.
15 Walker around?

16 MR. MARTINEZ: She's on the way.

17 THE COURT: Okay.

18 All right, while we're waiting on Ms. Walker,
19 let me go ahead and hear from Mrs. Scott. Let me
20 just hear from you until Ms. Walker -- if she comes
21 in, I'm just going to go to her, then I'll go back to
22 you.

23 What's The State's position?

24 MRS. SCOTT: Thank you, Your Honor. As I
25 referenced in chambers, this is uncharted territory

1 for me. You reminded me that you told this jury many
2 times, multiple times, what to do during breaks and
3 how not to deliberate. We came up with this
4 structure and I feel as if every single one of them
5 answered truthfully. But I do believe that if I were
6 asked right now to come into this courtroom as a
7 layperson and be confronted about my lunch plans, I
8 might also shift feet and do things unnatural because
9 of this entire process. That wouldn't necessarily
10 means that goes to whether or not they were telling
11 the truth. I think they talked about a lot of
12 things. I felt like with the woman with the blue
13 floral dress, they probably were talking about a lot
14 of stuff. And in the context, it appeared as if they
15 were talking about what's going on it. I believe
16 that we ask the jury to be impartial. We asked them
17 if they could tell us what happened over lunch and
18 they told us. So at this point, Your Honor, I would
19 object to the mistrial.

20 THE COURT: All right. Here's Ms. Walker coming
21 in now.

22 All right, Ms. Walker, you can just come up to
23 the rail, you don't need that. For the record,
24 what's your name?

25 MS. WALKER: Anastasia Walker.

1 THE COURT: All right, Ms. Walker. I understand
2 you were at the Society Sandwich Shop with
3 Ms. Burkette; is that correct?

4 MS. WALKER: I was, Your Honor.

5 THE COURT: All right, what did you hear?

6 MS. WALKER: I was sitting with my back to the
7 individuals behind us, I heard the phrase, not guilty
8 and then loud laughter from a man's voice. I heard
9 20 years. And then I heard, I think it's five. I
10 don't know if it was a man or woman that said those
11 things, but 20 years was a man. I can't remember
12 who, if it was the man or woman. Then I heard, I
13 think we're going to be late and what are they going
14 to do about it. That was exactly the things that I
15 could hear and decipher.

16 THE COURT: All right, thank you, Ms. Walker.

17 All right. Anything else from The Defendant or
18 The State?

19 MRS. LIPINSKI: Just quickly, I would note, Your
20 Honor, they texted me leaving the restaurant. They
21 came to me afterwards. They said we have concerns,
22 this is what we overheard. Ms. Walker is an officer
23 of the court. I don't see any reason why she would
24 have to say this. I find it very curious that the 20
25 years they're talking about is what the potential

1 crime carries.

2 So my concern is that they're investigating
3 this, they're investigating the length of it.
4 They're concerned about the potential penalty, how it
5 may impact their decision, whether they would
6 consider the CDV-HAN or lesser included offense, that
7 they would be concerned it doesn't carry enough time
8 and that might impact their decision.

9 I understand they said that, but obviously, it's
10 in The Court's discretion. But my concern is that my
11 client is now -- you know, I think there is a prima
12 facie evidence that they were deliberating during
13 lunch and discussing the case, that there may have
14 been more overheard and they were just less than
15 candid with The court. For that reason, The Defense
16 feels a mistrial is the only possible outcome.

17 THE COURT: All right. One thing I -- I
18 obviously heard the discussion and I don't doubt the
19 credibility of Ms. Burkette and Ms. Walker at all.
20 And what they say they heard is five years and 20
21 years. Looking at it from both sides -- and I
22 understand The Defense's position. I certainly am
23 taking that into consideration. First of all, the
24 jurors said they did not talk about this case. And
25 certainly, five years, 20 years could be about

1 something else. They both -- or all three of them
2 denied having any discussion about guilty or not
3 guilty. But it is certainly possible that a decision
4 of five years or 20 years could have been something
5 else. I do recognize the coincidence, for lack of a
6 better word, in that discussion. So certainly, there
7 is the appearance that they may have been discussing
8 it, but they have denied it.

9 Anything from The State?

10 MRS. SCOTT: Yes, Your Honor. Thankfully, one
11 of my deputy solicitors was here and he gave me some
12 laws to look at about, in a nutshell, premature
13 deliberations. And I know in this broad sense, we're
14 thinking of anything being a deliberation. And it
15 states that premature deliberations do not warrant a
16 mistrial unless The Defendant proves prejudice. Then
17 it goes on to talk about the trial judges, exactly
18 what you're doing today about putting certain items
19 on the record. And then we just determined that the
20 prejudice has occurred.

21 And I wanted to place that on the record
22 because, again, this is uncharted territory, if I
23 didn't respond that way for the record if prejudice
24 wasn't considered whether or not that would be the
25 issue with The Court.

1 THE COURT: Uh-huh.

2 MRS. LIPINSKI: Your Honor, if I could just
3 respond. I understand the -- we, also, heard them
4 laughing about finding my client not guilty. That
5 was something --

6 THE COURT: That does assume, though, they were
7 talking about the case.

8 MRS. LIPINSKI: I understand that, but I think
9 when you hear that coupled with the five and 20 and
10 coupled with the fact that they're jurors in this
11 particular case getting ready to begin deliberations,
12 I think that it's not a stretch to say that that's
13 what they were laughing about. So my concern is that
14 prejudice, that there is some predetermined prejudice
15 against my client and they feel like a not guilty
16 verdict is a laughable matter. I mean, I don't how
17 more prejudicial you could get in terms of
18 categorizing my client's ability to get a fair trial.

19 For that reason, I do believe prejudice has been
20 shown. I don't think it's just some innocuous
21 comment. I think, overall, it appears they were
22 discussing the case in general. And I think for that
23 reason it would be -- I think a mistrial is
24 warranted.

25 THE COURT: Let me ask you this, and I'm

1 deciding in a minute what I'm going to do. Is there
2 any party that would agree to go to 11 under Rule 14?
3 Rule 14 certainly allows the parties, if they agree
4 in writing, for a jury verdict to go with a jury of
5 less than 12.

6 MRS. LIPINSKI: Can I discuss that with my
7 client just briefly?

8 THE COURT: State, I'll allow you to talk
9 amongst yourselves as well. I can step off the
10 bench.

11 MRS. LIPINSKI: Thank you.

12 MRS. SCOTT: Thank you, Judge.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: All right, I gave y'all a
15 opportunity to speak with your respective clients,
16 what is the decision?

17 MRS. SCOTT: Your Honor, we find that there is
18 no prejudice to The Defense and we'd ask that the
19 jury remain. However, given the way that you've
20 ruled and offered up the Rule 14, if that choice is
21 that the prejudice you believe is an issue and we
22 know The Defendant objects to that, we would then
23 want to do Rule 14 as opposed to a mistrial. And we
24 would do what's required, which is the writing
25 through the criminal court that we both agree to 11.

1 THE COURT: All right. What's The Defendant
2 have to say?

3 MRS. LIPINSKI: I think our position, obviously,
4 we would continue with our motion for a mistrial, but
5 understanding The Court's not inclined that motion --
6 is not inclined to grant that motion, the alternative
7 -- the way I presented it to my client, to be clear
8 on the record, is go forward and have those three
9 jurors return, but have 12. Or go forward and have
10 those three jurors removed, but only have 11 and put
11 the two alternates in to fill that gap, we would
12 proceed with the 11.

13 THE COURT: So you are -- what I'm hearing is
14 both of you are okay if -- well, obviously, I hadn't
15 ruled yet on the prejudice motion part of it, but you
16 may or may not have an idea the way I am going to
17 rule. But you would be fine if I excuse all three
18 and we go forward with 11, is that what I'm hearing?

19 MRS. LIPINSKI: Yes. The way I presented it is
20 if The Court doesn't grant the mistrial, the options
21 presented to The Defendant was that those three
22 jurors, still realizing from being questioned or
23 otherwise, there may still be some prejudice that
24 exist even if it -- or some bias, but doesn't rise to
25 the level of prejudice. But some less than

1 deliberations still occurred, that I believe that
2 that option would be that he could go forward not
3 with those three, they would be excused, but that he
4 could go forward with 11 and the two alternates would
5 step in to fill the gap, we would opt for the 11.

6 THE COURT: All right, Mrs. Scott, again, for
7 the record, I want to clarify.

8 MRS. SCOTT: Your Honor, we don't believe that
9 there has been prejudice, Your Honor, based off the
10 testimony we heard from all three jurors and
11 listening to the proffered testimony from the ones
12 that observed the jurors at lunch. However, Your
13 Honor, we, also, do not want a mistrial granted by
14 Your Honor and would be agreeable to -- since your
15 ruling has not been made, we would be agreeable to
16 the 11 jurors.

17 THE COURT: Okay. All right. And that under
18 Rule 14 has -- I don't have my rules, but it has to
19 be writing.

20 MRS. SCOTT: Yes, Your Honor.

21 MRS. LIPINSKI: We can memorialize that after
22 the jury charge if you want or I can have someone in
23 my office draw up something if you want.

24 THE COURT: All right. For the record, the
25 parties agree to condense it to writing going

1 forward. I think based on what I have heard from the
2 jurors and what I've heard from both Ms. Burkette and
3 Ms. Walker, certainly, there was some discussions
4 there. It is some concern to me that there were
5 discussions among the three that did mention five
6 years, 20 years, not guilty, reference to that does
7 give me some concern. And I think in exploring and
8 analyzing the situation, I think from a due process
9 standpoint is to excuse the three that were brought
10 before me, both parties agree to go forward with 11.
11 I will move the two alternates into the jury as
12 regular jury members now and go forward with those
13 11.

14 It is some concern that there is some
15 information, again, from Ms. Walker and Ms. Burkette,
16 if there was some discussion. Flip side of that is
17 the prejudice argument made from The State, also, is
18 persuasive. However, there could be some prejudice
19 there. It's believing Ms. Walker or Ms. Burkette,
20 which certainly they're very credible, and believing
21 these three jurors saying they didn't discuss it. So
22 to me, I think the better option here is to go
23 forward with 11 jurors. We'll excuse those three,
24 move the two into the regular jury and that will be
25 memorialized in writing. The parties agree to do