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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Abbeville County

Honorable J. Derham Cole, Circuit Court Judge

CHARLES TILLMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001443

APPENDIX

JOANNA K. DELANY
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

T. CRUISE MITCHELL
Assistant Attorney General
PO Box 11549
Columbia, SC 29201-1549
(803) 734-3737

ATTORNEY FOR PETITIONER

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit
102 Court Square
Abbeville, SC 29620
(864) 366-5312

ATTORNEYS FOR RESPONDENT

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1 minute comfort break. I assume we're still okay on time.
2 And if you choose to use -- if he chooses not to use Mr.
3 Huffman, do you want to use him, Mr. Grose?

4 MR. GROSE: No, sir.

5 THE COURT: Okay. If you decide that Mr. Huffman's
6 testimony is not going to be that helpful to your case,
7 Solicitor, just convey our -- convey our apologies to him
8 for having to bring him back here. And, of course, Mr.
9 Huffman, we wish you -- we wish you and your wife a quick
10 recovery. Okay? So we'll be at ease for about five or 10
11 minutes.

12 (Whereupon, a brief recess was held from 3:05 p.m. to
13 3:14 p.m.)

14 THE COURT: All right. If we could, let's get back on
15 the record. Before we bring the jury, just one housekeeping
16 matter. My law clerk indicated to me that there was,
17 perhaps, maybe somewhat of an exchange between individuals
18 who are involved in this process. Especially, perhaps, the
19 individual with the most to gain and most to lose. There
20 doesn't need to be talking between gallery or Defendant or
21 Defendant and gallery, and I think it's best that those who
22 are trying this case and involved with the litigation of this
23 case essentially keep their eyes toward me. Okay? I don't
24 know what happened. I don't care what happened. But in
25 cases like this tensions often run high enough without

1 anything exacerbating those tensions. So let's all do our
2 best to keep our heads and our wits about ourselves. Okay?
3 You have the next witness here?

4 MR. BROWN: Yes, sir. Catherine Leisy from SLED.

5 THE COURT: Very good. She is present here?

6 MR. BROWN: She is.

7 THE COURT: She's back there? All right. Let's have
8 the jury, please.

9 (Whereupon, the jury entered the courtroom at 3:17
10 p.m.)

11 THE COURT: All right. The record will reflect that
12 the jury is back is seated. Solicitor, your next witness
13 is?

14 MR. BROWN: Catherine Leisy.

15 CATHERINE LEISY, having first been
16 duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. BROWN:

19 Q Ms. Leisy, would you spell your last name?

20 A L-e-I-s-y.

21 Q And where do you work?

22 A I work for the South Carolina Law Enforcement Division,
23 more commonly referred to as SLED.

24 Q And how long have you worked at SLED?

25 A For 11 years.

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1 Q And what are your duties at SLED?

2 A I am a forensic scientist assigned to the DNA casework
3 department. My responsibilities include processing forensic
4 cases, generating reports based on the results and
5 conclusions drawn and testifying to those reports if
6 necessary. I also assist in the training of less
7 experienced analysts and I have several quality control
8 duties within the laboratory.

9 Q And, again, how long have you been working at SLED?

10 A Eleven years.

11 Q And have you ever been qualified as a forensic
12 scientist in the area of DNA casework?

13 A I have.

14 Q Approximately how many times?

15 A Over 50 occasions throughout the state, as well, as
16 jurisdictions in other states.

17 MR. BROWN: Your Honor, at this time, I'd move
18 Catherine Leisy as an expert in DNA analysis and -- and DNA
19 analysis.

20 MR. GROSE: No objection.

21 THE COURT: All right. Again, Ms. Leisy has been
22 stipulated to be an expert in this particular field, ladies
23 and gentlemen. So she can give opinion testimony that you
24 may rely upon depending upon your discretion, rather.
25 Solicitor, you may continue, please.

1 MR. BROWN: Thank you, Your Honor.

2 Q Ms. Leisy, in this case, did you have the opportunity
3 to test certain items that were submitted down to SLED?

4 A Yes, I did.

5 Q And -- all right. Ms. Leisy, and in this case, when
6 you first get an item brought in, what do you -- what --
7 what do you do?

8 A When I'm assigned a case and I'm ready to begin
9 processing evidence, I contact our evidence control
10 department to request that evidence be prepared for me. I
11 then take physical custody of that evidence. The first step
12 in the DNA process is to develop a DNA profile from
13 unidentified biological materials that may be present on an
14 item of evidence or the crime scene. And if we are able to
15 develop a profile, we then compare that profile to the DNA
16 profile of a known individual to try and determine whether
17 or not that individual would be a contributor of the same
18 swab I've been given.

19 Q In this case, did you analysis different swabs that
20 came from the Ruger .22?

21 A Yes, I did.

22 Q I'm going to show you what's been marked as State's ID
23 149, or State's Exhibit 149. Is that the swabs from the
24 gun?

25 A It is. This pouch contains the envelopes containing

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1 swabs that were submitted to me from the gun.

2 Q And are those swabs the ones you used to examine and
3 determine if there was any DNA on the gun?

4 A Yes, they are.

5 Q And where were those swabs taken from?

6 A The information that I received, as far as the
7 identification of the swabs, there were three sets of swabs
8 from that weapon. The first was SLED item 1.1, the swabs
9 taken from the trigger and trigger guard. SLED item 1.2,
10 swabs from the non-smooth surface area of the magazine. And
11 SLED item 1.3, a swab from the entire surface area of the
12 cartridges from that item.

13 Q And so everybody knows, what is DNA?

14 A DNA stands for deoxyribonucleic acid. It's the genetic
15 material found in all of our bodies cells, with the
16 exception of our red blood cells. DNA is packaged into
17 structures called chromosomes, which contain our genes.
18 Genes are simply strains of DNA that code for physical
19 characteristics such as our height or our eye color. We
20 inherit one copy of DNA from our mother and one from our
21 father and, therefore, have two copies of every gene. Now,
22 approximately 99.9 percent of an individual's DNA is
23 identical to that of everyone else's and it's the variation
24 of that remaining .1 percent that allows us to tell
25 different people apart.

1 Q And to go little further, what is Y-STR?

2 A When we refer to Y-STR, we are talking about a type of
3 testing that specifically focuses on male DNA. We're
4 targeting locations on the Y chromosome, which only a male
5 would have, that allows us to develop the DNA profile solely
6 from a male individual from a sample.

7 Q Now, when you do your estimate through your analysis,
8 and then finally give out an estimation or a number
9 probability, can you explain the differences in the
10 probabilities in a DNA, and then a Y-STR?

11 A So with the types of different statistics that we
12 perform, when we refer to a DNA profile, that means that
13 we're testing STR locations, which stands for Short Tandem
14 Repeat, which is the locations in DNA that allows to tell
15 different people apart. In traditional DNA testing, what
16 we're doing is developing a frequency for the DNA types
17 found in each of those locations, and then by doing that we
18 can develop a frequency for the entire profile. It depends
19 on DNA that has been inherited from both the mother and the
20 father, and with the perfect match it tends to lead to a
21 very large number. With Y-STR testing we don't have that
22 combination of DNA from mother and father. The Y chromosome
23 has been passed directly from father to son, so we don't
24 have the same type of statistical frequency to generate.
25 Typically, when we do have a match with Y, it's going to be

1 a much smaller number, again, just because of the
2 limitations of the inheritance of that DNA and how we're
3 required to process it and generate the statistic.

4 Q Now, during your analysis, were you able to -- what was
5 your finding on item 1.1, which is the trigger guard and
6 trigger of this gun?

7 A The DNA profile developed from the trigger and trigger
8 guard is a mixture of at least two individuals. The DNA
9 profile developed from the major contributor to this mixture
10 matches the DNA profile of Christie Stutler. The
11 probability of randomly selecting an unrelated individual
12 having a DNA profile matching the major contributor is
13 approximately one in 290 quintillion. The partial DNA
14 profile developed from the minor contributor to this mixture
15 is insufficient for interpretation.

16 Q And what does that mean?

17 A It just means that there's such a limited amount of DNA
18 from the minor contributor that I can't make a formal
19 comparison. When we have a mixture like this and one
20 individual contributes significantly more DNA than the
21 other, we refer to that as the major contributor and we can
22 essentially pull their profile out, treat it as a single
23 source profile and make a direct comparison between that
24 profile and that of a known individual.

25 Q In this case, if it was deemed a homicide and Christie

1 Stutler's the victim, she didn't pull the trigger, would you
2 expect there be other DNA from somebody else or could there
3 be explanations as to why someone else's DNA or --

4 MR. GROSE: I'm going to object to speculation, Your
5 Honor.

6 THE COURT: Repeat that question, if you could,
7 Solicitor.

8 MR. BROWN: There's a reason -- could there be reasons
9 why somebody's touch DNA or DNA might not be on a trigger?

10 THE COURT: All right. I think that's a general
11 question. I'll allow it. Noted. Go ahead.

12 A Anytime you have physical contact with an item, we
13 expect some form of physical transfer of cells and DNA
14 material from the individual to the item. And, typically,
15 that's what we refer to as touch DNA when we're testing.
16 You can also have transfer of bodily fluids from the
17 individual to an object. There are a number of ways that
18 DNA could be transferred from a person to a physical object.

19 Q Now, the next item was -- you actually looked in item
20 1.1 looking at the Y-STR; is that correct?

21 A That's correct.

22 Q And what would you find on that?

23 A The partial Y-STR profile that was developed from the
24 trigger and trigger guard is a possible mixture of multiple
25 individuals. And due to the low level of DNA that I

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1 developed from this item, the profile is not suitable for
2 comparison.

3 Q So -- just anything on there was not suitable for
4 comparison on that trigger guard?

5 A That's correct. It's just matter of there not being
6 enough DNA present in the Y-STR profile for me to be
7 confident that I can make a reliable comparison between that
8 possible mixture and any known individual.

9 Q The next item that was swabbed -- well, you said there
10 were three items on this gun that were swabbed; is that
11 correct?

12 A That's correct.

13 Q And the next one would be item 1.2.

14 A SLED item 1.2, again, was swabs from the non-smooth
15 sides of the magazine and the DNA profile developed from
16 this item is a mixture of at three individuals, and due to
17 the inability to calculate a statistic, this mixture is not
18 suitable for comparison.

19 Q And, again, what does that mean?

20 A So when -- we actually do a different type of statistic
21 altogether for mixtures, and because there is such a low
22 level of DNA present, and because there are multiple
23 contributors, this particular profile would not meet our
24 protocol for what is suitable for statistical analysis if we
25 had an inclusion. And because I can't use this profile to

1 potentially make an inclusion, I can't use it to make any
2 form of comparison. So just based on the fact that it's not
3 enough quality in this profile for me to do a statistic,
4 it's not suitable for comparison to any known individual.

5 Q In the next, you also -- item 1.2, which is the
6 non-smooth side of the magazine for the Ruger, you also did
7 a Y-STR analysis?

8 A That's correct.

9 Q And, again, this is just focusing on the Y chromosome;
10 is that correct?

11 A That's correct.

12 Q What were your results?

13 A So the Y-STR profile developed from this item is a
14 mixture of at least two individuals. The partial Y-STR
15 profile developed from the major contributor to this mixture
16 matches the Y-STR profile of Charles Tillman. The
17 probability of randomly selecting an unrelated male
18 individual having a Y-STR profile matching the major
19 contributor to this mixture is approximately one in 8 --
20 excuse me, one in 8,600 and paternal male relatives of
21 Charles Tillman may not be excluded as the potential major
22 contributor to this mixture. And due to the inability to
23 calculate a statistic, the partial Y-STR profile developed
24 from the minor contributor is not suitable for comparison.
25 Q And, again, so the Y-STR major contributor to this on

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1 the clip on the gun comes back to -- has the same profile as
2 Charles Tillman?

3 A That's correct. The profile does match that of Mr.
4 Tillman.

5 Q And, again, you said the statistics for Y-STR are going
6 to be lower and that's why?

7 A Again, because we don't have this combination of
8 inheritance from both mother and father, what we do with a
9 Y-STR profile is compare it to a database of known
10 individuals, count the number of times that matches, and
11 then generate of probability based on that comparison. And
12 this is a very typical result for a Y-STR profile match.

13 Q And the last item done with the firearm and -- the
14 firearm would be item 2.2. And what would that be?

15 A Item 2.2 was identified as swabs from entire surface
16 area of item 2, which was identified as a cartridge case,
17 head-stamped C.

18 Q And that would be just the casing -- the bullet casing;
19 is that correct?

20 A That would be my understanding. Again, I just received
21 a swab that had been taken from the item.

22 Q Okay. And, again, what was your result on that?

23 A For the cartridge case, head-stamped C, the DNA profile
24 developed matches the DNA profile of Christie Stutler and
25 the probability of randomly selecting an unrelated

1 individual having a DNA profile matching this item is
2 approximately one in 290 quintillion.

3 Q And if that cartridge case was laying in Ms. Stutler's,
4 blood would you imagine having her DNA on there?

5 A It absolutely could. The transfer of blood would give
6 us, typically, a pretty good profile.

7 Q Now, in addition to testing the firearm --

8 MR. BROWN: And, Judge, if I have not already done it,
9 I'd move State's 149, which would be the swabs.

10 MR. GROSE: No objection.

11 THE COURT: State's 149 is added into evidence.

12 MR. BROWN: Yes, sir.

13 (Whereupon, State's Exhibit Number 149 was admitted
14 into evidence.)

15 Q Now, Ms. Leisy, in addition to -- again, in addition to
16 testing the firearm, were other items submitted to you for
17 testing?

18 A Yes, there were.

19 Q And what was that?

20 A I received several sets of swabs that were identified
21 as being swabs taken from underneath the fingernails of
22 Charles Tillman. I also received fingernail scrapings and
23 clippings from Christie Stutler, as well as swabs from the
24 backside of the trailer next to the back door.

25 Q Okay. Now, swabs number 3 would be -- item number 3

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1 swabs are from under the fingernails of left and right hands

2 Charles Tillman.

3 A That's correct.

4 Q Did you do the results on that?

5 A I did and the DNA profile developed is attributable to

6 Charles Tillman.

7 Q 4.11, 4.2, which would be the left hand fingernail

8 scrapings from Christie Stutler and right hand fingernail

9 scrapings from Christie Stutler. Tell me the difference

10 between scraping -- taking tests of scrapings, and then also

11 fingernail clippings.

12 A Typically, when we receive an item that's labeled

13 scraping, there's either a small, wooden stick, it looks

14 similar to a match stick, or a small piece of plastic that's

15 been used to scrap underneath the fingernails of an

16 individual to try to remove any cellular material that may

17 be present. Whereas clippings, typically, we just receive

18 the clipping of a fingernail.

19 Q And the scraping, which is the 4.11 and 4.2, what were

20 your results on that?

21 A The DNA profile developed from both of items is

22 attributable to Christie Stutler.

23 Q Then moving ahead to item 10 and 11.

24 A Item 10 was identified as the right hand fingernail

25 clippings from Christie Stutler and the DNA profile

1 developed from that item is also attributable to Christie
2 Stutler. SLED item 11 was identified as left hand
3 fingernail clippings from Christie Stutler. And, again, the
4 DNA profile from that item is attributed to her.

5 Q Were there any other profiles or did you also do a Y-
6 STR analysis on the fingernail clippings?

7 A Yes, I did.

8 Q And what were the results?

9 A The partial Y-STR profile developed from the right hand
10 fingernail clippings, item 10, matches the Y-STR profile of
11 Charles Tillman, and the probability of randomly selecting
12 an unrelated individual having a Y-STR profile matching this
13 item is approximately 1 in 600. And paternal male relatives
14 of Charles Tillman may not be excluded as the contributor of
15 this profile. And then for SLED item 11, the left hand
16 fingernail clippings, the Y-STR profile developed matches
17 the -- excuse me, the Y-STR profile of Charles Tillman, and
18 the probability of randomly selecting an unrelated
19 individual having a Y-STR profile matching this item is
20 approximately one in 8,600. And, again, the paternal male
21 relatives of Charles Tillman may not be excluded as the
22 contributor of this profile.

23 Q And the last item that I believe you analyzed in this
24 case that was submitted, officers ended up going back and
25 taking a swab after speaking with Mr. Charles Tillman on the

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1 back side of the trailer -- back side of the door. And
2 those numbers would be SLED item 19 and 20.

3 A Correct. Those items were tested, but no DNA profile
4 was developed from either set of swabs.

5 MR. BROWN: Judge, just to make sure everything's in.
6 If there not already in evidence, State would move 144, 145
7 and 151 in as evidence.

8 THE COURT: 151, so far, is not in evidence. No
9 objection?

10 MR. GROSE: Which was 151? Oh, yeah. No objection.

11 THE COURT: All those are in evidence, then.

12 (Whereupon, State's Exhibit Number 151 was admitted
13 into evidence.)

14 Q Now, Ms. Leisy, when dealing with DNA, can DNA be wiped
15 off a firearm or off of anything?

16 A It can. It can be physically removed or cleaned off of
17 an item.

18 Q And how -- what are some options that -- or some uses
19 or methods that could clean off a gun, or anything for that
20 matter?

21 A Really, you know, again, just the physical action of
22 wiping an item with a cloth, to use bleach or ethanol or
23 other chemicals that may break down or remove the cellular
24 material that's present. It can be, you know, just cleaned
25 or just physically wiped away.

1 Q Physically wiped away with just a rag or --

2 A It could be potentially. Yes.

3 Q Or just water?

4 A It could be. Yes.

5 Q And -- and, again, touch DNA, can you explain touch DNA
6 and, you know, how that -- if somebody -- how much DNA would
7 be left or possibly be left by just touching something?

8 A So, again, touch DNA is just the act of transfer of
9 cells and DNA material from someone's body to an object that
10 they come in contact with. Just that physical interaction
11 will cause there to be some level of transfer. How much
12 transfer depends on quite a few things such as how many
13 times you've touched an item, how long you've touched it,
14 you know, how recently have you washed your hands before you
15 touched it. There's a lot that can go into it and,
16 typically, we don't see as much transfer with touch as we do
17 with bodily fluid. But at times, it can be a source of good
18 DNA profiling. It just depends very much on the item.

19 Q And sometimes, if somebody touched it, you may not even
20 have a profile?

21 A That's correct.

22 MR. BROWN: No further questions.

23 THE COURT: Mr. Grose?

24 CROSS-EXAMINATION

25 BY MR. GROSE:

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1 Q So when we're -- I mean, we've gone through a lot of
2 advances in being able to test DNA since -- at least since I
3 started doing this 20 years ago. You used to have to have a
4 big sample of it, right?

5 A That's correct.

6 Q And now, we've kind of gone to the other extreme where
7 you really don't need much DNA for you to be able to develop
8 a profile?

9 A That's correct. Our current methods are quite
10 sensitive.

11 Q Yeah. I mean, back in the day, you used to almost have
12 to have a blood sample or other bodily fluid sample to be
13 able to do it, right?

14 A Typically that's what they were looking for. Yes.

15 Q All right. But now we've got this to where if you pick
16 up an object, you can get DNA on it?

17 A Again, it is possible to develop touch DNA profiles.
18 It won't necessarily be enough to transfer for us to, but it
19 is a possibility. Yes, sir.

20 Q But it is -- but that's what we're talking about with
21 touch DNA?

22 A That's correct.

23 Q And with the touch DNA, you can't really tell how long
24 that DNA's been on an object, can you?

25 A No, we can't.

1 Q All right. And with DNA, you can't look at something
2 and say that that DNA's on there, for example, because
3 somebody fired a gun?

4 A That's correct. We can't necessarily determine how DNA
5 was transferred, just that at some point it was.

6 Q Okay. And I think you made a comment about how often -
7 - how frequently you touch something, right?

8 A That's correct.

9 Q Okay. You came up here from Columbia today, right?

10 A Yes, sir.

11 Q Okay. I imagine you don't get to Abbeville very often?

12 A I do not.

13 Q Okay. So if you were to go around your house, there
14 would probably be a lot of your DNA there, wouldn't there?

15 A I would assume so. Yes, sir.

16 Q Yeah. I mean, that's what you would expect?

17 A Yes, sir.

18 Q There's a chance that you've left some DNA in this
19 courtroom today, right?

20 A It's possible.

21 Q All right. But since you're not here all the time,
22 that wouldn't necessarily be as great of a chance?

23 A Again, it would depend on have I -- you know, did I
24 grip the object tightly, did I just brush my hand against
25 it. It is just a matter of exposure and opportunity and how

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1 often you come in contact.

2 Q And a lot of factors, right?

3 A Absolutely.

4 Q So, for example, if multiple people live in a place,

5 you would expect both of them -- their DNA to be there,

6 right?

7 A I would.

8 Q Okay. And if -- and DNA can be transferred like other

9 things, right?

10 A It can.

11 Q Because if I shake your hand, I might get some of your

12 DNA on my hand, right?

13 A That is possible. Yes, sir.

14 Q And then I might come over here and touch this book and

15 leave it there?

16 A It is -- that's actually what we refer to as secondary

17 transfer. So if my DNA were transferred through touch to

18 another object that I didn't come in physical contact with,

19 that's the act of secondary transfer.

20 Q And so, if -- like we were talking about Christie's

21 fingernails earlier, right?

22 A Correct.

23 Q Okay. And I believe you said the difference between

24 scraping and having the actual clippings, right?

25 A Correct.

1 Q And scraping is when you're actually trying to get the
2 cells off of it?

3 A That is typically what we see. Again, just that an
4 object has been scrapped under the fingernails, you try and
5 remove any foreign material that may be present.

6 Q Okay. And with the scrapings, that was all Christie's,
7 right?

8 A The DNA profile developed, yes, is attributable to
9 Christie Stutler. And with 4.1.1, the left hand fingernail
10 scrapings, a partial Y-STR profile was developed, but it was
11 insufficient for interpretation.

12 Q Okay. And if somebody has long fingernails and they
13 live in a house where somebody's DNA is, they could pick
14 that up on their nails, couldn't they?

15 A It would be possible. Yes.

16 Q All right. And so, when you tested Christie's nails,
17 the actual nail clippings, that could be something that she
18 just picked up from living in the same house?

19 A Again, I can't testify to exactly how a transfer
20 occurred, just that at some point it did.

21 Q Okay.

22 A It could be from picking an object up, coming in
23 physical contact with a person. There are various means
24 that it can --

25 Q And just daily life?

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1 A That's correct.

2 Q Okay. And I believe that you said even with those
3 Y-STR's on the fingernails, you can't rule out any of
4 Charles' male relatives?

5 A That's correct. So with Y-STR testing, again, because
6 that Y chromosome is passed directly from father to son,
7 anyone in that paternal male lineage will have the same Y
8 chromosome and Y profile. So we can't rule out other family
9 members sharing that Y profile. But, you know, again, it
10 does match back to him, but any paternal male relative may
11 have that same profile.

12 Q And you weren't provided with any information about any
13 other male paternal relatives that frequented this property?

14 A I was not.

15 Q Or lived there?

16 A That's correct.

17 Q Okay. And so, with -- I want to go back to the gun.
18 And I believe you tested. The first thing you talked about
19 was item 1.1; is that right?

20 A That's correct.

21 Q And the 1.1 was the trigger and the trigger guard is
22 what was presented to you?

23 A That's correct.

24 Q Okay. And the major contributor to that was Christie,
25 right?

1 A It was.

2 Q And I believe you said that that probability was one in
3 290 quintillion.

4 A That's correct.

5 Q That's more people than live in the world, isn't it?

6 A It is.

7 Q Okay. Now, if I'm reading your report right, you said
8 there's -- in the first paragraph regarding 1.1, it says
9 that there's at least two individual's DNA on that trigger
10 and trigger guard, right?

11 A Based on my results. Yes.

12 Q Okay. And then in the second paragraph where you look
13 at the Y-STR profile, you say that that could be a mixture
14 of two people's DNA?

15 A Based on the raw data and my results, I believe it's
16 possible. I can't confirm it.

17 Q You can't rule that out?

18 A That's correct.

19 Q Okay. And, again, when we're talking about the Y-STR,
20 we're talking about men?

21 A Correct.

22 Q And so, what you're reporting is, is there can be --
23 there's a scientific possibility that there's two DNA
24 samples from two different men on that trigger?

25 A Correct. And, again, based on the data that I had to

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1 interpret, I believe it's possible. Again, I can't confirm
2 the presence of a second male individual. But it is
3 possible that there is a mixture of two males in that Y-STR
4 profile.

5 Q All right. Now, if we look at 1.2, which is swabs from
6 the non-smooth sides of the magazine, you report that that's
7 at least three individuals?

8 A Correct. The DNA profile is at least three.

9 Q Okay. And so, that means when we look at 1.1, there's
10 two or three DNA samples on that, right?

11 A Correct.

12 Q And we look at 2.2 and there's at least three on that -
13 - I mean, 1.2. I'm sorry. Right?

14 A That's correct. Based on the data, I have at least
15 three contributors.

16 Q Okay. So when we talk about DNA on this gun, there's
17 at least three people, maybe more, DNA that you developed on
18 that, right?

19 A That's correct.

20 Q Okay. So if somebody were to say that there was only
21 two DNA samples on that, that wouldn't be true based on your
22 tests?

23 A Again, based on our 1.2, the swab from the magazine,
24 there would be at least three contributors. Based on the
25 data that I had, it would take that many individuals to

1 develop this profile.

2 Q Okay. And you've not identified all of the DNA on
3 here, have you?

4 A No, I have not.

5 Q So if someone were to say that only Christie's DNA and
6 Charles' DNA is on that gun, based on your tests, that
7 wouldn't be true?

8 A Correct. Based on this testing, I have at least three
9 contributors.

10 Q Okay. And while we're talking about the magazine, you
11 also did that Y-STR thing, right?

12 A Correct.

13 Q Okay. I'm thinking it's not a scientific term, but I'm
14 -- but -- and you said -- and, again, the Y-STR is just male
15 DNA?

16 A Correct. It focuses on the Y chromosome only.

17 Q Okay. And you said that's at least two individuals?

18 A Correct.

19 Q Okay. And at that point, the probability of one of
20 those being Charles' is one in 8,600?

21 A Correct. The probability that the major contributor to
22 that profile -- well, the probability that you could
23 randomly select an unrelated male individual having a
24 profile matching the major contributor is approximately one
25 in 8,600.

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1 Q All right. But at the same time, you don't have enough
2 information to say that that's not one of his male relatives
3 -- paternal relatives?

4 A Correct. Again, any paternal male relative could
5 potentially have that same Y profile.

6 Q Okay. And so, if this gun were used to shoot squirrels
7 or cans by some of these male relatives, that could actually
8 even be their DNA on that gun --

9 A It --

10 Q -- as far as we know?

11 A It could. Again, based on DNA, the only way to tell
12 would be to test it. But they could potentially have that
13 same Y profile, so they would not be excluded.

14 Q Right. And people who are related to each other are
15 more likely to have similar DNA profiles, right?

16 A That's correct.

17 Q I mean, that's sort of how the genetics works, right?

18 A Correct.

19 Q Okay. And, again, while we're still talking about that
20 magazine. The Y-STR was at least two individuals, right?

21 A Yes.

22 Q All right. And so, whoever that other individual that
23 touched that magazine -- a man, we don't have any
24 information on who that was, do we?

25 A That's correct. Again, that would be the minor

1 contributor and there was not enough information from that
2 individual for me to do any type of comparison.

3 Q Okay. And so, really there's nothing about your
4 testimony here today that says one particular person shot
5 that gun opposed to somebody else, is there?

6 A I can't determine who fired a weapon. My job is to try
7 to identify the source of DNA found on an object. I can't
8 tell you how the weapon was used or when it was handled.

9 Q Or how long that was even there?

10 A That's correct.

11 Q Because if somebody handled the gun, and then it wasn't
12 used for a while, that DNA could still be there months
13 later?

14 A It could potentially. Yes.

15 Q Yeah. I mean, scientifically, that's a real
16 possibility?

17 A It is a possibility. Yes, sir.

18 MR. GROSE: That's all I have. Thank you, Your Honor.

19 THE COURT: Anything on redirect, Mr. Brown?

20 REDIRECT EXAMINATION

21 BY MR. BROWN:

22 Q I'm just going to go back to the trigger guard, 1.1.
23 Your result on that just showed there were -- there were two
24 -- at least two individuals, but the main one is Christie
25 Stutler?

CATHERINE LEISY

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1 A That's correct. The major contributor -- the profile
2 from the major contributor matches Christie Stutler.

3 Q And -- but this isn't a suicide? This isn't a suicide?

4 MR. GROSE: That's stipulated to, Your Honor.

5 THE COURT: All right. Yeah. It's stipulated this is
6 not a suicide. That it is, in fact, a homicide.

7 MR. BROWN: Homicide. Yes, sir.

8 Q And then, again, on the clip, it is -- the Y-STR does
9 come back at Charles Tillman or a paternal relative; is that
10 right?

11 A Again, referring to the clippings, the profile does
12 match that of Mr. Tillman and, again, paternal male
13 relatives may not be excluded due to the consistency of the
14 Y chromosome.

15 Q And that would be -- that -- his Y-STR is found on the
16 clip and under her fingernails?

17 A It was found on -- correct, the magazine, as well, as
18 the fingernail clippings.

19 MR. BROWN: No further questions.

20 RECROSS-EXAMINATION

21 BY MR. GROSE:

22 Q All right. And just so we're clear. The Y-STR on the
23 magazine is two men?

24 A At least two men. Yes, sir. And the major contributor
25 matches.

1 Q And the Y-STR on the trigger or the trigger guard could
2 be as many as two or maybe more men?

3 A It's -- again, it's possible that there is a mixture of
4 male individuals on the trigger guard. Based on the data, I
5 just can't be certain.

6 Q Right. I mean, you can't rule that out.

7 A I cannot definitively rule that out. No, sir.

8 MR. GROSE: All right. Thank you.

9 THE COURT: Ma'am, thank you very much for coming. You
10 are free to go.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Drive safely back.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 MR. GROSE: Can we approach about --

17 THE COURT: Sure.

18 MR. GROSE: -- scheduling real quick?

19 (Whereupon, a sidebar was held.)

20 THE COURT: All right. Ladies and gentlemen, I alluded
21 earlier today to some logistical witness issues and I'll --
22 I'll just put the cards on the table since you're going to
23 probably hear about it tomorrow anyway. One of the
24 witnesses, we learned late yesterday, had come down with the
25 flu. They had a very high temperature and we were trying to

1 work something out either by Skype or some kind of
2 communication. Regrettably, the technology just isn't going
3 to work here, okay, to get that witness' testimony. They
4 been on Tamiflu, so when they arrive tomorrow morning they
5 will no longer be contagious, which is good for you all.
6 But, obviously, I'm not making a person with a 102 degree
7 fever drive down here. So long story short, we finished for
8 the day. That individual should be available and feeling a
9 lot better tomorrow morning because, of course, they've been
10 taking the antivirals for a couple of days now and, most
11 importantly for you health, safety and well-being, they will
12 no longer be contagious.

13 So we're going to take that testimony tomorrow and one
14 other additional witness from the State. If they had not
15 come down with the flu, we probably could have gotten the
16 State's case done today. But I do anticipate, hopefully,
17 having this case to you sometime midday tomorrow. I'm
18 really not sure logistically, but I'm confident that we can
19 get this case to you tomorrow.

20 So, please, again, do have a pleasant evening. If
21 you'll be back in here at 9:00, my intension is to hit the
22 ground running at 9:00. Just come straight on into the jury
23 room here and we'll reconvene at that particular point in
24 time. Again, there should be -- or there might be a story
25 in the Index-Journal. I know that one of their reporters

1 was here earlier today. I don't know if they're still here.
2 Don't read the paper overnight, don't check any websites
3 overnight and certainly don't talk to anybody overnight
4 about this particular case.

5 Again, I apologize that we were not able to get all of
6 the State's case in today, but it was simply a situation
7 where a guy was sick as a dog and I'm not going to make him
8 get on the highway with a fever like that. Okay? Have a
9 great night. See you at 2:00 and be safe. Thank you very
10 much. You're excused.

11 (Whereupon, the jury exited the courtroom at 3:55 p.m.)

12 THE COURT: All right. The jury is out. Just a few
13 housekeeping matters. Those statements that I alluded to
14 earlier, we're going to mark those as a Court's Exhibit.
15 Separate exhibits, of course, for Mr. and Mrs. Huffman's
16 statements just so that there's some record of what I was
17 alluding to when I was discussing this with counsel.

18 Additionally -- and I meant to ask this of you on
19 Monday. But the exhibits that were not made a record -- made
20 a part of the record in this case. Mainly, the color
21 autopsy photographs and things of that nature. I would ask
22 that they be marked as State's exhibits merely for
23 identification purposes. Should there be any further review
24 of this case, it may be useful in terms of the probative,
25 slash, prejudice question that I ruled on with the

1 Defendant's objections. It may be useful to have those to
2 compare against what was actually permitted into evidence.
3 And so, that's where we'll leave things.

4 Anything else that we need to -- you've got a whole
5 bunch of them. Okay. The court reporter has a number of
6 those photographs that I think have been marked. They are
7 not in evidence, but they'll simply be for identification.
8 If there are any additional ones, mainly the color autopsy
9 photographs that you wish to include. If you have those, as
10 well, then we're in good shape. But I'll just let the court
11 reporter mark those for identifications and include those in
12 the exhibit list.

13 Anything else that we need to be thinking about, folks?

14 MR. GROSE: I got just two --

15 THE COURT: Yes, sir.

16 MR. GROSE: -- small things. We, obviously, had some
17 newspaper photography going on while the jurors were
18 leaving. Can you just make sure that the jurors know
19 tomorrow that they're not being photographed.

20 THE COURT: I will make it clear.

21 MR. GROSE: And the second thing. I've only had a
22 chance to really skim the instructions that you sent. I did
23 see the part in the end about deciding it on the evidence,
24 but I didn't see not based on passion and prejudice. And I
25 might have dismissed it, but if you all can check that.

1 THE COURT: I will double check that tonight.

2 MR. GROSE: Okay. Thank you.

3 THE COURT: Very good. Again, if there are any
4 additional suggestions -- candidly, Mr. Grose, your
5 suggestion to charge accident is interesting.

6 MR. GROSE: Well, that's -- they -- their criminal
7 profiler said that that would be one of the theories, so I
8 would certainly think that the State would want that charge
9 based on that.

10 THE COURT: I'll mull that over. My concern is that --
11 candidly, I was somewhat surprised that you would want that
12 charge.

13 MR. GROSE: I don't expect you to actually charge that.
14 But -

15 THE COURT: Okay. Well, yeah.

16 MR. GROSE: There -- there is evidence in the record of
17 that though, based on -- but anyway.

18 THE COURT: I would agree that there's evidence in the
19 record on that. However, if accident is not the Defendant's
20 theory, then maybe it's best that the Court not instruct
21 that.

22 MR. GROSE: Well, but there -- it is a possibility that
23 somebody else was in that house and she was threatening to
24 harm herself and they were struggling with her over the gun
25 and it was an accident, under their use of that word.

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1 THE COURT: Very curious. I will mull that over.
2 Unless you are jumping up and down demanding it, Mr. Grose -
3 - I understand you may be requesting it, but it seems
4 curious and I will think about it. Can we leave it at that?

5 MR. GROSE: We can leave it at that.

6 THE COURT: Good enough. All right. If you really,
7 really, really, really want something like an accident
8 charge, you all just shoot me an email. If you see any
9 corrections that need to be made, let me know tonight.
10 Okay? Thank you. That way we can make sure everything's
11 squared and we don't have to have charge conference
12 tomorrow. You all have a lovely evening. Okay? Take care.
13 Thank you.

14 (Whereupon, trial was in recess at 4:00 p.m.)

15 TRIAL DAY 5: January 26, 2018

16 THE COURT: We are back on the record and I am told the
17 jury is here. One note for the record, the court reporter
18 has located the missing State's Exhibit lucky Number 13. It
19 is not in evidence, and she has added that to the record.
20 Let's have the jury please.

21 (Whereupon, Court's Exhibit Number 6, Index Journal
22 coverage, was marked for identification.)

23 (Whereupon, the jury entered the courtroom at 9:24
24 p.m.)

25 THE COURT: The record will reflect that the jury is

1 back and seated. Ladies and gentlemen of the jury, welcome
2 back. Thank you for being here on time, and I apologize for
3 the delay in getting you out here. My court reporter's
4 equipment was being a little bit temperamental this morning
5 and she has to shut her computer down repeatedly until it
6 finally started working. We now have it working, so we'll
7 proceed with the remainder of the State's case this morning.

8 Just one housekeeping matter. I just want to confirm
9 that no juror has been exposed to any articles, haven't read
10 anything, heard anything, talked to anybody about the case.
11 If you have, just raise your hand, please.

12 (Whereupon, no Jurors raise their hands.)

13 THE COURT: All right. No hands are up. At this
14 point, Solicitor, call your next witness, please.

15 MR. BROWN: Thank you, Your Honor. The State calls
16 Matthew Graham.

17 MATTHEW GRAHAM, having first been
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Officer Graham, where do you work?

22 A Abbeville County Sheriff's Office.

23 Q And what's your rank there?

24 A Lieutenant over investigations.

25 Q And how long have you been with Abbeville County

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1 Sheriff's Office?

2 A Approximately seven years.

3 Q Were you working Abbeville County Sheriff's Office back
4 on November 8th, 2016?

5 A Yes.

6 Q And were you investigations at that time?

7 A That's correct.

8 Q Did you get a call at [REDACTED] Bell Road?

9 A Yes.

10 Q And that's in Abbeville County?

11 A That's right.

12 Q And do you recognize the man sitting over there in the
13 chair, Charles Tillman?

14 A Yes, sir.

15 Q And that's Charles Tillman?

16 A Yes, sir.

17 Q Just going to the -- when you first got called out
18 there, when you all did your first investigative sweep of
19 the house, were the officers that went in there, you and
20 particular Jeffrey Hines, when you went in to a location
21 like that do you all put gloves on?

22 A Yes, sir. Every time we enter a crime scene, on just
23 protocol purposes, we wear gloves.

24 Q And you're actually the one in a lot of these pictures
25 we've seen, you're the one who actually took those

1 photographs?

2 A That's correct.

3 Q What time did you arrive at that house?

4 A I would say approximately 6:45.

5 Q And during your initial sweep of the house and taking
6 photographs you did photograph the notebook, correct?

7 A That's correct.

8 Q And in that notebook was -- was there anything in it?

9 A I didn't look through a notebook. As you all heard in
10 Sergeant Hines' testimony, he flipped through the notebook.
11 The notebook was not collected because there was nothing of
12 evidentiary value inside the notebook.

13 Q Did you see any other notebooks in the house?

14 A I did not.

15 Q Now, you ultimately interviewed Mr. Tillman that night,
16 correct?

17 A Yes, sir.

18 Q And then you interviewed him a couple more times?

19 A That's correct.

20 Q And in several interviews would tell you about
21 something that he observed there at [REDACTED] Bell Road, would
22 you followup on that?

23 A I did. Yes, sir.

24 Q Particularly he kept mentioning a rag.

25 A That's correct.

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1 Q What rag was that that he was referring to?

2 A The only rag that I could recall him referring to was
3 the rag that was initially on the bed when we arrived inside
4 the crime scene.

5 Q The one above Ms. Stutler's head?

6 A That's correct.

7 Q Is that the rag that during the investigation you
8 flipped the bed up to locate that shell casing and is that
9 the rag that fell in the blood?

10 A It did.

11 Q Now, some of the interviews -- or one of the interviews
12 Mr. Tillman stated there was blood in the den, blood on the
13 pants. Did y'all ever see blood anywhere other than the
14 bedroom?

15 A None that was noted. No, sir.

16 Q There's also blood -- potentially blood on the back
17 side of the trailer.

18 A That's correct.

19 Q Did you all go back out and followup on what Mr.
20 Tillman said?

21 A Yes, sir. I did. And I actually did swabs of the back
22 side of the trailer and had those sent to SLED to possibly
23 collect any DNA, and it came back negative.

24 Q Now, during your interviews with Mr. Tillman, did you
25 learn Mr. Tillman was a smoker?

1 A Yes, sir. He had asked several times in the interview
2 if he could smoke.

3 Q In a few of the interviews where you're talking to Mr.
4 Tillman - you actually went to the autopsy in this case,
5 didn't you?

6 A That's correct.

7 Q And you were in the room with Dr. Woodard. In your
8 interview with Mr. Tillman you alluded to a time of death.
9 Now, Dr. Woodard testified here a couple of days ago and he
10 said between 24 hours before his autopsy to 36 hours. So
11 somewhere between 11:00 a.m. on November 8th to 11:00 p.m.
12 on November 7th. Would you -- do you contradict anything
13 Dr. Woodard says on time of death?

14 A Could you rephrase?

15 Q I think in your interviews you had mentioned you had
16 narrowed it down to a specific timeframe.

17 A Yeah.

18 Q Did you misunderstand what Dr. Woodard --

19 A I just misunderstood what he was saying.

20 Q But you would leave any timeframe up to Dr. Woodard who
21 is the expert?

22 A That's correct. He's an expert.

23 Q Now, Lieutenant Graham, after -- I'm not going to go
24 through the whole investigation. I think everybody
25 understands how many investigators were out there and gone

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1 through the crime scene. On November 29th, 2016 you
2 ultimately did arrest Mr. Tillman, correct?

3 A Let me refer to my notes.

4 MR. GROSE: Sorry. Could you repeat that date?

5 MR. BROWN: 11/29.

6 MR. GROSE: Okay.

7 A Yes, sir. That is correct.

8 Q And subsequently, you did go back out to [REDACTED] Bell Road
9 on a later date and tried talking with other family members?

10 A Yes, sir. I believe that was on December the 5th.

11 Q And you talked with Mr. Walter Tillman?

12 A I did.

13 Q And that would be cousin of --

14 A That's correct.

15 Q -- Charles Tillman?

16 A That's correct.

17 Q Were you able to speak with anybody else out there that
18 day?

19 A Just Walter.

20 Q Just Walter. Now, in your 911 -- or in your interviews
21 with Mr. Charles Tillman -- you've heard the 911 tape,
22 correct?

23 A That's correct.

24 Q And in interviewing Charles Tillman, when did he say he
25 went up to his momma's house?

1 A I can't recall that.

2 Q Did it differ from the interviews when he went to his
3 momma's house compared to the 911 call?

4 A It did.

5 Q And how did it differ?

6 A I believe he told us in the interview that he didn't go
7 to his mother's house, but on the 911 call he told the
8 dispatcher that he was going to walk up to his mother's
9 house.

10 MR. BROWN: No further questions.

11 THE COURT: Mr. Grose.

12 CROSS-EXAMINATION

13 BY MR. GROSE:

14 Q One of the first questions the Solicitor asked you
15 about was the rag.

16 A Yes, sir.

17 Q And I think you said that the rag was the one that was
18 behind -- by the window?

19 A That's correct.

20 Q And that it -- when you all moved the bed around to
21 find the shell casing, that's when the rag fell?

22 A Yes, sir.

23 Q And that's when the rag fell in the blood?

24 A That's correct.

25 Q And so, when Charles was telling you about the rag,

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1 that was in the third interview?

2 A If I -- if I remember correct.

3 Q And just to kind of put that into context. During the
4 first interview you all had control of the trailer for the
5 investigation, right?

6 A On into the morning of the 9th.

7 Q But let's make sure we're on the same page. The first
8 interview was on the night of the 8th going into the morning
9 of the 9th?

10 A That's correct.

11 Q And you had control of the trailer?

12 A That's correct.

13 Q And so, then the second -- between the first and the
14 second interview is when you found the shell casing?

15 A Yes, sir.

16 Q And so, when the second interview started at 7:20 in
17 the morning you all still had control of the trailer?

18 A There were still investigators on the scene.

19 Q Okay. And so, and during these interrogations you all
20 are pushing Charles to explain things?

21 A I wouldn't say push. I would say we was asking him.

22 Q But you got -- sometimes you were talking like you are
23 today and sometimes you got kind of confrontational with
24 him?

25 A Just part of interrogating people.

1 Q An interrogation technique, huh?

2 A I wouldn't say interrogation technique. Just part of
3 interrogation.

4 Q So is it a technique they taught you or technique you
5 just use?

6 A Just technique we use.

7 Q Okay. So by between the second and the third interview
8 you all had moved the bed around, the rag had fallen in the
9 blood. And so, Charles goes in, and then that would be the
10 first opportunity for him to see that rag? I mean, he
11 didn't tell you about that until the third interview?

12 A Well, yes. Yeah.

13 Q And then he was saying, hey, I saw this rag that had
14 blood on it. You all ought to look at that. But it turns
15 out that you all are the ones that actually -- not that
16 there's anything wrong with this, but you're -- you're
17 searching through the scene. You all cause it to fall into
18 the blood, and we know that stuff can transfer from -- you
19 know, if it falls in the blood it's -- the rag's going to
20 get blood on it, right?

21 A Yes, sir.

22 Q Kind of like they testified yesterday that the shell
23 casing had Christie's DNA on it because it also fell into
24 that same blood?

25 A That's correct.

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1 Q Now, I think you testified you didn't look at the
2 notebook?

3 A No, sir. I just photographed it.

4 Q You photographed it. Investigator Hines was the only
5 one that looked at the notebook?

6 A To my recollection, yes, sir.

7 Q Now, you've testified you went to the autopsy?

8 A Yes, sir.

9 Q And you testified that you're not here today to dispute
10 what Dr. Woodard said about the time of death?

11 A That's correct.

12 Q But we can agree that in the third interview you and
13 Investigator Hines told Charles that Dr. Woodard had
14 established the time of death between 7:00 and 9:00.

15 A No, sir. I believe I said 7:00 -- between 7:30 and
16 10:00 in my report.

17 Q Okay. Well, 7:00 and 9:00 might have been on the
18 video. But still, you have it down to a very -- a two hour
19 period where Dr. Woodard has it at the 12 hour period?

20 A Yes, sir.

21 Q Now, you're telling us today, if I understand right,
22 that that was just a mistake on your part?

23 A I wouldn't say mistake. Just misunderstood the doctor.

24 Q Okay. A misunderstanding between you and Dr. Woodard?

25 A There was several people in there that was talking

1 about time of death and hours and things like that. So yes,
2 sir.

3 Q Okay. What I'm trying to get at is whether it was an
4 intentional misrepresentation or a careless
5 misrepresentation.

6 A It wasn't intentional at all.

7 Q Do you consider providing false information to a
8 suspect to be a valid interrogation tactic?

9 A No, sir.

10 Q But you would agree that you did give some
11 misinformation to Charles, whether it was intentional or
12 unintentional?

13 A I can't argue with that. Yes, sir.

14 Q You can't argue with that?

15 A Yes.

16 Q Now, they asked you about, you know, Charles smoking,
17 right?

18 A Yes, sir.

19 Q And, in fact, at the end of -- it might be the first
20 interview. But at the end of one of the interviews he asked
21 if he could have a cigarette?

22 A That's correct.

23 Q And then it kind of clicked with everybody, hey, that
24 building's a non-smoking building. You got to go outside,
25 right?

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1 A Yes.

2 Q Okay. But the -- there was a question about who smoked
3 the Newports, right?

4 A I don't recall.

5 Q You don't recall that?

6 A I don't know particular cigarettes.

7 Q But don't you recall the question about the Newports
8 leading to a question about Christie smoking drugs versus
9 using a needle to shoot up drugs?

10 A Yes, sir.

11 Q And the response was that Christie smoked. Nobody in
12 the house, that lived in the house, used a needle, right?

13 A Yes, sir.

14 Q Okay. And this came up during an interview -- the
15 first interview where you all still had control of the
16 trailer?

17 A Yes, sir.

18 Q Now, the Solicitor asked you about the day that you
19 served the warrant, and I think you said that you served the
20 warrant on -- the arrest warrants on the 29th; is that
21 right?

22 A That is correct.

23 Q And that was after Agent Barton's interview? The one
24 that we just have the audio of?

25 A That's correct.

1 Q But you had the arrest warrants before that, right?

2 A That is correct.

3 Q In fact, you had gotten the arrest warrants on November
4 23rd?

5 A That is correct.

6 Q Okay. Now, I think you said that you did some followup
7 --

8 A Yes, sir.

9 Q -- even after you had arrested Charles?

10 A On December 5th.

11 Q And in Defendant's Exhibit Number 2, you have that log
12 in your file, don't you?

13 A Yes, sir.

14 Q And we sometimes in the discovery process we redact
15 certain personal identifying information. I think both
16 sides do that, right?

17 A Yes, sir.

18 THE COURT: I was going to mention, Mr. Grose, that
19 your client's Social is up there. If that's not a big deal,
20 then that's not a big deal.

21 MR. GROSE: That's not a big deal.

22 THE COURT: All right. Go ahead.

23 Q And on this list is both Walter Tillman and Willie
24 Tillman, right?

25 A Yes, sir.

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1 Q Now, I think you will agree with me that Walter Tillman
2 is the same person that we're talking about as Walt Tillman?

3 A Yes, sir. That's correct.

4 Q And he's here and you interviewed him?

5 A I wouldn't say interview him. I spoke to him.

6 Q You spoke to him?

7 A Yes, sir.

8 Q So it wasn't a real interview?

9 A No, sir. He didn't come down to the office and we
10 didn't Mirandize him or anything like that.

11 Q Okay. And Investigator Ashley did speak with JC Boggs,
12 right?

13 A If I remember correct. Yes, sir. She actually wrote
14 the statement for him.

15 Q Okay. You never spoke with Willie Tillman, did you?

16 A Not that I recall. No, sir.

17 Q And it's not in your notes?

18 A That's correct.

19 Q Certainly no video interview or audio interview --

20 A That's correct.

21 Q -- is that right?

22 A That's correct.

23 Q But Charles gave you information about Willie in that
24 first video interrogation, didn't he?

25 A I don't recall.

- 1 Q You don't recall?
- 2 A No, sir.
- 3 Q Defendant's Exhibit Number 6 is a picture of the window
4 by the bedroom? You would agree with that?
- 5 A Yes, sir.
- 6 Q You are telling these jurors that you don't recall
7 Charles telling you that Willie came down to the trailer the
8 morning of November 8th?
- 9 A Now that you put the picture up and worded it like
10 that, yes, sir.
- 11 Q And talked to him through the window?
- 12 A He said he came to the window. He didn't refer to
13 which window.
- 14 Q Okay. But talked to him through the window?
- 15 A That's what he said. Yes, sir.
- 16 Q Okay. About the quote for the tile at the church?
- 17 A That's correct.
- 18 Q And Charles told you that Christie wrote out that
19 quote?
- 20 A That's what he said.
- 21 Q And tore it off?
- 22 A That's what he said.
- 23 Q Tore it off the pad that was on the bed?
- 24 A That's what he said.
- 25 Q And that Charles gave that quote to Willie?

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- 1 A Yes, sir.
- 2 Q And you never talked to Willie?
- 3 A We never received the note either.
- 4 Q Did you go look for it?
- 5 A No, sir.
- 6 Q Did you ask Willie about it?
- 7 A No, sir.
- 8 Q Did you ask Willie what he did with it?
- 9 A No, sir.
- 10 Q Don't you think that would have been important?
- 11 A Willie -- none of the family members wanted to even
- 12 speak to us. When we arrived at the scene --
- 13 Q You all said you talked to his mother, right?
- 14 A I didn't.
- 15 Q Somebody did though.
- 16 A Yes, sir.
- 17 Q You didn't try?
- 18 A When we arrived on scene that night Willie was fussing
- 19 about us being parked in the driveway. So we didn't feel
- 20 the need to try to talk to him with his attitude towards us.
- 21 Q With his attitude?
- 22 A Yes, sir.
- 23 Q All right. Is it a valid investigative technique not
- 24 to followup on important information?
- 25 A No, sir.

1 MR. GROSE: Thank you.

2 THE COURT: Any redirect?

3 MR. BROWN: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

6 Q When you were speaking with Charles Tillman in the room
7 interviewing him, he didn't say what window Willie came and
8 knocked on, did he?

9 A No, sir.

10 Q In the picture -- this picture here would be the
11 bedroom that Christie was found lying in, right?

12 A That's correct.

13 Q On the inside of that trailer where Christie was found
14 murdered, what was all behind her head? That window?

15 A Blankets and pillows. And as we've stated earlier --
16 everyone stated earlier in their testimony, this trailer was
17 substantially high off the ground. I mean, there was cement
18 blocks used as steps to get in the house.

19 Q I'm going to show you Defendant's Exhibit 6. This is
20 an officer right here, right?

21 A Yes, sir.

22 Q Where does his head come up to the bottom of that
23 trailer?

24 A At the base of the trailer, from what I can see.

25 Q It would be rather difficult to knock on that window,

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1 right?

2 A I would agree.

3 MR. BROWN: No further questions.

4 RECROSS-EXAMINATION

5 BY MR. GROSE:

6 Q His head comes up to the bottom of the trailer, right?

7 A From where that orange hat looks. Yes, sir.

8 Q All right. And you're not saying that somebody
9 couldn't reach up and knock on that trailer wall below that
10 window, are you?

11 A Not impossible. No, sir.

12 Q And you never tried -- I mean, they're asking you, and
13 you're trying to say, well, we don't know which window it
14 is, but you never clarified that with Charles?

15 A No, sir.

16 Q And you never clarified that with Willie?

17 A That's correct.

18 Q And you were here yesterday when Investigator Hines
19 acknowledged that he hadn't interviewed Willie, right?

20 A Yes, sir.

21 Q And I did just like I did now. I came back here and
22 put my hands on his shoulder, right?

23 A That's correct.

24 Q And neither you nor Investigator Hines have interviewed
25 Willie this week while this trial is going on, have you?

1 A No, sir.

2 MR. GROSE: Thank you.

3 THE COURT: All right, sir. Thank you. You can step
4 down.

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 THE COURT: Solicitor, I assume the final witness is
8 still en route?

9 MR. BROWN: I would believe so.

10 THE COURT: All right. Ladies and gentlemen, the
11 witnesses I mentioned who was feeling ill, they are en
12 route. They should hopefully be here shortly after 10:00.
13 Sometime close to after 10:00. So we're going to go ahead
14 and take a break for a little bit until they get here. I do
15 anticipate that being the final witness in the State's case.
16 So if you would, adjourn to the back. If you need to step
17 outside, let the bailiff know. They'll take you outside.
18 And don't talk about the case. We'll be back on record as
19 soon as possible. Thank you.

20 (Whereupon, the jury exited the courtroom at 9:50 a.m.)

21 THE COURT: We'll remain at ease. But let me put one
22 more thing on the record and inquire of one thing.

23 Mr. Grose, in our conversations this morning you did
24 indicate that Defense intends to offer testimony, and I
25 don't think that comes as a surprise to anyone. As I

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1 understand it, your client will not be testifying. Is that
2 accurate?

3 MR. GROSE: That is accurate. And he's aware of that
4 right. We have discussed him doing that and not doing that
5 throughout my involvement in this case and he made the
6 decision this week that he's not going to do that.

7 THE COURT: I don't -- I've come to the point where I
8 don't really feel the need to specifically inquire of
9 somebody about that.

10 MR. GROSE: I think the case law says if you ask me,
11 that's covered for the record.

12 THE COURT: That's kind of how I feel about it. Okay,
13 good enough. I'll assume that you all -- one second. One
14 second. Just close the door, please. Thank you. I assume
15 that that's fine. I'm not going to touch it any further and
16 we'll leave it there.

17 MR. GROSE: Thank you, Judge.

18 THE COURT: We're at ease.

19 (Whereupon, a recess was held until 10:23 a.m.)

20 THE COURT: We'll go back on the record. Let us have
21 the jury. The witness is here. He's just outside the
22 doors. Bring the jury on in, and as soon as they're here
23 we'll bring the witness in.

24 (Whereupon, the jury entered the courtroom at 10:23
25 a.m.)

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1 THE COURT: The jury is back and seated at this point.
2 Solicitor, call your next witness, please.

3 MR. BROWN: The State calls Tyler Sturkie.

4 TYLER STURKIE, having first been
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BROWN:

8 Q Mr. Sturkie, can you state your name for the record?

9 A Tyler Sturkie, S-t-u-r-I-e.

10 Q Mr. Sturkie, where do you work?

11 A I'm employed by the South Carolina law enforcement
12 division.

13 Q And, Mr. Sturkie, I know you're under the weather. I'm
14 going to try to get through this as quick as possible.

15 A Sure.

16 Q How long have you been with SLED?

17 A Almost four years.

18 Q And what do you do at SLED?

19 A I am a forensic scientist in the trace evidence
20 department of the forensics laboratory.

21 Q And what type of education or background do you have to
22 become trace evidence?

23 A I received a Bachelor of Science degree in chemistry.
24 When I was hired by SLED I began a year long training
25 program in the analysis of gunshot residue. This training

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1 consisted of written and practical examinations on the
2 practice and theory of gunshot residue. I also attended
3 outside training courses at the Hooke College of Applied
4 Sciences and completed courses such as gunshot residue
5 identification, scanning electron microscopy, and advanced
6 x-ray microanalysis.

7 Q And have you ever been deemed an expert in a Court of
8 General Sessions in South Carolina as a -- as an expert in
9 trace evidence?

10 A Yes, sir. Sixteen times.

11 Q Sixteen times.

12 MR. BROWN: Your Honor, at this time I'd move Tyler
13 Sturkie as an expert in trace evidence, which would include
14 GSR.

15 MR. GROSE: No objection.

16 THE COURT: Again, ladies and gentlemen, Mr. Sturkie is
17 stipulated to be an expert in GSR analysis and trace
18 evidence. So he can give opinion testimony in that area
19 that you can use as you deem appropriate.

20 MR. BROWN: Thank you, Your Honor.

21 Q Mr. Sturkie, what is GSR?

22 A Gunshot residue is composed of the burned and unburned
23 particles from the primer, the propellant and the projectile
24 of a firearm when it has recently been discharged. When
25 we're analyzing for gunshot residue we are looking for

1 particles that are microscopic in size and they must contain
2 the elements of lead, barium and antimony. These particles
3 also must be round or molten in shape. And once a particle
4 meets these two criteria it is deemed gunshot residue.

5 Q And what is the consistency of -- how would you compare
6 gunshot residue to something like another -- is it easy to
7 get on and off, or what's the substance of it?

8 A Gunshot residue is very fragile. To give you a life
9 example, baking flour is a good visual of gunshot residue.
10 If you have flour on your hand in the kitchen and you go to
11 grab a cup, that cup now has flour from your hand. So if
12 you go to wash your hands as well, that flour can be
13 removed. Gunshot residue has that potential by any outside
14 factors or personal factors, such as wiping the hands or
15 putting them in your pockets. Any constant movement can
16 remove any GSR.

17 Q And in this case were you submitted items to analyze
18 for GSR?

19 A Yes, sir. I was.

20 Q And item 14 would be a GSR kit from Charles Tillman.
21 Was that performed or analyzed? The GSR kit. That would
22 be of Mr. Tillman's hands.

23 A Yes, sir. The item 14, which is one GSR kit from
24 Charles Tillman. That would be the hand kit from Mr.
25 Tillman. And no gunshot primer residue analysis was

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1 performed.

2 Q And why is that?

3 A We have a time limit for the time of shooting to the
4 time of collection in which a kit can be collected. If a
5 kit is collected beyond this timeframe we will not analyze
6 it. For our protocol at SLED the time is six hours from the
7 time of shooting to the time of collection by the officer or
8 investigator. In this case, the kit was collected beyond
9 six hours from the time of shooting, and therefore we would
10 not analyze it. The reason being is because on a living
11 person, such as that baking flour example I gave earlier,
12 the more they are moving the more they are using their
13 hands, their sweating, rubbing their hands, the more
14 potential it has to remove any GSR that would have been
15 there to begin with. Beyond that six hours we do not
16 scientifically believe that it is appropriate to analyze
17 this kit due to that fact.

18 Q Now, another item, item 15, one light green tee shirt,
19 that was also submitted for analysis; is that correct?

20 A Yes, sir. That is correct.

21 Q And we heard from Ila Simmons Wednesday. Did Ila
22 prepare this shirt, or actually take the particle lifts from
23 this shirt?

24 A Yes, sir. Ila Simmons would have been the analyst to
25 receive this tee shirt as evidence, and she would have taken

1 four particle lifts from this shirt. The areas that she
2 would have taken would have been the right sleeve, the right
3 chest, the left sleeve and the left chest of this shirt.

4 Q And once she took those particle lifts -- and this is
5 already in evidence as State's 147, and I'm just going to
6 show it to you.

7 A Sure.

8 Q Does that appear to be the particle lifts?

9 A From here it does, yes.

10 Q Now, after you get those particle lifts how do you go
11 about testing?

12 A When I receive the particle lifts I will put them on an
13 instrument called a scanning electron microscope. And I
14 will put them into this instrument, and we have database
15 connected with this microscope to run an automated analysis.
16 I will set the parameters to meet our protocol standards and
17 it will run an automated analysis of the particle lift. And
18 this automated analysis includes taking a picture and an
19 elemental composition, or what the particle is made of
20 throughout the entire run. Once that run is complete, I
21 will go in manually and check to see what the instrument has
22 labeled each particle as. If the instrument labeled the
23 particle as gunshot residue, meaning that it contained lead,
24 barium and antimony, the I will go back and confirm that the
25 particle did, in fact, have all three elements and met this

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1 shape. If there were any other particles present as well, I
2 would also manually go back and confirm that the instrument
3 labeled it as appropriately.

4 Q And in this case initially did you analyze or put all
5 four lifts into your scanning electron microscope machine?

6 A Yes, sir. I did. I originally put all four particle
7 lifts into the microscope for our protocol measures and for
8 efficiency purposes. If the particle lift meets 100 percent
9 of the area analyzed and that particle lift is complete, if
10 it also reaches a number of a hundred particles
11 characteristic of GSR, then it is considered complete. And
12 there's also a time limit of six hours for analysis time of
13 that particle lift, meaning it can run a certain percentage,
14 say 50 percent of the particle lift, and if it meets six
15 hour time limit, it will manually stop and move to the next
16 lift. The reason being is to cut -- cut down time on the
17 microscope itself and to hopefully be efficient enough to
18 run the rest of the kits that may be on the microscope.

19 Q And how many of these machines do you all have at SLED?

20 A For gunshot residue we have one at the moment.

21 Q One at the moment. And in this particular case, when
22 you did your initial testing under that six hours of that
23 time limitation, did it -- did the machine take any
24 particles off of that?

25 A So with this particular case, each of these particle

1 lifts stopped at the six hour timeframe and they ran roughly
2 three to six percent of the particle lift analyzed. So
3 there was still 95 percent about that needed to be analyzed
4 for the lift. And what that means is, with our protocol we
5 have to run particle lift 100 percent unless we find gunshot
6 residue on that lift to begin with. And so, because these
7 particle lifts ran six hours and no gunshot residue was
8 found within that three percent analyzed, I had to reanalyze
9 the particle lifts to run 100 percent. In order to do that,
10 I had to set the parameters for the scanning electron
11 microscope to fit that criteria. And when I did that for
12 the right sleeve particle lift it ran 100 percent of the
13 lift but it took approximately 118 hours analysis time just
14 for the one particle lift. For the other three particle
15 lifts, I deemed it as not appropriate for analysis due to
16 the amount of time it took for that one particle lift. It
17 took about five days total for that one particle lift to be
18 analyzed. It would have taken another 15 days roughly for
19 the other three particle lifts to be analyzed. And with the
20 amount of case work we get and the instrument capability of
21 analyzing, I deemed that those three were not appropriate to
22 be analyzed, and I only have results for one particle lift.

23 Q And the results from the right sleeve of this green tee
24 shirt that came off of Charles Tillman, State's evidence
25 148, did you, in fact, find GSR on that right sleeve?

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1 A For the right sleeve, after running 100 percent, I
2 found one particle of gunshot residue.

3 Q Now, again, if somebody was wearing this shirt all day
4 long and you said that GSR is the consistency of flour and
5 they're working, would you expect some of that GSR to be
6 knocked off?

7 A When we find gunshot residue on inanimate objects such
8 as clothing we can't put a timeframe as to when it has been
9 placed there depending on the activity of that object from
10 the time of GSR placement. If the shirt had been washed or
11 if there were rain or wind or any environmental factors,
12 that has the potential to remove any GSR that would have
13 been there.

14 Q What about taking your shirt on and off?

15 A Any -- any type of movement has that potential to. The
16 rougher the movement, the more likely you are to remove any
17 GSR. Again, if you think of flour, if it were on your shirt
18 and you go to wipe it off, if you just brush it off it may
19 retain. If you wash it off it's likely to be removed. So
20 the more use that it undergoes, or the more activity it
21 undergoes, the more potential you have to remove any GSR
22 that could have been there to begin with.

23 Q Now, and again, you said there's a right sleeve that
24 had the GSR particle?

25 A Yes, sir.

1 Q And then the right chest, left sleeve and left chest,
2 due to the time constraints and only having one machine to
3 run GSR analysis, you opted not to run those?

4 A Correct. The three to five percent of the -- of those
5 particle lifts that I did run I did not find any gunshot
6 residue. However, I did not run those three 100 percent.
7 So I did not find any GSR on those to begin with and didn't
8 find them suitable for analysis.

9 Q But there could be some on there?

10 A Because I didn't run them --

11 MR. GROSE: Objection. That's entirely speculative,
12 Your Honor.

13 THE COURT: Sustained as to the extent that that calls
14 for speculation. If you could rephrase.

15 Q Now, how can somebody -- how can somebody get GSR on
16 their sleeve? What would be -- what would you have to touch
17 or be around to have that?

18 A For inanimate objects to have gunshot residue there are
19 two ways. One is that object was in the vicinity to the
20 discharge of a firearm, or the second is an object that had
21 GSR on it came into contact with this object as well.

22 Q But in this case there's definitely a GSR particle on
23 his right sleeve?

24 A Yes, sir. One particle of gunshot residue was found on
25 the right sleeve.

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1 MR. BROWN: No further questions.

2 THE COURT: Mr. Grose. Sir, do you need a break, are
3 you okay?

4 THE WITNESS: I'm okay. Thank you.

5 THE COURT: Mr. Grose.

6 CROSS-EXAMINATION

7 BY MR. GROSE:

8 Q If I understand it correctly, you're here and are able
9 to report that you located exactly one particle of GSR?

10 A Yes, sir. That's correct.

11 Q Okay. Now, you were talking about time, and maybe it's
12 because of this other workload that you're talking about,
13 but you didn't start running these tests until December, did
14 you?

15 A I believe I ran these kits -- the first time I analyzed
16 these particle lifts were in October of 2017.

17 Q And then your report is not dated until December of
18 2017?

19 A Correct. Yes, sir.

20 Q And as I understand it, in order to find that one
21 particle of gunshot residue, it had to run through the
22 machine for 118 hours?

23 A Yes, sir.

24 Q Now, your coworker, colleague was up here earlier in
25 the week and she also used that flour example. Were you

1 using that talk as much about the consistency about the
2 gunshot residue, right?

3 A Yes, sir. It's more of a visual to try to understand
4 --

5 Q Right.

6 A -- how GSR interacts with the world.

7 Q Because part of the visual I have is of the white flour
8 that is easy to just look at and see. But gunshot residue
9 is not the same. You can't just look at it and see it as
10 easily?

11 A That is correct. It's microscopic. You can't see it
12 with the naked eye.

13 Q And as I understand it, on a shotgun like we have here
14 with the -- have you seen it?

15 A I don't believe so. No, sir.

16 Q I'm just going to grab it real quick. If the shotgun
17 is fired, the residue comes out of the barrel, right?

18 A It will come out of any opening which would be the
19 barrel and the ejection port as well.

20 Q Right. So that's what I wanted to get to. There's two
21 openings on this gun that it would come out of, right?

22 A Yes, sir.

23 Q Okay. Now, going back to the flour and talking about
24 the consistency. When you spill flour sometimes there's a
25 cloud?

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1 A Sure.

2 Q And eventually with gravity that settles?

3 A Yes, sir.

4 Q And so, again there's two ways to get gunshot residue
5 on an object, like a shirt. It's either near where it was
6 fired or it came in contact with --

7 A Yes, sir.

8 Q -- a surface that had GSR on it. And so, if a gun's
9 fired in an open area, and GSR can come out of these two
10 openings, it's going to settle with gravity just like that
11 flour does, right?

12 A Correct. Yes, sir.

13 Q Okay. And, you know, you talked earlier about spilling
14 -- getting flour on your hands, and then maybe you go and
15 you touch something and get it on that, right?

16 A Correct.

17 Q But this residue that settles, say instead of me
18 touching it on this little printer, it settled onto the
19 printer and somehow, you know, I touch it, I could get it on
20 my hands and then I could transfer it to something else,
21 right? Like that book?

22 A There is -- there is the potential. The more times you
23 transfer, the least likely you are to -- you won't have as
24 many particles the more times you transfer --

25 Q Right.

1 A -- but you still have the possibility to.

2 Q All right. And I could -- I could do that. This -- if
3 this surface had the residue on it and I touched it, I could
4 transfer just one single particle over to that book,
5 couldn't I?

6 A It is possible. Yes, sir.

7 Q And so, when you're looking at something like this you
8 can't tell -- your test doesn't tell how that particle got
9 on that shirt, does it?

10 A No, sir. It does not. When I find gunshot residue I
11 can say that I found gunshot residue. And the only two
12 ways, according to this type of evidence, which is his
13 shirt, either it was in the vicinity or touched an object an
14 object that had GSR on it.

15 Q Right. And you can't say how it got on there or when
16 it got on there?

17 A That is correct.

18 Q You can't say if it got on there because a person fired
19 a gun or whether it was transferred?

20 A Both are possible.

21 Q All right. And so, if we heard videotapes where
22 somebody represented on them how -- what gunshot residue can
23 show, it would only get there if you fired a gun, that
24 wouldn't be right?

25 A I'm not sure I followed you.

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1 Q If somebody -- if somebody said the only way you can
2 get gunshot residue on you is by firing a gun, that wouldn't
3 be true?

4 A That's not entirely true.

5 Q Right. Right. It would be, I guess, a partial truth
6 maybe?

7 A Sure. If -- for an individual there's three ways. One
8 is the individual fired a weapon. Two is the individual was
9 in the vicinity, or three, an individual touched an object
10 that had GSR.

11 Q The transfer?

12 A Correct.

13 Q Right. And so, with the science that you're dealing
14 with, you're -- you're reporting your results getting out
15 all the truths and not just partial truths?

16 A Correct.

17 Q You didn't run the test on the GSR from Charles' hands
18 because of the time limit?

19 A That's correct.

20 Q Did anybody ever ask you to run GSR on Christie's -- on
21 Christie's hands?

22 A The only items of evidence requested for gunshot
23 residue analysis were the GSR kit from Charles Tillman,
24 being the hand kit, and then the green tee shirt.

25 MR. GROSE: Beg the Court's indulgence for a moment.

1 THE COURT: Yes, sir.

2 MR. GROSE: Thank you. That's all I have. I hope you
3 feel better.

4 THE WITNESS: Thank you.

5 REDIRECT EXAMINATION

6 BY MR. BROWN:

7 Q Mr. Sturkie, following up on all that. Just to be
8 clear. This isn't a shotgun, is it?

9 A I would not call that a shotgun. No, sir.

10 Q A .22 --

11 MR. GROSE: And I'll -- if I -- I'll stipulate that
12 that's not a shotgun. I'm sorry. I apologize.

13 THE COURT: Right. I assumed it was just a mistake. I
14 think that everybody agrees that's a .22 rifle.

15 Q A .22 rifle -- and I don't even know if this is even
16 expertise. It produces a lesser amount of GSR than a
17 shotgun or a high caliber, correct?

18 A For calibers for weapons, whether it's a .22 or .45, in
19 theory, the larger the caliber the more gunshot residue can
20 be produced. So in theory I would expect more GSR to be
21 produced from a .45 as opposed to a .22. However, both size
22 calibers will produce GSR.

23 Q And where would -- in a gun like this, where are the
24 ports where the GSR would come out of?

25 A Any opening, which would be the muzzle, the ejection

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1 port, and if there are any openings near the trigger in
2 trigger guard, there may be some there. But more than --
3 definitely the muzzle and the ejection port.

4 Q Now, where would most of it come out? At the end of
5 the barrel?

6 A Majority of gunshot residue would be produced from the
7 muzzle due to it being a larger open space.

8 Q Mr. Grose asked you if there'd be a cloud of GSR coming
9 out. But if somebody had a close contact wound to their
10 head, would that be a cloud of GSR coming out?

11 A If the --

12 Q If the muzzle's up against the skin.

13 A If there's a surface such as a person intervening
14 between where the muzzle was placed, any gunshot residue
15 with come into contact with is closest object. So even if
16 there is a cloud and it will settle, if it's right up
17 against an object, GSR is going to be right on that object.

18 Q And if somebody had claimed not to touch her, touch her
19 head or anything like that shouldn't have GSR on them,
20 should they?

21 A Say that again. I'm sorry.

22 Q If somebody claimed they never touched her head or
23 anything like that, they shouldn't have the GSR from it,
24 should they?

25 A Not from -- not from the head. No, sir. From

1 transfer.

2 Q And there wouldn't be this big cloud of GSR all over
3 the room from it?

4 A If it was intervening, no, sir, there would not be a
5 large cloud.

6 Q If somebody is holding a rifle and the other ejection
7 point with GSR comes out would be where the casing comes
8 out, pretty close to a right sleeve, right?

9 A If holding correctly, yes.

10 Q I think you stated a small caliber gun produces a small
11 amount of GSR, correct?

12 A In theory.

13 Q If somebody left and went to work all day, the
14 likelihood that some of that GSR would have been knocked off
15 or fallen off?

16 A The activity that's happened between the collection and
17 the time of shooting, the more likely there is to be removed
18 of GSR.

19 Q Or if you take your shirt off, put it back on, take
20 your shirt off and then hand it to law enforcement, is that
21 also an opportunity for GSR go be lost?

22 A It is an opportunity. Yes, sir.

23 MR. BROWN: No further questions.

24 THE COURT: Recross.

25

RECROSS-EXAMINATION

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1 BY MR. GROSE:

2 Q He asked you about a contact wound. But if a gun had
3 been fired in a room at the ceiling and GSR comes down at
4 the end, then that could settle, couldn't it?

5 A Yes, sir.

6 Q And it would because of gravity?

7 A It would. If -- for example, if you shot that where
8 you were standing, all of us in this general area could
9 potentially have gunshot residue.

10 Q And when you say all of us in this general area, I'm --
11 I don't know. I'm not good at estimating. Ten, 15 feet
12 from you?

13 A Yes, sir.

14 Q And so, we could both get gunshot residue on that?

15 A Potentially.

16 Q And potentially some of the jurors and some of the
17 other courtroom personnel?

18 A Yes, sir. That is possible.

19 Q Okay. So if a gun is fired at the ceiling in a small
20 space, small room, there could potentially as a result of
21 that be gunshot residue all over that room?

22 A Yes, sir.

23 MR. GROSE: Thank you.

24 THE COURT: Sir, I sincerely hope you feel better. You
25 are free to go. Take care of yourself and get some sleep.

1 THE WITNESS: Thank you.

2 (Whereupon, the witness stepped down from the witness
3 stand.)

4 THE COURT: Any additional witnesses from the State?

5 MR. BROWN: Judge, no additional witnesses. We're
6 going to make sure we have everything in that we need.

7 THE COURT: Okay. Ladies and gentlemen of the jury, if
8 you would, adjourn to the back. I need to briefly take up a
9 few motions and deal with a few housekeeping matters and
10 then I'll have you back. Okay? Don't talk about the case.

11 (Whereupon, the jury exited the courtroom at 10:49
12 a.m.)

13 THE COURT: Solicitor, you want to make sure that all
14 exhibits are in the record?

15 MR. BROWN: Yes, sir. We want 13, the one we've been
16 talking about. There's a photograph, and this actually gets
17 the whole room -- bedroom showing a window being completely
18 covered. Based on the questioning and the testimony I
19 believe that would be -- I'd like to move that into
20 evidence.

21 THE COURT: May I see it? Was one of the ones that you
22 originally objected to, Mr. Grose, because it showed the
23 body or --

24 MR. GROSE: I believe so, yes.

25 THE COURT: Oh, okay.

1 MR. GROSE: I think that there's already photos in that
2 depict what he says, but --

3 MR. BROWN: And I think that one just -- it shows the
4 whole back wall, and I don't think any other ones have the
5 whole back wall in it.

6 THE COURT: I appreciate your position. Your objection
7 is noted Mr. Grose. I think this photograph maybe is the
8 best representation of the relatively small size of this
9 bedroom, and that kind of relates to the testimony that we
10 just heard about the firearm being fired into the ceiling,
11 etcetera. I'm going to allow it subject to your objection.
12 So State's 13 will be in evidence.

13 MR. BROWN: Thank you.

14 (Whereupon, State's Exhibit Number 13 was admitted into
15 evidence.)

16 (Whereupon, Defendant's Exhibit Number 17 was marked
17 for identification.)

18 MR. GROSE: As long as we're talking about evidence,
19 Judge, I have marked as Defendant's Exhibit Number 17 some
20 notes that Mr. Hines looked at yesterday. We have -- it
21 came to me with some information redacted on the top. We've
22 also redacted a reference to Charles being in jail. And I
23 intend to recall Mr. Hines to introduce this because Mr.
24 Graham testified that Charles never said which bedroom -- or
25 which window Willie came to, but that's clearly reflected in

1 the notes from the officer. They tell me that they're
2 probably going to object. I wasn't even going to recall Mr.
3 Hines until -- this is in response to what they did. And I
4 didn't introduce the notes yesterday, but now I feel that
5 given the questioning this morning that it's relevant and
6 admissible.

7 MR. BROWN: Judge, one thing. I don't know if it says
8 which -- there are multiple bedrooms in this house. And so,
9 I'm not sure exactly which bedroom it's -- it doesn't say
10 which bedroom.

11 THE COURT: What doesn't say verbatim?

12 MR. BROWN: This note. The notes that Mr. Hines wrote
13 down. I think the best evidence would be in the video that
14 they already have that's in evidence, what Mr. Tillman said.

15 MR. GROSE: It says, "Willie came to bedroom window and
16 asked about paper for church."

17 THE COURT: And asked about what?

18 MR. GROSE: Paper for church.

19 THE COURT: Paper for church.

20 MR. GROSE: Yeah.

21 THE COURT: The rest of the statement though is
22 consistent with what was testified to, I assume?

23 MR. GROSE: Well, it's not consistent with what Mr.
24 Graham testified to.

25 THE COURT: Okay.

1 MR. BROWN: I think it's consistent to what Hines
2 testified to yesterday.

3 THE COURT: What's the nature of the objection that the
4 State is making?

5 MR. BROWN: It just doesn't say which window. Which
6 bedroom window. I think best evidence would be in the audio
7 tape which has already been admitted.

8 THE COURT: I understand. That goes to weight probably
9 as opposed to admissibility --

10 MR. BROWN: Yes, sir.

11 THE COURT: -- and relevancy. So if the State -- or if
12 Mr. Grose chooses to recall Mr. Hines then it can be alluded
13 to. He can explain it. We'll see what he says and take it
14 from there. And if it's admissible we'll admit it at that
15 point in time. But if he admits it says what it says, I
16 don't know that it necessarily needs to come into evidence.

17 I assume the Defense moves for a directed verdict at
18 this stage and renews all prior motions and objections?

19 MR. GROSE: I do, but I'd like to discuss that with you
20 a little bit.

21 THE COURT: Sure, go ahead.

22 MR. GROSE: You're going to charge direct and
23 circumstantial evidence. And, of course, you know, there's
24 direct evidence that proves a homicide and direct evidence
25 for which a jury could concluded that somebody murdered

1 Christie. The issue in this trial is the identity of the
2 person who did that. And in this case the State's entire
3 case on that is circumstantial evidence. And so, when we
4 get into circumstantial evidence we get into an area that
5 quite frankly has gotten a little bit confused in the
6 appellate opinions because -- I don't have the cites, but
7 you could go and pull up opinions that say, you know, the
8 directed verdict standard that Your Honor is supposed to
9 consider is whether there's any substantial circumstantial
10 evidence. And in some of those opinions the word "any" will
11 be italicized. And in other opinions the word "substantial"
12 will be italicized. Then of course you have the whole
13 Jackson vs. Virginia issue where the US Supreme Court has
14 said a scintilla of evidence is not enough to submit a case
15 to the jury. And you've got -- you've got a whole host of
16 appellate decisions over the past 10 or 15 years dealing
17 with the directed verdict standard. And you can go back
18 further. You've got the Schrock case where there was a lot
19 of circumstantial evidence placing him in the vicinity of
20 the murder. You have the Hernandez case, I believe, but
21 it's the drug trafficking case where they stop some
22 Hispanics in a truck. The drugs were in the back of the
23 truck. And our Supreme Court said that that was not enough
24 circumstantial evidence to submit that case to the jury.
25 Then you have the --

1 THE COURT: That was the case out of Edgefield, right?

2 MR. GROSE: It was -- I believe it was Edgefield. It
3 was that area.

4 THE COURT: Right.

5 MR. GROSE: Right. And then there was the case -- it
6 might be Arnold, but I might be getting that confused. But
7 the one that was a murder case where the defendant's
8 fingerprint was on a gear shift or something inside the
9 decedent's car that defendant was -- may have been connected
10 to the car in other ways. That car was found, you know,
11 some distance away. And again, our Supreme Court said that
12 that was not enough circumstantial evidence to submit the
13 case to the jury. So I guess one of the things that I'm
14 going to ask you to do as part of your ruling on this is
15 what our appellate courts have not done a very good job of,
16 which is articulating exactly, you know, what the standard
17 is that you're applying to your motion, given that there is
18 the emphasis sometimes on "any" and emphasis sometimes on
19 "substantial". I obviously believe that the emphasis should
20 be on the substantial portion of it. And so, when you begin
21 to look at the evidence in this case -- and I assume you're
22 not going to consider any of the admitted falsities that
23 were used by law enforcement in the interrogation. For
24 example, I assume you're not going to consider that the time
25 of death could have been, you know, established conclusively

1 between 7:00 and 9:00 when the undisputed fact in the record
2 is, is that there was a 12 hour window and information was
3 misrepresented to Charles, either intentionally or
4 carelessly. And so, essentially what they have is, is they
5 have a window of time where Charles was with her, and then a
6 window of time that -- and we're going to call additional
7 witnesses on this. But a window of time, it's already in
8 the record, that, you know, he was at work part of the day.
9 So -- and it's also in the record -- that's in the record
10 from his statements in the recordings. And it's also, you
11 know, in the record of his statements saying that she was
12 alive when he left. So I realize you've got to view this in
13 a light most favorable to the State. But even viewing it in
14 a light most favorable to the State, there is a window of
15 time where she could have been shot and killed when Charles
16 was not there. You do not have an admission from Charles.
17 In fact, you have denial after denial, even when they
18 pressured him with false information. And I -- what I
19 anticipate the State is going to argue is that this DNA on
20 the gun and the gunshot residue are pieces of circumstantial
21 evidence that allow them to get this case to the jury. My
22 concern with that -- and again, I trust that you're not
23 going to consider what we know are misrepresentations about,
24 you know, the DNA and what GSR means in the interrogation.
25 I assume that you're going to consider what the science

1 establishes is, which is nobody can say when and how those
2 samples got there. A lot like the fingerprint and the
3 automobile. Presumably a lot like the drugs in the car, you
4 know, in the Edgefield case. And the best that they can
5 establish is that it's there. They can't establish how it
6 got there. There's also the fingerprint case in Newberry
7 where the fingerprints on the window. The screen that's
8 removed. That wasn't enough to get the burglary charge to
9 the jury. And so, I think you have to look --

10 THE COURT: In that case I think there was actually a
11 fingerprint on a television that was inside the place and
12 there was some allegation that the defendant had been
13 frequenting that --

14 MR. GROSE: I think that was a different case. That
15 was a more recent case. The Newberry is a little bit older
16 case. The -- when you look at the scientific evidence --
17 you know, first of all, they're not conclusively saying that
18 Charles' DNA is on the gun because they can't rule out other
19 male relatives. But they do conclusively state that there's
20 other peoples' DNA on the gun. But the important part is,
21 that gun's on the property. He's admitted to shooting it
22 before. Nobody can tell you when or how his DNA got there.
23 So it does not establish that it got there at the time the
24 gun was fired that killed Christie. Same with the GSR.
25 They cannot establish that it got there as a result of

1 firing a gun. So when -- if you focus on the "any" I think
2 you get into the Jackson vs. Virginia problem. But if you
3 focus on the "substantial" and then combining it, "any
4 substantial", I think that Mr. Tillman is entitled to a
5 directed verdict.

6 THE COURT: Solicitor, do you want to speak to that?

7 MR. BROWN: Your Honor, in a light most favorable to
8 the State, not in addition to DNA -- the DNA and the GSR,
9 you also have the 911 tape. You go back through there, and
10 if you listen to it closely, and we'll turn it up, you hear
11 his mother in the background saying there's a gun down there
12 yesterday. The DNA, she's got DNA under her fingernails, on
13 the gun. There's GSR on his shirt. In addition to what Mr.
14 Sturkie said, it can be put on that shirt by firing -- by
15 firing a gun. The time of death, the majority of time
16 between 11:00 a.m. on the 8th and 11:00 p.m. on the 7th
17 Charles Tillman was with Christie, based on his own
18 statements. So he's there. He puts himself in the house
19 during this time. Your Honor, in his statements he gives
20 plenty of info saying Christie didn't do me right. She did
21 this to herself. She always went out and was trying to
22 leave. She was always seeing these other folks. There's
23 also an autopsy talking about old bruising and new bruising.
24 He flatly denies seeing any of these old bruising, yet he
25 talks about having relations with her the day -- or two days

1 before and sleeping with her naked and this sort of thing.
2 There's all these that when you put them altogether it's
3 facts and the jury can decide -- it's ultimate fact for the
4 jury to decide whether or not he's the one who killed
5 Christie. There's a lot of facts there. You can put them
6 altogether that they can make that determination and say he
7 is the one that committed the murder.

8 So, Your Honor, in a light most favorable to the State,
9 we have -- I believe we've met that threshold to get by a
10 directed verdict and the jury should be able to render a
11 decision on that later today.

12 MR. GROSE: Just a brief response. I mean, first of
13 all, he didn't deny everything about the old bruising,
14 because he gave statements about her having fallen on the
15 steps of this awkward to dangerous entranceway. But I just
16 wanted to -- with regards to what they said about him being
17 there for part of the time, I think that that gets us into
18 what comes up in some of the homicide by child abuse cases,
19 like Hepburn, for example. Sorry. But -

20 THE COURT: It's law.

21 MR. GROSE: It's the law. And if it was enough for
22 actually Hepburn to have been in that house at the time that
23 it could have happened, our Supreme Court wouldn't have
24 directed a verdict in that case. And so, you know, I think
25 it gets back to the substantial part.

1 MR. BROWN: Judge, I believe in the Hepburn case there
2 was no physical evidence. There was no GSR. There was no
3 DNA or anything like, if I remember correctly, tying her to
4 the murder of the child.

5 MR. GROSE: Well, there was physical evidence that that
6 child was killed. I mean, there wasn't -- it really wasn't
7 in dispute that that child was -- was killed in a homicide.
8 It's like this where identity was the issue. So if you
9 focus on, yeah, there's evidence of murder, that's really
10 not the right inquiry. Just on the identify element that
11 they have to prove.

12 MR. BROWN: If I remember correctly in Hepburn, there
13 were four other people, or three other people in the house
14 at that time as well.

15 THE COURT: Well, I am intimately familiar with Hepburn
16 because I tried it for two weeks. So I'll refrain from
17 describing the opinion and the order of facts that the
18 Supreme Court found which was, of course, crucial to the
19 underlying 25 page opinion in terms of the order of
20 testimony and the way they found that perhaps some witnesses
21 testified at certain times. I was there. I'm not going to
22 go there.

23 Here's -- to the point that Mr. Grose and Mr. Brown
24 have made, the Court has been reflecting on this question
25 throughout the trial of this case, and Mr. Grose is perhaps

1 correct that the Court's have been less than specific on
2 what exactly substantial circumstantial evidence means.
3 Hepburn, I think, is part of a evolving set of jurisprudence
4 where the Court is struggling with exactly what it means. I
5 think recently I read an opinion with Justice Hearn where
6 she seemed to harken back to the old Edwards to the
7 exclusion of any other reasonable hypothesis standard.

8 MR. GROSE: And you have that in the Hernandez case.

9 THE COURT: Correct. And so, we've gone from a
10 situation where any evidence, direct or circumstantial, to
11 substantial circumstantial evidence, to perhaps full circle
12 with the Edwards charge. And I don't know if you all
13 attended that presentation I gave on circumstantial evidence
14 with the Greenwood Bar a couple of years ago, because I went
15 through all of this and I have yet to see further
16 clarification from the Supreme Court.

17 As a practical matter though, this Court's not so much
18 concerned with the theoretical niceties of what, quote,
19 "substantial" or, quote, "any" means. I'm more concerned
20 with the actual practical application of facts through the
21 law. In this particular case I would agree with what the
22 Solicitor was kind of alluding to a few moments ago. In
23 isolation any one of the bits of circumstantial evidence, as
24 with the others, would probably warrant the Court granting a
25 directed verdict. If we were dealing with only a single

1 particle of GSR found on the Defendant's sleeve without the
2 other evidence, then certainly there would not be enough to
3 go to the jury. Maybe even a particle plus the DNA found on
4 the gun. Perhaps that would be insufficient to send to the
5 jury. Perhaps a particle, the fact that she had the
6 Defendant's DNA under her fingertips, and the DNA on the gun
7 that belonged to the Defendant, those in isolation without
8 other evidence might be insufficient to send it to the jury.
9 But the Court has had the opportunity to, and the jury has
10 had the opportunity to review the videos of the Defendant.
11 And again, this is a case where the parties have stipulated
12 that this was, in fact, a homicide. This is not a suicide.
13 Someone killed Ms. Stutler. The Defendant has given several
14 statements. He has been consistent in his belief that this
15 was a suicide. But part of the State's theory of this case
16 is that that belief was inherently unreasonable because no
17 gun was discovered by Ms. Stutler. There were
18 contradictions in the videos that were taken of the
19 Defendant and the audio that was taken of him. There are
20 contradictions, and there are credibility issues in what the
21 Defendant said. The jury is ultimately the judge of
22 credibility of witnesses. And by his statements to law
23 enforcement, by the tapes that have been played for jury,
24 the 911 tape, etcetera, I think that credibility is squarely
25 an issue in this case. So we're dealing with one of those

1 mixes of circumstantial evidence and direct evidence in the
2 sense that the jury is entitled to pass upon the
3 reasonableness of the Defendant's explanation, the
4 credibility of what he is saying to the investigators, and
5 the other circumstances involved in this case. The
6 Defendant's point that there was a period of time where Ms.
7 Stutler could have been killed is valid. That's accurate.
8 But it does not -- it does not necessarily mean that the
9 Court has to dismiss this case at this particular stage.

10 So the Court will conclude that there is substantial
11 circumstantial evidence and direct evidence in which the
12 Court -- or from which the jury could conclude that the
13 Defendant is the one who took the life of Ms. Stutler, and
14 that will be the Court's ruling. The Court will deny the
15 Defendant's motions for a directed verdict. And, of course,
16 the Defense having renewed all prior motions, including the
17 motion for a mistrial and objections, the same rulings shall
18 stand with regard to those.

19 MR. GROSE: The only -- the concern that I have was
20 with the part of your ruling where you said that you don't
21 have to be concerned with what the any substantial
22 circumstantial evidence means. I don't know that you can
23 apply the law to the facts without knowing what that means.
24 And I would just respectfully ask for your definition for
25 the record in case our Court -- Appellate Courts are having

1 to look at this. And I realize I'm putting you in a
2 difficult spot because of the opinions out there, but I also
3 feel like the law has probably gotten a little unclear on
4 some of this because we don't have these conversations at
5 this stage of the trial on the record.

6 THE COURT: I appreciate that, Mr. Grose. And candidly
7 your point is well made. What substantial means is
8 something that candidly has been discussed on the Listserve
9 among circuit judges for some period of time. This comes up
10 periodically, and we try to offer guidance to each other. I
11 think that if this case were solely -- again, if this case
12 were solely a circumstantial evidence case, if there weren't
13 credibility issues involved in this, if the Defendant had
14 never given a statement to the authorities or if his
15 statements perhaps made a little bit more sense in light of
16 the evidence, the other evidence that exists, then maybe
17 your point would be a little bit better taken. I take
18 substantial circumstantial evidence, when you're dealing
19 with just a purely circumstantial evidence case, to mean
20 exactly what the Courts have articulated it in the past. So
21 that will be my ruling.

22 We'll give ourselves a few moments. You can go ahead
23 and be thinking about your order of witnesses. I assume
24 you've got it figured out.

25 MR. GROSE: I've got it figured out. They're all here.

JEFFREY HINES

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1 THE COURT: Yes, sir.

2 MR. GROSE: The other logistically, and there will
3 probably be some breaks, but I intend on using the
4 PowerPoint during my closings. So I'm going to need a break
5 between their closing and my closing to do that. They're
6 going to get a reply. I'm not going to suggest to them
7 whether they want to break or don't want to break, but if
8 they want one between it or they don't want, I don't have a
9 preference.

10 THE COURT: Let's take about five or 10 minutes for
11 ourselves. Reconvene at about 11:25. We'll take your case,
12 do your case, which should last about an hour. And then
13 probably break for a bite, I guess, and then we'll argue and
14 charge this afternoon. Okay?

15 MR. BROWN: Judge, I do have to officially rest when
16 they come back out.

17 THE COURT: I thought you did. But we'll let you go
18 ahead and officially rest. And you don't have to renew the
19 directed verdict.

20 MR. GROSE: Yeah, we don't -- we don't want to have
21 this conversation again.

22 THE COURT: I think the record's pretty clear.

23 (Whereupon, a recess was held from 11:16 a.m. to 11:31
24 a.m.)

25 THE COURT: Solicitor, I know you've already rested and

1 we've already held -- or had all the motions, et cetera, but
2 just rest for benefit of window dressing, if we could, and
3 then we'll move on to the Defendant's case. Let's have the
4 jury, please.

5 (Whereupon, the jury entered the courtroom at 11:32
6 a.m.)

7 THE COURT: The record will reflect that the jury is
8 back and seated. Solicitor?

9 MR. BROWN: The State rests, Your Honor.

10 THE COURT: Very good. Mr. Grose, are you ready to
11 proceed, sir?

12 MR. GROSE: Yes, sir, I am. May it please the Court.

13 THE COURT: Call your first witness.

14 MR. GROSE: I would recall Investigator Hines.

15 THE COURT: Mr. Hines, you're still under oath from
16 yesterday and Tuesday respectively.

17 JEFFREY HINES, having been
18 previously sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. GROSE:

21 Q I'm going to show you what's now been marked as
22 Defendant's Exhibit Number 17.

23 A Yes, sir.

24 Q That's the sheet of notes that we looked at yesterday,
25 isn't it?

JEFFREY HINES

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1 A That is correct. Yes, sir.

2 Q And over in the margins, can you read where it starts
3 with Willie?

4 A "Willie came to bedroom window and asked about paper
5 for church."

6 Q And you made these notes while you were doing the
7 interrogations?

8 A Those came on the -- I believe, sir, they came on the
9 first interview, as you see in the video me writing.

10 MR. GROSE: I move Defendant's Exhibit 17 into
11 evidence.

12 THE COURT: Any objection?

13 MR. BROWN: No objection.

14 THE COURT: Without objection, 17 is in evidence.

15 (Whereupon, Defendant's Exhibit Number 17 was admitted
16 into evidence.)

17 MR. GROSE: That's all I have. Thank you.

18 MR. HINES: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. BROWN:

21 Q Officer Hines.

22 A Yes, sir.

23 Q How many bedrooms are in that trailer?

24 A There was two bedrooms in the trailer.

25 Q One where the body was located and the other on the

1 opposite end?

2 A That is correct. One where the body was located and
3 one on the opposite end of the trailer.

4 Q Did he say which bedroom window?

5 A I do not believe he said which bedroom window. But
6 like I said, it was -- I jotted it down because he said
7 bedroom window, but he didn't say which one.

8 MR. BROWN: No further questions.

9 THE COURT: Mr. Hines, thank you very much. You may
10 step down.

11 THE WITNESS: Yes, sir.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. GROSE: At this time, Your Honor, I'd call JC
15 Boggs.

16 THE COURT: Mr. Grose, since that's now in evidence,
17 would you mind -- that statement that you just introduced,
18 let's put it over here so it doesn't get stuck in --

19 MR. GROSE: Well, actually this is a folder of all my
20 exhibits that she gave to me for reference. I'll make sure
21 it doesn't get lost.

22 THE COURT: Good enough.

23 JC BOGGS, having first been duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

J.C. BOGGS

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1 BY MR. GROSE:

2 Q Can you state your full name and spell your last name

3 A J.C. Boggs, B-o-g-g-s.

4 Q And can you speak into that microphone? I don't know.

5 Is it even on?

6 THE COURT: It's not on. Try it now.

7 Q Do you live in Abbeville County?

8 A Yes, sir.

9 Q And which part of Abbeville County do you live in?

10 A I live on [REDACTED], Iva. I stay in Abbeville
11 County though.

12 Q Right. So it's going up towards Anderson County?

13 A Yeah.

14 Q And what do you do for a living?

15 A I do side jobs like home improvement. I worked at
16 Rocky River Mill for 46 years. I do side jobs too.

17 Q And do people work with you sometimes?

18 A Yeah.

19 Q And do you know Charles Tillman?

20 A Yes, sir.

21 Q And how long have you known Charles Tillman?

22 A Probably -- I can't say. Probably 30, 40 years. I
23 been knowing him a long time.

24 Q And do you know his cousin Walt Tillman?

25 A Yes, sir.

- 1 Q And how long have you known him?
- 2 A I've known Walt about 20 years or more.
- 3 Q And do Charles and Walt ever work with you?
- 4 A Yeah.
- 5 Q And do you remember November 8th of 2016?
- 6 A Yes, sir.
- 7 Q And that was the day that Christie died. Did you work
- 8 with Walt and Charles that day?
- 9 A Yes, sir.
- 10 Q And where did you meet Walt and Charles?
- 11 A I pick them up at home.
- 12 Q And when you say you picked them up at their home, what
- 13 do you mean? Where is that home?
- 14 A They live about approximately two miles from me.
- 15 Q And is that on Bell Road?
- 16 A Yeah. Yes, sir.
- 17 Q And is there a house and a trailer on that property?
- 18 A Yes, sir.
- 19 Q And do both of them live there, to your knowledge?
- 20 A To my knowledge they do.
- 21 Q And what time did you pick them up that day?
- 22 A I'd say I picked them about 8:30.
- 23 Q And when you picked them up, where did you all go?
- 24 A We went to work up there in Anderson County kind of
- 25 beside the Jockey Lot. I do some work so we went up there.

J.C. BOGGS

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1 Q And what kind of work were you doing there?

2 A We were painting.

3 Q And how long were you there?

4 A We were there -- we were there all day.

5 Q And when you say all day, what time did you all finish
6 up at the job, do you think?

7 A We finished up at the job approximately -- I'd say
8 about 5:00.

9 Q And then did you make any stops?

10 A Oh, yeah. We left there and went to the bank and went
11 to Spinx up there on 28 in Anderson.

12 Q Did you all get some food?

13 A Yeah, stopped there and got some food.

14 Q Some chicken?

15 A Yes, sir.

16 Q Okay. And then did you take Walt and Charles back to
17 where they live?

18 A Yes, sir.

19 Q And what time do you think you got back there?

20 A Probably 6:30. I remember because I had to go register
21 to vote, so I know -- I went on to go vote. So it was
22 approximately 6:30.

23 Q And were you ever interviewed by Investigator Ashley
24 from the Sheriff's Department?

25 A Yeah. When they came down to talk to me I went down

1 there.

2 Q And did you sign a statement for them?

3 A Yes.

4 Q Now, if I understand correctly, you were with Charles
5 from about 8:30 until sometime after 6:00 that day?

6 A Yes, sir.

7 Q How was he acting?

8 A He acting normally like he always generally do.

9 Q He didn't seem like he was under any stress or duress
10 or anything like that?

11 A No, sir.

12 MR. GROSE: Thank you, Mr. JC. Please answer any
13 questions they might have.

14 CROSS-EXAMINATION

15 BY MR. BROWN:

16 Q Good morning, Mr. Boggs.

17 A Good morning.

18 Q Mr. Boggs, Charles Tillman would do some side jobs with
19 you; is that right?

20 A Yes, sir.

21 Q And on this particular day you said you were painting?

22 A Yes.

23 Q And when you're painting you use your hands a lot,
24 right?

25 A Yes, sir.

J.C. BOGGS

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- 1 Q And when you're painting you're using your hands a lot,
2 right?
- 3 A Yes, sir.
- 4 Q Touching paint?
- 5 A Yes, sir.
- 6 Q Touching maybe paint thinner?
- 7 A We didn't use no paint thinner that day. I know we
8 didn't use no -- we used paint, but not no paint thinner.
- 9 Q And as you were painting sometimes wash your hands and
10 clean your hands off?
- 11 A Yes.
- 12 Q And you all were painting all day?
- 13 A All day, yeah.
- 14 Q And when you're painting, do you all use just the
15 brushes, or you all use rollers also?
- 16 A We use brushes and rollers.
- 17 Q Rollers?
- 18 A Uh-huh.
- 19 Q Do you all paint walls or ceilings?
- 20 A Walls.
- 21 Q And then you also use rollers to do that?
- 22 A Uh-huh.
- 23 Q So you're moving around a lot?
- 24 A Yes, sir.
- 25 Q Mr. Boggs, you said -- when you gave your statement to

1 Sergeant Ashley, you said you picked them up approximately
2 at 8:30?

3 A Yes, sir.

4 Q Could it have been around 9:00?

5 A No.

6 Q It wasn't?

7 A No.

8 Q So if somebody says 9:00 are they telling the truth or
9 is that a lie?

10 MR. GROSE: Objection. Pitting the witness, Your
11 Honor.

12 THE COURT: Objection sustained.

13 Q But you said 8:30?

14 A It was 8:30, because I knew we had a certain time to be
15 there. So I'm looking at my watch when I got there and it
16 was 8:30.

17 Q Yes, sir. Now, Mr. Boggs, how would you characterize
18 Mr. Tillman? Was he in pretty good -- at that time was he
19 in pretty good shape?

20 A Yes.

21 Q Pretty built guy?

22 A What you mean by built guy?

23 Q Strong.

24 A Oh, yes, sir.

25 Q Mr. Boggs, you didn't stay with Charles Tillman and

J.C. BOGGS

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- 1 Christie at that trailer the night before, did you?
- 2 A Run that by me again.
- 3 Q You didn't -- you stayed at your own house the night
- 4 before, right?
- 5 A Yes, sir.
- 6 Q You didn't stay with Charles and Christie?
- 7 A No, sir.
- 8 Q So you can't say what happened in that trailer before
- 9 Charles left, can you?
- 10 A Oh, no, sir.
- 11 Q Or if he moved anything?
- 12 A No, sir.
- 13 Q When you were painting up there at that house did you
- 14 all shoot any guns? Did you shoot any guns while you were
- 15 painting up there that day?
- 16 A No, sir.
- 17 Q No. And when you got there -- tell me again, where did
- 18 you pick Mr. Tillman along with his cousin?
- 19 A Where did I pick them up at?
- 20 Q Yes, sir.
- 21 A In the yard at the house.
- 22 Q At which house?
- 23 A I pick him up in the yard at the brick house.
- 24 Q At the brick house?
- 25 A Uh-huh.

1 Q That's his mother's house?

2 A Yeah.

3 Q So, he wasn't around his trailer?

4 A No.

5 Q And when you came back and dropped him off, where did
6 you drop him off?

7 A The same place.

8 Q At the house?

9 A Uh-huh.

10 Q During this day, again, painting and all, did you all
11 -- do you know if you all cleaned your hands?

12 A I can't exact say. I don't remember what they do, but
13 I know when you paint you clean your hands.

14 Q You were painting. You're doing pretty strenuous work,
15 right?

16 A Yeah.

17 Q And again, before you picked him up you couldn't tell
18 -- you don't have any information what went on in that or
19 what Charles was doing before you picked him up that day?

20 A No, sir.

21 MR. BROWN: Thank you. No further questions.

22 THE COURT: Nothing on redirect?

23 MR. GROSE: Nothing further, Your Honor.

24 THE COURT: Mr. Boggs, thank you. You can step down.

25 (Whereupon, the witness stepped down from the witness

WALT TILLMAN

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1 stand.)

2 THE COURT: Call your next witness, please.

3 MR. GROSE: I would call Walt Tillman, Your Honor.

4 WALT TILLMAN, having first been
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GROSE:

8 Q Walt, what is your full name?

9 A Walter Tillman.

10 Q Do you go by a nickname?

11 A No.

12 Q You go by Walt?

13 A Uh-huh.

14 Q And you've got to answer yes or no just because the
15 court reporter needs to get that clearly on the tape.

16 A All right.

17 Q So Walt is short for Walter. Is that fair to say?

18 A Yes, sir.

19 Q Walt, where do you live?

20 A I live with my auntie.

21 Q And where is that?

22 A In Abbeville.

23 Q And where were you living in November -- on November
24 8th of 2016?

25 A In my auntie house.

- 1 Q And is that the Bell Road address?
- 2 A Yes, sir.
- 3 Q And how many of you all were living there at that time?
- 4 A I think there were four of us.
- 5 Q And that's in the brick house?
- 6 A No, it was -- yeah. Yeah, four of us. Yes, sir.
- 7 Q And who was that?
- 8 A That was me, my auntie, Antonio.
- 9 Q Antonio, he's the young man that's been here this
- 10 morning?
- 11 A Yes, sir.
- 12 Q And is Vonnie Cummings one of those people?
- 13 A Yes, sir. She live there too.
- 14 Q And Ms. Fannie?
- 15 A Yes, sir.
- 16 Q And on this property is there also a trailer?
- 17 A Yes, sir.
- 18 Q And who was living in the trailer at that time?
- 19 A Charles and his girlfriend.
- 20 Q And is that Christie?
- 21 A Uh-huh.
- 22 Q Is that a yes?
- 23 A Yes.
- 24 Q Again, for the court reporter.
- 25 A Okay. Yes.

WALT TILLMAN

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- 1 Q Now, did you see Charles that day, November 8th?
- 2 A I see him that day -- that night when we was at home.
- 3 Q Did you see him that morning?
- 4 A Uh-huh. Yes.
- 5 Q Did you go to work with him that day?
- 6 A Yes, sir.
- 7 Q Did you go to work with Mr. Boggs that day?
- 8 A Yes, sir.
- 9 Q Mr. JC?
- 10 A Yes, sir.
- 11 Q And what time did -- Mr. Boggs doesn't live there,
- 12 right?
- 13 A No, sir.
- 14 Q So did he come and pick you all up?
- 15 A Yes, sir.
- 16 Q And what time was that?
- 17 A 8:30.
- 18 Q And where did you all go?
- 19 A We went to Anderson up there to work.
- 20 Q And were you there all day?
- 21 A Yes.
- 22 Q And you stopped at the Spinx on the way back?
- 23 A On the way back.
- 24 Q And about what time did you all get back?
- 25 A Well, we got back home at 6:30.

WALT TILLMAN

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1 Q What?

2 A 6:30 that evening.

3 Q That evening?

4 A Uh-huh.

5 Q And how was Charles acting that day?

6 A He acting normal.

7 Q Did he seem like he was under any duress or anything?

8 A No, sir.

9 MR. GROSE: Thank you, Walt. Please answer any
10 questions the Solicitor might have.

11 THE COURT: Solicitor.

12 CROSS-EXAMINATION

13 BY MR. BROWN:

14 Q Mr. Tillman, you stated you're Charles' cousin --

15 A Yes.

16 Q -- is that correct? And you live with his aunt? You
17 live with your aunt?

18 A I live with Charles' momma.

19 Q And that would be Vonnie Cummings, right?

20 A Yes, sir.

21 Q Now, that morning you're saying you left at 8:30?

22 A Uh-huh. Yes, sir.

23 Q And then you said you got at 6:30 that night, right?

24 A Yes, sir.

25 Q Did you all get back any earlier than that?

WALT TILLMAN

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1 A No, sir.

2 Q No. The 911 call came out at 6:10 in the evening.

3 Charles --

4 A I don't -- I don't know what time he -- you know what
5 I'm saying.

6 Q So it could have been earlier.

7 A But 6:30 is when we got home.

8 Q It was 6:30 when you got home?

9 A Uh-huh.

10 Q Now, I guess you were doing the same work Charles was?

11 A Yes, sir.

12 Q You all were painting?

13 A Yes, sir.

14 Q Painting all day?

15 A All day.

16 Q All day. How many rooms did you do that day?

17 A Well, we did a big building. It look something like a
18 -- what you call them? What you call them houses?

19 THE DEFENDANT: Two story.

20 THE COURT: No. Describe it as best you can, sir.

21 A A garage. A car garage. That was what we were
22 painting.

23 Q You all were painting all day?

24 A All day.

25 Q Is that hard work?

1 A It's pretty hard for me 'cause I ain't hardly used to
2 painting.

3 Q Understandable. That morning when you all went, do you
4 remember what the temperature was?

5 A I don't know what the temperature was.

6 Q Was it cool?

7 A Yeah, it was kind of cool. Yeah, it was cool.

8 Q When you were painting though did anybody have to take
9 off any shirts or anything like that?

10 A No, nobody took nothing off.

11 Q Didn't take it off?

12 A Huh-uh.

13 Q So you were working all day, pretty strenuous work --

14 A Yeah, yeah.

15 Q -- same clothes?

16 A Yes.

17 Q Now, how old are you?

18 A Fifty-four.

19 Q How old is Charles?

20 A I couldn't quite tell you.

21 Q You've grown up with Charles, right?

22 A Yes, sir.

23 Q Do you consider yourself a pretty close family?

24 A We're real close.

25 Q You all are close?

WALT TILLMAN

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- 1 A Yes, sir.
- 2 Q You live there together?
- 3 A We don't live together. Yes, sir. We live together.
- 4 Yeah.
- 5 Q You love your cousin, right?
- 6 A Yes.
- 7 Q Never want to see anything bad happen to him?
- 8 A Oh, no. No. I don't want that to happen to nobody.
- 9 Q Mr. Tillman, you didn't -- you weren't staying down
- 10 there in Charles' trailer, have you?
- 11 A No, sir.
- 12 Q So you couldn't tell what happened behind closed doors
- 13 with Charles and Christie?
- 14 A No, sir.
- 15 Q What time did you get up that morning?
- 16 A I got up about 7:00.
- 17 Q Were you in the house though during that time?
- 18 A Yeah.
- 19 Q You weren't peeking out your door looking to see what
- 20 everybody's doing outside?
- 21 A No.
- 22 Q No. You can't say you had your eyes fixed on any --
- 23 those cars outside?
- 24 A No, sir.
- 25 Q So if somebody put something in one of those cars you

WILLIE TILLMAN

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1 didn't see it?

2 A I don't know nothing about it.

3 Q Sir?

4 A No, sir.

5 Q Mr. Tillman.

6 A Sir?

7 Q Did you kill Christie?

8 A No, sir.

9 Q You'd been up there at your aunt's house, right?

10 A Yes, sir.

11 Q You hadn't been with Christie all night, had you?

12 A No, sir.

13 Q But you love your cousin, right?

14 A Yes, sir.

15 MR. BROWN: No further questions.

16 MR. GROSE: No redirect.

17 THE COURT: All right, sir. Thank you. You can step
18 down.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 THE COURT: Call your next witness, please.

22 MR. GROSE: Willie Tillman.

23 WILLIE TILLMAN, having first being
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

WILLIE TILLMAN

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1 BY MR. GROSE:

2 Q Are you related to Charles Tillman?

3 A Yes, sir.

4 Q And how are you related to Charles?

5 A I'm his older brother.

6 Q Okay. And so, if you're his oldest brother, it's fair
7 to say you've known Charles all of his life?

8 A Yes, sir.

9 Q And they're going to ask you this. You love him, don't
10 --

11 A Yes, sir.

12 Q Would you lie for him?

13 A No, sir.

14 Q Where --

15 THE COURT: Hey, hey, hey. We need to maintain order
16 in here. Okay? So nothing from the peanut gallery in any
17 kind of way. No statements, no shaking heads, nothing like
18 that. Mr. Grose, go ahead, please.

19 Q Willie, where do you live?

20 A I live at [REDACTED].

21 Q And is that near where Charles and his mother live?

22 A Yes, sir.

23 Q How far?

24 A Approximately I'd say maybe an eighth or a quarter of a
25 mile. Not much. I can be down there in five minutes.

1 Q You mean walk down there?

2 A Walk. Yes, sir. Yes, sir. Yes, sir.

3 Q And were you living there in November of 2016?

4 A Yes, sir.

5 Q Okay. I'm going to put --

6 MR. GROSE: I can't read very well anymore, Your Honor,
7 without glasses.

8 Q Defendant's Exhibit 3 on the screen. And you have
9 trouble seeing, too, don't you, Willie?

10 A Yes, sir.

11 Q Okay. Let me do this. Let me -- is that a -- do you
12 recognize that?

13 A Yes, sir.

14 Q What is that?

15 A That's like a map to Bell Road.

16 Q Is it like an overhead photograph?

17 A Yes, sir.

18 Q And does it show the brick house where Ms. Vonnie
19 lives?

20 A Yes, sir.

21 Q And does it show the trailer where Charles lives?

22 A Yes, sir.

23 Q Thank you. Now, do you go to see Charles and his
24 mother on a regular basis?

25 A Oh, yes, sir.

WILLIE TILLMAN

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1 Q And is it -- do you go up there in the mornings
2 sometimes?

3 A Sometimes. Yes, sir.

4 Q On November 8th of 2016 did you go up there in the
5 morning?

6 A Yes, sir.

7 Q And what time did you go up there?

8 A I got there around about 7:30, sir.

9 Q Okay. And what did you do when you got there?

10 A I walked down there. When I got there I see cuz coming
11 out -- Walter Tillman come out the door. I said, Cuz, I
12 says, is Charles here. He said yeah. I said, is Charles
13 up? I don't know if he's up. And after I done that I said,
14 well, I come down here to see if Charles can get me that
15 statement about -- the estimate about getting that flooring
16 done for the church.

17 Q Tell the jurors about that. What is that all about?

18 A Yes, sir. I mean, like I said, like the -- Mr. JC done
19 testified that Charles do side work for him. What I did is
20 I tried to get them extra jobs because, you know they in
21 that field. And I said, well, if Charles can get that job
22 they can do extra -- make a little extra money, you know.
23 That's why I came down there that morning to get him to see
24 about that estimate. So I asked him about it.

25 Q And did you go anywhere to talk to Charles about that?

1 A Yes, sir. I went -- after I talked to my cousin,
2 Walter Tillman, I went on down there. I went around to the
3 front of the house, went around the corner of the trailer
4 and I knocked on the wall. I said, Charles. I call him
5 Charlie Boy, you know. And then I said, Charles, you up?
6 He said yes. I said, Charles, I come down here to see the -
7 - can you write the prescription -- I mean, excuse me, that
8 estimate for that flooring for the church. He said, well, I
9 can't do it, but Christie can do it. I said, well, Charles,
10 I mean they need a estimate. I said they got one estimate
11 for \$5,000. I said, Charles man, you need to get under
12 \$5,000 to get the bid. To get the job, you know. And he
13 said okay. And then as I was talking to him about that he
14 said to Christie, well, Christie, we going -- I'm going -- I
15 can't remember if he gave her \$20 or he going to leave \$20
16 there for her to get a pack of cigarettes and something to
17 eat that day. And then after that he was talking back and
18 forth to me and her. And I said, Charles, I said, man, you
19 need to put down the -- you know, how many days it's going
20 to take you to do the job, the fee, and then the date and
21 the time. And then as -- after I said that, I said,
22 Charles, I need that today, man. He said okay. I'm going
23 to get Christie to do it. I said, Charles, I said, that's
24 what you need to put down now. And she said, Charles, what
25 do I need to put down. I heard that, and then I just went

WILLIE TILLMAN

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1 on back -- excuse me, sir. I went on back to the yard. I
2 said, Charles, I'll be outside waiting on you when you come
3 out. And that was probably like two, three minutes. And
4 then he come on outside and gave me a paper. Him, Mr. JC,
5 Walter Tillman, they got in the truck and went to work.

6 Q Now, you said you went down to the trailer?

7 A Yes, sir.

8 Q All right. I'm going to show you Defendant's Exhibit
9 Number 6. Is that the trailer?

10 A That's it. Yes, sir.

11 Q Is that the bedroom?

12 A Yes, sir.

13 Q Okay. And did you -- was that the window that you went
14 to?

15 A Yes, sir. Yes, sir. That's it. Yes, sir. Yes, sir.

16 Q And you took me down there and showed that to me, too,
17 didn't you?

18 A Yes, sir.

19 Q And how would you get Charles' attention?

20 A Well, I normally -- I don't get too much response out
21 of him. I just start knocking on the wall. I say, hey
22 Charlie Boy, where you going, man. Like that. That's how I
23 holler at him to make sure he get my attention. Then I hear
24 them talking back and forth. And that's why -- that's how I
25 get him. I do that when I come down there and I catch him

1 at home that's what I do.

2 Q You said you knocked on the wall, right?

3 A Yes, sir.

4 Q And is that the wall below the --

5 A I can't see that far. I can see it now. I would say
6 probably right at the edge of that corner. I'd say probably
7 about two feet to the -- we're looking at right now, to my
8 left -- I mean, excuse me, to my right. Yeah, my -- yeah,
9 my left. Yes, sir. Yes, sir.

10 Q And is -- are the walls to the trailer thin?

11 A Yes, sir. Because you can -- I can hear movement was
12 in there. Like she was like trying to get up and -- but
13 yeah. Yes, sir. I could hear whatever he say. Yes, sir.

14 Q Thank you.

15 A Yes, sir.

16 Q And did you hear her talking?

17 A Yes, sir.

18 Q Did you ever go inside the trailer --

19 A No, sir.

20 Q -- that morning?

21 A No, sir. No, sir.

22 Q And after you were at the trailer did you stay -- where
23 did you go?

24 A After I left telling him about that estimate I started
25 walking back to his mom's yard and I waited back in the yard

WILLIE TILLMAN

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1 until he come out. It was about two, three minutes and he
2 come outside. Like I said, he and Mr. JC and Walter, they
3 got in the truck and they left to go to work. And after
4 that I went in the yard. I hung around the yard and
5 organized the baskets for my mom to get ready to go to the
6 washerette. And I put the walker in the back.

7 Q So is it fair to say you never went inside --

8 A Oh, no, sir.

9 Q -- the brick house either?

10 A No, sir. No, sir. No, sir. No, sir.

11 Q After you left the bedroom window to the trailer did
12 you hear any gunshots?

13 A Oh, no, sir.

14 Q Now, were you there when Charles and Walt and JC left?

15 A Yes, sir.

16 Q And what did you do after that?

17 A After I done that, like I said, I went right back
18 towards the house, down in the yard. My mom -- what I did,
19 organize the clothes and put her walker in there and I shut
20 it down. And I say probably about approximately five or 10
21 minutes my mom come outside and we got in the vehicle and we
22 left and went to the washerette.

23 Q And who all went to the laundry?

24 A That was me, my mom, and my great aunt, Aunt Fannie.

25 Q Aunt Fannie.

WILLIE TILLMAN

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1 A Yeah.

2 Q Was Antonio there?

3 A No, sir.

4 Q He goes to work early in the morning?

5 A Yes, sir.

6 Q The note that Christie wrote out and Charles gave to
7 you, what did you do with that?

8 A Sir, what I did, I gave it -- well, really my wife go
9 to that church. But what we did, I gave it to her and she
10 gave it to one of the ministers of the church, Sir.

11 Q And did you go back to the church and try and find that
12 note?

13 A Yes, sir.

14 Q Were you able to get it back?

15 A No, sir.

16 Q Has anybody from the Abbeville Sheriff's Department
17 interviewed you about this case?

18 A No, sir.

19 Q Has anybody from SLED interviewed you about this case?

20 A No, sir.

21 Q Has anybody from the Solicitor's Office interviewed you
22 about this case?

23 A No, sir.

24 Q Have you been up here all week?

25 A Yes, sir.

WILLIE TILLMAN

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1 MR. GROSE: Thank you, Willie. Answer any questions
2 they might have.

3 THE WITNESS: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. BROWN:

6 Q Mr. Tillman, again, you live down the road from [REDACTED]?

7 A Well, yes, sir.

8 Q And how much older are you than Charles?

9 A Charles probably -- well, he probably about 40 -- I
10 want to say at least -- it's about eight, nine years between
11 us.

12 Q What time did you say you got there that morning?

13 A 7:30, sir.

14 Q And you said you first saw your cousin, Willie --
15 Walter?

16 A I'm Willie, sir.

17 Q Or Walter?

18 A Yes, sir.

19 Q And then you have -- or said you went on down. What
20 time did you go down to that trailer?

21 A Sir, I didn't -- I really did not -- I didn't look at
22 my cell phone at that time, but I'd say approximately -- I
23 goofed off a little bit. I'd say approximately 10, 15
24 minutes, I guess. I ain't for sure. I mean, I can't
25 remember all that, but I went down. I can't give you a

1 specific time, sir.

2 Q And when you went down there, you went down to the tall
3 part down here and knocked on the --

4 A No, sir. No, sir.

5 Q Where did you knock?

6 A Where I'm sitting right now, it's going to be to my
7 right. That there -- like I said to him. To my -- I say
8 about two feet to my left down on that wall, sir.

9 Q Down here?

10 A Huh?

11 Q Down here?

12 A That's going to be to your right, sir.

13 Q So over here?

14 A Yes, sir. About where you point at, sir.

15 Q You had this long conversation through the wall?

16 A Yes, sir.

17 Q Why didn't you knock on the door?

18 A Well, like I said, that's the way I get my brother to
19 get up. But he was already up at that time.

20 Q So he was up at that time it would be easy for him to
21 come to the door?

22 A Well, like I said, that's the way that I get his
23 attention, sir.

24 Q I'll show you State's 13. Well, first of all, did you
25 go in that trailer?

WILLIE TILLMAN

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1 A No, sir.

2 Q Had you ever been in the trailer?

3 A Sir, it's been a long time, sir.

4 Q It's been a long time?

5 A I mean, like I said, I didn't go in that church -- I
6 mean, that trailer that morning, sir.

7 Q So you don't know what was inside, do you?

8 A No, sir.

9 Q Did he have a TV in that trailer?

10 A Like I said, sir, I don't know that.

11 Q You don't know if he had a TV in the trailer?

12 A I don't -- I don't know nothing about that, sir.

13 Q So if somebody said there's a TV in that trailer,
14 particularly Mr. Tillman, would you dispute that?

15 A Like I said, sir, I don't know what he had in that
16 trailer, sir.

17 Q The TV was on and you heard talking in the background?

18 MR. GROSE: Objection, speculation.

19 THE COURT: All right. He can describe what he heard,
20 Solicitor, but I don't know that he's going to be able to
21 testify that the TV was necessarily on because he was never
22 in the trailer, so --

23 MR. BROWN: Yes, sir. I'll move on.

24 Q Now, what was this estimate for?

25 A Like I said, sir, it was for doing the flooring for

1 that church, sir.

2 Q And Christie normally wrote estimates?

3 A I don't know that, sir, but that morning she did.

4 Q That morning she did?

5 A Yes, sir.

6 Q Was she a contractor?

7 A What that got to do with it? No, sir.

8 Q So if she wasn't a contractor why is she writing
9 estimates to do contracting work?

10 A Well, sir, I can't answer that.

11 Q There would be no reason for her to be doing
12 contracting estimates, right?

13 A Well, sir, I mean, you know, it ain't nothing but a
14 piece of paper. I mean, it got writing on it. I mean,
15 anybody can write a --

16 Q Well apparently it's an important piece of paper,
17 right?

18 A Well, like I said, sir, she didn't have to be certified
19 to write those statements, sir.

20 Q Well, you'd expect somebody that puts down flooring or
21 do some construction work to do an estimate, right?

22 A I don't know that, sir.

23 Q You didn't go in that trailer that morning, did you?

24 A No, sir.

25 Q You didn't see Christie that morning, did you?

WILLIE TILLMAN

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1 A No, sir.

2 Q You didn't -- you weren't staying that night in that
3 trailer with Charles and Christie, were you?

4 A No, sir.

5 Q You don't know what went on in that trailer that night,
6 do you?

7 A No, sir.

8 Q And it doesn't make any sense that she's the one
9 writing an estimate out if she never went and did
10 construction work, does it?

11 A I don't know what you mean by that, sir.

12 Q Did she ever go to work and actually do construction
13 work with Charles?

14 A I can't answer that, sir.

15 Q That morning, after you supposedly got this estimate
16 from Christie who doesn't do any construction work, where'd
17 you go after that?

18 A Like is said, sir, I went -- got in the yard and went
19 looking -- pulling out some clothes and putting my mom
20 walker inside her, sir.

21 Q And where did you go?

22 A After that, sir, like I said, it took two or three
23 minutes. We went to the washer, sir.

24 Q You take your momma?

25 A No, sir. The Trailblazer did, sir.

1 Q Well, you rode with your momma?

2 A Oh, yes, sir.

3 Q What time did you get back from washing?

4 A I can't say that, sir.

5 Q Did you ultimately bring your mom back to her house
6 after you left the washroom?

7 A Sir, I was in the vehicle, sir, and we come back
8 together, sir.

9 Q Okay. That night when Charles got back from working
10 with JC Boggs were you there at the house when all this went
11 down?

12 A When JC and Charles got back from work, sir?

13 Q Yes, sir.

14 A No, sir.

15 Q No?

16 A No, sir.

17 Q Did you ever show back up that night?

18 A Yes, sir.

19 Q At that time you got mad at law enforcement because
20 they were blocking the driveway, right?

21 A Sir, I did not.

22 Q Did not?

23 A Did not.

24 Q And with this big piece of evidence that you're talking
25 about, an estimate, if you heard her talking that morning,

WILLIE TILLMAN

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1 you ever went up there and talked to them and said, hey, I
2 got some big piece of evidence, did you?

3 A I ain't supposed to do that, sir.

4 Q You ain't supposed to do that?

5 A Sir, listen to me. No, sir.

6 Q That's your brother, right? That's your brother,
7 right?

8 A Who?

9 Q Charles Tillman.

10 A Oh, you're pointing to him, sir?

11 Q Yes.

12 A Yes, sir.

13 Q And you didn't think that was a big thing to do?

14 A Well, sir. Like you -- the guy who supposed to
15 investigate the situation, he supposed to come ask me that
16 question, but he did not, sir, that night, sir.

17 Q And you didn't think it relevant to go tell him? Go
18 grab him by the arm and say, Officer, I have some important
19 information to tell you?

20 A Well, sir, I mean, I ain't supposed to do that. Sir, I
21 mean, I don't think that's relevant, sir.

22 Q You don't think that's relevant? You don't think
23 that's relevant? Yes or no?

24 A Well, in a sense, sir, you know, these guys should have
25 done a better job, sir.

1 Q Are you aware law enforcement came out to [REDACTED] Bell
2 Road, they were there all night investigating this case?

3 A Well, I assume that's what they doing, sir.

4 Q They were there all night with tape around that house?

5 A What you talking about? What house you mean, sir?

6 Q The trailer Charles was in?

7 A Yes, sir.

8 Q And not at any of those times you didn't go pick up
9 this call log with all these officers and say I got a big
10 piece of evidence that I heard Christie Stutler talking to
11 my brother, or I heard her say that that morning, and you
12 didn't feel like that was important to tell them?

13 A Well, sir, like I said, they -- I'm not on trial, sir.

14 Q I'm just trying to figure out why you didn't tell law
15 enforcement that.

16 A Well, sir, like is said, I wasn't a suspect. I
17 shouldn't give that information out, sir.

18 Q But anyhow what you're telling me today though is you
19 live down the road, correct?

20 A Yes, sir.

21 Q And you never stepped foot in that trailer?

22 A No, sir.

23 Q So if you didn't step in that trailer you couldn't have
24 killed Christie, could you?

25 A No, sir.

WILLIE TILLMAN

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1 MR. BROWN: No further questions.

2 THE COURT: Anything?

3 RECROSS-EXAMINATION

4 BY MR. GROSE:

5 Q Willie, how long had you known Christie?

6 A I can't really say, sir, because she was like in and
7 out. I mean -- what I mean in and out, sir -- not long,
8 sir. I can't -- I can't recall that, sir, to be honest with
9 you, sir.

10 Q Did you know her voice?

11 A Oh, yes, sir. I know her voice. Yes, sir.

12 Q And is there any doubt that you heard her voice that
13 morning?

14 A Oh, no, sir. No doubt, sir.

15 Q Was law enforcement sharing with you their theories and
16 what they were finding or not finding in the investigation?

17 A No, sir. Nothing, sir.

18 Q If they had asked you questions, would you have talked
19 to them?

20 A Yes, sir.

21 MR. GROSE: That's all I have. Thank you.

22 MR. BROWN: Just a brief followup.

23 REDIRECT EXAMINATION

24 BY MR. BROWN:

25 Q How long did you say you knew Christie before this?

WILLIE TILLMAN

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1 A I didn't say, sir.

2 Q Can you say?

3 A If I tell you I'll be lying and I don't want to tell a
4 lie. I don't know, sir.

5 Q Well, how often did you see Christie there at the
6 trailer?

7 A Well, sir -- say it again, sir. I don't understand
8 what you said.

9 Q How often would you see Christie?

10 A Well, like I said, sir -- I still don't understand that
11 question you're asking me, sir.

12 Q You don't understand how many times you saw Christie?

13 A Sir, like I said, I can't really say that because I --
14 I don't -- I ain't for sure. I don't really know. Because
15 like I said, when I normally comes down there -- I can't
16 say, sir. I don't know.

17 MR. BROWN: All right. No further questions.

18 THE COURT: All right, sir. You may step down.

19 THE WITNESS: Yes, sir. Thank you.

20 (Whereupon, the witness stepped down from the witness
21 stand.)

22 THE COURT: Mr. Grose.

23 MR. GROSE: At this time, Your Honor, the Defense would
24 rest.

25 THE COURT: Any testimony in reply, Solicitor?

1 MR. BROWN: None.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, here's what we're going to do. We're going to go
4 ahead and take our lunch break at this particular point in
5 time. I'm going to ask that you be back in the jury room,
6 if you would, please, let's say -- I need to afford Court
7 personnel an opportunity to get something to eat. I'm going
8 to ask that you be back in the jury room at 1:30, and at
9 that point in time, ladies and gentlemen, hopefully we'll be
10 in a position to proceed with the attorneys closing
11 arguments and my instruction to you on the law. I'm asking
12 for 1:30 because legally I have to go over with the
13 attorneys, and it's something that we've already been
14 working on last night, me and my clerk and the lawyers
15 involved. I have to go over with them the law that I'm
16 going to instruct you on, and that needs to be done on the
17 record. I'm hoping it won't take more than 10 minutes
18 because we've already had a good bit of discussion about.
19 So please do be back in the jury room at 1:30. And at that
20 point in time we'll be in a position to proceed with closing
21 arguments, my instruction, and then you'll get the case.
22 Don't talk about the case though, leave the notebooks with
23 the bailiff, and have a lovely lunch. See you at 1:30.
24 (Whereupon, the jury exited the courtroom at 12:17
25 p.m.)

1 THE COURT: The jury is out. All testimony having been
2 received, all motions by the Defense are renewed. Same
3 rulings as before. Any thoughts on the instructions? Mr.
4 Grose already informed me last night that he was withdrawing
5 his request for an accident instruction. He did request an
6 instruction on alibi. And I've incorporated -- I think I've
7 already shared with you all the most recent version of those
8 instructions. I did use the Judge Anderson charge on alibi
9 and just tweaked it slightly. Does the State have any
10 additional suggestions as far as the instructions?

11 MR. BROWN: Judge, I think they were pretty standard
12 other than those minor tweaks.

13 THE COURT: They are pretty much the --

14 MR. BROWN: I don't have any other --

15 THE COURT: Thoughts on it?

16 MR. BROWN: No, sir.

17 THE COURT: Any other thoughts, Mr. Grose?

18 MR. GROSE: I do have two thoughts.

19 THE COURT: Sure.

20 MR. GROSE: And they're fairly minor. Let me scroll
21 back to it. At the bottom of page 11. I don't know if it's
22 as big of a deal in this case or not. But my belief is, is
23 when you're talking about inferred malice that the
24 instruction should be limited to that it can be inferred
25 from circumstances. I think that gives close to giving a

1 type of example which I think broadly viewing Belcher is
2 telling us to get away from. So I just call that to your
3 attention.

4 THE COURT: Okay. That's -- let me --

5 MR. GROSE: It says malice may be inferred from conduct
6 showing a total disregard for human life.

7 THE COURT: I don't know that that necessarily is a
8 particularly big deal in this particular case. You know,
9 Belcher also -- I did not include malice arising -- or
10 inference of malice arising from use of a deadly weapon.
11 The footnote from Belcher seems to indicate that if there's
12 nothing that mitigates the homicide down from murder that
13 perhaps the Court could give that instruction. I think it's
14 pretty much fine the way it is, and under these facts I
15 don't know that that's something that they're necessarily
16 going to be focusing on.

17 MR. GROSE: The other comment -- well, I guess a
18 request. And your reference to, you know, Justice Hearn's
19 opinion on the directed verdict stuff kind of reminded me,
20 because we have this whole evolution away from Edwards and
21 back towards Edwards. And I understand under Logan you're
22 not allowed to give the Edwards circumstantial evidence
23 instruction. But I feel like it's probably incumbent on me
24 to ask that you give that instruction that the State has to
25 -- you know, they have to exclude all other reasonable

1 hypothesis. And I know you can't give that, but I think
2 it's incumbent upon me to ask for that in case the law
3 continues to evolve in the case or another case.

4 THE COURT: Well, candidly, Mr. Grose, I think that in
5 many respects the Logan instruction as a practical matter is
6 very, very similar to the Edwards instruction, because if
7 you instruct someone that the evidence must point to the
8 guilt of the accused to the exclusion of any other
9 reasonable hypothesis, and then you say however to the
10 extent the State relies on circumstantial evidence, all the
11 circumstances must be consistent with each other, and when
12 taken together point conclusively to the guilt of the
13 accused. As a practical matter I think that may be very
14 well saying the same thing in a different way.

15 MR. GROSE: One says it better.

16 THE COURT: Perhaps. I'm comfortable with Logan.
17 That's what the current law is. And I appreciate your
18 motion though and it is noted. I'm going to charge Logan
19 the way -- that's the most recent case on point.

20 MR. GROSE: And it says you have to by it's terms.

21 THE COURT: Right.

22 MR. GROSE: So I know you can't grant my request.

23 THE COURT: Right. It certainly doesn't hurt to ask.

24 MR. GROSE: The only other thing I'd put on the record
25 -- I don't think it's a big deal since we had some emails

1 exchange about it. But you're requiring the State to open
2 fully on the law and the facts and then reply to be limited
3 to the new matters raised in my closing.

4 THE COURT: My understanding, and I realize that the
5 reviewing on Bailey of an opinion -- or Beatty, the
6 rehearing -- the opinion on the rehearing from Beatty still
7 hasn't come out. I don't see the Supreme Court moving away
8 from the due process implications that were in the original
9 Beatty opinion. They base the requirement that the State
10 reply only to what the Defense puts forward and not, you
11 know, come up with some new theory. That's based on due
12 process considerations as opposed to evidentiary rules or
13 rules of procedure. So if you would, Solicitor, give them
14 your -- give the State's theory at the inception of your
15 argument and you'll be limited to responding to what Mr.
16 Grose puts in. I think that's going to be the law and I
17 don't see that changing. We may as well go ahead and get
18 used to it.

19 MR. BROWN: I'd rather be safe than sorry.

20 THE COURT: Exactly. About an hour, folks. If
21 anything occurs to you over the lunch break you forgot to
22 bring up, just text me. I'll see you all back at 1:30. I
23 do want to hit the ground running. We're off the record.

24 (Whereupon, a lunch recess was held from 12:28 p.m. to
25 1:38 p.m.)

1 THE COURT: We'll go back on the record. Mr. Gross,
2 you did tell me that you're going to want to break between
3 when the Solicitor finishes and you argue, right?

4 MR. GROSE: Yeah I need to set up my -- I just --
5 hopefully it'll work.

6 THE COURT: Okay. We'll take a break at that point in
7 time. And then State's ready to close?

8 MR. BROWN: Yes, sir.

9 THE COURT: Let's have the jury, please.

10 (Whereupon, the jury entered the courtroom at 1:39
11 p.m.)

12 THE COURT: The record will reflect that the jury is
13 back. Ladies and gentlemen of the jury, at this point we've
14 received all the testimony that you're going to have in
15 order to judge this case, and in a moment the attorneys will
16 give you their closing summation, or their closing argument.
17 Between the time that the Solicitor finishes and Mr. Grose
18 argues we'll take a brief break because we need to -- he
19 needs to set up some stuff he wants to play for you. But I
20 want to remind you that as it relates to the arguments set
21 forth by both sides that you are the judges of the facts in
22 this particular case, and even though it's normal and it's
23 to be expected, that the attorneys are going to allude to
24 testimony or they're going to reference certain things that
25 were said or certain comments that were made during the

1 course of the trial. If whatever they say about the facts
2 differs from your recollection of the facts, you have to go
3 with your recollection, okay, because of course you are the
4 judges of the facts. For example, if the attorneys were to
5 say something like yesterday was a warm but terribly rainy
6 day and you recall yesterday being rather cool but sunny, go
7 with your recollection of what the weather was as opposed to
8 how they say it was. The order that we'll proceed in is the
9 Solicitor will go first, to be followed by Mr. Grose, and
10 then the Solicitor will be given the opportunity to give you
11 a final summation.

12 So with that, Solicitor, you're recognized for your
13 closing, Mr. Brown.

14 MR. BROWN: Thank you, Your Honor. May it please the
15 Court.

16 THE COURT: Yes, sir.

17 CLOSING ARGUMENT

18 BY MR. BROWN: Ladies and gentlemen, it's been a long
19 week, as Mr. Black stated at the beginning of this trial on
20 Tuesday morning, but there's been a lot of evidence
21 presented. There's been a lot of testimony. There's been a
22 lot of video, and just a lot of different parts of what you
23 have.

24 Before I dive into the facts that you all have heard,
25 the evidence presented here, I want to go to the law first.

1 Mr. Tillman is charged with murder and also possession of a
2 weapon in the commission of a violent crime. The State,
3 which we are, we have the burden of proof in this, and
4 that's proof beyond a reasonable doubt. That's our burden.
5 We welcome it. So what is proof beyond a reasonable doubt.
6 Proof beyond a reasonable doubt is a proof that leaves you
7 firmly convinced. Firmly convinced. It's not beyond all
8 doubt. It's not beyond every doubt and any doubt. It's
9 proof that leaves you firmly convinced. At the close of
10 this trial, at the close of our summation, our closing
11 arguments, you'll have the opportunity to go back to the
12 jury room, deliberate, look over everything and then make a
13 decision. After looking over everything, if you're firmly
14 convinced Charles Tillman did, in fact, murder Christie
15 Stutler, you have to find him guilty. What's firmly
16 convinced. Nothing in this world is 100 percent. The law
17 doesn't require that. It's not all doubt. It's not beyond
18 every doubt or any doubt. It's firmly convinced.

19 So what's murder? Murder is the killing of another
20 person. Homicide. In this case it's now been stipulated
21 that it's a homicide. It's the killing of another person
22 with malice aforethought. Now, what is malice? Malice is
23 hatred. It's ill-will and hostility towards another person.
24 It is the intentional doing of a wrongful act without just
25 cause or excuse and with the intent to inflict injury.

1 Malice is hatred and ill-will or hostility toward another
2 person. Ways malice is proven. Expressed malice or
3 inferred malice. Inferred malice, circumstances demonstrate
4 a total disregard for value of human life. A reasonably
5 prudent person would have known that these events there was
6 a strong likelihood that death would follow the contemplated
7 act. Total disregard for the value of human life. A
8 reasonably prudent person would know what their actions did.
9 That likely that death would follow the act. Aforethought.
10 What does that mean. There's no requirement that malice
11 must be -- or must exist for any appreciable length of time
12 before the commission of the act, murder, or shooting
13 somebody in the head. It may be conceived at the moment
14 this all occurs. That's what aforethought means. Again,
15 the Judge will -- he'll read the charges to you, and if
16 anything I say contradicts the Judge on the law, you go with
17 the Judge's charge. I suspect it will be very simple.

18 The second charge Mr. Tillman is charged with is
19 possession of a weapon during the commission of a violent
20 crime. It's what it sounds like. The Judge will charge you
21 that murder is considered a violent crime. The possession
22 of a weapon during the commission of a violent crime could
23 be a rifle, semiautomatic rifle, any kind of weapon during a
24 violent crime, which murder is. Self-explanatory. And
25 again, we have the burden of proving to you beyond a

1 reasonable doubt those elements.

2 Now, at the beginning, or at the -- in the fourth
3 interview - fourth interview with Bo Barton. Charles
4 Tillman says something that stands out. "I'm just being
5 careful what you're asking me and what I'm answering.
6 That's what I'm doing. I'm just being careful what you're
7 asking me."

8 (Whereupon, a portion of audio was published for the
9 jury.)

10 MR. BROWN: Just being careful. He was being careful
11 throughout this whole thing. Also in statements he talks
12 about some times -- talking about his momma. Talking about
13 his momma, that she's gone to the laundry. She didn't see
14 Christie. She thought Christie was at work.

15 (Whereupon, a portion of audio was published for the
16 jury.)

17 MR. BROWN: And he also took her to work to keep an eye
18 on her. Momma said she hasn't seen Christie today.

19 (Whereupon, a portion of audio was published for the
20 jury.)

21 MR. BROWN: Charles says that he didn't go up to the
22 house until police got there when he was on 911. What did
23 he say in the 911? You can hear it.

24 (Whereupon, a portion of audio was published for the
25 jury.)

1 MR. BROWN: Ladies and gentlemen, you heard him in his
2 interview saying I didn't go up there until after the police
3 got there. That's not true. You can clearly hear he went
4 up there. He denied it and denied it and denied it. Well,
5 why did he deny it? You can hear it. He goes up there and
6 initially tells his mom Christie is lying down there stiff.
7 She asked about the gun. He then yells at her. He says,
8 what gun? A little bit later, the gun with you down there
9 yesterday. The gun with you down there yesterday. She says
10 call the police. Mom, I've already called the police.
11 They're on the line now. Listen closely. Hold this.
12 What's he doing? He's back there telling his momma to be
13 quiet. Cluing her in. Shut up about that gun you saw down
14 there yesterday.

15 (Whereupon, a portion of audio was published for the
16 jury.)

17 MR. BROWN: There was one with you down there
18 yesterday. Momma. Momma. Right off the get-go on the 911
19 tape momma. What's he do the rest of the time, four
20 interviews. I hadn't been around no gun. I haven't shot no
21 gun. I don't know anything about a gun. The evolution of a
22 lie. Start of the 911 tape. Momma also said we hadn't seen
23 her all day. We thought she was with you." All this talk
24 about a shadow and stuff. She didn't see her that morning,
25 what she testified about Tuesday. We hadn't seen her all

1 day. Why hadn't you seen her all day? She's been lying
2 down in that trailer face down with a bullet hole through
3 her head. And that gun, momma saw you with that gun
4 yesterday.

5 MR. GROSE: Your Honor, I have a matter of law.

6 THE COURT: Approach up here.

7 (Whereupon, a sidebar was held.)

8 THE COURT: Solicitor, please continue.

9 MR. BROWN: Thank you, Your Honor.

10 That recording doesn't lie. That's realtime. Right
11 when it's called, the cat's out of the bag. Right off the
12 get go. And after she says about the gun -- you can listen
13 to this anytime you want to, but you -- I believe you all
14 heard it. He's cluing his momma in. He's telling her to
15 hush. He's got the police on the phone. Don't do this.
16 Then the investigation starts of the crime scene. The
17 officers arrive, as you hear. Deputy Evan McCurry gets
18 there. He ropes of the place. He's not allowing anybody in
19 there. Preserve what's in there. The officers get there,
20 Matthew Graham, Jeffrey Hines. They don't touch anything.
21 They call in SLED, the coroner, they document. They
22 document how everybody -- how Christie is, how everything is
23 in that room. How everything is in that trailer. The one
24 thing, going back to that 911 tape, he immediately knew she
25 shot herself. Called it in as a suicide. No gun. They

1 ask, do you see a gun there, Charles? No, no. Where could
2 it be? Listen to how he talks about it. You're the judge
3 of the facts, the believability of it. Listen to it. But
4 what did all law enforcement say when they got there?
5 Looking at her, they walked in, looked around. Didn't see a
6 gun. They looked at her. They looked at her, and not a one
7 can tell she's been shot. Why? Because that hair's
8 covering it up. You don't see the right side of her head.
9 You see the left side when the bullet entered. All you see
10 is blood. How did he know that? I tell you how he knew.
11 Because he's the one that did it. Lieutenant, investigator,
12 SLED, coroner. All those people walking in there, they
13 don't know. Not until they move her. Charles knew right
14 off the bat. What else is in that crime scene? Well, they
15 do have Christie laying there on the bed lifeless, covers
16 pulled up. It's obviously folks this wasn't a suicide.
17 It's a homicide. They document everything. The notebook
18 that keeps being brought up. They looked through it.
19 There's nothing in there. A page has been ripped out.
20 There might have been something on those pages. It was
21 ripped out before law enforcement got there. They took
22 pictures of it. It's right there. It's right there next to
23 her leg. They testified they looked through it. There was
24 nothing there.

25 Folks, how many shots were fired in that house? We

1 know one in the ceiling that went through the ceiling and
2 out of the roof. We have a hole in the wall where the
3 bullet was found. That's two. We know we had a third.
4 That's what killed Christie. And potentially we have a
5 fourth, or that could be the ones in the wall ricochet off
6 of Christie's leg. You heard. She got shot twice. Once in
7 the leg and once in the head. Where are those shell
8 casings? There was only one found. One shell casing found.
9 Where's that? It's down behind the mattress up against the
10 wall in Christie's blood. Why is that? Maybe it's the same
11 reason why that gun isn't in there anymore. Someone cleaned
12 up after themselves. Bullet holes don't lie. There were at
13 least three. One shell casing and no gun. Somebody picked
14 it up. We all know Christie didn't walk that out of there.
15 What else is in that room? Right there in that room,
16 State's 53. You got something to clean with. You heard the
17 DNA analyst. Somebody cleaned up something they wanted to,
18 wipe down a gun. It's right there. It's a rag in a bucket
19 of water. They documented everything, folks.

20 They move away from the crime scene. They're around
21 the house. What else do you have? You got a whole lot of
22 bullets. A whole lot of bullets lying in different areas
23 around this house, but yet he doesn't have a gun. He said
24 he'd been there two months. He's got bullets. As you saw
25 in the pictures, continuing with the crime scene, you saw

1 Christie's body. You saw the bruises that were there on her
2 at that time and you saw them later on when she was at the
3 autopsy. There were old and new bruises. So what do we go
4 with? What do we have? It goes to forensics. All this
5 stuff was taken so SLED.

6 We'll start off with GSR. Ila Simmons and Tyler
7 Sturkie all talked about a .22 caliber rifle. Small caliber
8 rifles produce less GSR. Small calibers. I believe Ila
9 Simmons stated that 98 percent of it comes out of the end of
10 the barrel. The rest of it comes out of the other openings.
11 The ejection point where that shell casing kicked out. Small
12 caliber, they're not expecting much GSR. Ninety-eight
13 percent. As Dr. Woodard stated, this is a close contact
14 wound. You'll have these photographs back there. Folks,
15 you can see the wound. You can see the circle around it.
16 That's where most of that GSR is, is on her head. There's
17 no dispute though he has GSR on his shirt.

18 Law enforcement also took DNA samples. Took it out
19 from under Christie's fingernails. Cut them, clipped them.
20 Charles Tillman. The YSTR that came back from that matched
21 Charles Tillman's YSTR. The gun, the clip, the YSTR is
22 Charles Tillman's YSTR. You heard from the cousin and his
23 brother. You heard that from Charles, too. They didn't
24 step foot in that trailer. They hadn't been down there.
25 They didn't do that. You also heard from James Green.

1 There's no denying that gun is the one that fired that
2 bullet. It matched the shell casing right next to
3 Christie's head. The one that was out in the car.

4 So what else is important in this case. What did Dr
5 Woodard say. You already saw a close contact wound to the
6 head. Barrel pushed right up to her temple. She was
7 executed. What else did you have? State's 37. Fresh
8 bruising on the back of the leg. Before he shot her, he
9 beat her. Before he shot her in the head, he hit her in the
10 back with that gun butt. Telling her she's going to lie on
11 that bed. At some point before all this he puts a cigarette
12 on her rear-end. He'll say I didn't know about any of
13 bruises. She didn't do -- I didn't do any of that.
14 Christie didn't have any bruise on her. Then the very next
15 interview, Christie hurt herself. Christie did this to
16 herself. Folks, Christie didn't put a cigarette butt out on
17 her rear-end. Christie didn't hit herself in the back with
18 a gun butt. Dr. Woodard also talked about hand prints or
19 fingerprints on her body. Contemporaneous to the time of
20 death. Christie didn't grab herself by the back of the neck
21 and control where she's going. Charles did that. Defensive
22 wounds, Christie, the same time as the time of death.
23 State's 136, gunshot wound to the shin. Christie didn't
24 shoot herself in the shin.

25 Ladies and gentlemen, the time of death the pathologist

1 stated 24 hours to 36 hours from the time of the autopsy.
2 11:00 a.m. on the 8th to 11:00 p.m. on the 7th. Think about
3 all those hours Charles was in that house with her. Look at
4 all those bruises on her. His big brother didn't stay with
5 him that night. His cousin didn't stay with him that night.
6 His momma didn't stay down there that night. They didn't do
7 it. He said it himself, nobody comes down there.

8 Think about this. If somebody came down there, they
9 just happen to have access to the gun he's been touching,
10 that he had, and they shot her. Somebody that wasn't around
11 that property. Don't you think they'd take that gun off
12 with them instead of stashing it in the car? Why would he
13 do this?

14 (Whereupon, a portion of audio was published for the
15 jury.)

16 MR. BROWN: Every time she'd leave she tried to tell
17 his momma that he did something. Why is that? Why is that?

18 (Whereupon, a portion of audio was published for the
19 jury.)

20 MR. BROWN: Christie, why can't you do right by me.
21 And then he still doesn't come off it. He said Christie
22 hurt herself, bruises herself.

23 (Whereupon, a portion of audio was published for the
24 jury.)

25 MR. BROWN: Christie didn't cause those bruises to

1 herself. She didn't fall off the stairs or run into that
2 trailer like he said. Somebody whipped her or hit her with
3 something on the back of that leg. Charles Tillman did
4 that. Later on in the interview, I believe this is the
5 third one, Officer Hines is in the interview room with him
6 and Charles slipped up again. What did he say? He was
7 talking about a deer camera.

8 (Whereupon, a portion of audio was published for the
9 jury.)

10 MR. BROWN: After the fact. He put it up after the
11 fact. Folks, remember this is -- I believe it's 11/10,
12 November 10th, that this interview is taking place. He put
13 a deer camera up after the fact. To watch Christie take
14 care of her. Folks, there wasn't a deer camera out there.
15 He got a little cute. It backfired on him. They called him
16 on it. If that deer camera was out there it should've
17 caught that gun. Oh, have to backtrack. When would he have
18 done that. Law enforcement was out there all night. He
19 didn't put up a deer camera out there. They went back out
20 there and looked for it and there wasn't one out there. A
21 story. He's building on it. But folks take a step back.
22 Look at the big picture here. It's got Charles Tillman's
23 face all on it. GSR on his shirt, DNA on the gun, under her
24 fingernails, been there at the house. Folks, you heard his
25 brother. It makes no sense. He couldn't tell you how long

1 he knew Christie. Couldn't tell you anything about the work
2 or the estimate or anything. It just doesn't make any
3 sense. Nobody saw her that morning, and the reason is she
4 was in that bed. She was already dead. I submit to you
5 during that night something happened. Christie didn't do
6 right by him. Didn't do right by him for some reason and he
7 flipped. Beat her, hit her, choked her around, scared her
8 by firing a shot through the ceiling, hit her in the back
9 with a gun butt, ordered her down on the bed. And all
10 Christie could do -- all Christie could do is cover her
11 head. All she could do. She fought. She's overpowered.
12 Ordered her on that bed. Stuck this .22 rifle to her head,
13 pulled the trigger and killed her. Then he had to cover his
14 tracks. He made some snags though in his tracks. He didn't
15 do enough. It all came tumbling down right off the bat.

16 (Whereupon, a portion of audio was published for the
17 jury.)

18 MR. BROWN: Right out of the gate you hear he had a gun
19 down there from his mom. Folks, take a step back and look
20 at all the evidence. It only points to one person. Charles
21 Tillman, because Charles Tillman is the man that had that
22 weapon and murdered Christie before he left with JC Boggs
23 that day. She didn't kill herself. He did. Find him
24 guilty.

25 THE COURT: Thank you, Mr. Brown. Ladies and

1 gentlemen, we'll go ahead and take a brief break for about
2 five or 10 minutes. If anyone needs to step outside to have
3 a cigarette, that's perfectly fine. Just let the bailiff
4 know and we'll resume when you finish. Okay? Don't talk
5 about the case obviously and we'll be at ease for a few
6 moments.

7 (Whereupon, the jury exited the courtroom at 2:29 p.m.)

8 (Whereupon, a recess was held from 2:29 p.m. to 2:41
9 p.m.)

10 THE COURT: We're back on the record. Mr. Grose?

11 MR. GROSE: I do believe. And I just wanted to put
12 our sidebar earlier on the record.

13 THE COURT: While we're doing that let me just mention
14 this. We did have a sidebar a moment ago when Mr. Grose
15 indicated that he had a matter for the Court. And we spoke
16 over to the side of the bench outside of the hearing of the
17 jury. And Mr. Grose noticed that a member of the decedent's
18 family was starting to become emotional, and I asked Mr.
19 Brown to ask the juror to do a better job of containing
20 their emotions or please leave the courtroom. And I
21 explained to Mr. Grose at the sidebar that I'd been watching
22 the jury, and candidly their attention had been focused more
23 towards me and Mr. -- or more in the direction of the bench
24 and Mr. Brown. So I do not think that they had seen
25 anything. But that was Mr. Grose's concern at the time of

1 the sidebar. And please everyone, I know that this is an
2 emotional case. I'm not asking you not to feel, okay,
3 because we are not robots. I'm not asking you to not
4 experience emotions. I am however asking you not to express
5 those emotions, certainly not in any audible fashion. So
6 the doors to the back are open. If you feel the need to
7 leave the courtroom, if you cannot contain yourself, simply
8 do that. Quietly stand up, quietly move to the back of the
9 courtroom. And that goes for everybody within earshot.
10 Okay? Thank you.

11 Let's have the jury, please.

12 (Whereupon, the jury entered the courtroom at 2:29
13 p.m.)

14 THE COURT: The record will reflect that the jury is
15 back and seated. Mr. Grose, you're acknowledged, sir, for
16 your closing.

17 MR. GROSE: May it please the Court.

18 THE COURT: Yes, sir.

19 CLOSING ARGUMENT

20 BY MR. GROSE: It's been a long week since we started
21 on this journey together and this is my chance to talk about
22 what our impressions and interpretations of the evidence
23 are, and I'm going to try to do that, and I'm going to try
24 to stay focused as much as possible on what the evidence
25 actually is, because two things really struck me with the

1 Solicitor's closing argument. The first thing is that there
2 was a lot of theorizing. A lot of saying this is something
3 that happened without any real, you know, evidence to back
4 that up. That's -- that's one thing that really struck me
5 is that their theory is, is that Charles Tillman murdered
6 Christie Stutler and faked a suicide. He murdered her and
7 faked a suicide. That is their theory. And the fact that a
8 gun wasn't beside her undermines that theory, because that's
9 the most obviously thing. That if anybody is going to fake
10 a suicide they're going to put a gun in proximity. They may
11 do it in a way that it's obvious that it has been planted,
12 but they're going to do it. So in order to accept the
13 State's theory you have to believe that Charles did this and
14 used the suicide as a coverup but didn't plant the gun.
15 Now, I realize that Charles and his family are simple
16 country people, and I realize that the police took advantage
17 of some of that during the interrogation, and I realize that
18 you saw some of that on the witness stand today. They're
19 not regular witnesses. Almost everybody who testified for
20 the State was a police officer or a crime scene person, that
21 -- some of them even talked about the number of times
22 they've testified in Court before. They're certainly going
23 to be more comfortable than simple country folks coming here
24 to do that. So as simple as Charles is, that is the most
25 obvious thing. If you're going to fake a suicide, you're

1 going to put a gun there.

2 Now, before we get into the evidence I want to play
3 something. This is from the audio interview, one of the
4 last things you heard yesterday.

5 (Whereupon, a portion of audio was published for the
6 jury.)

7 MR. GROSE: I'm going to play it one more time and ask
8 you think about not what they're saying about the
9 Solicitor's office, but what this says about Agent Barton
10 from SLED and some of the other investigators.

11 (Whereupon, a portion of audio was published for the
12 jury.)

13 MR. GROSE: Because Agent Barton you'll remember was
14 the one that I asked about the DNA and that when he told
15 Charles that there was only two peoples' DNA on that gun,
16 Charles and Christie, was that -- I'm sorry.

17 (Whereupon, a pause was taken due to technical
18 problems.)

19 MR. GROSE: Hopefully this still works. I apologize
20 for that.

21 THE COURT: I apologize for interrupting you, sir.

22 MR. GROSE: No, no, no. I'm sorry. He agreed with me
23 that when he told Charles that only Charles and Christie's
24 DNA was on that gun that that wasn't true. And I asked him
25 whether that was an intentional misrepresentation or a

1 careless misrepresentation. And even though he acknowledged
2 that lying to somebody in an interrogation is a police
3 tactic that he accepts, he claimed that somebody else had
4 lied to him about the evidence and didn't tell him that
5 there were, in fact, at least three and possibly more DNA
6 samples on that gun. What you have seen through this
7 investigation and what you heard from some of these
8 investigators in this trial, is that everything that was
9 done in this investigation was done and painted in a not
10 good like or a negative light for Charles.

11 Now, I will give the Solicitor's office credit where
12 the credit is due. They're trying their case hard and
13 trying to do their job, and they are trying to ask you to
14 convict Charles Tillman. But I'm going to give them credit,
15 because they called as witnesses every one of the scientist.
16 The people from SLED. And I think that that statement by
17 Agent Barton about putting things in a light that's bad for
18 Charles is also a way that can help us understand and help
19 us sort through some of the testimony that we heard in this
20 trial. Because Dr. Woodard and the people who worked in the
21 lab at SLED, you know, came in here and told you things
22 regardless of whether it helped or hurt the State's side of
23 the case. But that's not what we saw with the investigators
24 during the interviews, and that's not even really what we
25 saw from them in the trial. But everything that they were

1 doing was trying to slant it in a way that looked bad for
2 Charles. And what we lost in some of this is we lost sight
3 of the process. I think I mentioned on Monday, you know,
4 that there is a process here, and Judge Addy has been our
5 guide through this, not only with our breaks and our lunch
6 breaks and trying to keep this technology from driving us
7 all crazy, but he's also been the guide with the law, and
8 he's going to be the guide with the law that he tells you
9 all a little bit later on this afternoon. And the process
10 has been in our constitution forever, and I talked on Monday
11 about how that process is designed to protect citizens. And
12 one of the reasons that that is, is that the government has
13 all the resources. Yes, this is Abbeville County and it's
14 not as big as Greenville County and they don't have their
15 own crime lab, but they make up for that because they have
16 SLED investigators and SLED agents and SLED crime scene
17 people that can come in and assist them, and they have other
18 agencies that can assist them. But what you heard was is
19 that they control the crime scene, and they controlled the
20 access to the information. And so, it's been a part of our
21 traditions in this country for as long as we've been a
22 country that people are presumed innocent, and Judge Addy is
23 going to tell you about that.

24 We're also going to talk about reasonable doubt,
25 circumstantial evidence and alibi. They mentioned

1 reasonable doubt in their closing argument and focused in on
2 two words, firmly convinced. Judge Addy's going to tell you
3 a lot more than that. And one of the things is a reasonable
4 doubt that will cause a person to hesitate to act. He's
5 also going to compare it to serving in civil cases where
6 it's only necessary to prove that something is more likely
7 than not. We sometimes call that a preponderance of the
8 evidence. If you think about it, an automobile accident
9 case, two people collide -- two automobiles collide in an
10 intersection. Somebody ran the red light. And all it takes
11 is more likely than not to determine who ran the red light.

12 We have another standard and it's called clear and
13 convincing evidence. The clear and convincing evidence
14 standard is still a civil standard and it is reserved for
15 things like fraud. That if you're going to accuse somebody
16 or try and potentially deceive somebody and committing a
17 fraud, you have to prove it by more than a preponderance of
18 the evidence. But that's still not beyond a reasonable
19 doubt. He's going to tell you that the State's proof must
20 be more powerful than what it is in the civil case. The
21 words firmly convinced are going to be in there, but he's
22 also going to tell you that if on the other hand you think
23 that there's a real possibility that the Defendant is not
24 guilty you must give Charles the benefit of the doubt. A
25 real possibility. The benefit of the doubt. I think that's

1 probably where the term give somebody the benefit of the
2 doubt comes from. It comes from the traditions that are in
3 our constitution. Judge Addy is also going to talk about
4 direct and circumstantial evidence. The State's case this
5 week relies heavily on circumstantial evidence. Not
6 everything. We know Christie was killed. We know it's a
7 homicide, and whoever did this committed murder. But one of
8 the things that the State has to prove beyond a reasonable
9 doubt is the identity of the person that did that. I think
10 you might remember on Tuesday, I guess it was when we did
11 the opening, that I talked to you about some of the concerns
12 that we have as lawyers sometimes is that there's a tendency
13 to want to decide things based on emotion sometimes. And
14 this is truly tragic. It's truly tragic for Christie and
15 it's truly tragic for her family. But the Judge is also
16 going to tell you that you have to decide it based on the
17 evidence and you can't decide the issues based on emotion.
18 When the State relies on circumstantial evidence, all the
19 circumstances must be consistent with each other, and when
20 taken together point conclusively to the guilt of the
21 accused beyond a reasonable doubt. If the circumstances
22 merely portray the Defendant's behavior as suspicious, the
23 proof has failed. When taken together point conclusively to
24 the built of the accused beyond a reasonable doubt. And I
25 think another way of looking at that is if going back to the

1 real possibility. If there's a real possibility that
2 somebody other than Christie -- I mean, other than Charles
3 was there and killed Christie. If there's that other
4 hypothesis, that other theory and that cannot be ruled out,
5 then that is a reasonable doubt. Judge Addy's also going to
6 charge you about alibi. And on one hand I might think --
7 you might be asking, well, why would that apply because we
8 have this 12 hour window. Well -- and Charles was there for
9 part of that, the night of the 7th going into the morning of
10 the 8th. But it's really not in dispute that Charles went
11 to work that day. He talked about 9:00. JC Boggs talked
12 about 8:30. It really doesn't matter. What matters is, is
13 if Christie was alive when Charles went to work, because
14 when Charles went to work with Walt and JC Boggs he didn't
15 come back until 6:00 in the evening or later. And nobody is
16 going through that day thinking they're going to have to
17 come to Court and testify about times later. We know the
18 911 call was at 6:10, and we know that Charles got home and
19 after they did work and after they went by the Spinx, and
20 then they came to Bell Road. The Judge is going to tell you
21 that there's no burden on the Defendant to prove the alibi.
22 The presumption of innocence, the burden of proof is always
23 on the State. He's going to tell you the State has the
24 burden of disproving the Defendant's alibi defense. That
25 means the State has the burden of proving that it is not

1 possible that Christie was alive when Charles went to work,
2 and it's not possible that somebody else came into that
3 trailer for whatever reason that day and killed her.

4 So the investigation. When we go through this there's
5 three misrepresentations -- three categories of
6 misrepresentations that we saw by law enforcement during the
7 investigation. And I think this gets back to what Agent
8 Barton was saying in that statement about putting everything
9 in a light that is not favorable to Charles. The time of
10 death. You heard on those tapes of the interrogation where
11 after the autopsy the Abbeville investigators, Mr. Graham,
12 Mr. Hines, told Charles that one of the best pathologists in
13 the state of South Carolina says that she died between 7:00
14 and 9:00 a.m. that morning. Why did they say that? They
15 said that because it was before Charles had told them that
16 he'd gone to work. That was a misrepresentation. I asked
17 him if that was a mistake or if that was intentional. He
18 said it was a mistake. But it doesn't matter whether it was
19 a mistake or whether it was real. He -- or intentional. He
20 agreed with me that that wasn't true and that that was a
21 misrepresentation. And when they did that -- when they did
22 that Charles stood firm. If the pathologist says she was
23 dead before 9:00 he's lying because she was alive when I
24 went to work. And he was always consistent on that. And
25 maybe lying is a valid investigator technique. I don't

1 know, and we don't have to figure that out. You know, maybe
2 it is because if you tell a lie and you get somebody to
3 change their story you've got something. You know, it's
4 probably not what most of us expect because it's not how
5 we're raised by our parents and taught in the church and
6 what our -- the expectations are when we go to work. But
7 when they did that, intentionally or unintentionally,
8 Charles stood firm. Yeah, they can come in here and take
9 bits and pieces and say, oh, there's this inconsistency here
10 and there's this inconsistency there. They can get focused
11 on that rag. We answered all that about the rag and how
12 Charles got focused on that, because the police actually let
13 that fall into the blood. They can focus on all of those
14 things, but Charles was always inconsistent. He was
15 consistent when Agency Barton said there's only two peoples'
16 DNA on that gun. He said there's got to be another DNA on
17 that gun. Agent Barton claims he didn't know. He said he
18 had a file. He testified about the process where all these
19 reports you've heard us talk about this week get generated.
20 He says lying is an investigative technique, oh, but I
21 didn't know. Well, you know, he said that. It wasn't true.
22 There's at least three, possibly more DNA samples on that
23 gun. And when Charles said there has to be another DNA
24 sample on the gun he was right, and Agent Barton didn't say,
25 well, yeah, you're right. There really is.

1 The GSR. That wasn't analyzed until December, but the
2 misrepresentations on that as some of the interviews came
3 based upon the science. And that the only way -- they told
4 Charles at one point that the only way you'll have GSR on
5 your hands is if you hired a gun. And that's not true.
6 Both of the GSR people who came up here and testified said -
7 - I believe today he said that that would be a partial
8 truth. Well, a partial truth can be a misrepresentation.
9 The full truth is, is you can get GSR on you without having
10 fired a gun. We're going to talk more about that in a
11 minute.

12 So the timeline. We know -- nobody's disputing what
13 Dr. Woodard said that the time of death is between 11:00
14 p.m. on November 7th and 11:00 a.m. on November 8th. We
15 know that Charles went to work 8:30 or 9:00 or sometime in
16 between and that the 911 call was at 6:00 p.m. We also know
17 that his first interview started at 10:57 p.m., and this was
18 while the people from SLED had already arrived and were
19 doing the investigation. The second interview was at 7:20.
20 The autopsy doesn't start until 11:00 a.m. on the 9th. The
21 third video statement is on the 10th. And they make a lot
22 about this video statement. But that's the one where we had
23 to go back and play the beginning of it, because it started
24 with Investigator Ashley. And you can look at that and it's
25 not hard to think that by that point Charles is sleep

1 deprived, he's -- they've released the trailer. He's been
2 back in there. He's found that rag that fell into the blood
3 when they were looking for the shell casing and he got
4 fixated on that. He's not a blood stain, blood pattern
5 expert. He looks at that and thinks what he thinks. But he
6 also told Investigator Ashley that on that night that
7 Christie was talking to him. People grieve in different ways
8 and when they're under stress and when you're sleep
9 deprived. He thought Christie was talking to him. And you
10 know what, oh, no, we don't believe Christie was talking to
11 him. Of course not. But what did they do in that
12 interview? This is getting back to we're going to do things
13 to make it look bad for Charles. I want to know what she
14 said to you when she came to you last night and were
15 talking. Do you think that they really believed that that
16 happened when they asked the question, or did they do that
17 because they were in the room with their video on and
18 knowing that whatever Charles says may not be reliable. He
19 may be man who's under stress and grieving in his own way.
20 We all grieve in different ways. He's also having
21 investigators come in and say you're the one that killed
22 her. But they skip past that and they want you to focus on
23 the second part of that third interview. And they did it
24 again today in closing. They want you to focus on the
25 second part of that third interview where Charles is talking

1 about all these things and he's under stress. And if we
2 hadn't shown it, you wouldn't have known that he thought he
3 had a conversation with Christie the night before.

4 They get the arrest warrants in November on the 23rd,
5 and on the 29th they do an audio interview. That's the one
6 with Agent Barton. And then they arrest him. Now, you
7 know, in that interview you heard Agent Barton say, you
8 know, I want to give you a chance to help yourself. Because
9 these investigators over here, they're going to charge you.
10 I want to help you clear this up. Does anybody here think
11 that Agent Barton was trying to help Charles on that
12 interview that day when they already had arrest warrants.
13 Does anybody think that Agent Natalie Talbert, Deputy --
14 Chief Deputy for Abbeville Sheriff's Department called Agent
15 Barton in to help clear things up for Charles? Of course
16 not. They had already decided, as they did probably
17 straight out of the box on the 8th before they even finished
18 processing that crime scene, they had already decided that
19 they were going to charge Charles. But you know what? You
20 got to wonder. You've got to ask. Why do you do that
21 fourth interview. It's because we've got enough to go to a
22 magistrate and get a warrant, but we really don't think
23 we've got enough to go to Court. It would be really good if
24 we can get an investigator from SLED who's worked for 25 or
25 30 years, whatever he told you, who is trained in

1 interrogation techniques because he told you
2 misrepresentation is a valid interrogation technique, to
3 come in and try to get Charles to say something. But he was
4 still consistent. He was still consistent even when he was
5 confronted with the misrepresentation about the DNA.

6 This -- Defendant's Exhibit 3 is the only thing that's
7 really into evidence on either side that didn't come out of
8 the police investigation. And this is to try to put some
9 context to the Bell Road property. This up here in the
10 center is what we've been talking about is the brick house.
11 Down here is the trailer. You see where the driveway comes
12 in in an area where it looks like, you know, cars would
13 park. The little outbuilding that we see in some of the
14 photographs with the blue car where the gun was found. And
15 that's the trailer. That's from the State's evidence. And
16 you know, we've heard a lot about this. I think the SLED
17 crime scene technician said, you know, it was kind of a
18 dangerous setup. Some people called it an awkward setup.
19 It's hard to tell. But you have to step up on things to
20 step up and get inside that. This trailer had only been
21 there for two maybe three months. You heard talk about a TV
22 and lights being turned on. There was electricity run to
23 it. But you also heard testimony that it didn't have
24 running water, and it wasn't focused on but it was mentioned
25 in some of Charles' interviews. And you've seen a lot of

1 pictures of it this week. It's a total disaster inside from
2 a housekeeping standpoint. It's -- there's a lot of clutter
3 and it's messy. And these simple country folks, they've got
4 a little bit of land, but they don't have a whole lot of
5 resources because they're having to live -- Charles and
6 Christie were living in a trailer on the land. You had four
7 adults living in the house. Walt Tillman was living there,
8 Antonio, Charles' son was staying there, Ms. Vonnie,
9 Charles' mother was there, and Aunt Fannie was also living
10 there. The crime scene tech from SLED said sometimes we
11 just don't find stuff. And we talked about how it was a
12 messy house, and they just -- that first time they were out
13 there they just didn't find that shell casing. And we don't
14 know what else they didn't find. The fact that they didn't
15 find something doesn't mean that there was evidence there,
16 and it certainly doesn't justify him coming in and saying
17 that this was a coverup and somebody was trying to clean up
18 the crime scene. You haven't heard the first expert about
19 blood interpretation come in here and say we were trying --
20 there was any evidence of cleaning anything up. You haven't
21 heard that. They argued -- and we'll see a picture of it in
22 a few minutes. Argued about the rag in the bucket, wiping
23 off the gun. If that rag in the bucket was wiping off the
24 gun there would have been three or four or more DNA samples
25 on there. When they say things like that without any

1 evidence to support it you've got to question, you've got to
2 hesitate. You've got to think about what is the
3 circumstantial evidence really telling me. That there's --
4 there's the bucket. You know, at one point I thought they
5 were trying to suggest that this heater was so close to the
6 bed that it could have caught something on fire, but they're
7 like, oh, no. There's room to walk between that. There's
8 the bucket. No running water. You know, you still got to
9 wash yourself somehow. The notebook on the bed. But before
10 we get to walking through and what that means from trying to
11 interpret the circumstantial evidence, more or less this is
12 what Charles would have seen when he went into the room at
13 6:00 -- 6:10. They're trying to say over and over and over
14 again, they're suggesting that Charles is lying because he
15 thought that that -- when he got close enough to see that,
16 that that was evidence that Christie had shot herself. Now,
17 there's two pieces of information. And everybody that went
18 in there said that there was blood and it was even pooling
19 down onto the floor. Everybody said that. Nobody -- nobody
20 contradicted that. Charles also knew about Christie's
21 mental health.

22 (Whereupon, a portion of audio was published for the
23 jury.)

24 MR. GROSE: And I'm sorry that that's not much louder.
25 That was the clip from the second video that we played when

1 Investigator Hines was on the stand. They had confirmed
2 with Christie's mother that she had mental health issues.
3 Yet for some reason they keep wanting to try to get away
4 from that and distract you from that. Oh, well, she just
5 had a drug problem. Well, drugs and mental health issues
6 oftentimes go together. Christie went to the hospital in
7 Anderson and oftentimes the same parts of the hospital that
8 treat the drugs treat the mental health issues. Christie's
9 mother had told them by 7:00 a.m. or a little later that
10 next morning that Christie had mental health issues. So
11 when Charles comes in and sees what's reasonable to think
12 somebody could have been shot, and knows that she has mental
13 health issues, and he told them that she had talked about a
14 gun before, that's the first thing that's going to run
15 through a lot of peoples' mind. And again, if this was a
16 big coverup by Charles, kill her and make it look like a
17 suicide, he would put the gun there.

18 Now, a big part of their circumstantial evidence is the
19 DNA and the gunshot residue. We've already talked about how
20 the investigators misrepresented both of these to Charles
21 telling him that only his and Christie's DNA was on the gun
22 and telling him that the only way to get GSR on you is by
23 firing a gun. The scientist came in and they told you with
24 both of those we can't tell you how it got there or how long
25 it had been there. We can't say that because somebody's DNA

1 is on this gun it means they fired this gun. In fact, we
2 know that the most identifiable DNA, the one in some 400 and
3 some quintillion is Christy's. And we know she didn't fire
4 the gun and kill herself, and that has been a fact that has
5 been stipulated throughout this trial. The Judge told you
6 that before we even made our opening remarks. But Christie
7 handled that gun or her DNA wouldn't have been there, on the
8 trigger and the trigger guard. We don't know when. What we
9 do know is when -- and they didn't play this part of the
10 video. But when they said we found a gun and they showed
11 Charles a picture of that that they got off -- that type of
12 gun that they got off from the Internet, that gun's around.
13 We shoot squirrels and cans. It's at the house. Other
14 people have used it. And we know at some point Christie
15 probably handled that gun. We also know that there's
16 unidentified DNA samples on that. The testimony was is that
17 on the trigger guard there were Christie's -- the trigger
18 and the trigger guard there was Christie's and a male DNA
19 sample, and the male DNA sample could have been two
20 different people. And we also know on the magazine clip
21 that there was three DNA samples there. Three. And most of
22 them is unidentified. What we also know about DNA is that
23 our ability to test it is so sensitive now that you can just
24 touch something. And we know we can't tell how long it's
25 been there.

1 Now, with the GSR they made an interesting argument in
2 their closing. They said, and this was true from testimony,
3 that the majority, over 90 percent, maybe as much as 98
4 percent of the gunshot residue comes out of the barrel of
5 the gun. And they said that if that's shot at a contact
6 level that that's where all the GSR is going to go. Okay?
7 I'm not going to argue with that. The expert testified
8 about that. But here's what I want to point out. We want
9 to talk about the number of gunshots that were probably
10 fired in that room. We really don't know, because -- well,
11 we know Christie was shot. We don't know whether the bullet
12 that came out of the wall -- and came out of the wall was
13 the one that shot her or not because it could have passed
14 through her and gone through the wall if the angle was right.
15 And we would know for sure if there was any blood or
16 anything on it but there wasn't. But we also have the shot
17 in the roof. And when the Agent was here today and I asked
18 him about -- I was standing somewhere around here, that if
19 somebody shot the gun in the air in a room like this where
20 would the GSR that came out of the barrel go. He said it
21 would get on everybody in proximity. On me, on some of you,
22 on him, on some of the Court personnel. And then he talked
23 about in a small room, like this bedroom, that it would
24 settle and it would probably get all over the room. That's
25 the bucket that they found the I Voted sticker in that

1 somebody had dropped off one of the police officers. That's
2 the notebook that we've heard so much about and we're going
3 to hear about more. That's Christie's leg. And, of course,
4 the gunshot residue had the potential of being anywhere in
5 that room from a shot that was fired into the air. So it
6 gets back to is half truth -- a half truth really the truth.
7 And, you know, is it a real possibility that when that shot
8 was made that GSR settled on that notebook and on that bed
9 and on surfaces that people would touch coming in and out of
10 that room. You know, Agent Hines told you that he had
11 looked through that notebook before SLED had ever gotten
12 there. And we know that GSR is easy to transfer. So we've
13 got the car. We know that that car is in -- we've kind of
14 put where it was that night in proximity looking at that
15 shed, and you can see that back in the old -- I mean, the
16 overhead pictures that we looked at earlier. The door was
17 open. And it gets back to this idea that somebody's going
18 to fake a suicide by hiding the gun in the car. They said
19 in the video, and they tried to suggest in here, that if
20 somebody else was there and killed her, they would take the
21 gun with them. How do we know that? I mean, everybody
22 thinks differently. If somebody else was there -- and
23 there's reason to think that somebody else was there, and
24 we'll get to that. But if somebody else was there and they
25 panicked, and maybe there were there to do drugs and were

1 doing drugs, they might try to hide the gun because they
2 don't want to have it with them. And there are unidentified
3 DNA samples on that gun. They want to talk about Christie
4 struggling, and they made a big deal about she has Charles'
5 DNA on the fingernail clippings. And remember we talked
6 about the difference between the scrapings where you're
7 actually trying to scrape cells off and the clippings.
8 We're going to see pictures of her nails. Christie had long
9 nails. The scrapings didn't have any of Charles' DNA. The
10 clippings of the nails did. And she lived in the same
11 trailer with Charles, she slept in the same bed with him,
12 came in contact with all kinds of objects. I mean, we even
13 talked, I think, with one of the experts, you know, if I
14 shake your hands I may get some of the DNA on me. And that
15 the more somebody's in a place, like our homes, the more
16 likely we are to leave a lot of DNA and is easier to pick
17 that up from the transfer standpoint. But if we're going to
18 entertain their theory for a minute that they have no proof
19 of and Christie -- that DNA got under their hands because
20 she was scratching Charles, where is the evidence of the
21 injuries to him? Where's the evidence that Charles has been
22 in a struggle. I asked Investigator Hines about that, and
23 he said we don't have anybody to come to Court and testify
24 that we found any injuries on Charles Tillman. But yet part
25 of their theory is -- part of their theory is that she used

1 her fingernails to try to fight off an attack, but didn't
2 injure him. Not even a tiny one. And there's no doubt that
3 she has a lot of injuries, and some are old and some are
4 new. And that's kind of a nasty burn. I won't dispute
5 that. Dr. Woodard -- and it's on the -- maybe not
6 carelessness but it's sort of a lack of complete
7 investigation and being more focused on putting something in
8 a bad light for Charles. Dr. Woodard hadn't seen the
9 toxicology report that showed that Christie had
10 methamphetamine in her system until I showed it to him right
11 there on the witness stand. That let me ask about sometimes
12 people who smoke drugs end up with burns. Now, I'm not
13 saying that every burn on her body came from that. But I
14 don't think that they can say that none of the burns,
15 particularly that one, didn't come from it.

16 (Whereupon, a portion of audio was published for the
17 jury.)

18 MR. GROSE: That probably was not the best sequencing
19 on my part, and that -- this one is not really about what
20 was said. But this is about what the first gunshot residue
21 lady told us the other day about how when you collect the
22 evidence it should -- it should be done with gloves. And
23 they tried to say, well, we only touched it briefly. I'm
24 going to play it again. Not only does -- when you see
25 Investigator Hines put the shirt in the bag without gloves

1 on, before he does it you're going to see him put his hands
2 in the bag.

3 (Whereupon, a portion of audio was published for the
4 jury.)

5 MR. GROSE: We've already talked about these pictures.
6 The lack of followup -- I was getting a little bit ahead of
7 myself. But the lack of followup, the Newport and the
8 syringe, and JC, Walt and Willie.

9 (Whereupon, a portion of audio was published for the
10 jury.)

11 THE COURT: I'm not sure they can hear that.

12 MR. GROSE: I'm sorry. I apologize that it's not --

13 (Whereupon, a portion of audio was published for the
14 jury.)

15 MR. GROSE: I apologize that that's not any better.
16 But what that says, and you're welcome to play this video
17 back, and you'll probably remember me asking some questions
18 about that, is they asked -- it started off by asking who
19 smoked the Newports. And Charles smoked, too. But who
20 smoked the Newports. He said that Christie smoked the
21 Newports. And they asked Charles, you know, whether she's -
22 - and she said he was sneaking ice, too. Ice is another
23 name for methamphetamine, of course. And they asked, well,
24 who shoots up. Did she shoot -- no, she's a smoker. They
25 asked Charles if he shot up. Oh, we don't care about drugs.

1 He said no, you can check me out. Pulled his arms out,
2 offers that -- they'd already taken pictures of him earlier.
3 And obviously I asked a lot about this, because that's the
4 needle. That's the needle. And to give a little context,
5 and all these pictures are in evidence, that's the room that
6 the cabinet was in. That's the cabinet on the wall there.
7 You can see what looks like some books on top of it. Those
8 are the books on top of the cabinet. You can see like a
9 wallet there. When you look at the picture a little bit
10 closer you're going to see that there's a Social Security
11 card sticking out of it and that it was Christie's. now,
12 why is this important. Because going back to the timeline,
13 going back to the timeline. SLED got there between 8:00 and
14 9:00 on the 8th. The clip that didn't play so loud was the
15 first interview that started at 10:57 on the 8th and went
16 for two and a half hours. Until after 1:00. SLED was still
17 there on their first trip. They hadn't left yet. It was 50
18 degrees when they got there. It was a cool day that day,
19 particular if you live in a trailer that has thin walls.
20 SLED said, well, this is not something that we normally
21 collect. But when I asked him I said, now, if somebody came
22 to you and had information that said we've just conducted an
23 interview where we learned that the two people, Charles and
24 Christie, that live in this trailer don't shoot drugs.
25 Christie smokes. Had it in her system. Saw the pipe and

1 the Newport. But she doesn't shoot drugs. Charles said he
2 didn't shoot drugs. So if this syringe, this needle became
3 a way to identify a person, Mr. SLED Agent, would you have
4 collected that into evidence. Yes, I would. Would that
5 have been something that could have been analyzed for DNA.
6 Yes, it could.

7 When we watched -- and I know trials get boring
8 sometimes. It's not as exciting as on TV, and there was
9 some fatigue with some of these videos. But when we watched
10 that two and a half hour interrogation there was parts where
11 it was calm and there was parts where they really pushed
12 Charles. Oh, we're just trying to rule you out. We're not
13 treating you like a suspect, but they did treat him like a
14 suspect. They got their focus on getting him to admit that
15 he killed Christie, which he continuously said I didn't.
16 She was alive when I went to work. They got so focused on
17 that, that they missed picking up on a piece of evidence
18 that might have helped identify who else was in that house.
19 Because at some point on the video you hear -- one of the
20 interrogations you hear Charles say if somebody else was in
21 my house I'd like to know who it is. And we know that after
22 Charles and JC and Walt went to work in Anderson, that
23 Willie and his mother and Aunt Fran went to the laundry.
24 Went to the cleaners. We know that Antonio, Charles' son
25 who lived in the brick house, had gotten up early that

1 morning and was working long before anybody else was. So
2 out in the country with everybody gone. There's nobody to
3 see if somebody else is coming and going. Is there a real
4 possibility that somebody was in that house to do drugs with
5 Christie while Charles was at work. That syringe, that
6 needle says yes.

7 Now, obviously you've seen me ask a lot about this log
8 during the trial. Agent Hines couldn't even tell you that
9 Walter Tillman was Walt Tillman. Mr. Graham, Investigator
10 Graham, said, well, we didn't interview -- and it wasn't
11 even really an interview, but we didn't speak to Walt until
12 December 5th, which was roughly a week, give or take a day,
13 after Charles had been arrested. Willie Tillman. You know,
14 we can argue about, you know, does it make sense for
15 somebody to come down here. Willie Tillman told you that he
16 came down there to speak to Charles and knocked on the side
17 of the wall. Had to bring him in and put this note into
18 evidence, Defendant's Exhibit -- I believe it's 18. This
19 note into evidence where they -- it was on the videos where
20 they documented that Charles said Walt came down there about
21 the paper for the church. Trailers have thin walls. And
22 they want to say because a blanket was over a window that
23 that doesn't mean you can knock on that and talk through the
24 walls and the window. And Willie Tillman told you that when
25 he went down there that morning and talked to Charles to get

1 that quote for the church to do the tile work that he heard
2 Christie in there. And he was nervous on the stand, and
3 they, you know, took advantage of that a little bit. And I
4 don't blame then for asking him. But he never backed off
5 the fact that he heard Christie's voice that morning. He
6 also told you that he never went in to the brick house and
7 that he was in the area. And you can see the layout from
8 that aerial, that Google Map that's in evidence. You can
9 see the distances. He said I was outside until after I saw
10 Charles and Walt and JC leave and I never heard a gunshot.
11 He heard Christie talk. He never heard a gunshot. Agent
12 Hines - you'll remember Investigator Hines at one point
13 said, well, I think we interviewed Willie. And my back was
14 to Willie. He must have been checking his head no because
15 Investigator Hines said oh, you're Willie. No, we didn't
16 interview him. And I went over and stood behind Willie and
17 confirmed that. Willie has been sitting up here all week
18 and he has never been interviewed by an investigator from
19 Abbeville, he's never been interviewed by a SLED Agent, he's
20 never been interviewed by somebody from the Solicitor's
21 office.

22 (Whereupon, a portion of audio was published for the
23 jury.)

24 MR. GROSE: Again, that one wasn't as loud. The third
25 and last on. And I can play it again, if you want, but he

1 says now I'm going to have to get Willie and ask him all
2 these questions. The last thing he said, I haven't talked
3 to Willie yet. Now, they didn't arrest Charles right away.
4 Well, I think they made up their mind that that's where they
5 were going. That they were going to get to that at some
6 point. They hadn't arrested him. And this is in the second
7 interview, and I don't think that was played, but you have
8 it. If you want to play more -- or any of the second
9 interview, more than what we did, you can do that. It's in
10 evidence. Their big question to Willie is, well, why didn't
11 you bring that paper to use or why didn't you come and talk
12 to us about that. And that's kind of a moot question. I
13 can't dispute that. But I've also got to put it into
14 context of what was going on between November 8th and
15 November 29th when they arrested Charles. On one hand
16 they're treating him like a suspect and they're pushing him.
17 But he's -- on the other hand they're telling you, well,
18 we're trying to -- telling Charles we're trying to clear
19 some things up. We're trying to clear some things up.
20 You're a suspect because you're the last one we know that
21 saw her and you're the one that found her. You know,
22 Willie, he doesn't have any reason to think that they're
23 going to arrest Charles because he knew Charles' alibi. He
24 knew that Christi was alive when he went to that end of the
25 trailer and knocked on the wall and talked to Charles and

1 heard her, Christie, talking to Charles. He knew he didn't
2 hear a gunshot. He knew that Charles and JC and Walt had
3 gone to work.

4 Now, who's in control of all the information and all
5 the reports. Investigators from SLED, investigators from
6 Abbeville. And I think when we're talking about the process
7 and we're talking about reasonable doubt I think it's
8 reasonable to look at the people who are in charge with
9 doing an investigation and think, well, what do we expect of
10 them. Do we expect them to interview suspects. Yes. Do we
11 expect them to listen and followup on information. Yes. Do
12 we expect them when they get a piece of evidence that says
13 somebody else was probably in that house to do drugs with
14 Christie, do we expect them to followup on that. Is that a
15 reasonable expectation. I think it is. Do we expect them
16 to interview witnesses? Charles told them about JC Boggs
17 and wrote down JC Boggs' information on this note -- notes
18 we entered today. You'll be able to see that. And they did
19 followup with JC Boggs. And guess what. It checked out.
20 Do we expect them to followup on other pieces of
21 information. Do we expect them to check it out with Walt
22 and conduct a real interview. Is that a reasonable thing to
23 expect. Is it reasonable to expect them to followup with
24 Willie Tillman. When Charles has told them over and over
25 and over again, Willie came down there about the piece of

1 paper for the church. Christie wrote it out. And we're not
2 talking about some professional quote to fix the courthouse
3 or building. We're talking about four folks who live in the
4 country trying to do a job for their church. It's going to
5 cost less money than to have a professional outfit to do it.
6 Is it reasonable to expect them to followup and talk to Walt
7 -- I mean, talk to Willie like they said they were going to
8 do. Because if Willie -- because Willie confirmed that
9 Christie was alive, and because he didn't hear a gunshot,
10 that maybe they think there's that needle. We need to go
11 back to that needle. We need to figure out who else might
12 have been there that day to do drugs with Christie.

13 Now, this is probably as good a time as any for me to
14 just say that I'm not trying to disparage Christie and her
15 memory by talking about her drugs and her mental health.
16 But these are real issues in this case. And it explains why
17 Charles would have thought it was suicide. It explains why
18 there might have been somebody else there to do the drugs.
19 At least from 8:30 or 9:00, whenever the actual time was
20 when Charles left he has an alibi. He has an alibi that
21 they don't dispute. And we know from Dr. Woodard that
22 Christie -- the time range when Christie could have been
23 shot included the time after 8:30 or 9:00 up until 11:00
24 that morning. We know that.

25 We know Judge Addy, our guide with the law, is going to

1 tell you that they have to disprove the alibi. That that's
2 the law. That that's the process. The State has the burden
3 of disproving the alibi. It's not good enough to say it's
4 possible she died before him. It's not good enough to say
5 we're suspicious of that. They have no burden on the
6 Defendant. The State has the burden of disproving.

7 Back to direct and circumstantial evidence. To the
8 extent the State relies on circumstantial evidence, all of
9 the circumstances, all of the circumstances, must be
10 consistent with each other, and when taken together point
11 conclusively to the guilt of the accused beyond a reasonable
12 doubt. If the circumstances merely portray the Defendant's
13 behavior as suspicious the proof has failed. Back to the
14 burden of proof. The State has the burden of proof the
15 Defendant guilty beyond a reasonable doubt this burden rests
16 with the State regardless of whether the State relies on
17 direct evidence, circumstantial evidence or some combination
18 of the two. Now, when you think about in connection that
19 they have to disprove the alibi, and you get back to the
20 full reasonable doubt charge, the firmly convinced has to be
21 considered with if on the other hand you think there's a
22 real possibility the Defendant is not guilty, you must give
23 him the benefit of the doubt and find him not guilty.
24 There's a real possibility. Is there a real possibility
25 that Christie was alive when Charles went to work with JC

1 Boggs and Walt Tillman. If that is a real possibility you
2 have to find Charles not guilty. After Charles went to work
3 is there a real possibility that someone else came to that
4 trailer to smoke drugs with Christie. Is there a real
5 possibility that that person flipped out or got violent. Is
6 it a real possibility that that person shot and killed
7 Christie and panicked and hid the gun in the car as they
8 were fleeing the scene. Is that a real possibility. That
9 needle in that cabinet says that that's a real possibility.
10 That that was a piece of evidence that they knew about in a
11 point in the investigation where they could have collected
12 that and followed up on that. Is there a real possibility.
13 The Judge -- your verdict has to be unanimous and Judge
14 Addy's going to tell you that. And what that means is, is
15 that every one of you has the right to view this evidence
16 for yourself and to determine what you believe is a real
17 possibility as far as reasonable doubt goes. And while we
18 deliberate in our system and we talk about it, nobody can
19 ever ask you to go against your conscious and say that it's
20 -- that there's not a reasonable doubt if you think there's
21 a reasonable doubt. And I'll even go a step further and
22 say that in a case where at least part, and something so
23 important has the identity of a person who killed Christie,
24 is based on circumstantial evidence, you got to look at the
25 science, and what the scientists tell you are the

1 limitations. They weren't here to paint it in a worst light
2 for Charles. They were here to tell you about what they
3 know. In a circumstantial evidence case, when you're
4 confronted -- it's not your job to investigate this. But
5 when you're given this evidence that suggests that there's a
6 real possibility that Christie was alive when Charles went
7 to work and a real possibility that somebody else was there
8 with that needle to do drugs. You got to give people the
9 benefit of a doubt because that's what our system calls for.
10 And in a circumstantial evidence case there's always a risk
11 that an innocent person can be convicted, and that's not
12 what our justice system is all about. That's not what the
13 law that Judge Addy is going to tell you about.

14 We've been on a journey, and I told you that there was
15 really sort of three journeys involved in this. That there
16 was what happened with Charles and Christie on that day.
17 That it was a normal day in the beginning for Charles and
18 the worst day of his life when he came home and found
19 Christie dead. I told you that there was a journey in the
20 investigation where intentionally or unintentionally there
21 was misrepresentations made about the investigation. And I
22 told you that there was a journey through this trial that we
23 were going to be taking together. And we're coming to the
24 point where my part of the journey that I've been on with
25 Charles and his family is going to end because I don't get

1 to say anything else after I sit down. And I know I've been
2 going on for a long time, but this is important and Charles
3 and his family are looking to me to explain everything to
4 you as best I can. When I sit down they're going to have a
5 chance to speak. But that's not the last word. Judge Addy
6 is going to guide you with the law, and you're going to have
7 a copy of that in the jury room for you to look at. And
8 what I ask is, is that when you continue this journey
9 without me, that you ask the questions is there a real
10 possibility that Christie was alive with Charles went to
11 work. Is there a real possibility that someone was there to
12 do drugs with her that day. Is there a real possibility
13 that somebody else is guilty of this murder. We believe the
14 evidence shows that there's real possibilities, and I ask
15 that you find Charles not guilty of these crimes.

16 THE COURT: Thank you, Mr. Grose. Ladies and
17 gentlemen, between the last time that we had a break, I
18 think it's about an hour and 15 minutes. So as soon --
19 perhaps your final summation is going to take about 15 to 30
20 minutes, somewhere in there, or --

21 MR. BROWN: Fifteen, maybe that.

22 THE COURT: Fifteen minutes. Let's do this. We're
23 going to take a quick five minute break. Okay? If you need
24 to pop downstairs, let them know. They'll let you go
25 downstairs. We're going to take a quick five minute,

1 because my instructions in the law and the Solicitor's final
2 statement to you, that could perhaps total somewhere between
3 30 to 45 minutes and I've been drinking sweet tea. I'm
4 taking a break. Don't discuss the case. Thank you.

5 (Whereupon, the jury exited the courtroom at 4:13 p.m.)

6 (Whereupon, a recess was held from 4:13 p.m. to 4:20
7 p.m.)

8 THE COURT: We'll go back on the record. Solicitor,
9 are you ready?

10 MR. BROWN: Yes, sir.

11 THE COURT: Let's have the jury out, please.

12 (Whereupon, the jury entered the courtroom at 4:20
13 p.m.)

14 THE COURT: The jury is back. At this point in time,
15 Mr. Brown, you're recognized for your reply, sir.

16 MR. BROWN: Thank you, Your Honor.

17 CLOSING ARGUMENT

18 BY MR. BROWN: Ladies and gentlemen, sometimes we over
19 think things. Sometimes we get away from our common sense.
20 I'm asking you to use your common sense in this case.
21 Questions were posed if Christie was alive when Charles when
22 to work, the second after Charles went to work somebody came
23 in the trailer and killed her.

24 Folks, things that you can look at. Go back to the
25 toxicologist. It said there's low levels of drugs in her

1 like she's coming down off a high. She ingested that well
2 before that.

3 MR. GROSE: Objection, facts not in evidence.

4 THE COURT: I'm sorry. What was that last statement,
5 Solicitor, I did not hear that.

6 MR. BROWN: I said that she injected that -- or took
7 those well before that. Before her death.

8 MR. GROSE: He said that was coming down off a high and
9 there was no testimony to that effect.

10 THE COURT: All right. The jury will remember the
11 testimony the way the testimony was presented from the
12 individual. Solicitor, you may continue.

13 MR. BROWN: Yes, sir. And that needle will have some
14 type evidence on there. Ladies and gentlemen, if you fall
15 into that or follow down that trial, that person, the Boogie
16 man whoever it was that came in there, they just happen to
17 find that same gun. They brought it with them. Charles
18 said that gun hadn't been in that house. They just brought
19 it over. Folks, use your common sense. It didn't happen.

20 Also, remember what was up under her fingernails? Only
21 one DNA. Charles Tillman. There wasn't anything else under
22 that nail. Y-STR came back matching that of Charles
23 Tillman. Dr. Woodard says she struggled. She had defensive
24 wounds.

25 Ladies and gentlemen, it was brought out about

1 misrepresentations. Misrepresentations by law enforcement
2 trying to get you sidetracked off the biggest
3 misrepresentation of them all. He said he hadn't been
4 around that gun. From the very get-go. You heard it. I'm
5 not going to play it again, unless you all want to play it
6 back there while you're deliberating. He had the gun the
7 day before. Momma saw it. What did he go on the entire
8 time? I hadn't been around that gun. I hadn't seen that
9 gun. I hadn't shot that gun. Biggest misrepresentation of
10 them all from Charles Tillman. And he has to stick with it.
11 There's no question there's GSR on his shirt. None. You
12 heard the testimony from Hines and Graham that went in that
13 trailer. They had gloves on. They didn't transfer that GSR
14 to his shirt when they collected that at the Sheriff's
15 Department. I don't know if you remember this, but back
16 there in one of the interviews and they were getting -- I
17 believe it was the first interview when they were getting
18 samples from Charles for GSR. You won't find any GSR on me.
19 I learned from the best. Learned from the best. Who was he
20 talking about? He said it was his uncle, former police
21 officer. Learned from the best. He'd been thinking about
22 it. He'd been thinking about all this.

23 Mr. Grose had brought up the third interview about he
24 was talking to Christie and things like that after she had
25 died and that she was telling different stuff. Folks, he

1 was -- I submit to you he was still trying to get law
2 enforcement off his tracks. Trying to come up with another
3 explanation of why that gun got out there. She put rags
4 over her head and was walking it out there. Folks, they're
5 hot on his heels, because all this just points to one
6 person. It all points to one person. He was trying his
7 best to get them off his heels. One thing going back to
8 Willie Tillman and Walter. Folks, you heard Willie's
9 testimony. You get to judge credibility. You get to decide
10 whether what he was saying up here makes any sense. You
11 couldn't even answer how long he'd known Christie. I wasn't
12 beating him up. I was asking him simple questions. And
13 they didn't make sense, his answers. Not at all, because he
14 doesn't have answers. He didn't hear her that morning. Ms.
15 Vonnice Cummings, she didn't see her that morning.

16 Ladies and gentlemen, you've heard all the facts.
17 You've seen it all, and you're going to have it all back
18 there in the back. And I'm not going to stand up here and
19 belabor the point. Use your common sense, take a step back
20 and look at all the evidence. It only goes to one person.
21 It only goes to one person. And it wasn't some magical
22 person that came in there. It was him. You heard his
23 reasons. She stepped out of line. She wouldn't do right by
24 him. Beat her, shot her, murdered her. And he tried to get
25 law enforcement off his tracks by coming up with some

1 suicide call. That got blown up from the very beginning
2 from his mom. Consider the facts. And common sense will
3 tell you who did this, Charles Tillman. Thank you.

4 JURY CHARGE

5 THE COURT: Thank you, Mr. Brown. Now, ladies and
6 gentlemen of the jury, it now becomes my obligation to
7 instruct you on the law that applies in this particular
8 case. And understand that 25 years ago when I first started
9 practice law the way that this was traditionally done by the
10 judges and by the way it's still done today by many judges
11 is they would sit up here -- they sit up here and they
12 basically read 15 pages of the law to the jury and the jury
13 is supposed to pick up in 10 or 15 minutes something that
14 took me three years, like most people, to learn in law
15 school. So long story short, and as indicated by the
16 parties, you will have a copy of these instructions that you
17 can refer to during your deliberations in the jury room.
18 Okay? Mr. Foreman, ladies and gentlemen, if you have any
19 questions about these instructions, if you have any
20 questions about the law, I can probably help you. All
21 right. I just want you to write me a note and let me know
22 what it is that you're struggling with if you have a legal
23 question. I'll try to help you if at all possible.
24 However, do understand that at this point in time the record
25 is closed. So it's not possible to reopen the record, take

1 additional testimony, offer additional witnesses. You'll
2 have to judge the case based only on the evidence that's
3 been presented thus far. So if you have a factual question,
4 odds are I will not be able to assist you with that. All
5 right? I cannot help you with any factual question, but any
6 legal question I can, of course, try to assist you. Please,
7 of course, consider these instructions as a whole and don't
8 pay attention to portions of them to the detriment of other
9 portions of the instructions.

10 Now, ladies and gentlemen, again, the indictments in
11 this case charge the Defendant, Mr. Tillman, with the
12 offenses of murder and possession of a weapon during the
13 commission of a violent crime. Again, I'll remind you that
14 the fact that Mr. Tillman was arrested, charged and indicted
15 in this case is not evidence. These indictments cannot be
16 considered by you as evidence of guilt, nor do these
17 indictments create any presumption of inference of guilt.
18 Again, these documents are merely the formal written
19 instructions that contain the charges against Mr. Tillman.
20 They're the formal documents by which this case is brought
21 into Court. Again, Mr. Tillman has pled not guilty to these
22 charges and that plea puts the burden on the State to prove
23 the Defendant guilty. I instruct you that a person charged
24 with committing a criminal offense in South Carolina is
25 never required to prove himself innocent. It's an important

1 rule of law that the Defendant at a criminal trial, no
2 matter what the seriousness of the charge may be, will
3 always be presumed to be innocent of the crime for which the
4 indictments were issued unless guilt has been proven by
5 evidence satisfying you of his guilt beyond a reasonable
6 doubt.

7 Ladies and gentlemen, this presumption of innocence
8 does not end when you begin your deliberations, but it
9 accompanies the Defendant throughout the trial until you
10 reach a verdict of guilt based on evidence satisfying you of
11 his guilt beyond a reasonable doubt. Presumption of
12 innocence is not mere legal theory. It's not just a legal
13 phrase. It's a substantial right to which every citizen is
14 entitled unless you the jury are satisfied from the evidence
15 of his guilt beyond a reasonable doubt. Well, what is a
16 reasonable doubt in the law? A reasonable doubt is the kind
17 of doubt that would cause a reasonable person to hesitate to
18 act. I instruct you that the State has the burden of
19 proving the Defendant guilty beyond a reasonable doubt, and
20 some of you may have served as jurors in civil cases where
21 you were only told that it's only necessary to prove that a
22 fact is more likely true than not true, such as by the
23 greater weight or by the preponderance of the evidence.
24 Understand that in criminal cases the State's proof must be
25 more powerful than that. It has to be proof beyond a

1 reasonable doubt. Proof beyond a reasonable doubt is proof
2 that leaves you firmly convinced of the Defendant's guilt.
3 Now, there are very few things that we know in this world
4 with absolutely certainty and in criminal cases the law does
5 not require -- does not require proof that overcomes every
6 possible doubt. If based on your consideration of the
7 evidence you're firmly convinced that the Defendant's guilty
8 of the crimes charged, you should find him guilty. If, on
9 the other hand, you think there's a real possibility the
10 Defendant's not guilty, you should give him the benefit of
11 the doubt and find him not guilty.

12 Now, again, during this trial under stand that you and
13 I have certain duties to perform. As the trial judge it's
14 been my responsibility to preside over the trial of this
15 case and rule on the admissibility of evidence offered
16 during the trial. You're to consider only the competent
17 evidence before you. So any testimony which was ordered
18 stricken from the record, you'll have to disregard that
19 testimony because you're to consider only the testimony
20 which has been presented from the witness stand, exhibits
21 which have been made a part of the record in this case, and
22 the stipulation of the attorneys.

23 I have the additional duty to charge you the law, and
24 as the presiding Judge I'm the sole judge of the law.
25 Understand that it is your duty as jurors to accept and

1 apply the law as I state it to you now. So if you already
2 have any ideas what the law is or what it should be and it
3 differs from what I now tell you the law is, you'll have to
4 abandon this idea because you're sworn to accept and apply
5 the law as I now state it to you. Again, ladies and
6 gentlemen, you are the sole and exclusive judge of the facts
7 in this case. A trial judge cannot intimate, state, comment
8 on or make any statement to a trial jury about the facts in
9 a case. Because of that, since you are the sole judges of
10 the facts, you're not to infer from what I've said during
11 the progress of this trial ruling upon the admissibility of
12 evidence or otherwise, or anything that I say to you now
13 during the course of these instructions, that I have any
14 opinion about the fact in this case. Ladies and gentlemen,
15 the law does not permit me to have any opinion about the
16 facts in this case. This is a matter solely for you to
17 determine. As jurors, it's your duty to determine the
18 effect, value, weight and truth of the evidence presented
19 during this trial.

20 Now, typically, ladies and gentlemen, there are two
21 types of evidence which are normally presented during a
22 trial. Direct evidence and circumstantial evidence. Direct
23 evidence directly proves the existence of a fact and does
24 not require deduction, such as testimony by an eyewitness.
25 Circumstantial evidence is proof of a chain of facts and

1 circumstances which indicate the existence of a fact.

2 Now, I instruct you that crimes may be proven by
3 circumstantial evidence and the law makes no distinction
4 between the weight or value to be given to either direct or
5 circumstantial evidence. However, to the extent that the
6 State relies on circumstantial evidence, all the
7 circumstances must be consistent with each other and when
8 taken together point conclusively to the guilt of the
9 accused beyond a reasonable doubt. If these circumstances
10 merely portray the Defendant's behavior as suspicious, the
11 proof has failed. The State has the burden of proving the
12 Defendant guilty beyond a reasonable doubt, and this burden
13 rests with the State regardless of whether the State relies
14 on direct evidence, circumstantial evidence, or some
15 combination of the two.

16 Ladies and gentlemen, necessarily you have to determine
17 the credibility of witnesses who have testified in this
18 case. And again, credibility simply means believability.
19 It becomes your duty as jurors to analyze and to evaluate
20 the evidence and determine which evidence convinces you of
21 it's truth. In determining the believability of witnesses
22 who have testified, you can believe one witness over several
23 witnesses or several witnesses over one witness. You may
24 believe a part of the testimony of a witness and reject the
25 remaining part of the testimony of that same witness. You

1 may believe the testimony of a witness in it's entirety or
2 reject it in it's entirety. You may consider whether any
3 witness has exhibited to you any interest, bias, prejudice
4 or other motive in this case, and you may also consider the
5 appearance and manner of a witness while they're on the
6 witness stand.

7 I further instruct you and emphasize that the fact that
8 the Defendant in this case did not testify is not a factor
9 to be considered by you in any way in your deliberation and
10 in your determination on the question of the guilt or the
11 innocence of the Defendant. It must not be considered by
12 you in any manner whatsoever. The Defendant has the
13 constitutional right to remain silent and the assertion of
14 this right must not be considered by you during your
15 deliberations. I repeat, under your oath you're to draw no
16 conclusions whatsoever from the fact that the Defendant did
17 not testify. The fact that he did not testify should not
18 even be discussed in the jury room. The burden of proof, as
19 I've explained is on the State. The Defendant is not
20 required to prove his innocence. The burden of proof
21 remains on the State to prove guilt beyond a reasonable
22 doubt.

23 Now, in this case ladies and gentlemen, we've had
24 several witnesses who were qualified as experts in some
25 field or science. And again, the rules of evidence usually

1 don't permit a witness to testify as to opinions or
2 conclusions. An exception to this rule exists for expert
3 witnesses. A witness who by education and experience has
4 become an expert in some art, science or profession may give
5 an opinion as to the subject the witness claims to be an
6 expert in, and may also give the reasons for that opinion.
7 You should consider any expert opinion given by a witness
8 and, like any other evidence, give it the weight you think
9 it deserves. If you decide that an expert witness' opinion
10 is not based on sufficient education and experience, or if
11 you decide that the reasons given in support of the opinion
12 are not sound, or that the opinion is outweighed by other
13 evidence, you may disregard the opinion entirely. Again, an
14 expert witness' testimony is to be given no greater weight
15 than that of other witnesses simply because the witness is
16 an expert, and you do not have to accept an expert's opinion
17 even though it's uncontradicted.

18 Now, in this case, ladies and gentlemen -- excuse me.
19 Again, ladies and gentlemen, in this case the Defendant, Mr.
20 Tillman, is charged with murder. The State must therefore
21 prove beyond a reasonable doubt that the Defendant killed
22 another person with malice aforethought. Malice is defined
23 as hatred, ill-will or hostility towards another person.
24 It's the intentional doing of a wrongful act without just
25 cause or excuse, and with an intent to inflict an injury, or

1 under circumstances that the law will infer an able intent.
2 Malice aforethought does not require that malice exists for
3 any particular time before the act is committed, but malice
4 must exist in the mind of the Defendant just before and at
5 the time the act is committed. Therefore, there must be a
6 combination of the previous evil intent and the act.

7 Ladies and gentlemen, malice aforethought may be
8 expressed or inferred. Now, those terms expressed and
9 inferred do not mean different kinds of malice, but merely
10 the manner in which malice may be shown to exist. That is,
11 either by direct evidence or by inference from the facts and
12 the circumstances which are prudent. Expressed malice is
13 shown when a person speaks words which express hatred or
14 ill-will for another, or when the person prepares beforehand
15 to do the act which was later accomplished. For example,
16 laying in wait for somebody or any other acts or preparation
17 going to show that the deed was within the Defendant's mind
18 with expressed malice. Malice may be inferred from conduct
19 showing a total disregard for human life.

20 In this case, ladies and gentlemen, the Defendant is
21 also charged with the offense of possession of a weapon
22 during the commission of a violent crime. To prove this the
23 State must prove beyond a reasonable doubt that the
24 Defendant was in possession of a firearm during the
25 commission of a violent crime. A firearm means any machine

1 gun, automatic rifle, revolver, pistol or any weapon which
2 will, is designed to -- which will or is designed to expel a
3 projectile. In order to find the Defendant guilty of
4 possession of a weapon during the commission of a violent
5 crime you must first find him guilty of committing a violent
6 crime. Under South Carolina law I instruct you that murder
7 is classified as a violent crime. The State must prove
8 beyond a reasonable doubt that the weapon furthered,
9 advanced or helped in the commission of a crime.

10 Now, in this case, ladies and gentlemen, the Defendant
11 has raised the defense of alibi. That means that the
12 Defendant was not at the scene of the crime at the time it
13 was committed but was elsewhere and had nothing to do with
14 it. The word alibi means elsewhere. There is no burden on
15 -- there is no burden upon the Defendant to prove that he
16 was not at the scene of the crime. There was no burden upon
17 the Defendant to prove his alibi. In other words, the
18 Defendant need not prove he was somewhere else. The burden
19 is on the State to prove beyond a reasonable doubt the
20 Defendant was present at the scene of the crime,
21 participated in the crime, and was not somewhere else. Thus
22 the State has the burden of proving beyond a reasonable
23 doubt the Defendant was present and committed the crime.
24 The State has the burden of disproving the Defendant's alibi
25 defense.

1 Now, ladies and gentlemen, there are basically four
2 possible verdicts in this case. And, Mr. Foreman, I've
3 worked up this verdict form that you can refer to during
4 your deliberations, help you guide the deliberations. It's
5 about as simple as I can make it. And if you can read, I
6 think you can follow it, but the law makes me explain it to
7 you nonetheless. All right?

8 The first statement here makes the following the
9 statement. "We, the jury in the above-captioned case, on
10 the charge of murder, unanimously find Charles Tillman," and
11 then you have two options, either guilty or not guilty.
12 Okay? If you find -- if all 12 of you find that the State
13 has met it's burden of proving the Defendant's guilt beyond
14 a reasonable doubt, and all 12 of you agree on that verdict,
15 then, Mr. Foreman, you would initial next to guilty and then
16 move on down to the second question concerning the weapons
17 charge. Okay? If, however, you find that the State has
18 failed to meet its burden of proving the Defendant's guilt
19 beyond a reasonable doubt and all 12 of you agree, you would
20 simply sign -- or initial rather next to not guilty and then
21 sign your name. You don't even go to the second question
22 obviously. All right? Assuming you get to the second
23 question, that statement is, "We, the jury in the above-
24 captioned case on the charge of possession of a weapon
25 during the commission of violent crime unanimously find

1 Charles Tillman," again, same exact two options. And again,
2 the jury has to be unanimous. All 12 of you have to agree
3 on that verdict. When you have reached a verdict just fill
4 this out as appropriate, Mr. Foreman, sign your name, knock
5 on the door, let the bailiff know. We'll reassemble
6 everyone, get them back here in the courtroom, and then
7 we'll get you back in here.

8 Now, ladies and gentlemen, again, if you have any
9 questions or comments concerning the law, or you otherwise
10 need to communicate with me, Mr. Foreman, simply write the
11 question down on a piece of paper, give it to the bailiff.
12 He'll bring it to me. Please understand though that at no
13 time should there be any communication with the Court about
14 any kind of numerical division between the jury. All right?
15 So if you're deliberating and you need to communicate with
16 me, I do not want to know that your vote is 10/2, 11/1,
17 6/6/, 5/7. That information should simply never be conveyed
18 to the Court. Okay? So make sure that you don't let me
19 know if you're divided in some way.

20 Now, ladies and gentlemen, again your verdict has to be
21 a unanimous one. That means all 12 of you have to agree.
22 I'll remind you that, ladies and gentlemen, you've been
23 chosen as fair and impartial individuals. In other words,
24 you have no friends to reward or you have no enemies to
25 punish in this case. Your job is to render a verdict based

1 solely upon the evidence presented and the law as I've
2 instructed you. Your verdict cannot be based upon passion,
3 caprice, prejudice, or any consideration which is not in the
4 record in this case.

5 Now, ladies and gentlemen, I'm going to ask that you
6 return to the jury room. Do not begin your deliberations
7 yet. Okay? You're cue to begin your deliberations will be
8 receipt of the evidence which has been admitted, the Court
9 asking the two alternates to step out and then receipt of
10 these instructions and the verdict form. So when the
11 evidence goes back you can begin your deliberations. We
12 have to make sure though before we sent it back to you that
13 we got everything squared away, and with 148 exhibits that
14 may take five or 10 minutes. Okay? So again, your cue to
15 begin deliberations will be getting these instructions, the
16 verdict form, the evidence, and my asking the two alternates
17 to step out. All right?

18 I will let you know, ladies and gentlemen,
19 additionally, I realize that we're at 20 until 5:00. I have
20 a running rule that some other judges -- a lot of other
21 judges don't have. But understand that this week you've
22 been taking direction from me about when to be back and when
23 to break and things of that nature, and I have a rule that
24 once a case is submitted to the jury we are on your clock
25 100 percent. Okay? I will tell you that a number of Court

1 personnel have some plans for tomorrow that cannot be
2 changed. If you start deliberating late and you find
3 yourself fatigued and needing to take a break, that is
4 perfectly fine. Just let me know. But we will need to
5 reconvene Monday because we cannot do it on Saturday. And
6 candidly I've tried to suggest convening on a Sunday and
7 I've gotten push back from people before, so I'm just --
8 Sunday is off limits in my mind. Okay? So Sunday is off
9 limits. It's going to have to be Monday if we come back.
10 I'll just let you know that. Additionally, sometimes I'll
11 get a question from a jury, how long do we have to
12 deliberate under the law. Whether you deliberate 15
13 minutes, five hours, five days, five weeks, that's entirely
14 up to you. There's no set time in the law. Again, the key
15 thing is that all 12 of you have to agree on whatever
16 verdict is rendered, and however long that takes you is
17 entirely up to you all during the course of your
18 deliberations. All right?

19 With that, adjourn to the back. Don't begin your
20 deliberations yet. I think you know what to do. All right?
21 Thank you very much.

22 (Whereupon, the jury exited the courtroom at 4:42 p.m.)

23 THE COURT: Exceptions or additions from the State or
24 the Defense?

25 MR. BROWN: None from the State.

1 MR. GROSE: Only the things that we've discussed
2 earlier.

3 THE COURT: The two issues?

4 MR. GROSE: Yes, sir.

5 THE COURT: The same ruling on those two questions as
6 before. And let's -- I forgot to tell them about the
7 videos. I don't think they can play the videos. But I'm
8 assuming that if they want to see them they'll send us a
9 note or ask for it. So is that cool?

10 MR. BROWN: That's cool.

11 THE COURT: We'll just let them ask? I got you.

12 (Whereupon, the jury began deliberations at 4:55 p.m.)

13 (Whereupon, at 6:09 p.m. jury sent out a note which was
14 marked Court's Exhibit Number 8. Judge's written response
15 to jury, was marked for identification.)

16 VERDICT OF THE JURY

17 (Whereupon, at 7:14 p.m. jury knocked and indicated
18 they had reached a verdict.)

19 (Whereupon, trial resumed on the record at 7:18 p.m.)

20 THE COURT: Everyone who's in attendance here, just a
21 few things. Okay? And I cannot emphasize this enough.
22 Please understand that I do, again, understand how emotions
23 in this case can be rather raw and I'm sure that the events
24 of the last couple of days has perhaps reopened some old
25 wounds, and I understand that everyone who is here has a

1 very, very real and a very substantial stake in whatever the
2 jury's verdict is. No one in this room knows what the
3 jury's verdict is. I do not know. Of course none of the
4 attorneys do. What I'm telling you though is that
5 understand that these people have been asked to come in
6 here. They did not ask to look at any of these exhibits.
7 They did not volunteer to serve as jurors, and they've had a
8 very hard, hard week and a very challenging decision to
9 make. Whatever the verdict is, okay, please, I cannot have
10 their efforts impugned. I cannot have their efforts
11 disrespected by any kind of audible cheer, any outburst of
12 any kind. Okay. Again, I don't expect you people to be
13 robots. But if you find yourself simply unable to contain
14 your emotion, whatever that emotion may be, you're invited
15 to simply, you know, stand up quietly where you are and walk
16 towards the back of the courtroom. Those on this side, if
17 you'll walk around that way. Those on this side, if you'll
18 walk around that way, if you feel like you just can't
19 control your emotions any further. Okay.

20 With that, anything before the jury is brought out from
21 the Defense?

22 MR. GROSE: No, sir.

23 THE COURT: State?

24 MR. BROWN: No, sir.

25 THE COURT: Let us have them, please.

1 (Whereupon, the jury entered the courtroom at 7:18
2 p.m.)

3 THE COURT: All right. The record will reflect that
4 the jury is back and seated. Mr. Foreman, I'm told that the
5 jury has reached a verdict in this case.

6 MR. FOREMAN: Yes, Your Honor, we have.

7 THE COURT: And all 12 of you all agree with the
8 verdict?

9 MR. FOREMAN: All 12 agree.

10 THE COURT: Hand the form, please, to the bailiff.
11 Madam Clerk, if you'll publish, please.

12 MADAM CLERK: State of South Carolina, County of
13 Abbeville, *State of South Carolina vs. Charles Tillman*.
14 Indictment 2017-GS-01-442 and 443. We the jury in the
15 above-captioned case on the charge of murder unanimously
16 find Charles Tillman guilty. We the jury in the above-
17 captioned case on the charge of possession of a weapon
18 during the commission of a violent crime unanimously find
19 Charles Tillman guilty. James Hester, January 26th, 2018.
20 Mr. Foreman, ladies and gentlemen of the jury, if this is
21 your verdict so say you all. Please signify by raising your
22 right hand.

23 (Whereupon, all jury members raise their hand.)

24 THE COURT: All right. The record will reflect that
25 all 12 hands were raised. Anything before discharge of the

1 jury from the State?

2 MR. BROWN: Not from the State, Your Honor.

3 THE COURT: From the Defense?

4 MR. GROSE: Request the jury be polled.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, in a moment the Clerk is going to call your name and
7 then she'll ask you a question. When your name is called
8 just respond by yes. She'll then ask you a question of if
9 this is your verdict and if it's still your verdict and
10 simply respond appropriately. Okay? Madam Clerk, if you'll
11 poll the jury, please.

12 MADAM CLERK: Mozelle Jackson, is this your verdict and
13 is it still your verdict?

14 THE JUROR: Yes.

15 MADAM CLERK: Gabriel Keller, is this your verdict and
16 is it still your verdict?

17 THE JUROR: Yes.

18 MADAM CLERK: Pamela Timmerman, is this your verdict
19 and is it still your verdict?

20 THE JUROR: Yes.

21 MADAM CLERK: James Hester, is this your verdict and is
22 it still your verdict?

23 THE JUROR: Yes.

24 MADAM CLERK: William Wilson, is this your verdict and
25 is it still your verdict?

1 THE JUROR: Yes.

2 MADAM CLERK: George Lyons, Jr., is this your verdict
3 and is still your verdict?

4 THE JUROR: Yes.

5 MADAM CLERK: Kenneth McCloud, is this your verdict and
6 is it still your verdict?

7 THE JUROR: Yes.

8 MADAM CLERK: Robin McMurtury, is this your verdict and
9 is it still your verdict?

10 THE JUROR: Yes.

11 MADAM CLERK: Russell Kenneth Wood, is this your
12 verdict and is it still your verdict?

13 THE JUROR: Yes.

14 MADAM CLERK: Mamie Hall, is this your verdict and is
15 it still your verdict?

16 THE JUROR: Yes.

17 MADAM CLERK: Lindsay Giles, is this your verdict and
18 is it still your verdict?

19 THE JUROR: Yes.

20 MADAM CLERK: Justine Minick, is this your verdict and
21 is it still your verdict?

22 THE JUROR: Yes.

23 MADAM CLERK: Your Honor, the jury's been polled and
24 the verdict has been confirmed.

25 THE COURT: All right. Nothing further from the

1 Defense with regard to the jury, Mr. Grose?

2 MR. GROSE: No, sir.

3 THE COURT: Ladies and gentlemen of the jury, I want to
4 thank you very much for your service here this week, and
5 again apologize to you for having to exposure you to things
6 that perhaps you have not seen before. Those of us who are
7 involved in this work, we do it day in and we do it day out.
8 I'll be in Laurens next week. I'll be trying a similar kind
9 of a case, and it's easy for me to become desensitized to
10 some of the stuff that you folks have seen. I assure you
11 that it was necessarily. First of all, I do apologize for
12 it. And I do want to thank you for your work here and for
13 your service here this week. The clerk will be mailing your
14 checks to you. They'll be going out the next time the
15 county runs payroll, I believe, which is sometime next week.

16 MADAM CLERK: End of next week.

17 THE COURT: End of next week. So you should be
18 receiving the checks in the mail. If you don't get them by,
19 you know, Tuesday or Wednesday the following week, contact
20 the Clerk. She'll see about getting them reissued. Okay?

21 You'll also receive a letter from me thank you for your
22 service. You should probably get that on Monday or so.
23 Please, if there's anything that you liked about jury
24 service let me know. Anything you didn't like about jury
25 service I definitely want to know, because I actually change

1 the way I run Court based upon feedback from folks who have
2 served on my jury.

3 I'm not going to keep you any further. If you want to
4 stay for sentencing, we'll be handling that probably in
5 about five or 10 minutes, but for security reasons I'll need
6 to ask that you have a seat out here. The two alternates
7 have elected to stay and be here for the reading of the
8 verdict. I don't know if they're going to intend to stay
9 for sentencing. But you probably recognize them. Feel free
10 to have a seat out there with them if you choose to stay.
11 Okay? The proceedings here on out will probably take
12 another 20 or 30 minutes today. But if you want to leave,
13 that's fine. If you want to stay, that's perfectly fine.
14 But I will need you to relocate to that area of courtroom.
15 Okay? You can do so by going downstairs and walking back up
16 the other way. All right?

17 We have your excuses. The Clerk will hand those out to
18 you as you exit out this way. Again, you have my
19 appreciation. You have my thanks. And I hope to see you
20 guys under less formal circumstances at some point in the
21 future. Okay?

22 Mr. Foreman, I need you to stick around and actually
23 sign the indictments. But the rest of you are free to
24 collect -- did you bring all your belongs out of the
25 courtroom? You still got some stuff back there?

1 JUROR: I've got some stuff back there.

2 THE COURT: All right. Anyone who needs to go on back
3 there to get whatever personal property you brought, go
4 ahead and do that. And, Mr. Foreman, if you'll come up here
5 and just sign this indictment. Both of these indictments.

6 (Whereupon, the jury was released at 7:20 p.m.)

7 (Whereupon, a recess was held from 7:20 p.m. to 7:36
8 p.m.)

9 THE COURT: We're going to go back on the record. For
10 the record, Mr. Grose, I assume that you would renew all
11 motions previously made and also move for a new trial?
12 Correct.

13 MR. GROSE: I would, but I would respectfully like the
14 10 days provided by the rule.

15 THE COURT: Certainly, by all means. But just so the
16 record is clear, the motion is made. All prior motions have
17 been renewed. All prior objections. Same rules as before.

18 Mr. Brown, if you could, let me know by way of Mr.
19 Tillman's prior record, what that record is, if you would,
20 sir.

21 MR. BROWN: Yes, sir, Your Honor. 1995 possession of
22 crack, or ice. Possession of crack or ice in 1998. Simple
23 assault in 2000. Shoplifting, 2003. Petty larceny in 2004.
24 Possession of a stolen vehicle, 2004. He has several
25 traffic charges on here. A few DUSs. DUS. And I believe

1 there's a pending fail to stop out of Laurens which is, I
2 believe, resolved at the end of -- after this. But it's
3 fail to stop in 2016.

4 THE COURT: All right.

5 MR. BROWN: In addition to the one pending in Laurens.

6 THE COURT: Because it's pending I will not consider
7 the fail to stop.

8 MR. BROWN: Yes, sir. Yes, sir.

9 THE COURT: Did any member of the victim's family wish
10 to address me?

11 MR. BROWN: Yes, sir. Bob Stutler, Christie's dad,
12 would like to address the Court. Your Honor, I would,
13 before he speaks, like to speak on Linda Huffman's behave.
14 Linda Huffman, as you're aware, is Christie's mother. She
15 moved to Ohio. She lived down here with her husband, Ben
16 Huffman. As of a week and a half ago, two weeks ago, Linda
17 and Ben were planning to come down here to testify in this
18 case. A week and a half ago on Friday we understood that
19 she had a stroke in Ohio, so she wasn't able to -- she
20 wasn't going to be able to come down. Ben continued to --
21 was going to come down and did come down. And on Monday
22 night of this week I contacted Ben and Linda and Linda said
23 I want to come down. I want to be there for my daughter to
24 testify. She flew down on Tuesday night. Was sitting here
25 on the third row all day Wednesday. And yesterday morning

1 had another stroke. So she was not able to be here for this
2 trial and not able to testify in this trial. But she did
3 give a statement to law enforcement the day after this
4 happened, and she said she talked to her daughter, Christie,
5 on November 7th at 6:00 p.m. She was with Charles Tillman
6 at the residence and using -- she was using Charles' cell
7 phone. Put her on speaker phone, and it was loud in there.
8 She had -- she had -- she could tell I was on speaker phone
9 and said that she could hear Charles in the background, but
10 she also thought that she could understand what her daughter
11 was saying. I think she was wanting me to come get her, but
12 she couldn't tell me. Several times she told me that
13 Charles held a knife on her, held some kind of sword waving
14 it at her. He told me a few months ago if he couldn't have
15 her no one could. He was in love with her since she was 15-
16 years-old. She had told me that she was scared a lot of
17 times, and times she's wasn't. She told me several times
18 that she was afraid she might harm me or the boys. Her two
19 children that I have custody of. Whenever I questions
20 Charles, what he told me, he said she's always saying things
21 like that. But I know my daughter better than that. We
22 talked to her Wednesday night and she said the same thing.
23 And was just heartbroken over her daughter's death. She's
24 now in Greenwood on a ventilator and is obviously not here
25 today.

1 THE COURT: All right. I assume you haven't been
2 updated on her status since we last spoke about her
3 situation?

4 MR. BROWN: She is still in Greenwood on that
5 ventilator is my understanding. Her husband, Ben, who was
6 here, went back to Ohio this morning to get the two boys.
7 Christie's two boys. And I believe is going to be driving
8 back down tomorrow to be with his wife.

9 THE COURT: Very good. And I think the statement that
10 you read from is part of the record in this case?

11 MR. BROWN: Yes, sir. It is.

12 THE COURT: It was marked as a Court's exhibit. Mr.
13 Stutler, I'm more than happy to hear anything that you want
14 to tell me about the situation, sir.

15 MR. STUTLER: Thank you, sir. The first thing I want
16 to say is I appreciate everything that's happened today.
17 You all did a wonderful job. I just -- I don't know what
18 I'm allowed to say. I'm very emotional right now because of
19 the loss of my daughter. When I heard that monster told
20 everybody that I didn't love my daughter and I was trying to
21 give her drugs and things, it really -- that hurt really
22 bad, because she's everything to me. When she died half my
23 heart come out of my chest, and I had nightmares every
24 night, and I'm on drugs. I don't mean to say drugs. I'm on
25 something. I can't sleep at night just because of what this

1 monster did to my daughter. He always told me what he was
2 going to do to her and I could not get her to understand
3 what he was all about. And when we'd get her from him, I'll
4 change. I'll do better for you. The guy was 40 something
5 years old. He's not ever going to change. He's a drug
6 head. He's useless. He's a monster is all he is, and he's
7 proved it. And the last time -- and I'll never forgive
8 myself for this. The last day that I saw her she pulled up
9 in a van that -- one of their vans. She came in and said
10 I've got to get a couple of my items and then I'm leaving.
11 And that monster was sitting in the van. I stepped out on
12 the porch and I said, if you go with him I'm either going to
13 see you in jail or dead. And it wasn't long here we are. I
14 knew what he was going to do to her and she -- I just
15 couldn't get her to understand what this man was all about.
16 And the way he beat on her. You know, he couldn't beat on a
17 man. He has to beat on a little woman. You know, it's just
18 -- I don't understand how people -- you know, I'm Christian,
19 and I'm a very proud Christian fellow. I know I'm not
20 supposed to hate. And my preacher's right here and I know I
21 shouldn't say it in front of him, but I hate this monster.
22 And if he was to die tonight I would -- I would love it, but
23 that ain't going to happen. But I just hope to God that he
24 never walks the streets again, because he -- you haven't
25 heard of all the things, because we wasn't allowed to tell

1 it. How he took two of my daughter's cars and destroyed
2 them. I mean, it's just stuff that we were not allowed not
3 to say. And I understand -- I don't under the Court system.
4 But anyway, you really haven't heard everything that thing
5 over here has done because we wasn't allowed to tell it.
6 But I just want you to know that my family's right here and
7 we are all hurt. We'll never get over this. But she was
8 spoiled rotten by each and every person you see sitting over
9 there because she was our only daughter, their only sister,
10 and each one of us loved her. We couldn't love a person
11 anymore. And I got to admit, I probably loved her more than
12 I did them because she was my daughter. There wasn't
13 nothing in this world I wouldn't do for her. I just could
14 not keep her away from that monster over there. And now
15 I've let her down and I'll never forgive myself for this.
16 Please don't ever let him stay on the streets. Thank you.

17 THE COURT: Thank you, Mr. Stutler. Anything further
18 from the State or anyone else who cares to address me from
19 Ms. Stutler's family?

20 MR. BROWN: I don't believe anybody else would like to
21 address the Court. Judge, I would just refer you back to
22 what Dr. Woodard said about the old and new bruising, and he
23 characterized it as somebody been tortured.

24 THE COURT: Very good. Thank you. Mr. Grose, I'm
25 happy to hear anything that you may want to say, and

1 certainly anything that Mr. Tillman or any member of his
2 family may want to say on his behalf.

3 MR. GROSE: Well, on my advice Charles is not going to
4 address the Court, and that's been more or less a practice
5 of mine for, you know, the better part of the last 20 years
6 or more. I've also talked with his family members, and I
7 don't know that anybody's going to address the Court at this
8 time. But I do feel like I need to respond to some of the
9 things that were said based on things that I know from
10 investigating the case that speak to Charles' character in a
11 different way. And I understand that Christie's family is
12 emotional and they loved her and I don't mean to do anything
13 to minimize that. But as -- you know, it came up in one or
14 maybe both of the bond hearings that we had in this case.
15 I've known people in his extended family for probably the
16 better part of the last 17 or 18 years. Antonio, who is
17 still here, his mother is Dorothy Hughey, and I've known her
18 through my representation of John Hughey for a lot of years.
19 Dorothy and Charles have another child together. And it was
20 actually Dorothy who was the first one who contacted me to
21 see if I would be willing to represent Charles. We also had
22 Ms. Patterson has been here for a number of days this week.
23 Ms. Patterson and Charles Tillman had a relationship for
24 nine years. And when -- when I -- I actually entertained,
25 and we talked in chambers, about whether or not I could add

1 Ms. Paterson to the witness list. I ultimately opted not to
2 because that would have opened the door potentially to some
3 of the evidence that we had a ruling on yesterday. But, you
4 know, Ms. Patterson tells me that, you know, Charles was
5 always good to her and had never abused her. While I
6 haven't specifically asked Dorothy that, I don't think she
7 would have come to me about representing Charles if he had
8 been, you know, a mean and abusive person to her. So there
9 is -- I guess what I'm saying there's ultimately a lot of
10 dimensions to things. As far as the record goes, I think he
11 questions the possession of a stolen vehicle. The drug
12 charge was, of course, an older charge. In recent years, I
13 think, most of his issues have been with driving type of
14 stuff. I also -- I would also ask that you consider the
15 minimum sentence in this case because, you know, Charles is
16 40 years old -- I mean, 48 years old. As part of some of
17 the juvenile life without parole advocacy that's going on in
18 South Carolina we've had experts look at life expectancies
19 in the Department of Corrections. A 30 year sentence may
20 very well be a life sentence for him at his age going into
21 the Department of Corrections. You also have heard as far
22 as, you know, some of the stuff in the video, you know, he -
23 - while he worked and did things he also, you know, had some
24 disabilities because of a motorcycle accident that he'd been
25 in and, you know, he did the best he could to try to support

1 the people that he had obligations to support, with child
2 support and that sort of thing. I think you probably would
3 recall him having some concerns about being able to do that
4 in the days following the underlying incident in this case.
5 Unless you have some questions, that would be our
6 presentation and our request.

7 THE COURT: Very good. I think you indicated that he
8 was -- did you indicate he was 40 -- or by his birthday he's
9 actually 48, and he was born in '67. So --

10 MR. GROSE: I think it was '69. I think -- I probably
11 misspoke at one point. Forty-eight is what I understand it
12 to be. Is that right, Charles?

13 THE DEFENDANT: Yeah.

14 THE COURT: I need you to go ahead, if you would, place
15 cuffs on Mr. Tillman. All right. He's already in custody,
16 so if you would please handle that.

17 THE COURT: Anything further from anyone before
18 sentencing is --

19 MR. BROWN: Not from the State.

20 THE COURT: From the State?

21 MR. BROWN: No, sir.

22 THE COURT: All right. Mr. Stutler, let me begin by
23 telling you that -- wherever you -- there you are. Your
24 daughter was amazingly beautiful, and I have no doubt that
25 she was an incredible and beautiful person. And I hear you

1 loud and clear that what happened to her, to say that it's
2 unfair and wrong doesn't begin to scratch the surface. And
3 I will I could do something --

4 MR. STUTLER: Thank you.

5 THE COURT: -- to alleviate your pain and your family's
6 pain, and if that was in my power, sir, I promise you I
7 would.

8 MR. STUTLER: Thank you.

9 THE COURT: To the extent that you and Ms. Huffman
10 might still be blaming yourself, parenting is hard and
11 sometimes kids don't do what you want them to do. And the
12 best you can do sometimes is just raise them up. And if you
13 or Ms. Huffman are blaming yourselves for any of this, you
14 should not. Okay? You cannot. And I pray that at some
15 point both you and she and the rest of your family are able
16 to find some kind of peace.

17 MR. STUTLER: Thank you.

18 THE COURT: Mr. Tillman, I understand Mr. Grose's
19 suggestion that you not address the Court, and from a legal
20 standpoint it's probably good advice. I do take it at the
21 very least you accept the verdict, even though perhaps you
22 disagree with it. I would imagine that you do disagree with
23 it. Understand, Mr. Tillman, that I've been here since
24 Monday and I've had an opportunity to listen to all the
25 evidence. And please, Mr. Tillman, understand that if I had

1 any hesitation or if I had any reservation about the verdict
2 that was rendered in this case, a new trial would be granted
3 quite promptly. And I had an opportunity to look at the
4 photographs. I had an opportunity to listen to your
5 statement to law enforcement. And candidly, sir, I really
6 cannot conceive of an individual who is capable of
7 inflicting the carnage that you did on Ms. Stutler and then
8 go to work just like it's a regular day. It boggles my
9 mind. And primarily for that reason, and in light of your
10 prior contact with the Court of General Sessions and other
11 Courts, Mr. Tillman, it's the sentence of the Court that you
12 be committed to the Department of Corrections for the
13 balance of your nature life, sir. I wish you luck. The
14 proceedings in this matter are closed.

15 The way we'll proceed, Solicitor, if you'll ask the
16 family to go to whatever room you want to brief them.

17 MR. BROWN: Yes, sir.

18 THE COURT: We're going to allow the jury to leave
19 first. If they need escorts to their cars, deputies take
20 care of that. And, Mr. Grose, whatever instructions you
21 want to give the family that's fine, but we're going to
22 allow them to go to the grand jury first and then allow your
23 client's folks to leave. Okay? As soon as the jury's out
24 relocate the family, please.

25 The record's closed.

1 (Whereupon, the proceeding was concluded at 7:50 p.m.)

2 (END OF REQUESTED TRANSCRIPT OF RECORD)

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Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Abbeville County, South Carolina, on the 22nd, 23rd, 24th, 25th, and 26th day of January, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott, CVR
Circuit Court Reporter
June 30, 2018

STATE OF SOUTH CAROLINA)

County of Abbeville)Charles Tillman #236688)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2022 CP-01-00080

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Abbeville County Jail
2. Name and location of Court which imposed sentence Abbeville Courthouse
3. Name(s) of co-defendant(s) (if any) Randy Ioner and his girlfriend Bridget Daniel, Jessica Chadwick and his Mother, Cindy Ioner and Scotty Tillman
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016A0110100352, 2016A0110100353,
 - (b) 2016A0110100354

718 (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) Life with out parole
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. APPeal Court
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

- i. AFfirm
- ii. _____
- iii. _____

(c) the date of each such result:

- i. March 15 2022
- ii. _____
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
- ii. _____
- iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Witness have not been call in my behalf
- (b) Not been sentence correctly by Judge
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) 16/3/10 carry Max of 10 years
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? None
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? None
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? None
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

None

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Ineffective Assistance of Counsel
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
None

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. The Law Firm, LLC Charles Grose 404 Main Street,
Greenwood SC, 29646

ii. _____

 iii. _____

(b) the proceedings at which each such attorney represented you:

i. Writ of Certiorari

 ii. _____

 iii. _____

19. State clearly the relief you seek in filing this application:

vacate

20. Are you now under sentence from any other court that you have not challenged?

None

STATE OF SOUTH CAROLINA)

County of Abbeville)

VERIFICATION

I, Charles Tillman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Charles Tillman

SWORN to and subscribed before me this 22
day of March, 2022

Tamara Conwell (L.S.)
Notary Public

My Commission Expires
September 25, 2023

My Commission Expires: _____

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Charles Tillman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Charles Tillman
Applicant

SWORN or affirmed to and subscribed before me this

22 day of March, 2022

Tamara C. Currell
Notary Public

My Commission Expires: September 25, 2023

STATE OF SOUTH CAROLINA,)
) IN THE COURT OF COMMON PLEAS.
 COUNTY OF ABBEVILLE.)

Charles Tillman #236688,)
)
 Applicant,)
)
 v.) CERTIFICATE OF SERVICE BY MAIL
)
 State of South Carolina,) 2022-CP-01-00080
)

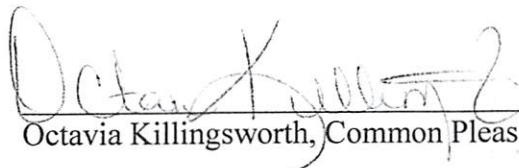
The undersigned, an employee of the Abbeville County Clerk of Court's Office, does hereby certify that a copy of Application for Post-Conviction Relief in the above-referenced matter was made upon the following persons by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 29 day of March, 2022, addressed as follows:

Megan Harrigan Jameson
 Office of the Attorney General
 Post Conviction Relief
 Post Office Box 11549
 Columbia, SC 29211-1549

Solicitor's Office (hand delivered)
 ATTN: Yates Brown/Micah Black
 P.O. Box 516
 Greenwood, SC 29648

Charles Tillman, #236688
 430 Oaklawn Road
 Pelzer, SC 29669

FILED
 CLERK OF COURT
 COUNTY OF ABBEVILLE
 2022 MAR 29 AM 9:02
 STANDARD 23668
 CLERK OF COURT


 Octavia Killingsworth, Common Pleas Clerk

TRUE COPY
 BY 
 ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
Charles Tillman,	)	Case No.: 2022-CP-01-00080
S.C.D.C. No. 236688,	)	
	)	
Applicant,	)	
	)	RETURN TO THE APPLICATION FOR POST-
v.	)	CONVICTION RELIEF AND PARTIAL
	)	MOTION TO DISMISS
State of South Carolina,	)	(Counsel Appointed)
	)	
Respondent.	)	
	)	

In response to the application for post-conviction relief filed by Applicant Charles Tillman on March 28, 2022, Respondent the State of South Carolina makes the following return and partial motion to dismiss:

I. PROCEDURAL HISTORY

Applicant is presently confined within the South Carolina Department of Corrections. Applicant was indicted at the October 2017 term of the Abbeville County Grand Jury for murder (2017-GS-01-442), possession of a weapon during the commission of a violent crime (2017-GS-01-443), and obstruction of justice (2017-GS-01-444).¹ Applicant was represented by E. Charles Grose, Jr., and Assistant Solicitors Yates Brown and Micah Black, of the Eighth Circuit Solicitor's Office, prosecuted the case.

On January 22, 2018, Applicant proceeded to trial before the Honorable Frank R. Addy, Jr., and a jury. On January 26, 2018, Applicant was sentenced to life imprisonment without the possibility of parole.

¹ The obstruction of justice charge was dropped prior to Applicant's trial.

Applicant filed a direct appeal, raising the following issues:

1. Did the trial court err by not expressly applying the “substantial circumstantial evidence” standard of review to Applicant’s motion for a directed verdict?
2. Did the trial court err in Applicant’s directed verdict motion?
3. Did the trial court err in denying Applicant’s motion to exclude photographs of the victim’s body?
4. Did the trial court err in denying Applicant’s motion for a mistrial after the State illegitimate “criminal profiling” evidence?
5. Did the trial court err in denying Applicant’s request to charge based on *State v. Edwards*, 298 S.C. 272, 379 S.E.2d 888 (1989)?
6. Should the court of appeals grant Applicant a new trial based on the cumulative error doctrine?

The court of appeals affirmed his convictions and sentence. *State v. Tillman*, 433 S.C. 58, 856 S.E.2d 168 (Ct. App. 2021). Applicant’s petition for a writ of certiorari was denied, and the remittitur was sent on March 16, 2022.

II. STATEMENT OF THE FACTS

The underlying facts of the crimes for which Applicant is incarcerated were articulated in the court of appeals’ opinion as follows:

Tillman and Victim were in a long-term on-again/off-again relationship. In November of 2016, the pair were living together in a trailer located on Tillman’s mother’s property on Bell Road in Abbeville County. According to his video-recorded statement to police, Tillman went to work at approximately 9:00 a.m. on November 8 with J.C. Boggs and Tillman’s cousin, Walter Tillman. The three performed various handyman services. When Tillman returned home around 6:00 p.m., he entered the trailer and found Victim on the bed lying on her stomach with her head turned and hair covering her face. The crime scene photographs showed blood down the side of the mattress near Victim’s head. However, no evidence of how Victim was harmed was visible. Tillman called 911 and stated Victim was dead and had committed suicide by shooting herself. At one point during the recorded call, Tillman’s mother can be heard mentioning a gun. When police arrived on location, approximately six minutes after the 911 call was placed, they secured the scene. A burning kerosene heater was located relatively close to the bed. Victim was wearing a t-shirt but no pants or underwear. After further investigation, authorities determined Victim had been shot in the head and shin. Two additional bullet holes were found in the bedroom ceiling and wall. Upon further investigation, police found the murder weapon, a

.22 caliber rifle, in an inoperable car that Tillman and Victim used for storage located on the property. The coroner determined Victim had not committed suicide and her time of death was between 11:00 p.m. on November 7 and 11:00 a.m. on November 8. During interviews with police, Tillman consistently stated Victim was alive when he left for work that morning. However, his responses to pertinent questions were evasive. Tillman never acknowledged the presence of a gun in the trailer or mentioned having access to a gun until confronted by police after the murder weapon was found. He could not account for the last time he might have held the gun; he could not remember when he might have last accessed the junk car, nor could he explain why his mother would have mentioned a gun on the 911 call. He explained he assumed Victim had committed suicide by shooting herself because she had talked about doing so before. At trial, Tillman's mother testified she had stopped by the trailer to see if Victim wanted to accompany her to the laundromat. Victim did not open the door, but Tillman's mother thought she heard Victim say something and saw a shadow move in the trailer. She acknowledged she did not initially share this information with police. Additionally, she could not explain why she would have mentioned a gun on the 911 call. Victim's DNA and DNA that could belong to Tillman were found on the murder weapon and Tillman's DNA was found in Victim's fingernail clippings. A very small amount of gunshot residue (GSR) was found on Tillman's shirt. Dr. Brett Woodward, a forensic pathologist, testified Victim died from a close range gunshot wound to the head. He further testified as to bruising and other traumatic injuries on Victim's body[:] [“]There were multiple bruises, both of a recent and a remote nature. You can only judge a bruise by it's recent, it's less than about 12 to six hours, or it's remote, it's more than 18 hours when it begins to show changes in coloration. Obviously, some people bruise more severely than other people with the same trauma, but you can only judge the time between the bruises in that particular way. We saw some bruises, which suggested fingertips being pressed against the body in an effort to manipulate, control or hold the body. We saw scratches on the body which were consistent with another individual's fingerprints – or excuse me fingers losing contact with the body and the nails scratching the victim, and we saw burn injuries.[”]

Tillman, 433 S.C. at 60–62, 856 S.E.2d at 170–71.

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. “Witness have not been call [*sic*] in my behalf”

2. “Not been sentence [*sic*] correctly by Judge”
 - a. “16/3/10 Carry Max of 10 years”

Applicant further states these issues were not raised earlier due to “Ineffective Assistance of Counsel.”

As requested relief, Applicant has written only the word “vacatate” [*sic*]. Respondent interprets this word as a request for the vacation of Applicant’s convictions and sentence and for a new trial.

Attached to this Return and incorporated into this response to the application are the Abbeville County Clerk of Court records regarding the general sessions proceeding, the transcript from Applicant’s trial, Applicant’s appellate records, Applicant’s records from the South Carolina Department of Corrections, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Counsel, Generally

In his application, Applicant claims counsel was ineffective for failing to call witnesses in his defense; however, he does not specify the witnesses² his attorney allegedly failed to call or explain how their testimony could have assisted him at trial. Accordingly, Respondent addresses this general allegation and submits the record establishes Applicant will not be able to prove any ineffectiveness of counsel as to this claim.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to “assistance by an attorney, whether retained or

² Applicant’s application lists several individuals as “co-defendants”; however, Applicant was not tried with any co-defendants. These individuals may be the witnesses Applicant claims were not called.

appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional

judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371–72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

Respondent submits that Applicant cannot satisfy either prong of the *Strickland* test. However, this allegation plausibly raises issues of fact not conclusively refuted by the record. Therefore, Respondent requests an evidentiary hearing be scheduled to dispose of this allegation.

V. MOTION TO DISMISS ALLEGATION OF INCORRECT SENTENCE

Applicant alleges his life sentence was unlawful.³ Respondent interprets Applicant's statement "16/3/10 Carry Max of 10 years" to mean that Applicant believes section 16-3-10 of the South Carolina Code of Laws prohibits judges from imposing a sentence of more than ten years' imprisonment for murder. This allegation is meritless as a matter of law: section 16-3-10 proscribes murder, but it does not address sentencing. The penalties for murder are set forth in section 16-3-20, which clearly states that a judge may impose life imprisonment without the possibility of parole. *See* S.C. Code Ann. §§ 16-3-10, -20(A). A trial judge has discretion in sentencing within statutory limits. *State v. Sidell*, 262 S.C. 397, 205 S.E.2d 2 (1974).

Because this allegation does not present a genuine issue of material fact, but must fail as a matter of law, Respondent asks this Court to summarily dismiss this claim. *See* S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief); *Sutton v. State*, 361 S.C. 644, 647, 606 S.E.2d 779, 780 (2004) ("A PCR action is a civil action generally subject to rules and statutes that apply in civil proceedings"), *abrogated on other grounds by Bray v. State*, 366 S.C. 137, 620 S.E.2d 743 (2005); *see also Welch v. MacDougall*, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (requiring a PCR applicant to make a *prima facie* showing he is entitled to relief before the court will hold an evidentiary hearing).

³ On its face, this allegation raises a claim of trial court error, which is not cognizable in an action for post-conviction relief. *See, e.g., Roscoe v. State*, 345 S.C. 16, 546 S.E.2d 417 (2001) (holding an error must be framed in terms of ineffective assistance of counsel to be considered on post-conviction relief). However, because Applicant mentions "ineffective assistance of counsel" as the reason his claims were not addressed earlier, Respondent interprets this allegation to mean that counsel was ineffective for failing to object to the sentence.

VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.*, 428 S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

VII. GENERAL DENIAL

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VIII. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court summarily dismiss Applicant's allegation concerning the length of his sentence. Respondent also requests an evidentiary hearing be held on Applicant's claim that his counsel was ineffective for failing to call witnesses on his behalf.

Respectfully submitted,

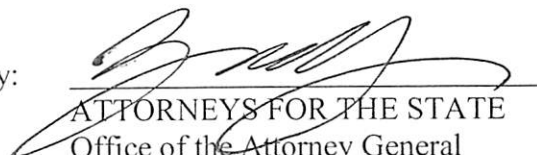
ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

ZACHARY W. JONES
Assistant Attorney General

By:


ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

July 6, 2022

STATE OF SOUTH CAROLINA
CLERK OF COURT
2022 JUL 11 AM 8:55
ABBEVILLE COUNTY

STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

CHARLES TILLMAN, #236688)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent,)

IN THE COURT OF COMMON PLEAS

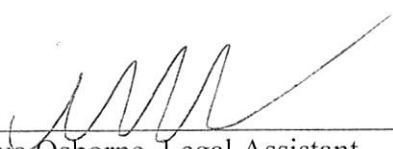
2022-CP-01-80

CERTIFICATE OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return to the Application for Post-Conviction Relief and Partial Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Scarlet Bell Moore, Esquire
 Post Office Box 17615
 Greenville, South Carolina 29606

DATED this 6th day of July, 2022.


 Joshua Osborne, Legal Assistant
 For Respondent

TRUE COPY
 BY Shandal Baggs
 ABBEVILLE COUNTY CLERK OF COURT

FILED
 STATE OF
 SOUTH CAROLINA
 COUNTY OF ABBEVILLE
 2022 JUL 11 AM 8:55

FORM 5

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
County of <u>ABBEVILLE</u>	)	EIGHT JUDICIAL CIRCUIT
	)	
Charles Tillman #236688	)	
Full name and prison number (if any) of Applicant	)	Case No.: 2022-CP-01-00080
	)	
v.	)	MOTION TO AMEND
	)	APPLICATION FOR
	)	
State of South Carolina	)	POST-CONVICTION RELIEF
Respondents.	)	RULE 15, SCRCP; S.C. Code
	)	Ann. §17-27-45(A).
	)	

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Prison, 430 Oaklawn Road, Pelzer,
South Carolina 29669
2. Name and location of Court which imposed sentence Abbeville County, Post
Office Box 99, Abbeville, South Carolina 29620.
3. Name(s) of co-defendant(s) (if any) None/ Not applicable
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-01-0442 --Murder
 - (b) 2017-GS-01-00443 possession of a weapon

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed 8/7 A.D. 2024
at 4:30 o'clock P
Shanda Beggs
Clerk of Court

- (.) **2017-GS-01-0443 - possession of weapon during the commission of a violate crime.**
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) **January 26, 2018 - committed to natur[al] life.**
- (b) **January 26, 2018 - committed to natur[al] life.**
- (c) ~~January 26, 2018 - committed to natur[al] life.~~
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty **N/A**
- (b) after a plea of not guilty **Yes**
- (c) after a plea of nolo contendere **N/A**
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. **South Carolina Court of Appeals.**
- ii. **South Carolina Supreme Court.**
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. **Denied**
- ii. **Denied**
- iii. **Denied**
- (c) the date of each such result:
- i. **Direct Appeal - February 17, 2021**
- ii. **Rehearing - April 5, 2021**
- iii. **Certiorari March 15, 2022**
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. **Appellate Case No.: 2018-000495**
- ii. **Opinion No.: 5805**
- iii. **State v Tillman, 433 S.C. 58 (2021)**
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) **Not Applicable**
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: **Claiming that his Constitutional rights were violated at trial including, but not limited to his sixth amendment right to effective assistance of trial counsel guaranteed by the sixth amendment and furthermore that his fourteenth amendment right to a fair trial was violated as well, this being protected by the Due Process Clause.**
11. State concisely and in the same order the facts which support each of the grounds set out in (10): **Too extensive for this section, see next pages 14 of 14. Grounds (a),(b),(c),(d),(e),(f) and (g).**
- () _____
- () _____
12. Prior to this application have you filed with respect to this conviction: **Not applicable**
- (a) any petition in a State Court under South Carolina Law? **N/A**
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? **N/A**
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? **N/A**
- (d) any other petitions, motions or applications in this or any other Court? **N/A**
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application: **Not Applicable**
- (a) the specific nature thereof: **N/A**
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed: **N/A**
- i. _____
- ii. _____
- iii. _____
- iv. _____

Form 5

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

a.

Whether trial counsel was not effective to challenge if the 911 phone call qualifies under the business record exception?

b.

Was trial counsel ineffective for not allowing the trial court determine Applicant was not "in-custody" for Miranda purposes on the basis of police officer's subjective and undisclosed conclusion that they did not consider Applicant a "suspect?"

c.

That trial counsel was ineffective for not challenging the nature and the setting in which Applicant's in-custody interrogation when he was not in-custody.

d.

Trial counsel was not effective for not challenging the chain of custody to the three (3) video statements and one (1) audio statement.

i. No chain of custody to Items collected and analysis done by S.L.E.D.

e.

That trial counsel was ineffective for not objecting to Dr. Brett Woodard as to his opinion on time of death (11:00 a.m.,).

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f.

Trial counsel was not effective when he failed to sequester the witnessess.

g.

Was trial counsel failure to challenge the charged indictment for 'possession of a weapon during the commission of a violent crime.'

FORM 5

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

DEFENSE THEORY

On November 8, 2016 started off as an ordinary day. Charles Tillman [Applicant] and Christie Stutler lived together off and on in a trailer on Bell Road in Abbeville. That morning between 8:00 and 8:30, several other people congregated on the property that was shared with Vonnie Cummings (Applicant's mother) i.e., Walt Tillman; Antonio Tillman and aunt Fannie. Charles Timman and Christie Stutler lived in a trailer on that land. Applicant's brother Willie Tillman stayed down the road was there that morning.

J.C. Boggs, the boss of Walt and Charles Tillman was present on the property that morning.

Willie Tillman testified that he walked down to his brother's trailer, knocked on the window and spoke with Applicant and testified he heard his brother and Christie talking and she was alive. Two to three minutes later Applicant came outside.

J.C. Boggs, Applicant and Walt employee and supervisor picked up Applicant and Walt about 8:30 a.m. to go to work. Boggs further testify that he did not drop them off that evening until 6:00 or 6:10 that night. Applicant discovered Christie dead. Applicant called 911.

a.

Trial counsel failure here is that he failed to recognize that Ms. Cummings statement on the 911 call to the operator could have been admitted only as "excited utterances" exception and not under the business record exception. Only "excited utterances" exception is under a jurisdiction's statements subject to the Confrontation Clause restrictions enunciated in CRAWFORD V. WASHINGTON, 541 U.S. 36 (2004); STATE V. DAVIS, 371 S.C. 170 (2006); Rule 803(2), SCRE, "the startling event

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suspends the declarant's process of reflective thought, reducing the likelihood of fabrication." STATE V. DENNIS, 337 S.C. 275 (1999).

911 records is admissible as present sense impressions or excited utterance of the person making the call up to a certain point. The rest isn't admissible. STATE V. THOMPSON, 420 S.C. 386 (2017), the United States Supreme Court has said that 911 tapes are not inherently entirely admissible under the Confrontation Clause.

Applicant's mother statement to 911 operator was only to report the discovery of Christie Stutler was deceased. Any extrinsic conversation not related to the call, such as her communication between herself and her son was inadmissible hearsay. Tr. page 83-84.

b.

THE FACTS

A: We actually went and asked Mr. Tillman if he would ride to the Sheriff's office with us and talk to us, which he agreed on.

Q: Mr. Tillman went with you?

A: Yes, sir.

Q: Voluntarily?

A: Yes, sir.

Q: He wasn't placed under arrest at this time?

A: No, sir. Not at all. And he was -- he was told that he wasn't placed under arrest.

Trial Record ("Tr") dated January 22-26, 2018 at page 257 line 11-20.

Just as soon as Applicant reach the interview room, the police issued Applicant his Miranda warning. Officer Jeffrey

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Hines "Mirandized" him not once but twice. Tr. page 258 and page 259. First was on November 8, 2016 at 10:57 p.m. and the second time was on November 9, 2016 at 7:20 a.m. (9 hour later).

Officer Graham testified that Applicant was "ultimately" arrested on November 29, 2016. See Tr. page 539 at 1-3. On November 23, 2016, the police got the arrest warrant.

See Tr. page 546 at 3-5.

In *MIRANDA V. ARIZONA*, 384 U.S. 436 (1966) a "custodial Interrogation" means questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in a significant way. The police here had no probable cause for an arrest. Nor did the police had information to accuse Applicant to advise him of his right of silence.

c.

For numerous of hours of unlawful in-custody, when there was not a formal arrest and the degree of hours of restraint on Applicant's freedom of movement associated with an unlawfully in-custody interrogation. U.S.C. Const. Amend. 5 & 6. *LEGO V. TWOMEY*, 404 U.S. 477 (1972); *STATE V. WALKER*, 430 S.C. 411 (2020) *STATE V. WILLIAMS*, 405 S.C. 263 (2013).

Applicant was not entitled to Miranda warning because he was not in-custody during the interview, nor was he represented by counsel.

Applicant is entitled to the presumption of correctness under §17-27-45(A) and 28 U.S.C. §2254(d). Applying the presumption, the Court can conclude that the record fairly support it. Applicant was over borne and the video statements was therefore under false pretenses and misrepresentation.

A person is in-custody for Miranda purposes when a reasonable person in Applicant's position would have believed he was under arrest. See *MIRANDA V. ARIZONA*, 384 U.S. 436 (1966); *STANSBURG*

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V. CALIFORNIA, 511 U.S. 318 (1994); BERKEMER V. MCCARTY, 468 U.S. 420 (1984). The Miranda custody is not a mixed question of facts and law. Most determination in Applicant's collateral attack involve the application of a legal concept or standard to fact. The issue of Miranda custody is intricately interwoven with the facts of this specific case, trial counsel allowed this critical error go uncorrected and the trial court did no determination that Applicant was not in-custody for the Miranda purposes is an "issue of fact" here. The Circuit Court should overturn Applicant's conviction on the base that the state Court applied an erroneous legal standard or the finding of the legal standard finding is fairly supported by the record.

The test of custody for Miranda purpose is an objective one that evaluates the totality of the circumstances from the perspective of a reasonable person in Applicant's position. It is clear, at the time before or during the questioning, Applicant was informed that he was not under arrest, that he need not submit to questioning, or that he was free to leave. Applicant did not have any reason to believe or understood that he was in-custody long before he was formally arrested. Tr. 158-259.

d.

Although there was proper cross-examination of the strength of the State's case against Applicant, as part of the State illusion, the state ushered before the jury a number of experts to testify about the various forensic analysis performed in this case; suggesting that the State left no stone unturned in solving this murder:

1. Bo Darwood Barton - Criminal profiler. (The state tried to infer him as an expert in criminal profiling).
2. Jessica Stowe - Forensic Serologist.
3. Jareal Castellani - Forensic Toxicologist.
4. James B. Green - Forensic Scientist.

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5. Kimberly Mears - Forensic Scientist.
6. Ila Simmon - Trace Evidnec.
7. Brett Woodard - Forensic Pathology.
8. Catherine Leisy - Forensic Scientist, and
9. Tyler Sturkie - Forensic Scientist GSR analysis.

Under the statutory scheme involved in this case, the prosecutor only produce one officer, Jeffrey Hines as the soul certificate as to the chain of custody of the videos and other materials collected for the forensic laboratory testing.

In fact, officer Hines was called four (4) separate times in between six (6) expert witnesses was clearly a violation of STATE V. HATCHER, 392 S.C. 86 (2011) "Where the substance analysis has passed through several hands, the evidence must not leave it to conjecture as to who had it and what was done with it between the taking and the anaylsis." STATE V. SWEET, 374 S.C. 1 (2007) and STATE V. PULLEY, 423 S.C. 371 (2018). Applicant has a right to a fair trial and Due Process Clause under the 14th amendment. Moreover, the state and trial counsel violated the Confrontational Clause here.

There was no objective from trial counsel as to the chain of custody of all the fungible evidence seized. However, the prosecution called every expert it could, not counting S.L.E.D agent Bo Darwood Barton, a criminal profiler whom the State tried to elect as a expert in that field; rather still yet used Officer Hines to bolster the prosecution case and cover up the issue on chain of custody. The Applicant was prejudice by this tactic of a fair trial and the proper admission of forensic evidence.

e.

THE FACTS

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Testimony from officer Matthew Graham.

Q: Now, you've testified you went to the autopsy?

A: Yes, sir.

Q: And you testified that you're not here today to dispute what Dr. Woodard said about the time of death?

A: That's correct.

Q: But we can agree that in the third interview you and Investigator Hines told [Applicant] that Dr. Woodard had establish the time of death between 7:00 and 9:00.

A: No, sir, I believe I said 7:00 -- between 7:30 and 10:00 in my report.

Q: Okay. Well, 7:00 and 9:00 might been on the video. But still, you have it down to very -- a two hour period where Dr. Woodard has it at the 12 hour period?

A: Yes, sir.

Trial Record page 543, line 7-20.

Accordingly to several investigating officers investigating the crime scene testified that when they entered the trailer it "smell of a strong odor of kerosene" and that "inside the trailer was extremely hot."

See Officer Jeffrey Hines at Tr. page 254 at 1; S.L.E.D. agent James Tallon at Tr. page 376 at 12-14 and Officer McCurry at Tr. page 149 at 10-14.

Trial counsel failed to produce testimony and evidence that it is scientifically proven that extreme heat or cold temperature accurately alters the time of death. As part of the State's misrepresentation, trial counsel did elicit testimony from Dr. Woodard that:

Q: The time of death you said was between 11:00 p.m. on November 7th in the evening, after that and before 11:00 a.m. on the

FORM 5

8th [date of the murder], is that right?

A: That's correct.

Trial Record page 302, line 11-14.

The time the State sought 11:00 put it around lunch time Monday the 7th or/and Tuesday the 8th, 2016. See Defense theory, *supra*.

Any time mention by the State still made it impossible for Applicant to be present at home or have the opportunity to commit murder. See Tr. page 344, line 17-19; Tr. page 345, line 10-13 and Tr. page 348, line 3-7.

MISREPRESENTATION BY THE STATE

Applicant had no scratches or displaceable mark or injuries that he had been in a struggle with the victim.

The investigator's told Applicant that only Applicant and Christie's DNA was on that gun and that was not true. The police admitted at trial that there was additional male DNA discovered on the trigger guard and the .22 rifle magazine. This was another misrepresentation or careless misrepresentation. Although the police acknowledge that lying to somebody in an interrogation is a police tactic that is accepted to get confession, when in fact, at least three and possibly more DNA samples was in fact identified. However, ^{no} one could explain when or how long its been on the weapon.

Regardless of whether these state agents help or hurt the state's side of the case, everything that they were doing was trying to slant it (by slight of hand) in a way that looked bad for Applicant before the jury. The truth of the matter got lost in the process. With no witness, motive or intent, the police still had control of the crime scene, they controlled the access to the evidence and information.

The State misrepresented:

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1. The time of death, when the pathologist stated Christie died between 7:00 and 9:00 a.m November 8th, 2016 that morning.
2. Misrepresented the reliability of the evidence and inconsistencies.
3. That Applicant wasn't under arrest in the initial interview although the police Mirandized Applicant.
4. Over bearing interrogation tactic (techniques) which cause fatigue, duress, stress because the police treating Applicant like a suspect and they're plan to push Applicant to confess.
5. The misrepresentation of the single particle of GSR, when GSR carries three separate particle, and
6. Appellate counsel on direct appeal allow misrepresentation go uncorrected. See STATE V. TILLMAN, 433 S.C. 58 (2021).

STATE V. TILLMAN

There was only three pieces of circumstantial evidence that only created a mere suspicion that Applicant killed Christie Stutler. The State alleged: One of the DNA profile fit the Y-chromosome of paternal relatives of Applicant. That the victim had Applicant's DNA under a single fingernail, and one particle fo GSR found on the right sleeve of Applicant's shirt.

The Court of Appeal contends that this was a jury question. Applicant contends that appellate counsel failed him because these items could be challenged, e.g. Ms. Stutler and Applicant lived together, so Applicant could have gotten a single particle of GSR on his shirt form being in the room when he discovered Christie's body. The single fingernail with Applicant's DNA could have come from the sexual intercourse they had the night before or the earlier morning. The .22 riffle was clearly handle by Christie (the victim), Applicant and the unknown male. Each of these three pieces of evidence cause the jury to speculate guilt when there was clear evidence and testimony of alibi an alternative hypotheses.

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CIRCUMSTANTIAL EVIDENCE

Trial counsel (a public defender) and appellate counsel conduct so undermined the proper functioning of the adversarial process that the criminal trial cannot be relied as having produced a just result. Their performance as counsel(s) for the Applicant, as stated herein was so deficient that Applicant was prejudiced such that there is a reasonable probability that, but for trial and appellate counsel's professional errors, the result of the criminal trial and/or conviction and/or appeal would have been different.

Because trial counsel produce three (3) alibi witnesses, the State's strategy was to construct the illusion of guilt through the dust cloud of distraction and diversion riding hard on the Applicant's alleged lack of credibility and obstructing the Applicant's efforts to present a complete defense. CHAMBERS V. MISSISSIPPI, 410 U.S. 284 (1973).

The absence of evidence for murder by the Applicant (a carefully-developed timeline even precluded that possibility) is a classic case of insufficiency of the evidence. Such insufficiency requires reversal in federal Habeas Corpus under JACKSON V. VIRGINIA, 443 U.S. 307 (1979). In FINKLEA V. STATE, 273 S.C. 157 (1979) states that PCR Act is designed to incorporate the Federal Hbeas corpus Code 1976, §17-27-20 et seq.

A critical analysis of the state's case demonstrates:

- (1). That Applicant was never placed at the scene. See e.g., STATE V. MARTIN, 340 S.C. 597 (2000) and STATE V. SCHROCK, 283 S.C. 129 (1984); Tr. 590 at 22 ; Tr. 601 at ; and Tr. 613 at 1-3.
- (2). No motive was ever suggested by the State. See HOUSE V. BELL, 547 U.S. 518 (2006).
- (3). Neither intent nor premeditation could be assigned to the Applicant.

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- (4). No eye witnesses to murder, and
(5). Applicant had been else where from 8:30 a.m. to 6:00 p.m. both Monday and Tuesday at work.

There was no direct evidence and the state produce a merely circumstantial evidence of murder by the Applicant, therefore, means the exclusion of any conclusory allegations or of all circumstantial evidence. The State did not produce any preponderance of evidence of guilt by the Applicant. Infact, the Applicant lived in that trailer; evidently Applicant's DNA such as: hair, skin and fingerprints should be all over the trailer. However, the police came up with 0 (zero) -- no reliable evidence of murder by the Applicant or any other blood relations living on that property.

State another way, this is one of the very cases prosecution strictly relied solely on circumstantial evidence. No attempt was made to show the jury specific evidence or premeditation, intent or place Applicant at the scene of the crime when it was committed. The best attempt was through intentional misrepresentation of the time of death and the continuous intentional misrepresentation to get Applicant to confess to a crime he did not commit through hours of illegal interrogation tactics.

f.

As detailed at length in Applicant's case, trial counsel did not safe guard Applicant's by sequestering the witnesses, i.e., Officer Jeffrey Hines.

Trial counsel had a duty to challenge the witnesses credibility individually, just as much as the jury who must assess the witnesses credibility individually. This allows for such consideration by the trier of the fact serves the fundamental societal interest in the determination of the truth.

FORM 5

While a factual predicate existed for the prosecutor's argument here that all the defendants used this unique opportunity to tailor their testimony, no factual predicate other than all the defendant's mere presence during the taking of testimony - was required to comment on the mere opportunity to hear testimony, comment upon previous testimony or to alert the jury ~~to alert the jury~~ to the possible ill effects of each defendant's status as a non-sequestered witnesses.

The defendant's, specially officer Hines had dramatically altered the position of Applicant trial fairness.

Rule 616, SCRE allows for sequestration of a witness. However, trial counsel failed to sequester a single witness. Therefore, the trial counsel had no opportunity to grant or deny such matter before the Court. STATE V. JACKSON, 265 S.C. 278 (1975),.

The reason here is that witnessess who had ~~not~~ previously given written statements or reports to remain in the courtroom. Officer Hines was ~~not~~ the lead investigator in this case. This was a critical error by trial counsel. STATE V. BOYD, 288 S.C. 206 (1986),. Trial counsel did not consider the totality of circumstances of the case nor consider the prejudicial effect of officer's Hines testimony.

8.

That the charge and sentence imposed was vindictive, in violation of the Constitution or laws of the United States, or that the Court was without jurisdiction to impose such sentence and sentence was in excess of the maximum authorized by law and is otherwise subject to collateral attack.

§16-23-490 "If a person is in possession of a firearm or visibly display what appears to be a firearm or visibly display a knife during the commission of a violate crime and is convicted

FORM 5

of committing or attempt to commit a violent crime as defined in section 16-1-60, he must be imprisoned five (5) years."

§16-1-100 (misdemeanor) possession of firearm or ammunition.

THE FACTS

- i. The Applicant and the victim lived together and a couple.
- ii. Applicant had never been charge, sentence or convicted of a crime involving a weapon along with another crime under 16-1-60.
- iii. Applicant had a .22 riffle in which was not a illegal weapon.
- iv. Applicant was never in possession of a firearm or displayed what appear to be a weapon, or
- v. Applicant was in unlawful possession of a weapon.
- vi. Applicant was never convicted of a prior possession of a weapon.

Trial counsel failed Applicant here when he did not defend Applicant on the possession of a weapon charge when such charges was unfounded and highly prejudicial and misrepresentation before the jury.

(c) the disposition thereof: **N/A**

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition: **N/A**

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition: **N/A**

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Not Applicable

15. If you answered "yes" to (14) identify: **Not Applicable**

(a) which grounds have been presented: **N/A**

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised: **N/A**

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented: **Not Applicable**

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? **Yes** _____
 (b) your trial, if any? **Yes** _____
 (c) your sentencing? **Yes** _____
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? **Yes** _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. **Charles Grose, esq., LLC. 404 Main Street, Greenwood, South Carolina 29646** _____
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. **Trial and Appeal** _____
 ii. _____
 iii. _____

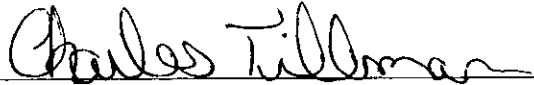
19. State clearly the relief you seek in filing this application: **That the Court enter judgment granting Applicant's application for PCR; vacating conviction. Alternative remand the case for a new trial.**

20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA)
)
County of **ABBEVILLE**)

VERIFICATION

I, **Charles Tillman #236688**, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.


Charles Tillman #236688

SWORN to and subscribed before me this 12
day of May, 2022.

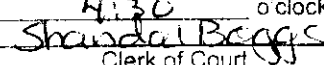
 (L.S.)
Notary Public

My Commission Expires September 25, 2023

RECEIVED

MAY 12 2022

PCI MAILROOM

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed 8/7 A.D. 2024
at 4:30 o'clock P M

Clerk of Court

State of South Carolina
County of Abbeville

IN The Court OF Common Pleas
For The Eighth Judicial Circuit

Charles Tillman #236688

C/A No. 2022-CP-01-0080

Applicant,

V.

State of South Carolina

Amendment To Current
Post-Conviction Relief Application.

Respondent.

Comes now Applicant Charles Tillman, SCDC #236688
by and through Counsel according to Rule 15(a)
SCACP, making an Amendment to his pending
Post-conviction Relief application (PCR) that was
Filed on

Applicant Further believes that these amended
issues will be pertinent to him being granted
relief.

The Applicant now Amends the Following
Issues to his pending application:

Ineffective Assistance of Counsel

A) Gross Failure of defendant's trial lawyer

1 of 2

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed 8/7 A.D. 2024
at 4:30 o'clock P M
Shanda Boggs
Clerk of Court

to investigate the State's Forensic evidence, including the medical Examiner's (Coroner's) time-of-death opinion, deprived Applicant of due process and equal protection of law and a possible alibi defense.

B) Applicant Further contends that his Trial lawyer was constitutionally deficient in failing to hire an independent pathologist to challenge the Coroner's (M.E.) Conclusion about the time of death, because this case centered around forensic evidence. See Elmore v. Ozmint, 661 F.3d 783 (4th Cir 2011).

C) Applicant Further contends that trial Counsel was ineffective when Counsel failed to bring in a blood spatter expert for Applicant at trial because there were some questions about the pattern of the bloodstains at the alleged crime scene. See State v. Myers, 301 S.C. 251 391 S.E.2d 557 (1990).

State of South Carolina
County of Abbeville

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TRUE COPY
BY Shandal Beggs
ABBEVILLE COUNTY CLERK OF COURT

1 OF 2

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed 8/7 A.D. 2024
at 4:30 o'clock P M
Shandal Beggs
Clerk of Court

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TRUE COPY
BY Shandel Briggs
BREVILLE COUNTY CLERK OF COURT

2 OF 2

STATE OF SOUTH CAROLINA,)
) IN THE COURT OF COMMON PLEAS.
 COUNTY OF ABBEVILLE.

Charles Tillman, #236688) CERTIFICATE OF SERVICE BY MAIL
 Applicant

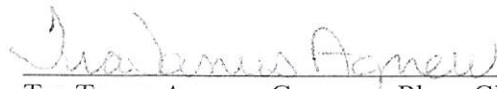
 vs.
 State of South Carolina,) 2022-CP-01-00-080
 Respondent)

The undersigned, an employee of the Abbeville County Clerk of Court's Office, does hereby certify that a clocked copy of a Amended filed PCR Application, and Certificate of Service, in the above-referenced matter was made upon the following persons by placing same in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 9th day of August, 2024, addressed as follows:

Asst. Attorney General
 Post Office Box 11549
 Columbia, SC 29211-1549

Charles Tillman #236688
 PCI
 430 Oaklawn Road
 Pelzer, SC 29669

Micah Black- (Abbeville Office)
 8th Circuit Solicitor's Office
 600 Monument St #203
 Greenwood, SC 29646


 Tra Tanus Agnew, Common Pleas Clerk

TRUE COPY
 BY Shandal Boggs
 ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF ABBEVILLE

Charles Tillman,
Applicant,

v

State of South Carolina,
Respondent.

2022-CP-01-00080

TRANSCRIPT OF RECORD

August 22, 2024
Abbeville, South Carolina

B E F O R E:

The Honorable J. Derham Cole, Sr., Judge

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

ATTORNEY FOR PLAINTIFF:

Travis Cruise Mitchell, Assistant Attorney General

ATTORNEY FOR DEFENDANT:

Scarlett Moore, Esquire

Tara T. Scott, CVR
Official Court Reporter

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(NO EXHIBITS INTRODUCED DURING THIS HEARING)

1 MR. MITCHELL: May it please the Court. Your Honor,
2 this is the post-conviction relief matter of Charles Tillman
3 v State, case number 2022-CP-01-00080 out of Abbeville
4 County. I am Cruise Mitchell, on behalf of the State of
5 South Carolina. Applicant is present and represented by
6 counsel, Scarlet Moore. Applicant was indicted at the
7 October 2017 term of the Abbeville County Grand Jury for
8 murder and possession of a weapon during the commission of a
9 violent crime. Applicant was represented by E. Charles
10 Grose, Jr. Assistant Solicitors, Yates Brown and Micah
11 Black, of the Eighth Circuit Solicitor's Office prosecuted
12 the case. On January 22, 2018, Applicant proceeded to a
13 trial before the Honorable Frank R. Addy, Jr. and a jury. On
14 January 26, 2018, Applicant was sentenced to life
15 imprisonment without the possibility of parole. Applicant
16 filed a timely notice of appeal. The Court of Appeals
17 affirmed his convictions and sentence in a published
18 opinion. Applicant's petition for a writ of certiorari in
19 the Supreme Court was denied, and the remittitur was sent on
20 March 16, 2022. And with that, I'll turn it over to Ms.
21 Moore to present her case.

22 MS. MOORE: May it please the Court, Your Honor?

23 THE COURT: Yes, ma'am.

24 MS. MOORE: I would call Charles Tillman to the stand.

25 THE COURT: Is he proceeding on the grounds as stated in

1 the amended application?

2 MS. MOORE: He is, Judge.

3 THE COURT: Come up to the witness stand. Are you
4 Charles Tillman?

5 THE APPLICANT: Yes, sir.

6 WHEREUPON, Charles Tillman, having
7 first been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MOORE:

10 Q Mr. Tillman, you sit here today, as the AG has stated
11 that you were, in fact, convicted of murder back in 2018.
12 Is that correct?

13 A Yes.

14 Q And at the time that you appeared for trial, who was
15 your trial counsel?

16 A Charles Grose.

17 Q Let's go back. Do you recall when you hired ---

18 THE COURT: Don't get right up on the microphone. Don't
19 lean back either. You've got to find a medium.

20 WITNESS: Can you hear me now?

21 MS. MOORE: Thank you, Judge.

22 Q So, you were represented by Mr. Charles Grose; correct?

23 A Yes, ma'am.

24 Q And do you recall how soon after your arrest, back in
25 2016, did you engage or hire Mr. Grose?

1 A It was like -- I got in touch with Mr. Charles Grose --
2 well, my family and them, they got in touch with him and
3 hired him for me, for my attorney. It was like, about like a
4 month or two months or so before I seen Mr. Grose on the
5 first visit when I was in lock up.

6 Q And you were arrested sometime at the end of November
7 20, 2016?

8 A The 29th.

9 Q November 29, 2016?

10 A Yes, ma'am.

11 Q Correct?

12 A Uh-huh.

13 Q You have to say yes or no.

14 A Yes, ma'am.

15 Q And following November 29, 2016, did you ever leave
16 custody? Were you ever granted bail and made bail?

17 A No, ma'am.

18 Q Because you were incarcerated the entire time?

19 A Yes, ma'am.

20 Q So approximately, would it be fair to say that the
21 first contact that you had with Mr. Grose would have been
22 perhaps in December or January of '16 to '17?

23 A Something like that. Because I had wrote him about
24 three or four notes, letters, asking when he was going to
25 come see me. And when he finally showed up, he came and

1 told me he had another case in Anderson that he was doing.

2 He was on another case in Anderson. So, and you know, he
3 apologized and said he'll get back in touch with me.

4 Q And during the representations, how many times would
5 you say that you met with Mr. Grose?

6 A Three

7 Q Three times?

8 A Three times.

9 Q And do you have the approximate dates of those
10 meetings?

11 A I ain't got the date of them. I mean, it was like, we
12 couldn't quite communicate, because we wasn't getting on the
13 same page at the time.

14 Q Okay -- so ---

15 A It's like ---

16 Q --- sorry.

17 A It's like, the second time that I met him, you know,
18 he's like, I don't know what situation was going on in his
19 status, but he had, like, a black eye. I was talking to
20 him, you know, what's going on, Mr. Grose? What's wrong?
21 You all right? Because he had, like, a black eye and stuff,
22 you know. When he came to see me the second time, we talked
23 for a little bit, but he didn't stay quite long.

24 Q So, I'm just trying to figure out the time frame. So,
25 you were arrested on November 29, 2016, correct?

1 A Yes, ma'am.

2 Q And then you went to trial January 22nd, 23rd, 24th,
3 25th, 26th of 2018?

4 A '18. Yes, ma'am.

5 Q Is that right?

6 A Yes, ma'am.

7 Q That was about, roughly, a year period that Mr. Grose
8 represented you prior to trial. Is that right?

9 A Yes, ma'am. Yes, ma'am.

10 Q And in those three meetings, do you recall when those
11 meetings actually occurred? Do you have an estimate of when
12 they occurred?

13 A What, the date?

14 Q Yeah, just, I mean, like two months before trial, or
15 that type of thing.

16 A Oh. We met -- like, he came to see me, like, two weeks
17 before trial, the third time. We was supposed to been
18 getting together. And he said, like, we was gone get
19 together and we're gone go up there and walk through the
20 crime scene. And I talked to him, show him what I thought,
21 tell him what happened, and all this stuff right there. But
22 he never did -- that didn't happen.

23 Q Okay, well, so, you've testified that you were
24 incarcerated the entire time that you were awaiting trial,
25 right?

1 A Yes, ma'am.

2 Q Did Mr. Grose indicate to you how he, in fact, he was
3 going to allow you to walk through the crime scene? Did you
4 take that as actually walking through the scene?

5 A I took it as -- my understanding was -- I took it as he
6 was gone come and we was gone -- they was gone take me up
7 there with him. Because we -- because he, like, he ain't
8 had time, really. I feel like Mr. Grose really didn't have
9 time enough to really to do my case at the time.

10 Q And why do you say that? Tell the Court why do you say
11 that?

12 A Because we didn't communicate. Because when I was
13 telling him about my witness and stuff -- well, let me put
14 it just like this. When it started off the first night,
15 just like when he was talking about the time the death
16 started off at, say, seven, on the seventh. The seventh, 11
17 o'clock that night, to the eighth, 11 o'clock that morning.
18 They saying that's the time of the death started. And I was
19 like, okay, are you talking about -- now, I'm gone back on
20 up. Two weeks before that right there. Two weeks before
21 that right there, I was putting plywood in my floor in the
22 trailer, and Christie came down there. Which it would've
23 came from Mr. J.C. We been working with Mr. J.C. Boggs up
24 there in Anderson. And Christie come down there when I was
25 putting the plywood in the floor, told me she need to go

1 over there to her daddy house to get her clothes. I'm like,
2 get your clothes? You got to go over your daddy house to
3 get your clothes? She said, yeah. So I said, why don't you
4 ask my mom to take you on over there? My mom. She said, no,
5 I don't want mom. Now, I need you to go. So, you know, we
6 went over there to Mr. Bob's house. I ain't never had no
7 trouble out of Mr. Bob. I thought me and Mr. Bob was all
8 right. I had took a little utility building down and stuff
9 for them. Thought, you know, we never had no problem. We
10 never had fussed, except that time when Christie took off in
11 the truck. I called him.

12 Q Let me -- I hate to stop you right there, but I was
13 asking you about, your communication with Mr. Grose, and
14 that you were concerned that you didn't feel like you were
15 on the same page, and you've raised the issue of the time of
16 death. Is that right?

17 A Yeah. The time of death.

18 Q And so what -- can you tell the Court specifically why
19 did you not think that you and Mr. Grose were on the same
20 page regarding that issue?

21 A 'Cause -- okay, far as time of death. Okay. Like I
22 was saying, they're saying 11 o'clock on the seventh to 11
23 o'clock on the eighth. Okay? Mr. J.C. Boggs, okay, that
24 night -- and I told Mr. Grose about Randy Lowman and Bridget
25 took me and Christie to the store in Belton to go get some

1 cigarettes and some soda and stuff. So, we went by Randy's
2 ex-wife house, Cindy. I told him we went by there. If you
3 got my -- I told Mr. Grose I need him to get my cell phone,
4 because the police had took my cell phone from me that night
5 when I was gone call Christie mama to let her know Christie
6 had done deceased.

7 Q So, are you saying that the information that you're
8 giving the Court is -- let me finish my sentence, my
9 question. Are you saying that the information that you're
10 giving the Court relates to a possible alibi that you may
11 have had ---

12 A Yes, ma'am.

13 Q --- regarding the ---

14 A Yes, ma'am.

15 Q --- time of death?

16 A Yes, ma'am.

17 Q Okay. And so, you're saying that you identified some
18 possible alibi witnesses? Is that right?

19 A Yes, ma'am.

20 Q But in fairness, Mr. Tillman, isn't it true that at the
21 trial, there was a theory of alibi that was furthered for
22 the jury. Is that right?

23 A Yes, ma'am.

24 Q Okay, but in your mind, did you believe that Mr. Grose
25 said presented all of the alibi evidence that you could have

1 presented?

2 A No, ma'am. Oh, he didn't present all of them. See, I
3 like, when they told me they got Mr. Grose to be my lawyer,
4 I was kind of happy with that, because I thought a lot of
5 Mr. Grose, because I watched him when he was a public
6 defender all the way to he got his own law firm. I
7 represent (SIC) people to him.

8 Q But to be clear, Mr. Grose did not serve as a Public
9 Defender when he represented you.

10 A No, he wasn't a Public Defender. He had his own law
11 firm.

12 Q He was engaged and ---

13 A Yes, ma'am.

14 Q --- retained by your family, correct?

15 A Yes, ma'am.

16 Q Okay. So, you've testified that you didn't believe that
17 you were on the same page with Mr. Grose regarding the time
18 of death, right?

19 A Yes.

20 Q And you had concerns about -- your testimony is that
21 Mr. Grose did not retrieve your cell phone. Is that right?

22 A That's right. There was evidence on that.

23 Q And I think your testimony is that your phone had been
24 basically confiscated by law enforcement prior ---

25 A Yes.

1 Q --- to or in conjunction to your arrest. Is that
2 right?

3 A Yes, ma'am.

4 Q What did you believe was on your phone that would have
5 been valuable to you in a trial of this case?

6 A See my phone -- my phone, it would've showed the time
7 of death after 11 o'clock that night. It would've showed
8 that Christie was still alive.

9 Q How?

10 A 'Cause I was with Randy -- or I was with Bridget.
11 Bridget, or I can't call Bridget last name, but Randy
12 Lowman's girlfriend. She was the one that took us to the
13 store, and on my cell phone would have showed the last call
14 that I called Randy when we got back to the house. It
15 would've showed the time. It was after 11:00.

16 Q Are you telling the Court that you, in fact, discussed
17 the issue of your phone with Mr. Grose?

18 A I told him he needed to get my cell phone. It would
19 show the time, to show that Christie was alive after 11:00.

20 Q And what was his response?

21 A Just...

22 Q Do you recall?

23 A Basically, like he was gone get -- you know what I'm
24 saying. See what he can do.

25 Q Okay. I'm sorry. Could you repeat that?

1 A Basically, the way I seen him respond, like he was gone
2 try to see what he can do.

3 Q Okay. And so, do you recall when this conversation
4 with Mr. Grose happened? Like, for example, was it close to
5 the beginning of the representation?

6 A The beginning.

7 Q It was the beginning?

8 A It was the beginning of the whole first conversation
9 when we got together.

10 Q And after that first conversation, did you ever have
11 the occasion to talk to Mr. Grose again about getting the
12 cell phone records, your cell phone?

13 A Well, when he came the second time he had a situation
14 going on, you know, about when I tell you about he had a
15 black eye and all this stuff right here, you know? So, he
16 was apologizing about not coming at the time that it been so
17 late, because he had been working on other cases and stuff.
18 So, I was telling him about my witness. I was telling him
19 about Cindy. I said Randy Lowman, Cindy Lowman, Bridget,
20 Dan Chadwick, and Jessica Chadwick. Because reading up on
21 them two names, Dan Chadwick, because the day after we left
22 Christie daddy house from getting them clothes and stuff,
23 Christie tried to hang herself.

24 Q Okay.

25 A And on my cell phone would've showed where I called her

1 mother telling her about Christie, what Christie had did.

2 But I went over to Dan -- Dan mother -- I can't think of her

3 name, but she was a witness. They all was a witness to see.

4 I took them over there. I said, Dan, I got something to

5 show you, man. I said, man, I want you come over here and

6 look at Christie, man. You see what Christie tried to do?

7 And he said, what trauma (PHONETIC), man, when he walk up he

8 seen how red her eyes was. And then we went from there.

9 Q So you're -- I mean, basically what you're describing

10 -- isn't it true, Mr. Tillman, you're describing an incident

11 that you have personal involvement with, Christie trying to

12 harm herself?

13 A Yes, ma'am.

14 Q Is that right? Is that something that you actually

15 discussed with Mr. Grose and told him about that?

16 A Well, I told him about it, yeah. I told him about she

17 tried to hang herself.

18 Q Okay. Now, when you made contact with Mr. Grose during

19 the course of the representation, did you ever admit to him

20 that you had killed Christie?

21 A No.

22 Q And, in fact, did you discuss with Mr. Grose the issue

23 of the 911 call?

24 A The 911 call?

25 Q Yes.

1 A Not really. Not discussed about saying what? Like,
2 what was said on the phone?

3 Q Right. Well, so, I mean ---

4 A No. We didn't -- we didn't ---

5 Q -- so, also ---

6 A --- have them talks. No, we didn't even have them
7 discussions, period.

8 Q Okay. But you understand that the State played your 911
9 call, right?

10 A Yes, ma'am.

11 Q Okay. They played that at trial, correct?

12 A Uh-huh.

13 Q You have to say "yes" or "no".

14 A Yes, ma'am.

15 Q And on the 911 call, how did you -- pursuant to your
16 recollection, how did you describe -- hold on. Let me
17 finish my question. How did you describe what you saw when
18 you entered the residence and saw Christie? What --

19 A Okay.

20 Q How did you describe that ---

21 A See ---

22 Q --- in the 911 call?

23 A When we got off -- when we got off work that evening,
24 me and Mr. J.C. and Walter, my cousin, Walter. We went by
25 the bank. Then we come from the bank. We stopped by Spinx

1 chicken, get some chicken from Spinx. So, we come on down
2 the road.

3 Q And you're talking about when -- because you were at
4 work, right?

5 A Yes, ma'am. When we got off, it was about like five
6 o'clock. We shot cross town up there in Anderson. We went
7 by the bank, then we left the bank. We came down and
8 stopped by the store, convenience store, Spinx, and got some
9 chicken, and some soda, and cigarettes. So, we coming on
10 down the road. I ate a piece of chicken. J.C. and my
11 cousin, Walt, they ate a piece. They ate some too. So,
12 when we got to the house, I got out. We got out the truck.
13 I went out there. I was giving my dog -- I got a dog named
14 Bullet. So, I was giving him the bone off the piece of
15 chicken that I ate. And my cousin, he went on towards the
16 house. So, I went on down to the trailer. So, when I went
17 on in the trailer, it was dark in the front room. It was a
18 back room. I seen the light flashing back there, which
19 Christie have been back there, sit back there and stuff till
20 I come back there. So, I'm talking to Christie when I come
21 in. I'm saying, Christie, I got some chicken. You gone
22 come up here and get you a piece? Stuff like that. So,
23 she ain't saying nothing. Which she have. That ain't
24 nothing normal -- that's normal. So, I put the chicken --
25 soda in the refrigerator. I was sitting there talking and

1 stuff. So, when I walk back through the hallway, I'm still
2 hollering at Christie. You gone get up? And so, I walked
3 in the room. TV light flashing. She laying in bed. So,
4 that's my, you know -- that's what I'm seeing. She laying in
5 the bed. But when I said, Christie you gone get up? You
6 ain't -- and I tap her on the foot. She didn't move. I'm
7 like, damn. Excuse me. Excuse my language. I flipped the
8 light on. I said, Oh, God. I seen a little blood on the
9 wall over there. Yeah. First thing came to my mind.

10 Q What came to your mind at that moment?

11 A Christie done -- you done suicide? Oh, no. I mean, it
12 all hit me. I said, no.

13 Q Let me ask you -- let me ask this, Mr. Tillman. Why --
14 why did you -- why were you concerned -- and let me finish
15 my question for the record. Why were you concerned that at
16 that point, when you saw Christie in bed, that she had
17 committed suicide?

18 A Yeah, when I seen that blood, that's the first thing
19 that came to my mind is suicide.

20 Q And why ---

21 A 'Cause she tried to hang herself.

22 Q Because you're saying at another -- at another incident
23 that you actually observed her try to hang yourself?

24 A Yeah.

25 Q Is that right?

1 A Yes.

2 Q And did you discuss your concerns with Mr. Grose about
3 what you had seen with Christie in the past, and your
4 concerns that she had killed herself?

5 A Yes, ma'am. Yes, ma'am.

6 Q And did it concern you that your trial counsel
7 stipulated that, for the record, that this was, in fact, not
8 a suicide? Did that concern you?

9 A Yes.

10 Q Tell me why.

11 A See, the thing that got me about that right there --
12 when they asked me do I think it was a suicide or do I think
13 it was a homicide. I didn't know which one. I thought it
14 was a suicide, because from the time -- from when she tried
15 to hang herself. I couldn't say it was a homicide, because
16 I didn't know, because I didn't have nobody at my house like
17 that. Ain't nobody hung around the house. So, I was like,
18 she done tried to hang herself. That's a suicide. And,
19 like, I had called her mama. That night right there they
20 wouldn't allow me to call her mama, 'cause they took my
21 phone from me.

22 Q Law enforcement took your phone? Is that right?

23 A Law enforcement took my phone. When I was sitting out
24 there and I said, darn, let me call her mother. I'm fixing
25 to get ready and call her mother and he said, what you

1 doing? And snatched my phone out my hand. I was, like, why
2 you taking my phone? You can't take my phone right there. I
3 can call her mother. I said, darn. Then my nephew, Justin,
4 Justin Tillman, I told him to call. And the police told him
5 -- looked over there and told him, if you call, I'll lock
6 you up. I was, like, man, what you talking about? We can't
7 call the mother and let her know what's going on?

8 Q Okay, so you weren't able to call her mother. Now,
9 when you discussed with Mr. Grose, you know, essentially
10 what you had told the 911 operator, and your initial
11 concerns about this being a suicide, what did Mr. Grose --
12 did he say anything to you in response to your concern that
13 this might have been a suicide?

14 A No. Not...

15 Q Let me ask you this. Did you discuss with Mr. Grose
16 the fact that he was going to stipulate for the record that
17 this was not, in fact, a suicide? Did you ever discuss that
18 with him?

19 A No, ma'am.

20 Q And did he ever give you an explanation as to why he
21 was going to stipulate that this was not a suicide?

22 A Well, all I remember when we was in court they got to
23 talking, and I remember when he leaned over and asked me do
24 I think it was a suicide or a homicide.

25 Q Right. And so, ultimately, the jury heard in your case

1 that this was, in fact, a homicide by the agreement of the
2 parties. Right?

3 A Yes.

4 Q Is that correct? Okay, okay. Now, during the course
5 of Mr. Grose's representation, did you ever -- did he ever
6 give you a copy of your paper discovery?

7 A (NO RESPONSE)

8 Q Do you know what -- do you understand my question?

9 A Paper discovery?

10 Q Yes.

11 A I got my discovery after all -- after the whole case
12 and everything was over with.

13 Q Okay, so let's go back. So, you've testified that Mr.
14 Grose started representing you after your arrest on November
15 29, 2016; right?

16 A Uh-huh.

17 Q You have to say "yes" or "no".

18 A Yes, ma'am.

19 Q And during -- from November 29, 2016 to the trial of
20 this matter in January 2018, did Mr. Grose ever, during that
21 period of time, give you a copy of your discovery?

22 A No, ma'am.

23 Q Okay. If he didn't give you a copy of the discovery,
24 did he ever have an opportunity to go over the discovery
25 with you?

1 A No, ma'am.

2 Q No. Okay. So are you -- your testimony today is that
3 Mr. Grose never showed you the discovery? Is that right?

4 A Yes, ma'am.

5 Q Okay. And let me ask you this. During the course of
6 the case -- during the time that your case was pending, did
7 Mr. Grose ever communicate with you that there were actually
8 any plea offers?

9 A No, ma'am.

10 Q Okay, so you were not aware of any plea offers?

11 A No, ma'am. Only thing I remember when I know what my
12 sentence was gone be after they sentenced me.

13 Q Okay. And had Mr. Grose prepared you for the
14 possibility that you would get life in prison?

15 A No, ma'am.

16 Q No? Okay.

17 A Another thing I want to say about, like, with the
18 Coroner and, like, with Abbeville. It was, like, Abbeville
19 said when they left the crime scene they took the body
20 straight to Anderson Memorial, but Dr. Woodard said he
21 didn't receive the body till 24 hours after Abbeville
22 discovered the body on Bells Road. So, it was, like, 24
23 hours. And Mr. Woodard said nobody from ---

24 Q Mr. Woodard is ---

25 A That's the Coroner from Anderson.

1 Q You mean the pathologist?

2 A Yes'm. He said nobody from Abbeville came, asked for
3 nothing from the autopsy or nothing from him. He never
4 received no information or nothing from nobody from
5 Abbeville.

6 Q Okay. And ---

7 A But -- excuse me. I ain't mean to cut you off.

8 Q Go ahead.

9 A But Abbeville sent fingernail clippings and all that
10 down to the SLED. But I'm, like, where did they get the
11 fingernail clippings from? They had to do that on the crime
12 scene or what? And then they talking about, like, we're
13 going back to you talking about 11 o'clock. Eleven o'clock
14 that night on the seventh. And I called 911 on the eighth
15 at six o'clock, about like ten after six, or something like
16 that, to 911. When the first responder came, he noticed --
17 he secured the scene and reported that he noticed blood
18 running down the side of the mattress. So, if you saying 11
19 o'clock that night all the way -- you talking about 18 hours
20 when you add it all up together, saying Christie didn't
21 bleed no 18 hours.

22 Q So, is your -- but is your testimony regarding this
23 point, you're concern that there were discrepancies about
24 what law enforcement had ---

25 A Yes, ma'am.

1 Q -- law enforcement had provided? Is that correct?

2 A (NON-VERBAL RESPONSE)

3 Q And did you -- you have to say "yes" or "no".

4 A Yes, ma'am.

5 Q And did you discuss these concerns with Mr. Grose?

6 A No, ma'am.

7 Q And why didn't you discuss that with him?

8 A At the time when Mr. Grose was going, I was -- I'm kind
9 of, like, lacking the knowledge. And then, at the time, we
10 didn't even get to grieve. On our -- on my side of the
11 family, we didn't even get to grieve. I mean, we was told,
12 like, Matthew Graham told me, you -- y'all ain't going to be
13 able to go to the funeral. They don't want you there and
14 everything. I mean, everything was pushing.

15 Q Okay, and you ---

16 A And then, like, from time -- excuse me. From day --
17 from the time that I called, it was like, just like this
18 right here. Matthew Graham and them was taking me down
19 there to the interrogation room that night, that morning,
20 the next day, the second day, they took me down and they let
21 me out. They let me be able to go back into the house after
22 the second interrogation.

23 Q Okay, well, let me ---

24 A But they was still doing the interrogation and stuff,
25 searching and stuff, in the house. So, that's when I --

1 after they had took my phone -- the first phone -- that
2 night, I bought me another phone. So, that's the one -- the
3 phone I'm talking about now that I got that I want to
4 represent, because when I -- when I had a chance to go back
5 in that house, that's just like the law enforcement was
6 talking about the house was too messy that they couldn't
7 find evidence and stuff like that. It wasn't nothing in the
8 house but Christie notebook, notes, and stuff. Her diary,
9 what she had been writing, that was all in a book bag.

10 Q And you, in fact, were in a fairly long-term
11 relationship with Christie?

12 A I been knowing Christie for years.

13 Q Is that right?

14 A Christie was ---

15 Q Okay. I mean, you ---

16 Q --- family. Christie got a son by my nephew, by my
17 oldest nephew. So, Christie been in the family for years.
18 I mean, this goes way back when she was -- back when she was
19 about, like, 15 years old. She was with the family. She
20 friends with the family. Christie has been in the family
21 all them years.

22 Q Okay, okay.

23 A When she come by, she -- I always looked out for
24 Christie through the years.

25 Q Okay. Let me ask you. Let me ask you about your second

1 issue that you raised on post-conviction relief.

2 A I did.

3 Q You -- so, you were -- it was approximately 21 days
4 since -- between Christie's death and your arrest. Correct?

5 A Yes, ma'am.

6 Q And during those 21 days, did you, in fact, give any
7 statements to law enforcement?

8 A Any statements to law enforcement?

9 Q Yes.

10 A The statement -- when I was talking to them ---

11 Q That's that's a yes or no question. Did you, in fact,
12 give statements to law enforcement between the time that
13 Christie died and the time that you were arrested?

14 A Yeah, they were asking me questions.

15 Q Okay. And so, do you recall approximately how many
16 times you actually were interviewed by law enforcement?

17 A That's what I was saying. I was interviewed by the law
18 at least about -- far as straight -- three, four. I was
19 interviewed about four times.

20 Q Four times? Okay.

21 A Four, five. Because Bob -- I don't know if they count
22 Bob, because he was -- they tried to use him as an expert,
23 which he wasn't an expert in the case. He ain't have no
24 reason to be asking me any question about that case, but
25 they tried to use him as an expert to try to find out about

1 the case. To try to feel out what went on that day.

2 Q Okay, but you -- I mean, you're stipulating that you
3 were, in fact, interviewed multiple times by law
4 enforcement, right?

5 A Yes, ma'am.

6 Q And did you -- did you voluntarily sit down with law
7 enforcement?

8 A I did. I did the first time, 'cause they was talking
9 like Christie was in a struggle. Saying who she was
10 fighting with that she lost her fingernails and stuff like
11 that. And I was like, yeah. I want to know who she was in
12 a struggle with. Who DNA on her. I want to know. I want
13 to -- I want to know a lot of questions, 'cause I didn't
14 have nobody at the house like that.

15 Q Now, and were those statements, those multiple
16 statements at different times that you gave law enforcement,
17 were those statements introduced in the trial of your case?

18 A Some of it.

19 Q Some of your statements were, in fact, played for the
20 jury. Is that correct?

21 A Yeah.

22 Q Okay.

23 A Yeah, they were played. The tape played, but ---

24 Q Okay. And --

25 A But, see -- they tried, I mean, it was like some of the

1 words would change. You know what I'm saying? They tried to
2 talk over what really was saying, what I was saying, and
3 they tried to change my words to something else, trying to
4 lead it to another way.

5 Q Okay, but in all of those statements that were played
6 for the jury, you never once actually admit killing Christie
7 correct?

8 A No. Yes, ma'am.

9 Q Okay. Did Mr. Grose ever pursue a motion to throw
10 those statements out so the jury could not hear your
11 statements?

12 A No, ma'am.

13 Q To be clear, did you -- do you ever ---

14 A I'm not understanding what you saying.

15 Q Okay. Well, so, did ever -- did Mr. Grose ever ask the
16 court, before those statements were played for the jury or
17 given to the jury, did Mr. Grose ask the judge to exclude
18 those statements from the jury so that they could not hear
19 them?

20 A Not to my knowledge. I don't remember that. But this
21 is the thing ---

22 Q Okay. Okay. Go ahead. Go ahead.

23 A Mr. Grose, I mean, like -- like I say. I think -- I
24 thought a lot of Mr. Grose and I still do, because I know he
25 a good lawyer. I watched Mr. Grose do a lot of cases, and I

1 know, and I was glad to have him in my case, 'cause I know
2 he do facts. Mr. Grose go by the facts. And it was just
3 like with my case, though. It was like Judge Addy and all
4 them were just throwing all kind of things at Mr. Grose.
5 Everything Mr. Grose tried to say positive or something like
6 that, it was done -- he was trying to change it to something
7 else and all that. I mean, I feel like Mr. Charles Grose
8 had a hard time with my case as far as dealing with Mr.
9 Addy, the judge.

10 Q Well, but just in fairness, Mr. Tillman, you're not an
11 attorney; right?

12 A I'm not an attorney.

13 Q But you were just -- you had -- but you had concerns
14 about the interaction ---

15 A Yes, ma'am.

16 Q --- between Mr. Grose and the judge. Is that right?

17 A Yes, ma'am.

18 Q But to be clear, it seems like your testimony is you
19 don't have any recollection that Mr. Grose had tried to get
20 your statements thrown out of evidence, right?

21 A No, ma'am. Just like when Dr. Woodard said when he
22 received the body. Now, Christie ain't but, like, 5'1, 5'2,
23 or something like that. But Mr. Woodard said when he
24 received the body from Abbeville, when he got it, he said he
25 had trouble getting the body out the body bag. And I'm

1 like, a 5'1 or 5'2. Now, you wouldn't have had no trouble
2 getting the body out the bag.

3 Q And what specifically was your concern about that line
4 of testimony, that the pathologist said he's having
5 difficulty getting the body out of the body bag?

6 A Cause I was, like -- and then he said it wasn't no
7 tattoo on the body, but Christie did have a cross on her
8 ankle down there.

9 Q And are you referring to Dr. Woodard's testimony at the
10 trial? Correct?

11 A Ma'am?

12 Q You're referring to Dr. Woodard's testimony at the
13 trial, correct?

14 A Yes, ma'am.

15 Q But, in fact, he does -- what he finds is that when
16 he's testifying he's giving the jury generalized information
17 about what the process that he takes in evaluating a body,
18 right?

19 A Yes, ma'am.

20 Q Correct?

21 A Collecting ---

22 Q I mean, because did you -- did you have concerns, based
23 on that testimony, that he, in fact had the right body? Is
24 that what your concern was?

25 A Yes, ma'am. That's what kind of got me when he said,

1 like, the body was too tall. I was like, too tall?

2 Q And did you express your concern to Mr. Grose during
3 the course of the trial?

4 A No, ma'am. Mr. Grose really -- I mean, he really
5 didn't even ask Mr. Woodard too many questions. And then he
6 just basically asked him, is that far as he can go with the
7 time of death. And, I mean, they done open up a whole box
8 of time of death, like thirteen. They was talking, like,
9 thirteen hours and stuff like this. I mean, a window. They
10 opened up a big window when it couldn't have been the time
11 of death. Ain't no way in the world. And then they had it,
12 like, I went to work, got off work, might have killed
13 Christie, then went back to work. It was all kind of stuff
14 was throwing out there. Didn't even -- didn't even -- I
15 mean, didn't even really get questioned or the issues get --
16 get a answer for.

17 Q And certainly -- I mean, so is your testimony, Mr.
18 Tillman, that you felt like -- well, let me phrase it a
19 different way. How important, in your mind, was the
20 testimony by Dr. Woodard regarding the time of death of
21 Christie? How important was that to you?

22 A Because it's, like, when Abbeville -- Abbeville didn't
23 have no reason to lie. If they took the body from -- took
24 it back to Abbeville before they took it to Anderson, it
25 wouldn't have been no reason for them to lie about that.

1 Why would they say when they left the crime scene they took
2 the body to Anderson Memorial and then Dr. Woodard say it's
3 24 hours later when he received the body after Abbeville
4 discovered it.

5 Q So, it sounds like you're saying -- it sounds like
6 you're saying that the ---

7 A Yes.

8 Q --- time of death was very important to you.

9 A Yes, ma'am.

10 Q Is that right?

11 A And then -- and then where did they get the fingernail
12 clippings from? If they didn't do the fingernail -- if they
13 didn't take the body to Abbeville to do a autopsy, where did
14 Abbeville get the fingernail clippings and stuff from to
15 send to SLED ---

16 Q Okay, and ---

17 A --- and stuff? And then they didn't even get a copy of
18 nothing, a report from SLED, saying SLED did anything.

19 Q And did you express your concerns about these issues
20 that you're testifying regarding to Mr. Grose?

21 A That was after the fact, stating after lacking the
22 knowledge of law. I was lacking the knowledge of law. After
23 everything went through, and then after I got my transcript
24 after Mr. Grose did my appeal and stuff like that, after I
25 got my transcript that I was had to do a PCR, that's when I

1 started looking at the papers and started reading it and
2 started observing stuff in there that I didn't really catch
3 when it was going on.

4 Q So, you're saying -- are you saying that this
5 information you're giving the judge is information that you
6 had after your conviction?

7 A Yes, ma'am.

8 Q Okay. So, that's something you determined after that.
9 Is that right?

10 A Yes, ma'am.

11 Q So, you also allege that trial counsel was ineffective
12 for not objecting to Dr. Brett Woodard as to his opinion on
13 the time of death. Do you recall that?

14 A That's right.

15 Q And did you believe that Mr. Grose should have hired an
16 independent expert to challenge the issue of the time of
17 death?

18 A Yes, ma'am. After I thought about it. The whole expert
19 -- that's just, like -- the whole expert that they had, the
20 forensics. The whole forensics said right off the top that
21 Charles Tillman's fingerprints wasn't on the gun. Then it
22 turned around when the State started arguing and stuff. The
23 State's going to say my fingerprint was on the cartridge of
24 the gun. But then it was two other unidentified
25 fingerprints on the gun that they didn't identify. And I

1 was like, that was a concern. What I said was Mr. Charles
2 was ineffective counsel. He didn't bring that up. He
3 didn't discuss on that issue right there hard enough to say
4 why they didn't, doggone, run this who fingerprints was on
5 the gun.

6 Q Okay. I mean, it's your testimony that Mr. Grose did
7 not raise that at trial?

8 A Yes, ma'am.

9 Q And obviously that would've been very ---

10 A Yes, ma'am.

11 Q --- very important to your case.

12 A Yes, ma'am.

13 Q Is that right? Okay. And did you ever discuss with Mr.
14 Grose about possibly getting an independent pathology expert
15 opinion regarding the time of death?

16 A I didn't discuss it with him, you know. Like I said, I
17 don't know how the law go, but I didn't know them issues
18 like, you could do things. You know what I'm saying?

19 Q Well, what do you ---

20 A Because I was like, you got --- you got --- you had
21 seven already forensic expert right there speaking up,
22 saying right there, speaking about the whole thing. So I
23 didn't know if I could get somebody to go over they head or
24 whatever. I'll take position like that. I didn't know
25 nothing about all that.

1 Q Because, I mean, that would have -- certainly the time
2 of death was crucial, because you ---

3 A Yes.

4 Q --- had issues regarding an alibi. Is that right?

5 A That's right. That's right.

6 Q Okay. And in fairness, your trial attorney, he did
7 present the testimony of J.C. Boggs, correct?

8 A Yes, ma'am.

9 Q And Mr. Boggs did, in fact, give you an alibi during
10 some part of that time period. Is that right?

11 A Yes, ma'am. But I wish Mr. Grose had asked Mr. J.C.
12 Boggs about how -- what do you think about the relationship
13 between Christie and Mr. Tillman.

14 Q Okay, and what would ---

15 A Did you ever -- was there ever -- did you ever see any
16 violent or did you see anything out to harm? 'Cause Mr. J.C.
17 Boggs, I felt like if he had of asked that question right
18 there that same day after -- when Christie tried to hang
19 herself. Mr. J.C. Boggs seen her the next day too. He seen
20 how her eyes were so red and stuff like that.

21 Q And is that --- so, the information that you're giving
22 the judge, did you provide that information to Mr. Grose and
23 ask him to please ask Mr. Boggs regarding his past
24 involvement?

25 A No, that's -- that was after the facts. Because when he

1 talked to Mr. Boggs, he asked Mr. Boggs about my character,
2 how I was acting that day. Was I was acting normal and
3 stuff like that. It really didn't get into -- it didn't get
4 that deep, because Mr. J. C. Boggs had to leave and go to
5 finish up a job. So, he just asked him a couple quick
6 questions, and then Mr. J. C. Boggs left.

7 Q But to be clear, did you communicate with Mr. Grose
8 that you wanted him to ask Mr. Boggs questions regarding Mr.
9 Boggs' past involvement with Christie?

10 A No, ma'am.

11 Q No, you didn't do that.

12 A Nah, I ain't.

13 Q And is that something that you thought of after your
14 conviction?

15 A Yes, ma'am.

16 Q Is that right? Okay. Then you also alleged trial
17 counsel was not effective in failing to sequester the
18 witnesses. Do you recall that, that allegation?

19 A Say that one more time, please.

20 Q You allege that Mr. Grose was not effective when he
21 failed to sequester the witnesses. Do you recall that?

22 A Yes, ma'am. 'Cause I had ---

23 Q And why did you make that allegation?

24 A 'Cause one thing, I had two witnesses was there at
25 court, and Mr. Grose never did try to get in touch with the

1 rest of the witness that I had wrote down for him, or
2 talking to him about. But the two witnesses was there was
3 Joe Patterson and Kayla Patterson. And see, Kayla ---

4 Q I hate to interrupt you, but I want to make sure we
5 specifically address this issue. Mr. Tillman, do you
6 understand what sequestering witnesses means?

7 A No, ma'am. What's that mean?

8 Q Okay. If I told you that sequestering witnesses means
9 that the witnesses would not testify outside of their
10 presence, are you still concerned about that as a ground for
11 PCR?

12 A Say that one more time.

13 Q Okay. If I told you that sequestering witnesses has to
14 do with the witnesses not testifying in their presence, the
15 judge at the beginning of the case sending all prospective
16 jurors outside so the jurors can't hear each other. Would
17 that refresh your recollection as to why you made that
18 allegation that Mr. Grose was ineffective regarding
19 sequestering witnesses?

20 A No.

21 Q And in that -- in that ground were you really trying to
22 say that you had witnesses that you wanted Mr. Grose to
23 call, but he did not call?

24 A Yes, ma'am.

25 Q Is that right?

1 A Yes, ma'am.

2 Q Now, you've mentioned Joe and Kayla Patterson, correct?

3 A Yes, ma'am.

4 Q And is your testimony that you wanted Joe and Kayla
5 Patterson to testify at your trial?

6 A Yes, ma'am.

7 Q Did you tell Mr. Grose that you wanted these people to
8 testify?

9 A See, I didn't know at first that Joe had done spoke to
10 Mr. Grose over there. Miss Kayla had done told me about she
11 had some information on her phone that Mr. Grose would -- it
12 would be interesting for Mr. Grose to see. So, you know,
13 when they came to court -- they came there. They was there
14 about, like, two days, or three days, or something like
15 that. They showed up, sitting in the court. Mr. Joe, Joe
16 Patterson, she had told me -- which I reading in a letter,
17 which I had talked to her on the phone, and said she tried
18 to talk to Mr. Grose, because she got on the stand and said
19 Mr. Grose said he wouldn't think that would be a good idea
20 at the time.

21 Q Okay, so that's something you did discuss with Mr.
22 Grose, correct?

23 A That was Joe Patterson telling me about that she had
24 talked to Mr. Grose ---

25 Q Okay, and ---

- 1 A --- about getting ---
- 2 Q I see.
- 3 A --- up on the stand.
- 4 Q And you also wanted Mr. Grose to call Randy Loner and
- 5 Bridget Loner to the stand. Is that right?
- 6 A Yes, ma'am.
- 7 Q Because they had information, according to you ---
- 8 A Yes, ma'am, cause I was ---
- 9 Q --- regarding -- regarding alibi.
- 10 A I was with them.
- 11 Q Is that right?
- 12 A Yes, ma'am. Because I was with them on the seventh.
- 13 Q And also Cindy ---
- 14 A That night.
- 15 Q Cindy Loner, who was Randy's ex-wife.
- 16 A Yes, ma'am.
- 17 Q She had -- you feel like she had valuable information.
- 18 A Yes, ma'am.
- 19 Q Is that, right?
- 20 A Because them was the ones that we all hung around. We
- 21 all hung around together.
- 22 Q And then you also wanted Dan Chadwick and his wife,
- 23 Jessica, to testify because they could corroborate Christie
- 24 trying to hang herself.
- 25 A Yes, ma'am.

1 Q Is that right?

2 A But then I understand -- yes, ma'am. And then, after
3 the fact, after all this, that's all the stuff I come to get
4 the knowledge of. See, I didn't know that Mr. Grose had a
5 case with Dan Chadwick and Jessica Chadwick about domestic
6 violence. I didn't know that Mr. Grose was Dan's lawyer,
7 attorney.

8 Q And you also wanted Shirley Mullins to testify. Ms,
9 Mullins is in the courtroom today. Is that right?

10 A Yes, ma'am.

11 Q So you wanted her to testify, right?

12 A Yes, ma'am.

13 Q She's in the courtroom today, correct?

14 A Yes, ma'am.

15 Q And you allege that she had a video phone, which was --
16 had evidence of the crime scene ---

17 A Yes, ma'am.

18 Q --- that could help you, right? And is that
19 information that you provided to your attorney, Mr. Grose?

20 A No, ma'am.

21 Q Oh, you didn't? Did not provide that to him?

22 A No, ma'am.

23 Q Okay, and tell me why. Why did you not provide it?

24 A I got the feeling -- well, after I wasn't getting no
25 information about, like, my witness and stuff like that.

1 And, now on that phone, see, after the second interrogation,
2 I had the phone, so that's when they allowed me I can go
3 back in the trailer. So, I was -- I was videoing from when
4 I walking up the stairs to go inside the trailer. I was
5 showing how the trailer was looking itself. And see, in the
6 interrogation room they was talking. They was arguing with
7 me about what I was talking about, the bloody rag. Bloody
8 rag. When I was in there videoing. And then they kind of
9 made it look off saying that Charles talking like Christie
10 was alive. When I went in the house, I was asking Christie,
11 show me a sign. Show me a sign to tell me, show me what was
12 going on, what happened today, that day. And so, when I was
13 walking through the house, videoing the whole house, showing
14 the wall. I even showed -- I even video where the bullet
15 holes at. Just like they was talking about two shots in the
16 house. But when you counted, you got about five shots in
17 the house with bullet holes. Where you see bullet holes. So
18 you said they saying one, one in the upper ceiling, one in
19 the, over in the left corner, right there. Then you had one
20 in the west wing that went all the way through you can see
21 the outside. And then they try to say the bullet that went
22 up in the roof went through the ceiling. They tried to say
23 the bullet that went through the ceiling went up in the air
24 and came back down, fell inside the bottom of the window.
25 That where they found the bullet at. Ain't no way in the

1 world you gone shoot no bullet out no top of no trailer and
2 see straight through daylight and saying it falls right back
3 down the side of the wall. That's not no way of possible.

4 Q And did you discuss these issues with Mr. Grose?

5 A No, ma'am, but I noticed Mr. Grose didn't really argue
6 on that or feed into that much.

7 Q Did you believe that you had sufficient time with Mr.
8 Grose to discuss with him all these issues that you're
9 raising today?

10 A No, ma'am.

11 Q Then you also, in your amended application, you also
12 allege that the Mr. Grose was ineffective for failing to
13 bring in a blood spatter expert. Do you recall that
14 allegation?

15 A Yes, ma'am.

16 Q And why did think that it would be important to have a
17 blood spatter ---

18 A Because the pattern -- the pattern where the blood and
19 stuff, the pattern where things was, okay, like we saying,
20 like each officer that came in the crime -- on the crime
21 scene, each one of them notice the same thing. Christie was
22 laying on the left side of the bed, head hanging halfway
23 off. Head halfway covered, but they say halfway covered.
24 But when I come in, I ain't seen Christie face or head or
25 nothing. It was all the way up. And then I seen the blood

1 patter -- splatter on the wall. I didn't -- I didn't see
2 they like, the operator was asking me did I see a gun or
3 anything like that. I didn't -- I didn't go over there and
4 look and see was a gun down there, because once I seen the
5 blood and then Christie wasn't responding. I stepped back
6 to the door, and I was talking to the lady on 911 till the
7 first responder got there. So, when the first responder got
8 there, he went in and he told me not to go in. So, he
9 secured the -- he went in there and secured it, came back
10 out, the second responder that came in there, they went in
11 the inside the house, which they shouldn't have went in the
12 house, because they supposed to waited till the coroner got
13 there. The first responder, my understanding, supposed to
14 secure the residence till the coroner get till the
15 investigator, everybody get there, then go from there. But
16 just like, for the -- for the coroner got there and stuff
17 that was Matthew Graham and them, and Hines. They done --
18 they done showed up on the crime scene. They done rushed up
19 in the house, and then they get caught lying about they
20 didn't go in the house. And I was talking about the black
21 notebook that Christie had wrote the estimates for about the
22 church that I give my brother. So, they lied about they
23 didn't see the notebook on the bed, and then it turned
24 around. Video got caught on the camera, that a notebook
25 right there on the bed. They said ---

1 Q And what was the significance of the black notebook?

2 A The black notebook was where Christie write her diary.

3 She write in the book every day. It don't matter if you

4 like it or not. She gone write.

5 Q And did you believe that there would be valuable

6 information in that notebook?

7 A I did because, hey, I'm like, if it wasn't, why did

8 they take it from the crime scene and take it and give it to

9 Christie daddy? Christie mother told me that.

10 Q And in fairness, I mean, the black notebook was raised

11 at trial, right? One of the officers testified about it,

12 correct?

13 A Uh-huh.

14 Q You have to say yes or no.

15 A Yes. They testified.

16 Q Okay, but did you ask Mr. Grose if he had ever had an

17 opportunity to review that notebook?

18 A No, ma'am. 'Cause I had already knew that the notebook

19 had been taken from the crime scene.

20 Q And then the last argument that you make in your

21 amended application is that Mr. Grose failed to challenge

22 the charged indictment for possession of a weapon during the

23 commission of a violent crime. Do you recall that

24 allegation?

25 A Wait a minute. Say that one more time, please.

1 Q Do you remember that you have alleged that Mr. Grose
2 failed to challenge the charged indictment for possession of
3 a weapon during the commission of a violent crime?

4 A Yes, ma'am.

5 Q And why do you say that he did that, that he failed to
6 do that?

7 A I was like, so they got saying I was possession of a
8 weapon. I wasn't possession of a weapon. No weapon wasn't
9 on me. I didn't even know what kind of weapon. But then,
10 when they said they found the weapon in the blue car, this
11 car been sitting out there for years.

12 Q So, did Mr. Grose explain you the concept of
13 constructive possession?

14 A No, ma'am.

15 Q No? But do you have ---

16 A Not to my knowledge. I don't remember.

17 Q But your testimony is you had concerns about a gun
18 being found in a car, away from the home, not in your
19 physical possession, about you being ---

20 A Yeah, saying in my possession. Yes, ma'am.

21 Q Is that right?

22 A Yes.

23 Q And Mr. Tillman, you have continually through this
24 process maintained your innocence. Is that right?

25 A Yes, ma'am.

1 Q And are you asking the Court to grant to you a new
2 trial, given the circumstances of this case?

3 A Yes, ma'am.

4 Q And do you believe that the errors that you have
5 presented to the Court have prejudiced you such that the
6 Court must order a new trial for you?

7 A Yes, ma'am. I mean, it just like, this is how much
8 love I had for Christie though. I mean, it wasn't nothing
9 -- it didn't matter what Christie did. I always been there
10 for her. Her mama or step-daddy and her mama. I just
11 recently got to know her daddy. You can ask her mama and
12 step-daddy about the love I had showed Christie. I've been
13 there for Christie. I mean, Christie, it didn't matter that
14 she called me, her mama call me and tell me you seen
15 Christie and I said, No. Said, do you think you can go find
16 him? I said, Yes, ma'am. I'll go see what I can do. And
17 God, just always when I go look for Christie, I take my mama
18 car. Thanks the Lord for my mama for never, never doggone
19 turning Christie down or nothing. I take her car. When I
20 take off go look for Christie for some reason, it take me
21 straight there to her. And I said, there she is right
22 there. And then I pick her up, either go get her something
23 to eat and take her to a mama house. This ain't the first
24 time. That's just like when Christie was going through the
25 things in Belton, in Belton about with her kids, about her

1 mama, about the child support.

2 MR. MITCHELL: Your Honor, I request that the Applicant
3 refrain from directing his testimony towards the victim's
4 family and to the Court, please.

5 THE COURT: Okay. Speak to the Court, not to the
6 audience.

7 A Well, it just like from when Christie was going through
8 the thing when her mama done took the kids. I got a chance
9 to meet the lady, the DSS lady, in the process of going
10 through that, because I was the one that helped furnish the
11 house up. I was working with Mr. Bob, helping Mr. Bob
12 through Christie, just because Christie was there doing
13 things with her daddy.

14 Q And are you referring to the case where Christie had
15 DSS involvement regarding her children?

16 A Yes, ma'am.

17 Q Is that what you're referring to?

18 A Yes, ma'am. That's what I'm saying. Reason I'm saying
19 that because the State tried to throw that thing like me and
20 Christie had a domestic violence between each other. They
21 didn't correct the name at first until it got further in,
22 you know, then they really come to find out me and Christie
23 never had no domestic violence or nothing like that. It was
24 Anthony something, or some other guy's name, but they tried
25 to use it at first like it was me. Which me and her ain't

1 never had no, no, nothing.

2 Q Okay, I think I've just got one more question regarding
3 your application. You did not testify at the trial of this
4 matter. Is that right?

5 A Yes, ma'am. I didn't testify.

6 Q You didn't. Okay. Did you have an opportunity to
7 speak with Mr. Grose about whether or not you would testify
8 at this trial?

9 A See, just -- I was like, like, I'm saying once again
10 about lacking of the knowledge. I was like, I had so much
11 faith in Mr. Grose, if his situation was bad that he felt
12 like I need to get on the stand, he would have put me on the
13 stand. But he never did say, Charles, you need to get on the
14 stand. See, that's how much faith I had in him to doggone
15 to do for me. I mean, my whole life was in his hands.

16 Q Got you. I got you. And so your decision was, you did
17 not testify, right?

18 A No, ma'am. But if I knew that I -- if I knew the law,
19 and I knew that I need to get up when there I would've got
20 up there, because it was a lot of things that didn't get out
21 there that need to been out there. But then, so, a lot of
22 issues.

23 Q And actually, this is, in fact, my last question. You
24 do not make any allegations against Mr. Grose regarding
25 being your appeal attorney, correct?

1 A (Non-verbal response.)

2 Q You don't make any allegations against him with the
3 appeal, right?

4 A No, ma'am.

5 Q Because he did an excellent job in your appeal. Isn't
6 that fair to say?

7 A I'd say yes. Well, he did. He did. He did. He showed
8 -- he showed where the judge -- the judge allowed certain
9 things that he could have did better. You know what I'm
10 saying. That the judge -- which I'm looking at Judge Addy
11 was hard on Mr. Grose. He really was. Every time Mr. Grose
12 start put a issue out there or something that's been just
13 like what he said mistrial and all that. The judge -- the
14 judge, Mr. Judge Addy.

15 Q Judge Addy?

16 A When they went to -- when they -- how do you say that?
17 Qualify? Qualify. When you pushing too far, saying the
18 wrong thing, you letting -- you allow something carry on
19 that didn't supposed to go on. Like qualifying about you
20 leading. Leading and whatever how you do it. But anyway,
21 when Mr. Grose spoke up on there and he said -- he asked for
22 a mistrial. Mr. Addy didn't allow that. And then, just
23 like Mr. Addy said, far as comment about substantial cir --
24 I mean, substantial -- circumstantial evidence. They ain't
25 really have to explain that ---

1 Q But that's ---

2 A --- but that's something he's supposed to explain to
3 the jury that they -- that's what they take the facts, not
4 observe all the facts. Nothing but the facts.

5 Q But in fact, Mr. Grose did raise that issue on appeal -
6 --

7 A He raised that issue.

8 Q --- and in fact, he took your case all the way to the
9 Supreme Court, and Supreme Court ---

10 A Yes, ma'am.

11 Q --- did not hear it. Is that right?

12 A He took it all the way up there. Yes, ma'am.

13 Q But your concern, and your PCR application and the
14 information you've given to the Court, and in reviewing the
15 record, you believe that those errors happened at the trial
16 court, and you stand by your amended application? Is that
17 right?

18 A Yes, ma'am.

19 MS. MOORE: No further questions.

20 MR. MITCHELL: Just briefly, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. MITCHELL:

23 Q Mr. Tillman, do you recall Sam Ferguson, the deputy
24 coroner, testifying?

25 A I sure do.

1 Q And he testified that he was the one that collected the
2 fingernail clippings from the victim?

3 A Well, where did he collect the fingernail clippings
4 from, cause Mr. ---

5 Q He testified ---

6 A Mr. Woodard said ---

7 Q (UNINTELLIGIBLE DUE TO OVERTALK)

8 A --- Mr. Woodard said nairn (AS SPOKEN) one of them, Mr.
9 Ashley or Ferguson, come up there to the autopsy, receive no
10 papers from him. He hadn't heard from them. And that's in
11 the transcript, page -- I think we was just talking about it
12 -- 240, 226, something like that. We were just discussing
13 it right there. About they didn't come up there. No, not
14 nairn one of them came to the autopsy to receive no papers
15 or nothing. That's what I was discussing about. How did
16 they -- where did they get the nail clipping and stuff? At
17 the crime scene?

18 Q Correct.

19 A That's the only place -- they don't supposed to do that
20 at the crime scene.

21 Q Well, and then also, the DNA analyst testified that
22 they found your DNA under the fingernail clippings, correct?

23 A Yeah, but they said it's like -- they said Christie was
24 in a struggle. Said she lost fingernails struggling,
25 fighting with the person that she was struggling with --

1 about a gun. But when they took -- they had me to take my
2 shirt off. They swabbed my whole body with that tape to see
3 was it any gun residue. They pulled my shirt off, took
4 pictures of it. See didn't I have any scars and stuff like
5 that. No scars, no gun residue, or nothing.

6 Q And do you remember the forensic pathologist, Dr.
7 Woodard? He testified that it could not have been a suicide
8 based on his examination of the body?

9 A Say that one more.

10 Q Dr. Brett Woodard testified, the forensic pathologist,
11 that based on his review of the victim's body, it could not
12 have been a suicide.

13 A Well, Dr. Woodard represent, once again about Dr.
14 Woodard. Dr. Woodard said when he received the body, he
15 received the body 24 hours after Abbeville discovered the
16 body at the crime scene and then turn right around and said
17 the body that he received, he did autopsy on the body. He
18 had a hard time getting the body out the body bag. So I'm
19 like, if he saying he had a hard time getting the body out
20 the body bag, it ain't Christie.

21 Q So, you're claiming that the body that Dr. Woodard
22 analyzed was not the victim?

23 A The body -- the words -- the words that he worded about
24 the body that he did the autopsy of Christie ain't but 5'1.

25 Q So, the woman that Dr. Woodard analyzed, and who he

1 said had been physically abused many times before this
2 event, and she was physically abused and attacked during the
3 time of the event. That wasn't -- that wasn't the victim?

4 A I don't know about that attacked, talking about being
5 attacked.

6 Q You don't remember Dr. Woodard giving that testimony at
7 trial?

8 A About she been attacked?

9 Q That she had been physically abused at times before
10 this event, and ---

11 A I'm looking at to like they was discussing about when
12 they said about a person that be on ice, far as meth. They
13 talking about it called ice and stuff, talking about how you
14 can scratch yourself, and bruise yourself, and things like
15 that on there. But far as physical attack. Me and Christie
16 hung around with the same people far as with her family.
17 Now, you think I'm gone be hanging with Christie and with
18 her family and them, and I'm the only black around the whole
19 all the people that we hang with gone let me be jumping on a
20 white lady, bruising her, beating her and stuff, and we all
21 hang together? Nah, that ain't gone happen. I don't even
22 see that. No, far as me bruising or beating on Christie and
23 stuff like that. Never. Never did that. Now, if her
24 mother, her step-daddy was here, they can rap with that. If
25 her two sons could come to court and speak, they can tell

1 y'all. I never had a word with they mother. They know what
2 they mother was doing and how she whatever, blah, blah,
3 blah, but I never looked at that like that. I always looked
4 out for Christie. It didn't matter what she did or what she
5 doing. I didn't judge her, because she saved me one time.

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

8 MS. MOORE: Nothing further.

9 THE COURT: You may step down.

10 MS. MOORE: I call Charles Grose to the stand.

11 WHEREUPON, Charles Grose, having
12 first been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MOORE:

15 Q Can you state your name for the record?

16 A Charles Grose.

17 Q Mr. Grose, you were retained to represent Mr. Tillman.
18 Would that have been sometime in 2016?

19 A I looked at my notes. It looks like I was contacted --
20 Because I think this happened in November of '16. I was
21 contacted in December of '16, I believe, and then retained
22 in January of '17.

23 Q Okay, so you would have been retained about a year
24 before the trial. Is that fair to say?

25 A A year and a few days I think. Yes.

1 Q And after you were retained, did you have the occasion
2 to meet with Mr. Tillman regarding his case?

3 A I did.

4 Q And you heard his testimony that he said he met with
5 you about three times. Did you hear that testimony?

6 A I did.

7 Q Do you concur with that assessment?

8 A No. I don't know how many times I met with him, but it
9 would have been more than three times.

10 Q And did you have an opportunity, during your
11 representation, to discuss the discovery in the case with
12 him?

13 A I did.

14 Q And did you have an opportunity to provide him a copy
15 of the paper discovery?

16 A I probably did not provide him with a copy of the paper
17 discovery, but we did discuss the discovery.

18 Q And, I guess what I mean, was that your practice at
19 that time in 2016?

20 A In '17 and '18, yes.

21 Q And so, are you satisfied that you did, in fact, review
22 the discovery with him?

23 A I am.

24 Q Okay, so -- but at this time you're -- you don't have
25 an exact number of times that you met with him. Is that fair

1 to say?

2 A That's fair to say. And I -- just looking, reviewing
3 my file. I mean, it was probably several months before we
4 started getting discovery, because it looked like at some
5 point I wrote the Solicitor's Office about not having
6 received it. But...

7 Q And you heard me ask Mr. Tillman regarding some
8 witnesses that he now says he wished he could have called to
9 the trial, being Joe and Kayla Patterson, Randy and Bridget
10 Loner, Cindy Loner, Dan Chadwick, and Jessica, as well as
11 receive information from Shirley Mullins. Did you hear me
12 ask Mr. Tillman those questions?

13 A I did, and I didn't follow a lot of that from his
14 testimony, but I did hear him testify to that.

15 Q Pursuant to your records, did Mr. Tillman ask you to
16 contact these witnesses for the purposes of either
17 testifying at his trial or providing information regarding
18 his case?

19 A Not that I recall. What I do recall is that we had
20 discussions about his alibi and the family members who could
21 support that. I do recall that there was discussions about
22 prior times that Christie had tried to self-harm herself,
23 and some of those witnesses may have pertained to that. You
24 know, I don't -- sitting here I don't really remember. I'm
25 not saying we didn't have that conversation, but I don't --

1 sitting here, I don't have any recollection of that.

2 Q And I think, pursuant to the trial transcript, you
3 called four witnesses. Is that right? Do you recall?

4 A I don't recall. I know we called two or three. I
5 think we called three of his family members. Was it J.C.
6 Watts (SIC), that was the employer. All the witnesses that
7 we called pertain to the alibi as well as -- we didn't call
8 Mr. Tillman's mother, but I kind of forced a scenario where
9 the Solicitor had to call her, and then we were able to get
10 out her information earlier in the trial than if we had to
11 wait to call her.

12 Q And that -- and she was actually one of the first
13 witnesses to testify. One of the -- maybe the third or
14 fourth witness. Is that your recollection?

15 A I -- my recollection is, is that she was one of the
16 first witnesses. What I recall is, is that the State wanted
17 to introduce the entire 911 tape, and including statements
18 that you could hear her making in the background, and those
19 statements we argued were not what would be allowed under
20 Crawford v Washington, and I believe the second case is
21 Davis v Washington. And that we had a confrontation right
22 if they were going to try to introduce her statements
23 through that tape. And so, that's what I mean we forced a
24 situation where, because they wanted to get in those
25 statements from her, they had to call her and ask her about

1 those first. And then we got to ask her the questions, not
2 only about -- well, it wasn't so much about the alibi, but
3 as -- at the time that Charles Tillman had left the house
4 that day, that she believed that Christie was still alive.

5 Q Right. And I believe you certainly addressed that, I
6 think, in a pre-trial motion regarding that issue,
7 stipulating that the statement will come in as long as she
8 testifies. Correct? Is that your recollection?

9 A I don't remember if we stipulated that it would come in
10 as long as she testified, or if they had to call her first
11 for it to come in and lay the foundation. I think it -- my
12 recollection is that they had to call her first and ask her
13 about the statement before they could introduce the
14 statement. If the record reflects differently, so be it, but
15 that's what I recall.

16 Q And did -- and so, did you specifically speak with Mr.
17 Tillman regarding a possible alibi witnesses in his case?

18 A Yes. And the -- significantly, you know, part of the
19 alibi was, is our hope was, was to establish that on the
20 morning of the day that she was found. It was Election Day
21 2016. Presidential Election Day 2016. That, on the morning
22 of that day, we wanted to establish that Christie was alive,
23 because we knew that there was a range as far as the time of
24 death was concerned. And that time of death, the range of
25 the time of death, extended into the morning of that day in

1 November. And we really -- even though we called the alibi
2 witnesses, it really wasn't any dispute that about the
3 approximate time that Charles left the house and the fact
4 that the time that he returned later that day. I mean, they
5 had, I think, data from his cell phone that confirmed, you
6 know, what these witnesses were testifying to. So the State
7 didn't really dispute the time that he was gone, or that
8 that time that he was gone was a period of time that the
9 death could have occurred in.

10 Q And so, that raises another question. You've also
11 heard that and reviewed that my client alleges that perhaps
12 you should have sought a second opinion regarding the
13 pathologist, Dr. Woodard's assessment of the time of death.
14 You heard that allegation, correct?

15 A I did.

16 Q What's your response to that?

17 Q I didn't see any reason to consult another pathologist.
18 I believe I actually consulted somebody about gunshot
19 residue in this case, because I thought that that would be
20 helpful to me. Not to testify, but help me in preparing,
21 you know, making sure that I understood the evidence that
22 was going to be presented on that issue. In fact, I thought
23 that the fact that Dr. Woodard gave a range that he did, and
24 we had witnesses who would say that Christie was alive when
25 Charles left the house that day. I thought that the -- that

1 testimony from Dr Woodard was helpful to us in the sense
2 that the time of death could have occurred during the period
3 of time that Charles had the alibi.

4 Q Okay. Let me ask you. When you're talking about
5 engaging experts, did you ever consider engaging what I'm
6 going to call a phone analysis expert to evaluate Mr.
7 Tillman's phone that apparently was in the custody of law
8 enforcement?

9 A I did not.

10 Q Did not? Okay. And back in that day, I know -- so I
11 don't know if you would agree with me or not, but it seems
12 like these days, phone analysis is extremely important to a
13 defense. Would you agree with that, or no?

14 A Depends on the case. Sometimes it is. Sometimes it
15 isn't, but yes. Phone analysis is much more used in cases
16 today than it was back then. Although, say I have, from the
17 discovery I have, you know, some of the location data that,
18 you know, was why they weren't disputing that Charles was
19 away from the home during certain periods of time that day.

20 Q Okay. And did you believe that in evaluating or
21 looking at that discovery information regarding the phone
22 data, that that corroborated the timeline that was provided
23 to you by Mr. Tillman?

24 A The timeline for when he left the house that -- yes.
25 Yes. Yes, I did.

1 Q And did you have an opportunity to discuss that with
2 Mr. Tillman? Do you recall?

3 A I believe that we did, yes.

4 Q You also, in reviewing the case, it does look like that
5 you made a strategic decision to stipulate that this was --
6 that Christie's death was not, in fact, a suicide. Do you
7 recall that?

8 A I do.

9 Q And why did you do that?

10 A All right. So, when Mr. Tillman first placed the 911
11 call, he said that he thought that she had committed
12 suicide. And he had, you know, under our theory of the case,
13 he had reason to believe that Christie would self-harm
14 herself because she had self-harmed herself before. And I
15 think that was plenty of evidence of that in the trial,
16 without needing additional witnesses on that. The problem
17 with the suicide theory defense was there was a shot to the
18 head and there was no gun next to the body when he found
19 her. And I think that that comes out on the 911, tape at
20 some point. Don't hold me to this. The record will reflect
21 it. But there also may have been a problem with the length
22 of the gun and the angle of the gun for this particular
23 weapon to have self-inflicted that gunshot wound, for a
24 person who have self-inflicted that gunshot wound. And so
25 the State was wanting to, and they were allowed to do some

1 of it, but they were wanting to prove, you know, show the
2 condition that the decedent was in when law enforcement
3 arrived. They were -- what they were wanting to do is, is
4 they were planning to spend a lot of time disproving the
5 suicide theory. That was not going to be our theory of the
6 case. You know, looking at this evidence, this was a
7 homicide, and the question that we wanted to ask the jurors
8 to resolve was not so much, was this a homicide, but who
9 committed the homicide? And by that, I mean, could the
10 State prove that Charles Tillman committed the homicide. And
11 there was a lot of circumstantial evidence that was
12 introduced in the case, and we had an alternate
13 interpretation of that circumstantial evidence. And so,
14 what I was trying to do was I was trying to convince Judge
15 Addy to not allow the State to go into that as much as they
16 did. When I say that, I mean disproving the suicide,
17 including with a lot of the autopsy photographs. And I
18 didn't -- honestly, I didn't feel like we were given up much
19 by that stipulation, because the whole theory -- the whole
20 defense of the case was going to be that somebody else did
21 this, and I wasn't something Charles Tillman did.

22 Q So did you -- and I know that you, obviously you were
23 at the trial, and you clearly know that Dr. Brett Woodard
24 testified in the case, correct?

25 A He did.

1 Q And what he said was -- the question -- the State asked
2 the question that, "Dr. Woodard, initially this call was
3 called in as a suicide. Is that even a possibility based on
4 your observations in this case?" And Dr. Woodard replies,
5 "In my opinion, it was inconsistent with a suicide without a
6 specific support device to support the gun so she could
7 discharge it in the path that occurred." Do you vaguely
8 remember that testimony? If you don't remember ---

9 A I don't dispute that testimony, and I think that that
10 testimony is somewhat of a wordy way of saying what I was
11 talking about. That there was that -- that he didn't
12 believe that wound could have been self-inflicted.

13 Q But in -- I mean, in fairness, he just -- he says it
14 was inconsistent with, correct? I mean, he doesn't say that
15 he -- it's excluded, right?

16 A Fair, but...

17 Q Mr. Grose, were there any plea offers in this case that
18 you recall?

19 A I believe there was an offer that he could plea to
20 murder for 30 years.

21 Q Okay, and do you think -- did you communicate that with
22 my client?

23 A I did.

24 Q Did you? Okay.

25 Q And the problem with that is -- there's two problems

1 with that. One problem is, he was maintaining, as he did
2 today, that he didn't do this. And second, I believe I saw
3 something when I was looking through the file today, that he
4 was 47 when he was arrested, and a day-for-day 30. That
5 was, you know, with life expectancies, it was going to be
6 questionable whether he would live that long to receive any
7 benefit from that plea.

8 Q But you're satisfied that you did communicate that plea
9 offer to Mr. Tillman?

10 A I am.

11 Q And I also noted in reviewing the record it doesn't --
12 now, you correct me if I'm wrong. I didn't see any
13 challenge to the admissibility of Mr. Tillman's statements.
14 Is that a fair assessment?

15 A Yes, a fair assessment.

16 Q So there was no Denno hearing. Is that right?

17 A I believe that's correct.

18 Q And so did you have a was that a trial strategy? Was
19 there a reason why you didn't challenge the statements
20 coming into evidence?

21 A Well, if I remember right, there were three video
22 statements and one audio recorded statement, and there was
23 Miranda warnings that were associated with all four of those
24 statements. And in the, I believe, after the first three
25 statements, he was allowed to go back home. And so, with

1 the first three, you know, they probably didn't even have to
2 give the Miranda warnings, because he, in fact, did go back
3 home. The final one, I believe they had already obtained
4 the warrants and they talked to him and -- but again, there
5 was Miranda warnings that were given, and I didn't feel that
6 those statements would be suppressed.

7 Q Did you ever just speak with Mr. Tillman about the
8 possibility that the statements had been coerced?

9 A You know, I don't know if we had that specific
10 conversation or not. I know that we looked at some of the
11 statements together, the videos. Some of them were lengthy,
12 but we went through some of that together, because I
13 remember being in the jail with the computer doing that. You
14 know, one of the things that I had to take into account was
15 whether or not this was a case that I would recommend that
16 Mr. Tillman testify in or not. And well, you saw how he was
17 when you were asking him questions today. He would, kind of,
18 run off in different directions. And I didn't feel like
19 that he would make a very good witness. And so, to have
20 some of the information that came from his statements to be
21 able to come into evidence that we could make use of. And I
22 believe, when you look at the closing, that we did use some
23 of the clips from his statements. For example, one of the
24 things that was asked of him early on was -- it was about
25 who smoked a particular type of cigarettes. And there was

1 questions about who, you know, whether or not Christie
2 injected drugs, because there was, I think, a syringe that
3 was found there. And so, we were able to get in the
4 information into the record that neither he nor Christie
5 injected drugs, and that would form the basis of our theory
6 that somebody, after Mr. Tillman had gone to work that day,
7 that somebody else had come to the house, and that that's
8 the person who was responsible for the murder.

9 Q And you raised an issue. My next question. Did you
10 speak with Mr. Tillman about your views about whether or not
11 he should testify?

12 A I'm sure that we did, because I always have that
13 conversation, particularly in a case like this. And one of
14 the things that I would be, you know, looking at is how I
15 thought that he would come across as a witness, and whether
16 we could get that same information to the jury in another
17 format.

18 Q Now, and I -- you again, correct me if I'm wrong. In
19 reviewing the record, it doesn't look like the witnesses
20 were sequestered, but am I incorrect about that?

21 A You're correct about that, yes.

22 Q And did you have a reason why you didn't sequester the
23 witnesses?

24 A Yeah, because that would have meant that his mama, and
25 his uncle, and J. C. Watts, and the other person that we

1 called would have been sequestered too, and they wouldn't
2 have been able to hear any of the testimony in trial or be
3 there to support him. You know, at this point in my career,
4 I particularly when I think I'm going to call witnesses I
5 usually don't move to sequester them for that very reason
6 that I want my witnesses to be in the courtroom too.

7 Q And you also, in reviewing my client's petition that he
8 complains that you did not hire a blood spatter expert. Do
9 you recall that testimony?

10 A I recall him making that testimony, yes.

11 Q And did you did you consider hiring a blood spatter
12 expert?

13 A No.

14 Q And did you -- are you aware of why Mr. Tillman very
15 well may have wanted a blood spatter expert?

16 A Well, I don't recall him ever wanting one at the time.
17 I don't recall any reason why I would think that I needed to
18 hire a blood spatter expert in this particular case.

19 MS. MOORE: Judge, I beg a brief indulgence. Thank you.

20 Q Just briefly, Mr. Grose. So, in review of this record,
21 you know that law enforcement retrieved a gun that they
22 identified as the murder weapon. Correct?

23 A Correct.

24 Q Okay, and did you make any inquiries about the
25 ownership of that gun during the course of your

1 investigation of this case?

2 A I remember talking with Mr. Tillman about that gun.

3 You know, the gun was found in a automobile that was parked
4 on the property. And just to give the Judge little idea of
5 this. Mr. Tillman lived in a trailer on the property that
6 is owned by his mother. So, there was a main house and this
7 trailer that was detached. And there were some cars, I don't
8 remember how many, that were parked on the property. And
9 the gun was found in one of these cars that was unlocked.
10 And there was DNA on the gun that -- and the record will
11 reflect what the results of that was.

12 Q There were multiple people's DNA on that gun, correct?

13 A Correct. And it couldn't exclude other male relatives
14 of Mr. Tillman. It was, you know, the percentage of chance
15 that it was his was a lot lower, on the lower end of what
16 you see in DNA cases with the statement that his male
17 relatives could not be excluded as contributing to that DNA.
18 And so, I think he was referring to fingerprints in his
19 testimony. I think what he meant was DNA. And it certainly
20 was not helpful that they were using that to link it to him,
21 but it was helpful in the sense that, you know, somebody
22 else could have handled that gun and been responsible for
23 the homicide. I think part of the theory was, is that there
24 was this other person that was there, and that they were the
25 person who killed Christie, and then they put the gun in the

Charles Grose: Direct Examination by Ms. Moore

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1 car as they were leaving the scene, and may have done that
2 before Mr. Tillman came home from work that day.

3 MS. MOORE: Thank you for your indulgence, Your Honor.

4 I have no further questions of this witness.

1 MR. MITCHELL: Just very briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MITCHELL:

4 Q Good afternoon, Mr. Grose.

5 A Good afternoon.

6 Q Mr. Grose, your strategy at trial was an alibi
7 defense, correct?

8 A Alibi and somebody else did it, yes.

9 Q Right. And you called three alibi witnesses in this
10 case?

11 A It was either three or four. I can't -- the record
12 would reflect to that. And they weren't just alibi
13 witnesses. They were also to not only establish that -- to
14 establish the time that Mr. Tillman left the house that day,
15 as well as -- not all, but some of his witnesses, to
16 establish that Christie was still alive.

17 Q Right. Meaning that Mr. Tillman didn't commit the
18 murder.

19 A Exactly.

20 Q And earlier, Mr. Tillman testified that he went to
21 work, went by the bank, and went and got chicken, and all
22 that. Did you hear that testimony?

23 A Yes.

24 Q Would you agree -- and the record speaks for itself --
25 - that that testimony was reflected by the witnesses that

1 you called?

2 A Yes.

3 Q And the pathologist gave a -- I believe it was a
4 twelve-hour time of death range, from 11 to 11?

5 A Correct.

6 Q And so, your alibi wasn't foreclosed on the basis of
7 that time of death.

8 A Right. And it was important for us to establish that
9 Christie was alive when he went to work that morning because
10 there wasn't any dispute that they lived in that trailer
11 together and that he would have been around her during a
12 portion of that period. So, we had to try to narrow that
13 time to when he did have the alibi.

14 Q Right. And, in fact, you had a witness testify that
15 he had heard Christie that morning.

16 A Correct.

17 Q And as well as his mother's testimony that she saw a
18 shadow that she believed to be Christie as well.

19 A Correct.

20 Q And regarding the gun DNA, you cross-examined the DNA
21 expert on the fact that they couldn't exclude his family
22 member, and it was just -- it was such a low percentage,
23 especially in DNA cases.

24 A Correct.

25 Q And there was testimony about the black notebook. I

1 believe you cross-examined several witnesses on the fact
2 that the black notebook was never taken into evidence,
3 correct?

4 A I believe that's correct. I honestly -- I had
5 forgotten about the black notebook until it came up earlier
6 today, but I think that that is correct.

7 Q And from your recollection, Mr. Tillman was Mirandized
8 before each of the statements he gave.

9 A Correct.

10 Q And even in the first three, it's argued that he
11 wasn't even in custody since he was allowed to go home.

12 A You know, he probably was given a ride to the
13 Sheriff's Office. And he wouldn't have been able to just
14 walk home, but yes. After the first three they let him go
15 home. And so I think it would be hard to make the argument
16 that he was in custody for Miranda purposes.

17 Q Right. And in fact, in those statements, he never
18 admitted he committed the murder.

19 A Correct.

20 Q So, you were still able to use those statements along
21 with your -- in within your alibi defense. They weren't
22 gonna the death knell of the defense, were his statements.

23 A Well, I think the State certainly made use of the
24 statements of some of the things that he said. You know, he
25 went on talked with them too long. I wish he had kept it

1 shorter, but there was information in those statements that
2 we were able to use, not just only with the alibi, but also
3 to fit in with some of the crime scene evidence that he not
4 necessarily gave an explanation, but things that he was
5 asked about that we believe fit in with the possibility that
6 somebody else did it. And so, we were able to make use of
7 that. In one of the I guess, it would have been the first
8 statement they collected the gunshot residue. And so, we
9 actually had the video of them collecting it and collecting
10 it incorrectly. And so, you had Mr. Tillman being
11 cooperative, them collecting it. There's testimony that
12 they should have been wearing gloves when they collected it,
13 and the people who collected it had been in the crime scene.
14 And I think this is why I consulted the gunshot residue
15 expert, is because they had found through the examination --
16 and we got this real late in the case. They had found
17 exactly one particle of gunshot residue where, if Mr.
18 Tillman had been in there and had fired the gun, you would
19 have expected there to be a lot more gunshot residue than
20 what they found. And so, we used things like that to weave
21 into what our alternate theory of what occurred happened.
22 That's probably more than you asked for.

23 Q No, no. Thank you, Mr. Grose. And with regard to the
24 911 call, and you did make an objection to that as an
25 excited utterance, Mr. Tillman's mother would have had to -

1 -- Mr. Tillman's mother would have to testify.

2 A Right. So, you know, the thing with the 911 call was,
3 is, you know, Mr. Tillman is the one who made the call. And
4 I think we talked about some of that. That his initial
5 report was about, you know, thinking it was suicide. There
6 was statements by the mother that you could hear that
7 referenced a gun being down at the house the day before.
8 And for them to get that type of evidence in, I wanted to
9 either exclude it, because we couldn't confront and cross-
10 examine her, although she was on our witness list. She was
11 going to testify. We knew that they were going to get a
12 chance to ask that question. We wanted, like I said earlier,
13 kind of forced the situation where they had to call her,
14 because we all wanted to take that opportunity to get out
15 other information from her that was helpful on the front end
16 of the case, as opposed to having to wait to when we got the
17 case later in the week.

18 MR. MITCHELL: Beg the Court's indulgence, Your Honor.

19 Q Once again, the stipulation to the homicide was a
20 strategy to avoid getting potentially prejudicial autopsy
21 photos into evidence.

22 A I would say it was probably even -- the strategy might
23 have been a little bit broader than that. We -- I don't
24 think that we excluded all of the evidence, because I think
25 one of the issues on appeal was, should the rest of the

1 autopsy photos have been excluded since we had made that
2 stipulation. But yes, that is the time in the trial that it
3 came up, and the hope was to shift some of the focus away
4 from disproving the State, disproving that it was a suicide
5 when we weren't going to be alleging that it was a suicide
6 during the trial.

7 Q And also the State's evidence against it being a
8 suicide was very strong. Would you agree with that?

9 A I -- yes. I don't think there was any chance in the
10 world that the jury was going to believe that it was a
11 suicide, and that's why we went with, you know, developed a
12 theory to explain the evidence that allowed us to argue that
13 somebody else did it.

14 Q And you could lose credibility with the jury by
15 arguing that it was a suicide when the evidence clearly
16 shows it's not.

17 A Right. And I certainly didn't want to be presenting,
18 sort of, the alternate theory. This was a suicide, but if
19 you don't believe it was a suicide, somebody else did it.
20 That is not a persuasive strategy with a jury.

21 MR. MITCHELL: Beg the Court's indulgence, Your Honor.

22 Q And just for the record, do you believe the pathologist
23 examined the correct body in this case?

24 A Yes. I don't have any question about that.

25 MR. MITCHELL: I believe that's all I have for Mr.

1 Grose. Thank you.

2 MS. MOORE: Nothing further, Your Honor.

3 THE COURT: Thank you. Step down.

4 MR. MITCHELL: Nothing from the State, Your Honor.

5 MS. MOORE: No further witnesses, Your Honor.

6 MR. MITCHELL: Nothing from the State, Your Honor.

7 THE COURT: Y'all don't have anything else?

8 MS. MOORE: No, sir.

9 THE COURT: I'll review the record and issue an order.

10 ***END OF REQUESTED TRANSCRIPT OF RECORD)***

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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Abbeville County, South Carolina, on the 22nd day of August, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

A handwritten signature in black ink, appearing to read "Tara T. Scott", is written over a horizontal line.

Tara T. Scott, CVR

Official Court Reporter

October 2, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ABBEVILLE	)	FOR THE EIGHTH JUDICIAL CIRCUIT
Charles TILLMAN, SCDC #236688,	)	
	)	
Applicant,	)	
v.	)	ORDER OF DISMISSAL
	)	
The STATE of South Carolina,	)	Civil Action No. 2022-CP-01-00080
	)	
Respondent.	)	
_____	)	

INTRODUCTION

The matter before this Court on application for post-conviction relief (PCR) commenced by Charles Tillman ("Applicant") on March 28, 2022. A hearing on the merits was held at the Laurens County Courthouse on August 22, 2024. Applicant was present and represented by Scarlet B. Moore, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. Testimony was received from Applicant and trial counsel E. Charles Grose, Jr., Esquire.

After a full review of the record, this Court finds Applicant's allegations regarding ineffective assistance of counsel are without merit, denies relief based upon the allegations, and dismisses the application with prejudice for the following reasons.

PROCEDURAL HISTORY

Applicant is presently confined within the South Carolina Department of Corrections. He was indicted at the October 2017 term of the Abbeville County Grand Jury for Murder (2017-GS-01-442), Possession of a Weapon During the Commission of a Violent Crime (2017-GS-01-443), and Obstruction of Justice (2017-GS-01-444).¹ He was represented at trial by E. Charles Grose, Jr., Esq. Assistant Eighth Circuit Solicitors Yates Brown and Micah Black prosecuted the case.

¹ The obstruction of justice charge was dropped prior to Applicant's trial.

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ABBEVILLE COUNTY CLERK OF COURT

Applicant proceeded to trial before Circuit Judge Frank R. Addy, Jr., and a jury on January 22, 2028, was found guilty of Murder and the weapon charge, and sentenced to life imprisonment without the possibility of parole on the Murder conviction.

Applicant filed a direct appeal, raising the following issues:

1. Did the trial court err by not expressly applying the “substantial circumstantial evidence” standard of review to Applicant’s motion for a directed verdict?
2. Did the trial court err in Applicant’s directed verdict motion?
3. Did the trial court err in denying Applicant’s motion to exclude photographs of the victim’s body?
4. Did the trial court err in denying Applicant’s motion for a mistrial after the State illegitimate “criminal profiling” evidence?
5. Did the trial court err in denying Applicant’s request to charge based on *State v. Edwards*, 298 S.C. 272, 379 S.E.2d 888 (1989)?
6. Should the court of appeals grant Applicant a new trial based on the cumulative error doctrine?

The court of appeals affirmed his convictions and sentence. *State v. Tillman*, 433 S.C. 58, 856 S.E.2d 168 (Ct. App. 2021). Applicant’s petition for a writ of certiorari was denied, and the remittitur was sent on March 16, 2022.

CURRENT APPLICATION

In his original application for post-conviction relief, Applicant alleges he is being detained unlawfully for the following reasons:

1. “Witnesses have not been call [sic] in my behalf.”
2. “Not been sentence [sic] correctly by Judge”
 - a. “16/3/10 Carry Max of 10 years”
 - b.

On May 22, 2022, Applicant amended his application to include the following allegations of ineffective assistance of counsel:

- a. “Whether trial counsel was not effective to challenge if the 911 phone call qualifies under the business record exception?”
- b. “Was trial counsel ineffective for not allowing the trial court determine Applicant was not ‘in-custody’ for Miranda purposes on the basis of police officer’s subjective and undisclosed conclusion that they did not consider Applicant a ‘suspect?’”
- c. “That trial counsel was ineffective for not challenging the nature and the setting in which Applicant’s in-custody interrogation when he was not in-custody.”
- d. “Trial counsel was not effective for not challenging the chain of custody to the three (3) video

statements and one (1) audio statement.”

- i. “No chain of custody to Items collected and analysis done by S.L.E.D.”
- e. “That trial counsel was ineffective for not objecting to Dr. Brett Woodard as to his opinion on time of death (11:00 a.m.)”
- f. “Trial counsel was not effective when he failed to sequester the witnesses.”
- g. “Was trial counsel failure to challenge the charged indictment for ‘possession of a weapon during the commission of a violent crime.’”

On August 9, 2024, Applicant filed a second amended application alleging the following additional claims of ineffective assistance of counsel:

1. “Gross failure of defendant’s trial lawyer to investigate the State’s forensic evidence, including the medical examiner’s (Coroner’s) time-of-death opinion, deprived Applicant of due process and equal protection of law and a possible alibi defense.”
2. “Applicant further contends that his trial lawyer was constitutionally deficient in failing to hire an independent pathologist to challenge the coroner’s...conclusion about the time of death, because this case centered around forensic evidence. See Elmore v. Ozmint, 661 F.3d 783 (4th cir 2011).”
3. “Applicant further contends that trial counsel was ineffective when Counsel failed to bring in a blood splatter expert for Applicant at trial because there were some questions about the pattern of the bloodstains at the alleged Crime scene. See State v. Myers, 301 S.C. 251 391 S.E.2d 557 (1990).

Before this Court are the Abbeville County Clerk of Court Records regarding the Applicant’s case; the Applicant’s records from the South Carolina Department of Corrections; the record on appeal, including the trial transcript; and the current amended application for relief.

INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this

prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable.").

Second, Applicant must show that counsel's deficient performance prejudiced him such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696–97.

FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony and evidence presented at the PCR hearing, observed the witnesses, passed upon their credibility, weighed the testimony. After deliberate consideration of the record, the Court finds each allegation in support of the application to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

Failure to Investigate Time of Death/Call an Independent Pathologist to Challenge Coroner's Time of Death

Applicant alleges Counsel was ineffective for failing to investigate the pathologist's time of death estimation. Specifically, Applicant alleges Counsel should have called an independent pathologist to challenge the pathologist's time of death. This Court finds this allegation to be without merit.

During Applicant's trial, Dr. Brett Woodard testified that the victim's time of death was between 11:00 p.m. on November 7, 2016, and 11:00 a.m. on the November 8, 2016. (Trial Tr. pp. 301-302).

At the evidentiary hearing, Applicant testified Counsel should have retained an independent expert to challenge Dr. Woodard's estimated time of death. However, Counsel testified that he saw no reason to seek a second opinion, as Dr. Woodard's estimated time range encompassed periods during which defense witnesses testified the victim was still alive. This overlap supported Applicant's alibi. This Court finds Applicant failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in his case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing *Strickland*). "[W]hen Counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010). Counsel explained he saw no reason to request a second opinion regarding time of death, because the wide range opined by Dr. Woodard overlapped with Applicant's alibi. This Court finds this is a valid reason for not requesting an independent expert to challenge the time of death. Therefore, this Court finds Counsel was not deficient.

Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result. *Porter v. State*, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Our courts have “repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness’ failure to testify at trial.” *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). Here, Applicant has failed to present testimony from any expert who would have offered a different opinion regarding time of death. As such, this allegation is supported by nothing more than speculation. Applicant has failed to meet his burden establishing prejudice in this regard. Given the lack of expert testimony to challenge Dr. Woodard’s time of death and the fact that Counsel’s decision not to seek a second opinion was based on a reasonable strategic evaluation.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel’s assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Call Blood Splatter Expert

Applicant alleges Counsel was ineffective for failing to retain a blood splatter expert. Applicant claims Counsel should have retained a blood splatter expert but provides no substantive explanation beyond stating that “there were some questions about the pattern of the blood.” Counsel testified he did not recall Applicant informing him he wanted a blood splatter expert, nor did he see any reason to retain one. Applicant has failed to explain how a blood splatter expert would have assisted his defense; thus, he has not met his burden establishing Counsel was deficient.

Additionally, our courts have “repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness’ failure to testify at trial.” *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). Applicant did not present testimony from a blood splatter expert at the evidentiary hearing to demonstrate he was prejudiced by Counsel’s alleged failure to retain such an expert. Thus, Applicant has failed to prove he was prejudiced from the witness’ failure to testify at trial.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Challenge 911 Call

Applicant alleges Counsel was ineffective for failing to challenge the 911 call under the business record exception. This Court finds this allegation is without merit. As an initial matter, Counsel did object to the admission of 911 call under the business record exception prior to trial. (Trial Tr. p. 84). The trial court ruled that the 911 call would only be admissible if the State called Applicant's mother to testify about what was said on the call. (Trial Tr. pp. 114–116). Given that Counsel properly objected to the 911 call's admission under the business record exception, this Court finds Counsel was not deficient.

Due to Counsel's objection, the State was required to call Applicant's mother to testify about the 911 call, thereby avoiding a potential Confrontation Clause violation.² As a result, the 911 call was properly admitted into evidence, and Applicant was not prejudiced by an alleged deficiency in Counsel's objection.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Challenge Applicant's Statement to Law Enforcement

Applicant alleges Counsel was ineffective for failing to challenge the voluntariness of Applicant's statements made to law enforcement. This Court finds this allegation is without merit. At the evidentiary hearing, Applicant testified he gave four or five statements to law enforcement in this matter. He explained that he voluntarily answered law enforcement's questions and never admitted to killing the victim. Applicant testified he did not recall if Counsel moved to exclude the statements. Counsel testified he did not request a *Jackson v. Denno*³ hearing. Counsel explained that Applicant made four statements in total—three video statements and one audio and was advised pursuant to Miranda prior to making the statements,

² Additionally, Counsel noted that he was able to elicit testimony from Applicant's mother that the victim was alive before Applicant left for work which further benefited Applicant's defense.

³ 378 U.S. 368 (1964).

even though he was not in custody and was allowed to go home afterward. Counsel noted Applicant maintained his innocence in each of those statements.

At trial, Jeffrey Abbeville County Sheriff's Deputy Jeffrey Hines testified as to the voluntariness of Applicant's statements. Hines testified that, prior to making his first and second statements, Applicant voluntarily agreed to talk to law enforcement, had not yet been placed under arrest, and signed a written waiver of Miranda rights. (Trial Tr. pp. 257-260). Hines further testified that Applicant was again provided Miranda advise prior to providing his third statement to law enforcement. (Trial T. p. 316).

This Court finds Applicant has failed to demonstrate his statements to law enforcement were not voluntary. Applicant admitted that he voluntarily made the statements after being read his Miranda rights. Counsel credibly explained a *Jackson v. Denno* would have been futile, as Applicant was provided Miranda warnings prior to each of his statement and was not in custody at the time. This Court finds this a valid reason for not requesting a *Jackson v. Denno* hearing prior to trial and Counsel was not deficient.

Applicant presented no evidence or testimony indicating that any of his statements were made involuntarily. To the contrary, He admitted that he voluntarily provided the statements to law enforcement which was corroborated by Hines.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Sequester Witnesses

Applicant alleges Counsel was ineffective for failing to request the witnesses be sequestered. This Court finds this allegation is without merit. At the evidentiary hearing, Counsel testified he did not move to sequester the witnesses, because he wanted the defense witnesses in the courtroom. This Court finds this a valid reason for not requesting the witnesses be sequestered. Thus, Counsel was not deficient for failing to request sequestration of the witnesses.

Furthermore, Applicant has offered no evidence or testimony demonstrating how Counsel's alleged failure to sequester witnesses was prejudicial or affected the outcome of the trial. Applicant presented the testimony of three witnesses. Because the witnesses were not sequestered, each of the defense witnesses

had the opportunity to listen to the full testimony presented at trial. If anything, this arrangement benefited Applicant's defense rather than prejudiced it. Therefore, Applicant has failed to prove he was prejudiced by Counsel's failure to move to sequester the witnesses.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

Ineffective for Stipulating Cause of Death was a Homicide

Applicant alleges Counsel was ineffective for stipulating the cause of death of victim was a homicide. This Court finds this allegation is without merit. At the evidentiary hearing, Applicant claimed Counsel did not discuss stipulating to homicide as the cause of death with him. Counsel testified that the evidence clearly ruled out suicide as the cause of death and that stipulating to homicide helped limit the State's ability to introduce evidence disproving suicide. Counsel clarified the defense theory was to argue Applicant did not commit the homicide, not that the death was a suicide, thus nothing was conceded by the stipulation.

The trial record directly undermines Applicant's assertion that Counsel never discussed the stipulation to homicide with him. During trial, when the court inquired whether the defense intended to stipulate to homicide as the cause of death, Counsel responded, "I'd have to talk with Mr. Tillman, but probably." (Trial Tr. pp. 75-76). In response, the trial judge ordered a recess to allow Counsel the opportunity to confer with Applicant regarding the stipulation. (Trial Tr. p. 76). This exchange in the record indicates that Counsel was given time to discuss the matter with Applicant before any stipulation was entered. This Court finds the record supports a reasonable inference that such a discussion did in fact occur. As such, Applicant has failed to meet his burden demonstrating that Counsel failed to consult with him regarding the stipulation.

Additionally, Counsel credibly testified that stipulating to homicide as the cause of death did not undermine the defense strategy and, in fact, served a legitimate strategic purpose. This stipulation allowed the defense to prevent the State from presenting potentially prejudicial evidence aimed at disproving suicide. This Court finds this a valid reason for stipulating to homicide as the cause of death. "[W]hen

Counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010). Therefore, this Court finds Counsel was not ineffective for stipulating to homicide as the cause of death.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel’s assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Review Discovery

Although not plead in his application, Applicant testified at the evidentiary hearing that Counsel did not provide him with discovery and failed to review it with him. Counsel testified he discussed the discovery with Applicant. This Court finds Counsel’s testimony in this regard credible and Applicant’s testimony not credible. Therefore, this Court finds Counsel was not deficient in reviewing discovery with Applicant.

Furthermore, Applicant has failed to demonstrate how additional review of the discovery would have affected the outcome at trial. *See Smith v. State*, 404 S.C. 493, 500–01, 745 S.E.2d 378, 382 (Ct. App. 2012) (noting that an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome; mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief).

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel’s assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Call Alibi Witnesses

Applicant alleges Counsel was ineffective for failing to call alibi witnesses at trial. Applicant testified there were various alibi witnesses he wished to have testify at his trial. Counsel testified that while he did not specifically recall the names provided by Applicant, but he and Applicant discussed a potential alibi defense and decided against it.

Applicant has failed to present affidavits, testimony, or any other evidence showing what any potential alibi witness would have said, let alone how their testimony would have affected the outcome of the trial. Our courts have “repeatedly held a PCR applicant must produce the testimony of a favorable

witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial." *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

Failure to Discuss Right to Testify

Although not plead in his application, Applicant testified that Counsel never discussed his right to testify and never advised Applicant to take the stand. Counsel testified he discussed with Applicant whether he should testify. Counsel explained that he was able to present portions of Applicant's statements to law enforcement during trial, which allowed him to convey Applicant's version of events without requiring Applicant to testify.

This Court finds Counsel's reasoning for advising Applicant not to testify to be valid. Counsel successfully introduced aspects of Applicant's account through other evidence, thereby avoiding the potential risks of cross-examination. This approach was a reasonable strategic alternative, particularly given Counsel's assessment the Applicant would not have performed well as a witness. Moreover, the trial record corroborates Counsel's testimony that he discussed the right to testify with Applicant and, ultimately, Applicant made the decision not to testify. (Trial Tr. pp. 552-553).

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

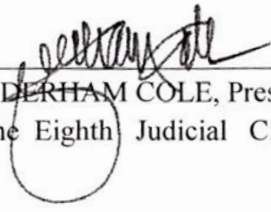
CONCLUSION

Based upon the foregoing, this Court finds and concludes Applicant has not established any constitutional violation or deprivation that would entitle him to post-conviction relief. This Court finds Applicant has failed to establish that Counsel was deficient in any manner in his representation of the Applicant, nor has Applicant established that he was prejudiced in any way by Counsel's performance.

Applicant's **APPLICATION** for post-conviction relief should be and **IS** therefore **DENIED** and the application **DISMISSED** with prejudice. Applicant shall be remanded to custody for service of the remainder of the sentence imposed.

Applicant is notified that he must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

AND IT IS SO ORDERED this 4th day of June, 2025.


J. DERHAM COLE, Presiding Judge
The Eighth Judicial Circuit Court

TRUE COPY
BY Shandal Boggs
ABBEVILLE COUNTY CLERK OF COURT

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2025 JUN 12 P 1:25
SHANDAL BOGGS
CLERK OF COURT

WITNESSES

Matthew Graham
Abbeville County Sheriff's Office

WARRANT NUMBER

2016A0110100352

Lee Beasley Young
Foreman of the Grand Jury

Date: OCT 20 2017

TRUE BILL

VERDICT

Guilt
Sean R. [Signature]
January 26, 2018

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

October Term, 2017
Indictment # 17GS01-0442

THE STATE

VS.

CHARLES TILMAN

INDICTMENT FOR

Murder
SC Code § 16-07-0010

CDR: 0116

Thereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

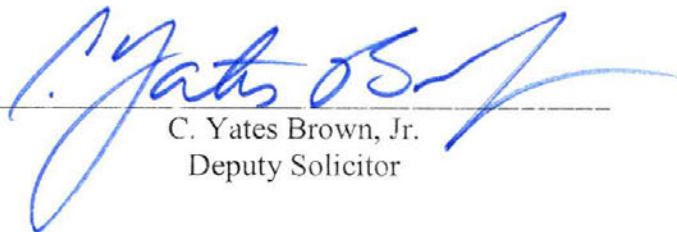
COUNTY OF ABBEVILLE

Murder
§16-03-0010

At a Court of General Sessions, convened on the 20th day of October, 2017, the Grand Jurors of Abbeville County present upon their oath:

That Charles Tillman, did in Abbeville County, South Carolina, on or about November 8, 2016, willfully, feloniously, and with malice aforethought kill Christy Lynn Stutler by means of shooting and the said Christy Lynn Stutler did die in Abbeville County as a proximate result thereof on or about November 8, 2016, in violation of Section 16-3-10, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


C. Yates Brown, Jr.
Deputy Solicitor

WITNESSES

Matthew Graham
Abbeville County Sheriff's Office



WARRANT NUMBER

2016A0110100353

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

October Term, 2017
Indictment # 17GS01-0443

THE STATE

vs.

CHARLES TILLMAN

INDICTMENT FOR

Possession Of A Weapon During The Comatssion Of A
Violent Crime
SC Code: § 16-23-0490

CDR. 0549

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

Dee Beasley Long

Foreman of the Grand Jury



Date: OCT 20 2017

TRUE BILL

VERDICT

Guilt

850

Sam R Hunter

Foreman

January 26, 2018

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

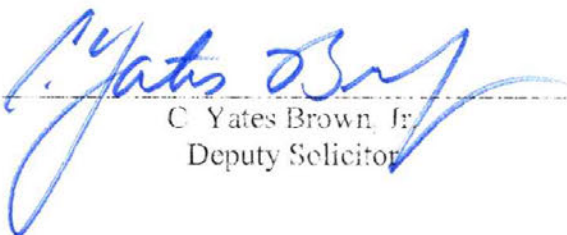
COUNTY OF ABBEVILLE

Possession Of A Weapon During The Commission
Of A Violent Crime
§16-23-0490

At a Court of General Sessions, convened on the 20th day of October, 2017, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Charles Tillman, did on or about November 8, 2016, in Abbeville County, South Carolina, while committing the violent crime of Murder, possess a firearm in violation of 16-23-0490, South Carolina Code of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



C. Yates Brown, Jr.
Deputy Solicitor