

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Mar 27 2026
SC Court of Appeals

Appeal from Lexington County
Honorable Thomas A. Russo, Circuit Court Judge
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHELLIE LAVETTE DAVIS,

APPELLANT

APPELLATE CASE NO. 2018-000366

RECORD ON APPEAL

GARY H. JOHNSON
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

ZACHARY W. JONES
Assistant Attorney General
PO Box 11629
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

S. RICHARD HUBBARD, III
Solicitor, Eleventh Judicial Circuit
205 East Main Street, Suite 309
Lexington, SC 29072
(803) 785-8285

ATTORNEYS FOR RESPONDENT

VOLUME I OF III

PAGES 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED APRIL 21-25, 2014	1
JURY <i>VOIR DIRE</i>	18
JURY SELECTION	57
JURY SWORN	129
OPENING STATEMENT BY MS. DAVIS	137
OPENING STATEMENT BY MS. ZMROCZEK	140
TESTIMONY	
KRISTOPHER LANGE	
Direct Examination by Ms. Davis	145
Cross-Examination by Ms. Zmroczek	151
JEFFREY PALKOWSKI	
Direct Examination by Ms. Davis	155
Cross-Examination by Ms. Zmroczek	165
Redirect Examination by Ms. Davis	167
CHARLEY RICE	
Direct Examination by Mr. Riddle	168
Cross-Examination by Ms. Zmroczek	194
Redirect Examination by Mr. Riddle	199
ARLETTA CARR	
Direct Examination by Mr. Riddle	204
Cross-Examination by Ms. Zmroczek	224
LISA JACKSON	
Direct Examination by Ms. Davis	236
Cross-Examination by Ms. Zmroczek	249
TEPHANISA JONES	
Direct Examination by Ms. Davis	255
Cross-Examination by Ms. Zmroczek	267
WILLIAM DERRENBACHER	
Direct Examination by Mr. Riddle	270

Cross-Examination by Ms. Zmroczek	282
Redirect Examination by Mr. Riddle.....	288
Recross-Examination by Ms. Zmroczek.....	288
MICHON MANSFIELD	
Direct Examination by Mr. Riddle.....	289
Cross-Examination by Ms. Zmroczek	306
JANICE ROSEMAN	
Direct Examination by Ms. Davis.....	315
Cross-Examination by Ms. Zmroczek	328
JOSEPH CHAPPELL	
Direct Examination by Ms. Davis.....	333
Cross-Examination by Ms. Zmroczek	343
SCOTT McDONALD	
<i>Voir Dire</i> Examination by Mr. Riddle	346
Direct Examination by Mr. Riddle.....	349
Cross-Examination by Ms. Zmroczek	362
HENRY DUKES, JR.	
Direct Examination by Mr. Riddle.....	364
Cross-Examination by Ms. Zmroczek	389
STEPHEN COLLINS	
Direct Examination by Mr. Riddle.....	399
Cross-Examination by Ms. Zmroczek	426
Redirect Examination by Mr. Riddle.....	448
Recross-Examination by Ms. Zmroczek.....	450
CHRISTOPHER McTEAGUE	
Direct Examination by Mr. Riddle.....	452
Cross-Examination by Mr. Dowtin.....	470
SHELBY DERRICK	
Direct Examination by Ms. Davis.....	477
Cross-Examination by Ms. Zmroczek	510
Redirect Examination by Ms. Davis	519
Recross-Examination by Ms. Zmroczek.....	521
DAVID DAY	
Direct Examination by Ms. Davis.....	524
DOCTOR JANICE ROSS	
Direct Examination by Mr. Riddle.....	528

DEFENSE MOTION TO EXCLUDE TO STATE’S EXHIBIT NO. 16 (PHOTOGRAPH) BY MS. ZMROCZEK	533

RESPONSE BY MR. RIDDLE	534

COURT’S RULING FINDING STATE’S EXHIBIT NO. 16 ADMISSIBLE	535

TESTIMONY

DOCTOR JANICE ROSS

Continued Direct Examination by Mr. Riddle.....	536
Cross-Examination by Ms. Zmroczek	548
Redirect Examination by Mr. Riddle	550

JOHN ROBERTS

<i>Voir Dire</i> Examination by Mr. Riddle	551
Direct Examination by Mr. Riddle.....	553

JENNIFER CLAYTON

<i>Voir Dire</i> Examination by Mr. Riddle	555
Direct Examination by Mr. Riddle.....	557
Cross-Examination by Ms. Zmroczek	562

BLADE FINS

Direct Examination by Mr. Riddle.....	565
Cross-Examination by Mr. Dowtin.....	572

RENEE STRICKLAND

Direct Examination by Ms. Davis.....	573
Cross-Examination by Ms. Zmroczek	590

JUROR NO. 50 (IN-CAMERA)

Direct Examination by the Court	593

WILBUR DUANE JOHNSON

<i>Voir Dire</i> Examination by Mr. Riddle	595
Direct Examination by Mr. Riddle.....	597

DOUG NOVAK

Direct Examination by Ms. Davis.....	599
Cross-Examination by Ms. Zmroczek	605
Redirect Examination by Ms. Davis	606

JAMES GREEN

<i>Voir Dire</i> Examination by Mr. Riddle	607
Direct Examination by Mr. Riddle.....	609

Cross-Examination by Ms. Zmroczek	627
STATE RESTS	628
DEFENSE RENEWAL OF ALL PRIOR OBJECTIONS AND MOTION FOR DIRECTED VERDICT BY MR. DOWTIN	629
COURT’S RULING DENYING MOTION FOR DIRECTED VERDICT	629
TESTIMONY COLLOQUY WITH DEFENDANT	630
TESTIMONY	
EDDIE PRESTIGIACOMO	
Direct Examination by Ms. Zmroczek.....	644
Cross-Examination by Mr. Riddle	648
Redirect Examination by Ms. Zmroczek	649
KAREN SCHWARTZ	
Direct Examination by Mr. Dowtin	651
Cross-Examination by Mr. Riddle	656
DEIRDRE DAVIS	
Direct Examination by Ms. Zmroczek.....	658
Cross-Examination by Mr. Riddle	663
SHELLIE DAVIS	
Direct Examination by Ms. Zmroczek.....	664
Cross-Examination by Mr. Riddle	706
Redirect Examination by Ms. Zmroczek	742
RANA PERI DAVIS	
Direct Examination by Mr. Dowtin	749
NINA PINEDA	
Direct Examination by Ms. Zmroczek.....	752
ROBERT “EDDIE” WILDER, JR.	
Direct Examination by Mr. Dowtin	756
KENYATTA TERRY-ALLEN	
Direct Examination by Mr. Dowtin	760
TRACEE CROCKER	
Direct Examination by Ms. Zmroczek.....	763

ENOLA THORNTON	
Direct Examination by Ms. Zmroczek.....	768
NAEKA COLLINS	
Direct Examination by Ms. Zmroczek.....	775
Cross-Examination by Mr. Riddle	782
Redirect Examination by Ms. Zmroczek	783
DOCTOR DONNA SCHWARTZ-WATTS	
<i>Voir Dire</i> Examination by Ms. Zmroczek	785
Direct Examination by Ms. Zmroczek.....	786
Cross-Examination by Mr. Riddle	791
Redirect Examination by Ms. Zmroczek	802
WILLIAM TYSON	
<i>Voir Dire</i> Examination by Ms. Zmroczek	807
Direct Examination by Ms. Zmroczek.....	809
Cross-Examination by Mr. Riddle	826
Redirect Examination by Ms. Zmroczek	835
DEFENSE RESTS	837
DEFENSE RENEWAL OF MOTION FOR DIRECTED VERDICT	838
COURT’S RULING DENYING MOTION FOR DIRECTED VERDICT	838
CHARGE CONFERNCE	839
CLOSING ARGUMENT BY MS. ZMROCZEK	852
CLOSING ARGUMENT BY MR. RIDDLE	867
CHARGE ON THE LAW	889
VERDICT	915
POLLING OF THE JURY.....	918
DEFENSE MOTION FOR DIRECTED VERDICT	922
COURT’S RULING DENYING MOTION FOR DIRECTED VERDICT	922
DEFENSE MOTION FOR FINDING THAT THE DEFENDANT IS A BATTERED WOMAN BY A PREPONDERANCE OF THE EVIDENCE BY MS. ZMROCZEK.....	924

COURT’S RULING FINDING THE DEFENDANT BATTERED BY A PREPONDERANCE OF THE EVIDENCE.....	924
STATE’S OBJECTION TO COURT’S RULING FINDING THE DEFENDANT BATTERED.....	925
COURT’S INQUIRY TO CLARIFY PURPOSE OF DEFENSE MOTION FOR FINDING REGARDING BATTERED WOMAN STATUS	926
DEFENSE REQUEST FOR LEAVE TO SUPPLEMENT MOTION	927
COURT DEFERS RULING	927
DEFENSE CLARIFIES MOTION FOR FINDING OF BATTERED WOMAN SYNDROME PURSUANT TO S.C. CODE ANN. § 16-25-90	930
DEFENSE MOTION TO DEFER SENTENCING	932
RESPONSE BY MR. RIDDLE	933
COURT’S RULING DEFERRING SENTENCING PENDING AN EVIDENTIARY HEARING ON THE DEFENSE MOTION FOR A FINDING OF BATTERED WOMAN SYNDROME PURSUANT TO S.C. CODE ANN. § 16-25-90	934
DEFENSE EXHIBIT NO. 6 (JOURNAL ENTRY (12 PAGES)).....	938
DEFENSE EXHIBIT NO. 7 (NOTEBOOK JOURNAL (19 PAGES))	962
DEFENSE EXHIBIT NO. 8 (RED NOTEBOOK).....	999
DEFENSE EXHIBIT NO. 9 (BLUE NOTEBOOK)	1002
DEFENSE EXHIBIT NO. 26 (PHONE RECORDS).....	1021
MOTION TO REQUEST HEARING TO RECONSIDER NOT FINDING OF A BATTERED WOMEN [SIC] DURING SENTENCING FILED MAY 8, 2014.....	1022
ORDER DENYING DEFENDANT’S MOTION FOR HEARING TO RECONSIDER NOT FINDING BATTERED WOMAN DURING SENTENCING FILED FEBRUARY 7, 2018	1023
NOTICE OF APPEAL FILED FEBRUARY 28, 2018	1025
COURT OF APPEALS ORDER REMANDING FOR A NEW HEARING ON THE DEFENSE MOTION TO BE CLASSIFIED AS A BATTERED SPOUSE PURSUANT TO S.C. CODE ANN. § 16-25-90 DATED JANUARY 14, 2022	1028

TRANSCRIPT OF HEARING DATED JULY 29-30, 2024	1030

COURT’S NOTATION OF THE PROCEDURAL POSTURE	1035

TESTIMONY

CATHERINE ROSS

Direct Examination by Mr. Gilliam	1036
Cross-Examination by Ms. Taylor	1048
Redirect Examination by Mr. Gilliam	1052

WHITNEY DANSO

Direct Examination by Mr. Johnson	1054
Cross-Examination by Mr. McNair	1067
Redirect Examination by Mr. Johnson.....	1096
Recross-Examination by Mr. McNair	1105

WANDA HUNDLEY

Direct Examination by Mr. Johnson	1109
Cross-Examination by Mr. McNair	1117
Redirect Examination by Mr. Johnson.....	1120

DEIRDRE DAVIS-WASHINGTON

Direct Examination by Mr. Johnson	1122
Cross-Examination by Mr. McNair	1130
Redirect Examination by Mr. Johnson.....	1137

DEFENSE NOTATION OF TRIAL TESTIMONIES BY MR. JOHNSON	1138

TESTIMONY

ARLETTA CARR

Direct Examination by Mr. McNair	1145
Cross-Examination by Mr. Johnson.....	1158
Redirect Examination by Mr. McNair	1164

JESSE MOON

Direct Examination by Ms. Taylor	1167
Cross-Examination by Mr. Johnson.....	1172
Redirect Examination by Ms. Taylor.....	1175

LYNESHA HOWARD

Direct Examination by Mr. Johnson	1179
Cross-Examination by Ms. Taylor	1182

DEFENSE ARGUMENT FOR FINDING OF BATTERED SPOUSE	1188

RESPONSE BY MR. McNAIR.....	1196
CONTINUED DEFENSE ARGUMENT BY MR. JOHNSON	1204
COURT DEFERS RULING ON DEFENSE MOTION TO BE CLASSIFIED AS A BATTERED SPOUSE PENDING THE SUBMISSION OF POST-HEARING MEMORADUMS FROM BOTH PARTIES	1205
ORDER DENYING MOTION TO CLASSIFY THE DEFENDANT AS A BATTERED SPOUSE PURSUANT TO S.C. CODE ANN. § 16-25-90 FILED JANUARY 24, 2025	1209
INDICTMENT.....	1218
SENTENCE SHEET.....	1220
CERTIFICATE OF COUNSEL	1221

State of South Carolina) In the Court of General Sessions
) Eleventh Judicial Circuit
 County Of Lexington) 2011-GS-32-01037

The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Shellie Lavette Davis,)
)
 Defendant.)
)
 _____)

April 21, 22, 23, 24, 25, 2014
 Lexington, South Carolina

B E F O R E:

The Honorable Thomas A. Russo, Judge, and a jury

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

C. Dayton Riddle, III, Esquire, Assistant Solicitor
 Shannon A. Davis, Esquire, Assistant Solicitor
 Attorneys for the State

Aimee J. Zmroczek, Esquire
 M. Wade Downtin, Esquire
 Attorneys for the Defendant

Elizabeth B. Harris, CVR-M-CM
 Circuit Court Reporter

I N D E X

Description Page No.

MONDAY, APRIL 21, 2014

Jury Voir Dire. 18

Jury Selection. 57

TUESDAY, APRIL 22, 2014

Opening Remarks by the Court. 129

Opening Statement by Ms. Shannon Davis. 137

Opening Statement by Ms. Zmroczek 140

State's Case in Chief

Kristopher Lange

Direct Examination by Ms. Shannon Davis. 145

Cross-examination by Ms. Zmroczek. 151

Jeff Palkowski

Direct Examination by Ms. Shannon Davis. 155

Cross-examination by Ms. Zmroczek. 165

Redirect Examination by Ms. Shannon Davis. 167

Charley L. Rice, Jr.

Direct Examination by Mr. Riddle 167

Cross-examination by Ms. Zmroczek. 194

Redirect Examination by Mr. Riddle 199

1	Arletta Carr	
2	Direct Examination by Mr. Riddle	204
3	Cross-examination by Ms. Zmroczek.	224
4		
5	Lisa Jackson	
6	Direct Examination by Ms. Shannon Davis.	236
7	Cross-examination by Ms. Zmroczek.	249
8		
9	Tephanisa Jones	
10	Direct Examination by Ms. Shannon Davis.	255
11	Cross-examination by Ms. Zmroczek.	267
12		
13	Billy Derrenbacher	
14	Direct Examination by Mr. Riddle	270
15	Cross-examination by Ms. Zmroczek.	282
16	Redirect Examination by Mr. Riddle	288
17	Recross-examination by Ms. Zmroczek.	288
18		
19	Michon Mansfield	
20	Direct Examination by Mr. Riddle	289
21	Cross-examination by Ms. Zmroczek.	306
22		
23	Janice Rosemann	
24	Direct Examination by Ms. Shannon Davis.	315
25	Cross-examination by Ms. Zmroczek.	328

Joseph Chappell

Direct Examination by Ms. Shannon Davis. 333

Cross-examination by Ms. Zmroczek. 343

Scott McDonald

Voir Dire Examination by Mr. Riddle. 346

Direct Examination by Mr. Riddle 349

Cross-examination by Ms. Zmroczek. 362

Henry Dukes, Jr.

Direct Examination by Mr. Riddle 364

Cross-examination by Ms. Zmroczek. 389

WEDNESDAY, APRIL 23, 2014

Stephen Collins

Direct Examination by Mr. Riddle 399

Cross-examination by Ms. Zmroczek. 426

Redirect Examination by Mr. Riddle 448

Recross-examination by Ms. Zmroczek. 450

Christopher McTeague

Direct Examination by Mr. Riddle 452

Cross-examination by Mr. Dowtin. 470

1	Shelby Derrick	
2	Direct Examination by Ms. Shannon Davis.	477
3	Cross-examination by Ms. Zmroczek.	510
4	Redirect Examination by Ms. Shannon Davis.	519
5	Recross-examination by Ms. Zmroczek.	521
6		
7	David Day	
8	Direct Examination by Ms. Shannon Davis.	534
9		
10	Janice Ross	
11	Voir Dire Examination by Mr. Riddle.	529
12	Direct Examination by Mr. Riddle	530
13	Cross-examination by Ms. Zmroczek.	548
14	Redirect Examination by Mr. Riddle	550
15		
16	John Roberts	
17	Voir Dire Examination by Mr. Riddle.	551
18	Direct Examination by Mr. Riddle	553
19		
20	Jennifer Clayton	
21	Voir Dire Examination by Mr. Riddle.	555
22		
23	Jennifer Clayton	
24	Direct Examination by Mr. Riddle	557
25	Cross-examination by Ms. Zmroczek.	562

Blade J. Fins

Direct Examination by Mr. Riddle 565

Cross-examination by Mr. Dowtin. 572

Renee Strickland

Direct Examination by Ms. Shannon Davis. 574

Cross-examination by Ms. Zmroczek. 590

Wilbur D. Johnson

Voir Dire Examination by Mr. Riddle. 595

Direct Examination by Mr. Riddle 597

Doug Novak

Direct Examination by Ms. Shannon Davis. 599

Cross-examination by Ms. Zmroczek. 605

Redirect Examination by Ms. Shannon Davis. 606

James Green

Voir Dire Examination by Mr. Riddle. 607

Direct Examination by Mr. Riddle 609

Cross-examination by Ms. Zmroczek. 627

End of State's Case in Chief

THURSDAY, APRIL 24, 2014

Defendant's Case

Eddie Prestigiacomo

Direct Examination by Ms. Zmroczek 644

Cross-examination by Mr. Riddle. 648

Redirect Examination by Ms. Zmroczek 649

Karen Schwartz

Direct Examination by Mr. Downtin 651

Cross-examination by Mr. Riddle. 656

Deirdre Davis

Direct Examination by Ms. Zmroczek 658

Cross-examination by Mr. Riddle. 663

Shellie L. Davis

Direct Examination by Ms. Zmroczek 664

Cross-examination by Mr. Riddle. 706

Redirect Examination by Ms. Zmroczek 742

Rana Peri Davis

Direct Examination by Mr. Downtin 749

Nina Pineda

Direct Examination by Ms. Zmroczek 752

1	Robert E. Wilder	
2	Direct Examination by Mr. Downtin	757
3		
4	Kenyatta Terry-Allen	
5	Direct Examination by Mr. Downtin	760
6		
7	Tracee Crocker	
8	Direct Examination by Ms. Zmroczek	763
9		
10	Enola Thornton	
11	Direct Examination by Ms. Zmroczek	768
12		
13	Naeka Collins	
14	Direct Examination by Ms. Zmroczek	775
15	Cross-examination by Mr. Riddle.	782
16	Redirect Examination by Ms. Zmroczek	783
17		
18	Donna Schwartz-Watts	
19	Voir Dire Examination by Ms. Zmroczek.	785
20	Direct Examination by Ms. Zmroczek	786
21	Cross-examination by Mr. Riddle.	791
22	Redirect Examination by Ms. Zmroczek	802
23		
24	William Tyson	
25	Voir Dire Examination by Ms. Zmroczek.	807

William Tyson

Direct Examination by Ms. Zmroczek 809

Cross-examination by Mr. Riddle. 826

Redirect Examination by Ms. Zmroczek 835

End of Defendant's Case

FRIDAY, APRIL 25, 2014

Closing Argument by Ms. Zmroczek 852

Closing Argument by Mr. Riddle. 867

Jury Charge 889

Verdict 915

Jury Polling. 918

Certificate Page. 937

	10			
1	<u>E X H I B I T S</u>			
2	<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
3	S-1	Calendar	116	109
4	S-2	Apartment Diagram	116	109
5	S-3	Cell Phone Powerpoint	116	109
6	S-4	Cell Phone Powerpoint	116	109
7	S-5	Cell Phone Powerpoint	116	109
8	S-6	Cell Phone Powerpoint	116	109
9	S-7	Cell Phone Powerpoint	116	109
10	S-8	Distance Map	116	109
11	S-9	Bedroom Diagram	117	109
12	S-10	Photograph	117	476
13	S-11	Photograph	117	476
14	S-12	Photograph	117	476
15	S-13	Photograph	117	476
16	S-14	Photograph	117	476
17	S-15	Photograph	117	476
18	S-16	Photograph	117	
19	S-17	Photograph	117	476
20	S-18	Photograph	117	476
21	S-19	Photograph	117	
22	S-20	Photograph	117	476
23	S-21	Photograph	117	476
24	S-22	Photograph	117	476
25	S-23	Photograph	117	476

	11			
	No.	Description	I.D.	Ev.
1				
2	S-24	Photograph	117	476
3	S-25	Photograph	117	476
4	S-26	Photograph	117	581
5	S-27	Photograph	117	581
6	S-28	Photograph	117	581
7	S-29	Photograph	117	581
8	S-30	Photograph	117	581
9	S-31	Photograph	117	581
10	S-32	Photograph	117	581
11	S-33	Photograph	117	581
12	S-34	Photograph	117	581
13	S-35	Photograph	117	581
14	S-36	Photograph	117	581
15	S-37	Photograph	117	581
16	S-38	Photograph	117	581
17	S-39	Photograph	117	476
18	S-40	Photograph	117	476
19	S-41	Photograph	117	476
20	S-42	Photograph	117	476
21	S-43	Photograph	117	476
22	S-44	Photograph	117	476
23	S-45	Photograph	117	476
24	S-46	Photograph	117	535
25	S-47	Photograph	117	535

				12
1	No.	Description	I.D.	Ev.
2	S-48	Photograph	117	535
3	S-49	Photograph	117	535
4	S-50	Photograph	117	457
5	S-51	Photograph	117	457
6	S-52	Photograph	117	457
7	S-53	Photograph	117	457
8	S-54	Photograph	117	457
9	S-55	Photograph	117	457
10	S-56	Box of Ammo	117	586
11	S-57	Shell Casing	117	476
12	S-58	Magazine/Live Wad	117	466
13	S-59	2 Live Rounds	117	467
14	S-60	Bullet Core/Jacket	117	523
15	S-61	Bersa .380	117	465
16	S-62	Latent Print	117	588
17	S-63	Gun Box/Paperwork	117	476
18	S-64	Envelope with Rings/Money	117	476
19	S-65	Purple Bag: Miscellaneous Items	117	420
20	S-66	2 Bedsheets	117	476
21	S-67	Bedspread	117	476
22	S-68	Blue Purse and contents	118	468
23	S-69	Victim's Cell Phone	118	477
24	S-70	Sprint Records	118	122
25	S-71	Telephone Log Report	118	122

	13			
1	No.	Description	I.D.	Ev.
2	S-72	Defendant's Contact List	118	123
3	S-73	Gun Purchase Paperwork	118	567
4	S-74	Consent to Search	118	190
5	S-75	Miranda Card	118	382
6	S-76	Defendant's Cell Phone	118	477
7	S-77	Defendant's Driver's License	118	585
8	S-78	Phone Records	215	218
9	S-79	Phone Records	246	247
10	S-80	Phone Records	253	254
11	S-81	Phone Records	393	395
12	S-82	Phone Records	393	395
13	S-83	Firearm Key	602	602
14				
15	D-1	Blue Shirt with Blood	118	472
16	D-2	Bag with Bible	119	590
17	D-3	Bag of Clothes	119	
18	D-4	Cash Register Drawer	119	
19	D-5	Receipt	119	590
20	D-6	Journal Entry (12 pages)	119	590
21	D-7	Notebook Journal (19 pages)	119	590
22	D-8	Red Notebook	119	590
23	D-9	Blue Notebook	119	590
24	D-10	Foreclosure Notice	119	
25	D-11	Notice to Vacate	119	590

				14
1	No.	Description	I.D.	Ev.
2	D-12	Foreclosure Notice	119	590
3	D-13	Photograph	120	477
4	D-14	Photograph	120	477
5	D-15	Photograph	120	477
6	D-16	Photograph	120	477
7	D-17	Photograph	120	
8	D-18	Photograph	120	477
9	D-19	Photograph	120	
10	D-20	Photograph	120	
11	D-21	Photograph	120	477
12	D-22	Photograph	120	
13	D-23	Photograph	120	477
14	D-24	Photograph	120	477
15	D-25	Photograph	120	
16	D-26	Phone Records	120	683
17	D-27	Photograph	120	477
18	D-28	Photograph	120	477
19	D-29	Photograph	120	477
20	D-30	Photograph	120	477
21	D-31	Photograph	120	477
22	D-32	Photograph	120	477
23	D-33	Photograph	120	477
24	D-34	Photograph	120	477
25	D-35	Photograph	120	477

	15			
1	No.	Description	I.D.	Ev.
2	D-36	Photograph	120	477
3	D-37	Photograph	120	477
4	D-38	Summary of Phone Record	120	688
5	D-39	Text Messages	120	
6	D-40	Phone Contacts	120	477
7	D-41	Photograph	120	
8	D-42	Photograph	120	
9	D-43	Photograph	120	
10	D-44	Photograph	120	
11	D-45	Photograph	120	
12	D-46	CAD Report	120	
13	D-47	Photograph	120	226
14	D-48	Photograph	120	
15	D-49	Photograph - CT Scan	120	
16	D-50	CT Scan - CD	120	
17	D-51	Photograph - CT Scan	120	784
18	D-52	Photograph - CT Scan	120	
19	D-53	Photograph	120	745
20	D-54	Photograph	120	
21	D-55	Photograph	120	744
22	D-56	Photograph	120	
23	D-57	Photograph	120	
24	D-58	CD of Movie	120	
25	D-59	Photograph	120	

				16
1	No.	Description	I.D.	Ev.
2	D-60	Name Query	121	
3	D-61	Email	121	
4	D-62	Employment Appointment	121	
5	D-63	Concealed Weapons Court Materials	121	
6	D-64	Photograph	121	761
7	D-65	Photograph	121	761
8	D-66	Photograph	121	
9	D-67	Photograph	121	
10	D-68	Photograph	121	
11	D-69	Photograph	121	
12	D-70	Photograph	121	
13	D-71	Photograph	121	
14	D-72	Driver's Record	121	
15	D-73	Bail Form	121	
16	D-74	Text Messages	640	687
17				
18				
19	C-1	Defendant's Voir Dire		79
20	C-2	Jury Note		202
21	C-3	Jury Note		594
22	(EXHIBITS MARKED FOR IDENTIFICATION WITHDRAWN BY AND			
23	RETURNED TO STATE AND DEFENSE WHEN JURY DELIBERATIONS			
24	BEGIN.)			
25				

1 MONDAY, APRIL 21, 2014

2 THE COURT: Thank you, folks. Please have a seat. I
3 apologize, ladies and gentlemen, for this lengthy delay,
4 but I've been meeting with the attorneys both on this case
5 and other cases to kind of get our week kind of planned out
6 and see what we've got, but we are ready now, and so I
7 recognize the state for the first case we're going to pull
8 a jury on.

9 MR. RIDDLE: Please the court, Your Honor?

10 THE COURT: Yes, sir.

11 MR. RIDDLE: The state would call indictment number
12 2011-GS-32-01037, *The State vs. Shellie Lavette Davis*.
13 It's an indictment for murder. We've already handed up a
14 witness list, Your Honor.

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

16 Ladies and gentlemen, you've heard that the state has
17 called the case of *The State of South Carolina vs. Shellie*
18 *Lavette Davis*. And let me just say you, you heard the
19 solicitor, he called an indictment number. An indictment,
20 ladies and gentlemen, is simply a piece of paper. It is
21 the document that carries the formal charge that a
22 defendant is charged with. It is not evidence in a case.
23 It is simply the piece of paper that brings this case into
24 this court and sets forth the allegations against a
25 defendant.

1 Now, this is indictment number 2011-GS-32-1037, and it
2 charges Ms. Davis with the offense of murder, and what you
3 need to understand is to this indictment, to this,
4 allegations in this indictment, Ms. Davis has pled not
5 guilty plea, and that plea of not guilty places upon her
6 the presumption of innocence. As she sits before you here
7 today, she is presumed innocent of this charge, and the
8 burden of proof rests on the state to prove the elements of
9 the charge beyond a reasonable doubt.

10 Now, the -- I'm going to read to you what the
11 allegations are in this indictment. These are simply
12 allegations at this point; they are not in any way evidence
13 in this case. These are simply -- this is simply the
14 allegations that the state has made against Ms. Davis, and
15 the indictment alleges that Shellie Lavette Davis did in
16 Lexington County on or about September the 22nd of 2010
17 willfully, unlawfully, feloniously, and with malice
18 aforethought did shoot Jermaine D. Davis with a .380
19 caliber firearm, and that the same Jermaine D. Davis did
20 die on or about September the 22nd, 2010 in Lexington
21 County as a proximate result of the wounds he received in
22 violation of Section 16-3-10 of the South Carolina Code of
23 Laws, 1976 as amended.

24 *JURY VOIR DIRE*

25 THE COURT: Now, those are the allegations that the

1 state has made against Ms. Davis to which she has pled not
2 guilty. Is there any member of the jury panel, based so
3 what I just shared with you, who knows anything about this
4 case at all or who has heard anything about this case at
5 all? If so, please stand. Thank you. There are none.

6 Now, ladies and gentlemen, I'm going to recognize the
7 attorneys. I'm going to have them stand and introduce
8 themselves, and so if you'd please listen carefully, I'm
9 going to start with the state, and then I will have the
10 defense do the same.

11 MR. RIDDLE: My name is Dayton Riddle. I'm one of the
12 solicitors here in Lexington County, which is comprised --
13 excuse me, the Eleventh Circuit which is comprised of
14 Lexington, Edgefield, Saluda, and McCormick.

15 MS. DAVIS: I'm Shannon Davis. I'm assistant
16 solicitor here in Lexington.

17 THE COURT: All right, Ms. Zmroczek.

18 MS. ZMROCZEK: Aimee Zmroczek and I am AJZ Law Firm,
19 and this is my client, Shellie Lavette Davis.

20 THE COURT: Ms. Davis, if you would stand and face the
21 jury, and then you may have a seat, ma'am.

22 MS. ZMROCZEK: And additionally we have other attorney
23 that works with us.

24 MR. DOWTIN: My name is Wade Downtin, and I'm an
25 associate working with Aimee Zmroczek.

1 THE COURT: All right. Thank you.

2 Ladies and gentlemen, is there any member of the jury
3 panel who is related by marriage, connected by marriage, or
4 who has any close business or personal relationship either
5 with Mr. Riddle or Ms. Davis? If so, please stand. Or,
6 and I guess I should say or has been prosecuted by the
7 Eleventh Circuit Solicitor's Office. If so, please stand.
8 Thank you. There are none.

9 Is there any member of the jury panel who is related
10 by blood, connected by marriage, or who has any close
11 business or personal relationship with, or who has been
12 represented either by Ms. Zmroczek or Mr. Downtin? If so,
13 please stand.

14 All right, sir, could I get your name, please?

15 JUROR: George B. Wilson.

16 THE COURT: All right, Mr. Wilson, give me one second
17 on my list here. All right, this is juror number 218.
18 Yes, sir, Mr. Wilson.

19 JUROR: I, I don't know what -- how close, but I
20 believe that Aimee a tennis player at, at, at the Lexington
21 County Tennis Complex.

22 THE COURT: All right, and you play over there as
23 well?

24 JUROR: Yes. I teach there.

25 THE COURT: Okay. All right. Is she one of your

1 students or you instruct her?

2 JUROR: I, I recognize her.

3 THE COURT: All right. Well, let me ask you this.
4 Mr. Wilson, the fact that Ms. Zmroczek plays at the same
5 tennis facility where you are an instructor, would that in
6 any way affect your ability to be fair and impartial,
7 giving both the state and the defense a fair trial?

8 JUROR: No.

9 THE COURT: Thank you, sir. You may have a seat.

10 Ladies and gentlemen, you've met Ms. Shellie Lavette
11 Davis. Is there any member of the jury panel who is
12 related by blood, connected by marriage, or who has any
13 business or personal relationship with the defendant in
14 this case, Ms. Davis? If so, please stand. Thank you.
15 There are none.

16 Now, ladies and gentlemen, that question that I just
17 asked you as it related to Ms. Davis -- that is, are you
18 related by blood, connected by marriage, or have any close
19 business or personal relationship -- that's the same
20 question that I'm going to be asking you as it relates to
21 these names that I fixing to call out. There are several
22 witnesses that are listed as possible or potential
23 witnesses in this case.

24 Now, there's, there's a lot of names here. Not all of
25 them are going to testify, but they are -- it's possible

1 that they, they could all testify. So, keeping that
2 question in mind, whether you're related by blood,
3 connected by marriage, or have any close business or
4 personal relationship, keeping that question in mind, as I
5 go through this list of names, if I call out a name and
6 that question applies to you and the person whose name I
7 call out, go ahead and stand when you hear that name, but
8 when you stand, continue to listen. There are a lot of
9 names I'm going to call out, and it may be that you know or
10 are related to more than one of these folks, okay? So,
11 these people whose names I'm about to call are potential
12 witnesses that may testify during the course of this trial.

13 Now, if any of those witnesses are in the courtroom, I
14 would ask that when your name is called, if you would
15 please stand and face the jury panel for just a few moments
16 and then have a seat. Just give them -- so the jury can
17 eyeball you.

18 All right, Donna Schwartz-Watts Maddox.

19 And if I mispronounce anyone's name, y'all just
20 correct me and I apologize.

21 Deirdre Chen Davis, Lee Connolly, Karen Schwartz,
22 Kenyatta Terry-Allen, Tracee Crocker, Paulette Edwards, Dr.
23 William Tyson.

24 And, ma'am, you may have a seat. Thank you.

25 Eddie Wilder, Jennifer Klink scales, Veronia Shipman,

1 Tracy Pinnock, Enola Thornon, Naeka Collins, Antoine
2 Collins, Reggie Sumter, Janice Rosemann, Glenn Gray, Rona
3 Davis or Rana Davis, Harry Shipman, Dr. Cherry, Jennifer
4 Clayton, Nina -- is it Pineda? Pineda. Shelby Derrick,
5 Joe Chappell, Lora Froshby, Billy Derrenbacher, Kristopher
6 Lange, Cory Cotterman, Lisa Blakeley, Justin Thames or
7 Thames, Wanda Howard, Eddie Prestigiacomo, Stephen Masala,
8 Adriane Wright, Lance Wright, Dr. Richard Boyer.

9 All right. Now, members of the jury, I need y'all to
10 stand and remain standing if you would. If I, if I've
11 called out a name and that question applies, if you would
12 remain standing. Thank you.

13 And David Myers. All right, I got more names. Hang
14 in there. Arletta Carr, B.J. Fins, Candy Kyzer, Chad
15 Newman, Charley L. Rice Jr., Chris McTeague, Chris Rice,
16 Christine Skinner, David Day, Doug Novak, Dr. Janice Ross,
17 Duane Johnson, Elizabeth Holliman, Eric Russell, Henry
18 Dukes, James Green, Jeff Palkowski, Jesse Moon, John
19 Roberts, Lisa Jackson, Marlin Davis, Marquis Davis. Is it
20 Michon Mansfield?

21 MS. SHANNON DAVIS: Michon.

22 THE COURT: Michon Mansfield, Renee Strickland, Rick
23 Collins, Scott Ellis, Scott McDonald, Stephen -- is it
24 Darray?

25 MS. SHANNON DAVIS: Dauway.

1 THE COURT: Dauway, Steve Collins, Sylvia Williams,
2 Teph Jones, Tony Broome.

3 All right, now let me -- I'm going to start right
4 here. Sir, your name, please.

5 JUROR: Wendell Sharp.

6 THE COURT: All right, Mr. Sharp, give everyone a
7 second to find you here.

8 JUROR: 191.

9 THE COURT: All right, Mr. Sharp. Mr. Sharp, who on
10 that list?

11 JUROR: Chad Newman.

12 THE COURT: All right, are you related or just know
13 Chad Newman?

14 JUROR: He is my ex son-in-law.

15 THE COURT: All right, sir. Now, the fact that Mr.
16 Newman may appear as a possible witness in this case, would
17 that in any way affect your ability to be fair and
18 impartial?

19 JUROR: No, sir.

20 THE COURT: Thank you, sir. You may have a seat.
21 Yes, ma'am, your name?

22 JUROR: Diane Clayton, number 36.

23 THE COURT: All right, and, Ms. Clayton, who on that
24 list did you know or are related to?

25 JUROR: I also know a Chad Newman. I don't know if

1 it's the same one.

2 THE COURT: This Chad Newman apparently works with the
3 Columbia Police Department.

4 JUROR: No.

5 THE COURT: Okay. Thank you, ma'am.

6 Yes, ma'am.

7 JUROR: I'm Elizabeth Bozard, number 20.

8 THE COURT: All right, Ms. Bozard, who on that list?

9 JUROR: I know a David Day, but I'm not sure if it's
10 the same person here.

11 THE COURT: All right. He's with the Lexington County
12 Sheriff's Department.

13 JUROR: No, that's not him.

14 THE COURT: All right. Thank you, ma'am.

15 Yes, ma'am, your name, please.

16 JUROR: Rachel Lee, number 120.

17 THE COURT: All righty. Ms. Lee, who did you know?

18 JUROR: Justin Thames and Ricky Collins. They both, I
19 believe, are members at the bar I work at.

20 THE COURT: All right, and are you related by blood
21 or, or just know them?

22 JUROR: Just know them.

23 THE COURT: Just know them, okay. The fact that you
24 know both of those folks and they may be potential
25 witnesses who may testify, would that in any way affect

1 your ability to be fair and impartial?

2 JUROR: Yes.

3 THE COURT: All right, I'm going to excuse you from
4 the trial of this case, but you'll remain with us, please.
5 Number 120, Ms. Lee.

6 Yes, ma'am.

7 JUROR: Teresa Porter, 41. Cory Cotterman if he was
8 with EMS.

9 THE COURT: All right, and the fact that, that you
10 know that individual, if they were to appear as a potential
11 witness, would that affect your ability to be fair and
12 impartial?

13 JUROR: No.

14 THE COURT: Thank you, ma'am. You may have a seat.
15 Your name, please?

16 JUROR: Mitzi Campbell-Williams, juror 29.

17 THE COURT: All right, and juror 29.

18 JUROR: Yes. Yes, Your Honor, Paulette Edwards if
19 this is the same Paulette Edwards who was deputy solicitor
20 in the Fifth Circuit.

21 THE COURT: Is that the same person?

22 MS. ZMROCZEK: It is. It is.

23 THE COURT: It is.

24 JUROR: She and I are best friends.

25 THE COURT: All right. Now, if she were to appear as

1 a witness in this trial, would that in any way affect your
2 ability to be fair and impartial?

3 JUROR: No, it would not.

4 THE COURT: Thank you very much, ma'am. You have a
5 seat.

6 Yes, sir, your name again, please.

7 JUROR: Matt Hall, juror number 87.

8 THE COURT: Yes, sir.

9 JUROR: I know four of the people on the list: Lance
10 Wright, Adriane Wright, Ms. Crocker, and Duane Johnson.

11 THE COURT: All right and, sir, if those -- again, I
12 don't know if they do appear or not, but assuming they
13 would appear as, as witnesses, would that in any way affect
14 your ability to be fair and impartial?

15 JUROR: I would like to think not. However, the fact
16 that -- what's running through my head that it may or may
17 not leads me to believe that it might.

18 THE COURT: All right, I'm, I'm going to excuse you
19 from, from serving on this case, sir. Thank you.

20 JUROR: Thank you, Your Honor.

21 MR. RIDDLE: Your Honor, what was his number?

22 CLERK OF COURT: 87.

23 THE COURT: 87.

24 JUROR: I'm sorry. I think I know somebody. I'm
25 number 11, Diane Barr.

1 THE COURT: Diane Barr.

2 JUROR: Prestigiacomo.

3 THE COURT: Who?

4 JUROR: Prestigiacomo.

5 THE COURT: Okay, and would that in any way affect
6 your ability to be fair and impartial, ma'am?

7 JUROR: No.

8 THE COURT: Thank you very much, Ms. Barr. You may
9 have a seat.

10 Is there any member of the jury panel who has had any
11 formal or informal legal training such as some level of law
12 school, college business law course, any paralegal
13 training, or law-enforcement training? Is so, please
14 stand.

15 All right, folks, let me begin. We'll begin over here
16 on this side. Yes, ma'am, your name, please.

17 JUROR: Samantha Hatfield, number 96.

18 THE COURT: All right.

19 JUROR: I was a criminal paralegal for Ralph Kennedy
20 for three years.

21 THE COURT: All right and, Ms. Hatfield, would that in
22 any way affect your ability to be fair and impartial,
23 giving the state and the defense a fair trial?

24 JUROR: No, sir.

25 THE COURT: Thank you, ma'am. You may have a sea.

1 Say your name, please.

2 JUROR: 200, Stephen Saltas.

3 THE COURT: All right, Mr. Saltas.

4 JUROR: I've had a couple of years of law school.

5 THE COURT: All right, sir. Would, would that in any
6 way affect your ability to be fair and impartial, sir?

7 JUROR: No, sir.

8 THE COURT: Thank you very much, sir. You may have a
9 seat.

10 Ma'am, your name, please?

11 JUROR: Patricia Miller, number 134. I have an
12 associate's degree in para -- paralegal studies. I was a
13 paralegal for ten years, but I haven't done that in ten
14 years, so.

15 THE COURT: Okay. The fact that you have that
16 experience and that training, would that in any way affect
17 your ability to be fair and impartial?

18 JUROR: No, sir.

19 THE COURT: Thank you very much, ma'am. You may have
20 a seat.

21 Yes, ma'am, your name, please.

22 JUROR: Tracy Wray, 223.

23 THE COURT: All right.

24 JUROR: I had college business law and law.

25 THE COURT: All right and, Ms. Wray, would that in any

1 way affect your ability to be fair and impartial?

2 JUROR: No.

3 THE COURT: Thank you, ma'am.

4 Yes, ma'am, your name, please?

5 JUROR: Juror number 29, Mitzi Campbell-Williams.

6 THE COURT: And you are an attorney.

7 JUROR: Yes, Your Honor.

8 THE COURT: Yes, ma'am. Would that in any way affect
9 your ability to give both the state and the defense a fair
10 trial, ma'am?

11 JUROR: It would not.

12 THE COURT: Thank you very much.

13 Ma'am, your name, please?

14 JUROR: Number 27, Evelyn Byrd.

15 THE COURT: All right.

16 JUROR: I have a paralegal certificate.

17 THE COURT: All right.

18 JUROR: That I received in 1997.

19 THE COURT: Okay. Ms. Byrd, would that in any way
20 affect your ability to be fair and impartial, ma'am?

21 JUROR: No, sir.

22 THE COURT: Thank you very much. You may have a seat.
23 Yes, ma'am.

24 JUROR: Assyria Stewart, number 34.

25 THE COURT: Okay.

1 JUROR: Case manager for the Department of Juvenile
2 Justice in Florida.

3 THE COURT: All right and, Ms. Stewart, would that in
4 any way affect your ability to be fair and impartial,
5 ma'am?

6 JUROR: No, sir.

7 THE COURT: Thank you very much. You may have a seat.

8 Is there any member of the jury panel who is a
9 supporter of or who had donated either through financial
10 means or through volunteering of your time, has donated to
11 any law enforcement or victims' advocacy group or any
12 organizations such as MADD, Mothers Against Drunk Drivers,
13 SADD, Students Against Drunk Drivers? I'm just trying to
14 think of some of these types of organizations. CAVE,
15 Citizens Against Violence, South Carolina Troopers
16 Association, the Fraternal Order of Police, the South
17 Carolina Sheriff's Association, any of these types of
18 organizations. Is there any member of the panel who has
19 been a contributor either by way of financial means or by
20 volunteering of your time, if so, please stand.

21 All right, and I'm going to do this maybe a little bit
22 differently.

23 Ma'am, could I get your name and juror number?

24 JUROR: Sandra Owens, 156.

25 THE COURT: All right.

1 And then, ma'am?

2 JUROR: Lynn Roof, 179.

3 JUROR: Thomas Wright, 222.

4 THE COURT: All right.

5 JUROR: Wendell Sharp, 191.

6 JUROR: Dorothy Edwards, 62.

7 JUROR: Stephen Saltas, 200.

8 JUROR: Mark Rucker, 181.

9 JUROR: Elizabeth Bozard, 20.

10 JUROR: Teresa Porter, 41.

11 JUROR: Mitzi Campbell-Williams, 29.

12 JUROR: Assyria Stewart, 34.

13 JUROR: Matt Hall, 87.

14 JUROR: Maryjo Zubert, 225.

15 THE COURT: Okay. Now, folks, you all stood as being
16 a contributor or supporter in some fashion, either
17 financial or volunteering your time to organizations of
18 these types. If it would not affect your ability to be
19 fair and impartial, if it would have no bearing on your
20 ability to give both the state and defense a fair trial,
21 please have a seat. Is anyone that would be -- that their
22 ability to be fair and impartial would be affected?

23 Your name again, ma'am, please?

24 JUROR: Elizabeth Bozard. I -- the Mothers Against
25 Drunk Drivers might cause me a problem.

1 THE COURT: Well, let me get you to come forward, Ms.
2 Bozard.

3 (THE FOLLOWING CONFERENCE IS HELD AT THE BENCH WITH
4 ALL COUNSEL PRESENT.)

5 MR. RIDDLE: What was her number?

6 BAILIFF: 20. Juror number 20, Your Honor.

7 THE COURT: All right, you, you, you've heard me call
8 out -- this, this is a case involving allegations of a
9 shooting and a murder.

10 JUROR: Uh-huh.

11 THE COURT: This doesn't involve drunk driving or
12 anything of that nature.

13 JUROR: Okay.

14 THE COURT: Would that in any way ---

15 JUROR: No.

16 THE COURT: The fact that that's not a part?

17 JUROR: No.

18 THE COURT: Okay. Then you'd be okay?

19 JUROR: Uh-huh.

20 (THE JUROR RETURNS TO THE GALLERY.)

21 (OFF-THE-RECORD BENCH CONFERENCE.)

22 THE COURT: Ladies and gentlemen, I failed to ask this
23 earlier. Before I go any further with these other
24 questions I have, let me ask this of you. As you heard
25 when I read you the allegations contained in this

1 indictment, I indicated to you that the individual who was
2 shot and, and died was Jermaine D. Davis. Is there any
3 member of the jury panel who is related by blood, connected
4 by marriage, or who had any relationship with the victim in
5 this case, Jermaine Davis? If so, please stand. All
6 right, thank you. There are none.

7 Is there any member of the jury panel or close member
8 of your family who has ever worked for either the local,
9 county, state, or federal government? If so, please stand.

10 All right, we'll start over here. Ma'am, your name,
11 please.

12 JUROR: Michelle Giovanni, 81.

13 THE COURT: All right, Ms. Giovanni, and how -- where
14 do you work, or you or a member of your family?

15 JUROR: My dad worked for state and local government.

16 THE COURT: All right. Would that in any way affect
17 your ability to be fair and impartial?

18 JUROR: No.

19 THE COURT: All right, thank you, ma'am. You may have
20 a seat.

21 Let's figure out if there's a way we can do this.
22 What I'm going to do is I'm, I'm, I'm going to, for
23 purposes of trying to expedite this, I'm going to ask --
24 I'm going, I'm going to go through and ask you to give
25 your, your juror -- your name and your juror number if you

1 know it. And then when I ask that, I'm going to ask if
2 it's yourself or a member of your family and, and what type
3 of work they do, and then whether it will affect your
4 ability to be fair and impartial. You can address that, if
5 you would.

6 So, let's start right here. Yes, ma'am.

7 JUROR: Sandra Owens, 156. My husband currently works
8 for the sheriff's department. It will not affect ability.

9 THE COURT: All right. Thank you very much, ma'am.
10 You may have a seat.

11 Yes, sir, your name.

12 JUROR: John Barnhart, number 10. I retired from the
13 US Naval Service, and I currently work for the county as a
14 schoolteacher.

15 THE COURT: All right, and would that in any way ---

16 JUROR: Not at all.

17 THE COURT: --- affect your ability? Thank you, sir.
18 Ma'am, your name, please.

19 JUROR: Diane Barr, number 11. My son works for the
20 state.

21 THE COURT: Would that in any way affect your ability,
22 you think?

23 JUROR: No.

24 THE COURT: Thank you.

25 JUROR: I'm Lynn Roof, juror 179, and I used to work

1 for the state. My dad worked for federal government, but
2 it would no way affect my...

3 THE COURT: All right. Thank you, ma'am. You may
4 have a seat.

5 JUROR: I'm Tara Craigo, juror number 42. My husband
6 works for the state, and my momma works for federal
7 government. It would not affect my ability.

8 THE COURT: All right. Thank you very much.

9 JUROR: Lorry Lucas. I'm 121 and I work for the city
10 of Columbia, but it wouldn't affect me.

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

12 COURT REPORTER: Excuse me, Your Honor. I need them
13 to keep their voices up, please.

14 THE COURT: All right. Please keep your voices up if
15 you would, please.

16 Yes, sir.

17 JUROR: John Fitts, number 70. My wife works for the
18 state senate.

19 THE COURT: All right.

20 JUROR: It will not affect my ability.

21 THE COURT: Thank you very much.

22 Yes, ma'am.

23 JUROR: I'm Dorothy Edwards, 62. My son works
24 McEntire airbase and I work with Richland School District
25 One, and it will not affect me.

1 THE COURT: Thank you very much, ma'am.

2 Yes, sir.

3 JUROR: I'm Nicholas Duvall, number 60. My wife is
4 currently employed by Lexington School District One and my
5 father is retired regular army.

6 THE COURT: All right, sir, and would that in any way
7 affect your ability to be ---

8 JUROR: No, sir.

9 THE COURT: --- fair and impartial? Thank you.

10 We'll start back here. Yes, sir.

11 JUROR: 127, Michael Mayo. My wife and I both work
12 for Lexington County, and my father-in-law is retired,
13 chief of police.

14 THE COURT: All right, sir, and would that in any way
15 affect your ability to be fair and impartial?

16 JUROR: I don't believe it would.

17 THE COURT: Thank you very much, sir.

18 JUROR: Diane Levier, 122. I work for DHEC, and it
19 will not affect.

20 THE COURT: Thank you, ma'am.

21 JUROR: I'm Shawn Derby, juror number 52. My sister
22 works for the Department of Motor Vehicles.

23 THE COURT: All right.

24 JUROR: It would not affect my ability.

25 MR. RIDDLE: Judge, I didn't catch her number. I'm

1 sorry.

2 THE COURT: What is it?

3 JUROR: Oh, 52.

4 MR. RIDDLE: 52, thank you.

5 JUROR: You're welcome.

6 THE COURT: Thank you very much, ma'am.

7 THE COURT: Catherine Elke, number 63. My mother's
8 retired from the state. I used to work for the state. It
9 will not affect my ability.

10 THE COURT: Thank you very much.

11 JUROR: 200. I've worked for the state, the county,
12 and the federal government, and it will not affect my
13 ability.

14 THE COURT: Thank you very much, sir.

15 JUROR: Number 96, Samantha Hatfield. I work for the
16 South Carolina Army National Guard. My brother works with
17 Irmo Fire Department. My mom is Lexington District One, so
18 -- but no, I don't think it will affect me.

19 THE COURT: Great. Thank you very much, Ms. Hatfield.

20 JUROR: 154, Amy Orr. My husband works for South --
21 South Carolina National Guard at McEntire. My father is
22 retired Air Force. It will not affect me.

23 THE COURT: Thank you, ma'am.

24 JUROR: Juror 134, Patricia Miller. I work for the
25 South Carolina House of Representatives, and it will not

1 affect my ---

2 THE COURT: Thank you, Ms. Miller.

3 JUROR: --- ability to serve.

4 JUROR: Number 36, Diane Clayton. It would not affect
5 me ability. I work for the Lexington-Richland School
6 District Five.

7 THE COURT: Thank you very much, ma'am.
8 Ms. Bozard.

9 JUROR: Elizabeth Bozard, 20. I worked with the South
10 Carolina Employment Security Commission. My husband worked
11 with the South Carolina Budget and Control Board, and my
12 father worked with the Alcohol, Drug Abuse, Addiction, and
13 it should not affect me.

14 THE COURT: All right. Thank you very much, ma'am.

15 JUROR: Jeannie Bedenbaugh, number 13. I worked for
16 the Veterans Administration, and it won't affect me.

17 THE COURT: Thank you very much, ma'am.

18 JUROR: Tracy Quarter. I spent twenty years working
19 with Lexington EMS as a paramedic, and I also work in the
20 ER at Edgefield County Hospital. It won't affect my
21 judgment.

22 THE COURT: Thank you very much, ma'am.

23 JUROR: Ian Turner, 210. My father works for the
24 state, but it wouldn't affect me.

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

1 JUROR: Terry Brady, 23. My wife teaches at Lexington
2 School District One. It would not affect.

3 THE COURT: All right.

4 JUROR: Number 27, Evelyn Byrd. I work for South
5 Carolina Retirement System. It would -- it would not
6 affect my ability.

7 THE COURT: Thank you, Ms. Byrd.

8 Yes, ma'am.

9 JUROR: Trina Moore, 142. My husband is -- works full
10 time for Army National Guard.

11 THE COURT: All right, and would -- that would not
12 affect your ability ---

13 JUROR: No, it would not.

14 THE COURT: Thank you.

15 JUROR: I'm sorry.

16 THE COURT: Thank you.

17 JUROR: Mitzi Campbell-Williams, number 29. I've also
18 worked with state, federal, and city governments, and I'm
19 currently a volunteer with CASA, abused and neglected
20 children, and would not affect my ability to be fair and
21 impartial.

22 THE COURT: Thank you, ma'am.

23 JUROR: Cindy Hipp, juror 114. I worked in the lab at
24 the VA hospital and for the Department of Mental Health,
25 and my husband worked for DHEC.

1 THE COURT: All right.

2 JUROR: And it will not affect.

3 THE COURT: Thank you very much, ma'am.

4 JUROR: Juror 218, George Wilson. I've worked with
5 the Lexington County Recreation and Aging Commission. I'm
6 fine.

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

8 JUROR: Sandra Richardson, number 173. I work for
9 Lexington School District One. My husband is retired Navy,
10 and it will not affect my judgment.

11 THE COURT: Thank you very much.

12 JUROR: Maryjo Zubert, number 225. My husband works
13 for the Department of Defense in the United States Army
14 Reserves. My son-in-law is a captain at the Columbia Fire
15 Department and brother-in-law with the Columbia Police
16 Department, and it will not affect my judgment in this
17 case.

18 THE COURT: All right, thank you very much, ma'am.

19 JUROR: Juror number 87, Matt Hall. My mom and father
20 are retired educators in Charleston, and my dad's retired
21 army. It will not affect my judgment.

22 THE COURT: Thank you, sir.

23 JUROR: Michele Grahn, juror number 85. I'm currently
24 employed with Lexington School District One and formerly
25 was employed as a social worker with Department of Mental

1 Health and Department of Disabilities and Special Needs.

2 THE COURT: All right. Would that in any way affect
3 your ability?

4 JUROR: No.

5 THE COURT: Thank you very much.

6 Yes, sir.

7 JUROR: Mark Brown, juror number 24. My wife works
8 for the University of South Carolina Student Health Center.
9 I don't think that would affect my judgment.

10 THE COURT: All right. Thank you, Mr. Brown.

11 Any member of the jury, any member of the jury panel
12 -- and, and I know this is somewhat repetitive. Some of
13 you will be standing again based on the information you
14 just gave, but this, this question relates to only those of
15 you who either yourself or a member of your family has ever
16 worked for any law enforcement or investigative agency or
17 security agency. If so, please stand.

18 All right, and I hate to get you to keep repeating
19 your name and your number, but I just need to for the
20 record. Yes, ma'am.

21 JUROR: 81, Michelle Giovanni. My brother-in-law is
22 SRO.

23 THE COURT: All right, and would that in any way
24 affect your ability?

25 JUROR: [NO VERBAL RESPONSE.]

1 THE COURT: Thank you, ma'am.

2 JUROR: Sandra Owens, 156. My husband works for the
3 sheriff's department.

4 THE COURT: All right, and would that affect your
5 ability ---

6 JUROR: No.

7 THE COURT: --- to be fair and impartial? Thank you.

8 JUROR: My husband works for the Legislative Audit
9 Council investigating agencies.

10 THE COURT: All right, and would that in any way
11 affect your ability, ma'am?

12 JUROR: No, sir, that would not.

13 THE COURT: Thank you.

14 CLERK OF COURT: What's your name and number, ma'am?

15 JUROR: 42, Tara Craigo. Sorry.

16 CLERK OF COURT: Thank you.

17 JUROR: Leeanne Marier, 126. My husband long time ago
18 used to be a police officer.

19 THE COURT: Okay.

20 JUROR: West Columbia. I'm fine.

21 THE COURT: It would not affect your ability, you
22 think?

23 JUROR: No, sir.

24 THE COURT: Yes, ma'am.

25 JUROR: Barbara Delacruz, number 50. I'm a security

1 officer.

2 THE COURT: All right, and would that ---

3 JUROR: And it wouldn't affect ---

4 THE COURT: --- in any way affect your ability ---

5 JUROR: It won't affect me.

6 THE COURT: Thank you very much.

7 JUROR: 127, Michael Mayo.

8 THE COURT: Yes, sir.

9 JUROR: I'm a retired chief of police.

10 THE COURT: All right. Would that in any way affect
11 your ability?

12 JUROR: No.

13 THE COURT: Thank you.

14 JUROR: Number 29, Mitzi Campbell-Williams, and my
15 best friend is the deputy solicitor, Fifth Judicial
16 Circuit.

17 THE COURT: And would that affect your ability?

18 JUROR: No.

19 THE COURT: Thank you very much.

20 JUROR: Maryjo Zubert. Oh, I'm sorry.

21 THE COURT: Go ahead. Go ahead.

22 JUROR: Maryjo Zubert, number 225. My brother-in-law
23 works for -- he's a sheriff for the city of Columbia.

24 THE COURT: All right.

25 JUROR: And will not affect my judgment in this case.

1 THE COURT: All right. All right. Thank you very
2 much, ma'am.

3 JUROR: Juror number 85, Michele Grahn. My husband
4 works for a security company, but it won't affect my
5 judgment.

6 THE COURT: All right. Thank you.

7 Is there any member of the jury panel or a member of
8 your family who has ever been the victim of a crime? Have
9 you yourself or a member of your family been the victim of
10 a crime? If so, please stand.

11 Now, those of you who have stood, I'm going to ask you
12 a couple of questions, but I'm not, not going to go into
13 any details about, about that situation but simply, of
14 course, whether or not your ability to be fair and
15 impartial has been affected, all right?

16 So, ma'am, your name and number.

17 JUROR: Mary Amanda Roberts, 176.

18 THE COURT: All right, and was it yourself or a member
19 of your family?

20 JUROR: A member of my family.

21 THE COURT: All right, and the fact that you had that
22 experience where a member of your family has been the
23 victim of a crime, would that in any way affect your
24 ability to be fair and impartial?

25 JUROR: No, sir.

1 THE COURT: Thank you, ma'am.

2 I'm going to jump over here real quick. Yes, sir,
3 your name, please.

4 JUROR: 220, Matt Wolfe.

5 THE COURT: All right.

6 THE COURT: Will not affect my ability.

7 THE COURT: All right, Mr. Wolfe, was it yourself or a
8 member of ---

9 JUROR: Myself.

10 THE COURT: --- your family? Yourself? All right.
11 Thank you very much, sir.

12 JUROR: Number 11, Diane Barr. It was myself, and it
13 will not affect me.

14 THE COURT: Thank you very much, ma'am.

15 JUROR: Barbara Delacruz, number 50. I was the victim
16 of a crime, but it will not affect my ability.

17 THE COURT: Thank you very much.

18 JUROR: Number 121, Lorry Lucas. It was my stepson
19 and won't affect.

20 THE COURT: Thank you.

21 JUROR: Number 222, Thomas Wright. I was a victim and
22 my family was a victim and no, it will not affect.

23 THE COURT: Thank you, Mr. Wright.

24 JUROR: Number 203, Andy Stone. I was a victim and my
25 family in a separate instance, but it won't affect me.

1 THE COURT: All right. Thank you, Ms. Stone.

2 JUROR: Wendell Sharp, 191. It was my mother. It
3 would not affect me.

4 THE COURT: Thank you, Mr. Sharp.

5 JUROR: Darren Atkins, number 5. It was myself and it
6 will not affect my ability.

7 THE COURT: Thank you very much, sir.

8 Let's start back here. Yes, ma'am.

9 JUROR: Shawn Derby, juror number 52, and it was
10 myself and it will not affect my...

11 THE COURT: All right. Thank you, Ms. Derby.

12 JUROR: Diane Levier, juror number 122, and it was my
13 family, and it will not affect.

14 THE COURT: Thank you, ma'am.

15 JUROR: Juror number 96, Samantha Hatfield. It was
16 myself, and it will not affect me.

17 THE COURT: All right. Thank you.

18 JUROR: 200, Stephen Saltas. I was victim and my
19 family's been a victim as well, and it ---

20 THE COURT: All right.

21 JUROR: --- will not affect.

22 THE COURT: Thank you, Mr. Saltas.

23 JUROR: Elizabeth Bozard, number 20. It was myself
24 and I -- it won't have any effect.

25 THE COURT: Thank you very much, ma'am.

1 JUROR: Teresa Porter, 41. It was my son. He was
2 killed by a drunk driver. The trial was held here in this
3 courtroom.

4 THE COURT: Okay.

5 JUROR: And I, I do believe that sitting in the
6 courtroom is going to bother me.

7 THE COURT: All right. So, you believe ---

8 JUROR: So, I do believe it would affect my judgment.

9 THE COURT: All right, and again your number is?

10 JUROR: 41.

11 THE COURT: All right. Thank you, ma'am. I'm going
12 to excuse you from the trial of this case.

13 JUROR: Thank you.

14 THE COURT: Yes, ma'am.

15 JUROR: Lynn Roof, 179. My family was a victim of a
16 crime, but it would not affect.

17 THE COURT: Okay. Thank you very much.

18 Yes, ma'am.

19 JUROR: Sandra Richardson, 173, and a family member,
20 and it would not affect me.

21 THE COURT: Thank you, Ms. Richardson.

22 Yes, sir.

23 JUROR: 87, Matt Hall. Myself and my business, and
24 that would not affect me.

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

1 JUROR: Number 29, Mitzi Campbell-Williams, myself and
2 my family. It would not affect my ability.

3 THE COURT: Thank you, ma'am. I appreciate it.

4 Is there any member of the jury panel who is a
5 contributor or who belongs to any organization that is
6 either an anti-gun organization or a pro-gun organization?
7 If so, please stand. Either a contributor or a member of.

8 All right, and I'm going to start right here, sir, in
9 the striped shirt. Your name, please.

10 JUROR: Darren Atkins, juror number 5.

11 THE COURT: All right, and was it a pro-gun, anti-gun?

12 JUROR: Pro-gun.

13 THE COURT: And would that in any way affect your
14 ability to be fair and impartial, sir?

15 JUROR: No, sir.

16 THE COURT: Thank you very much. You may have a seat.
17 Yes, sir.

18 JUROR: Number 60, Nicholas Duvall, pro-gun, and it
19 will not affect my ability.

20 THE COURT: Thank you very much.

21 Yes, over here.

22 JUROR: John Fitts, number 70, pro-gun. Will not
23 affect my ability.

24 THE COURT: Thank you, sir.

25 JUROR: Mark Brown, number 24. Made a contribution to

1 the NRA. It will not affect my ability.

2 THE COURT: Thank you very much, sir.

3 JUROR: 200, Stephen Saltas, pro-gun. Will not
4 affect.

5 THE COURT: Thank you, Mr. Saltas.

6 JUROR: Paul Wilson, 219 pro-gun. Will not affect my
7 ability.

8 THE COURT: Thank you very much, sir.

9 Yes, ma'am.

10 JUROR: 29, Mitzi Campbell-Williams, anti-gun. It
11 will not affect my ability.

12 THE COURT: All right. Thank you very much, ma'am.

13 Is there any member of the jury panel who either
14 yourself or a member of your family is a member of the
15 Masons, the organization or the group the Masons? If so,
16 please stand.

17 All right, and I will start here, ma'am. Your name,
18 please.

19 JUROR: Olivia Stort, 202, my father is.

20 THE COURT: All right, and would that in any way
21 affect your ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: Thank you, ma'am.

24 And start over here and work our way across. Yes,
25 ma'am.

1 JUROR: Number 36, Diane Clayton. My grandfather was,
2 but it would not ---

3 THE COURT: Would it ---

4 JUROR: --- affect.

5 THE COURT: --- affect your ability? Thank you very
6 much, ma'am.

7 Yes, sir.

8 JUROR: John Watson, number 147, my grandfather and my
9 uncle.

10 THE COURT: All right, and would that in any way
11 affect your ability, sir?

12 JUROR: No.

13 THE COURT: Thank you very much.

14 Yes, ma'am.

15 JUROR: Number 29, Mitzi Campbell-Williams, my uncle.
16 It will not affect my ability.

17 THE COURT: Thank you very much, ma'am.

18 Yes, ma'am.

19 JUROR: Evelyn Byrd, number 27. My husband and my
20 father, but it will not affect my ability.

21 THE COURT: Thank you very much.

22 JUROR: 215, Carol West. Two brothers. Will not
23 affect.

24 THE COURT: All right, and it would not affect?

25 JUROR: No, sir.

1 THE COURT: Thank you very much.

2 Ladies and gentlemen, let me, let me get you to listen
3 to what I'm going to tell you and maybe, as they say, cut
4 to the chase. Obviously if you haven't picked up yet,
5 you're not listening. Every question that I've asked you
6 is always followed up by a second question, which is would
7 it in any way affect your ability to be fair and impartial.
8 What we do in this case, in every case tried in this
9 courtroom, whether it be a criminal case or a civil case,
10 is we want to -- our goal is to impanel a jury that can
11 listen to the evidence and the testimony, decide the facts
12 of a case, and apply the law to those facts, and to do that
13 fairly and impartially, giving both the state and the
14 defense a fair and impartial trial, setting aside any
15 activities or any things you may have encountered outside
16 this courtroom and base your decision solely on the
17 evidence and the facts that you hear in this courtroom, and
18 do that both fairly and impartially for the state and the
19 defense. And that's the goal, and we try to do that for
20 every case that is tried in this courtroom. And I could
21 probably ask you questions all afternoon to determine that
22 or try to determine that, but really maybe the best way to
23 find that out is this.

24 Whether it's a question I've asked you about or not,
25 because I know I can't cover every possible scenario, is

1 there any member of the jury panel who knows of any reason
2 why you would not be able to be fair and impartial, giving
3 both the state and the defense a fair and impartial trial?
4 And whether it's something I've already asked you about or
5 something I have not asked you about, if you know of any
6 reason that your ability to do that would be adversely
7 affected, if so please stand.

8 All right, now what I'm going to do is -- ma'am, I've
9 already excused you, so you can have a seat.

10 Those of you who have stood, I'm going to get you to
11 come forward, and I'm going to take your response up here
12 at the bench, please. All right, come on up.

13 (THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH WITH
14 ALL COUNSEL PRESENT.)

15 BAILIFF: Juror number 29, Your Honor.

16 THE COURT: Yes, ma'am. Hey. How are you?

17 JUROR: I'm opposed to the death penalty.

18 COURT REPORTER: Excuse me. I can't hear. I'm sorry.

19 JUROR: I'm opposed to the death penalty.

20 THE COURT: All right. Now, that's not an issue in
21 this case.

22 JUROR: Exactly. Okay.

23 THE COURT: Would, would that affect your ability in
24 this case?

25 JUROR: Not in this case, Your Honor.

1 THE COURT: All right. Thank you very much.

2 Juror number 29 will remain with us.

3 BAILIFF: Jury number 20, Your Honor.

4 THE COURT: All right, Ms. Bozard.

5 JUROR: Yes. If, if, if it has to do with -- I'm
6 anti-capital punishment.

7 THE COURT: Okay, that's not an issue in this case.

8 JUROR: Okay.

9 THE COURT: All right.

10 JUROR: Okay.

11 THE COURT: Thank you very much, ma'am.

12 Juror number 20 will remain with us.

13 BAILIFF: Number 11, Your Honor.

14 MR. RIDDLE: I was thinking she was the one you had
15 excused.

16 THE COURT: No. It's number 41, I believe.

17 MR. RIDDLE: Okay. I'm sorry.

18 THE COURT: Yes, ma'am, this is Ms. Barr, number 11.

19 JUROR: Would this involve any kind of, like, a death
20 penalty?

21 THE COURT: No, ma'am, it does not. That's not an
22 issue here, okay?

23 JUROR: Okay.

24 (END OF CONFERENCES AT THE BENCH.)

25 THE COURT: Are there any additional questions from

1 the state?

2 MR. RIDDLE: No, sir.

3 THE COURT: Anything further from the defense?

4 MS. ZMROCZEK: Nothing, nothing -- we'll ---

5 THE COURT: We'll, we'll take ---

6 MS. ZMROCZEK: --- put it on the record afterward.

7 THE COURT: Right. Okay.

8 Now, ladies and gentlemen.

9 (A PAUSE.)

10 THE COURT: Ladies and gentlemen, I'm going to explain
11 to you briefly how we draw juries in, in general sessions
12 court. Those of you -- there's a few of you that I have
13 excused from the -- from participating in this trial, and
14 so your, your names have been taken off the, the main list
15 for purposes of this case.

16 Now, those of you that remain, your names appear on
17 this list and they are pretty in alphabetical order. What,
18 what happens is we've got a computer program and what it
19 does is it will take this list of potential jurors and it
20 will completely and randomly reorder your names. It may be
21 -- for example, I may be on the original list and be Tommy
22 Russo, juror number 134, and I may show up on this new list
23 as Tommy Russo, juror number 14. There's, there's no way
24 of knowing where I'm going to end up on that list because
25 it's completely random. But it will take that list and it

1 will rejump those names and, and throw them up on a new
2 list.

3 What will happen is Madame Clerk will then take that
4 new list, and she will start at the very top and she'll
5 call out the first name on that new list. It may be Tommy
6 Russo, okay? I'll come forward. If your name is called,
7 you'll come forward and you'll come up to this little box
8 here in the middle of the floor and just stand on that side
9 of it, but then turn and face the back of the courtroom
10 like I'm standing here, okay? So, you come forward, stand
11 upon that box, and you'll stand there, and then Madame
12 Clerk will first inquire of the state something along with
13 line, like what say you for the state. The state can
14 either excuse you -- and if they excuse you, you can go
15 back and have a seat -- or they can present you. If they
16 present you, you'll just remain standing, and then she will
17 inquire of the defense something along the lines of what
18 say you for the defense. The defense then can either
19 excuse you, and if they excuse you, you can go back and
20 have a seat, or they can seat you. And if they seat you,
21 then you'll come around and have a seat in the jury box.
22 And we'll go through that process until we have selected
23 our jury.

24 Now, there's no way of knowing -- if your name is
25 called, there is no way of knowing whether the state or the

1 defense will excuse you. So when your name is called,
2 please bring whatever belongings you brought to the
3 courtroom today, whether it be an umbrella, books,
4 pocketbook, whatever you brought. Bring your belongings
5 when you come up. It may be you will not be returning to
6 your seat if you're selected. So, bring those items with
7 you if your name is called.

8 Is the list good? Are you ready? I always have to
9 ask. We used to -- sometimes in Florence, at least I've
10 experienced this, we'll have a computer glitch and it won't
11 kick out the, the list or whatever and, and then -- I'm
12 kind of a dinosaur when it comes to technology. That's
13 when I go back to saying, you know, we used to use a cigar
14 box and that never failed, but we do have technology now
15 and apparently it's worked properly. We, we do have a
16 reordered list, and so I'm going to turn it over, get
17 Madame Clerk to, to begin calling out the names.

18 And we're five and ten, okay?

19 CLERK OF COURT: And two alternates, Judge?

20 THE COURT: Two alternates, yeah.

21 *JURY SELECTION*

22 CLERK OF COURT: Number 156, Sandra Owens. What say
23 for the state?

24 MR. RIDDLE: Please present the juror.

25 CLERK OF COURT: What say for the defense?

1 MS. ZMROCZEK: Please excuse the juror for this trial.

2 CLERK OF COURT: Return to your seat, please, ma'am.

3 142, Trina Moore. What say for the state?

4 MR. RIDDLE: Please present the juror.

5 CLERK OF COURT: What say for the defense?

6 MS. ZMROCZEK: Please excuse the juror for this trial.

7 CLERK OF COURT: Return to your seat, please, ma'am.

8 Number 36, Diane Clayton. What say for the state?

9 MR. RIDDLE: Please present the juror.

10 CLERK OF COURT: What say for the defense?

11 MS. ZMROCZEK: Please seat the juror.

12 CLERK OF COURT: Have a seat in the jury box, ma'am.

13 Number 70, John Fitts. What say for the state?

14 MR. RIDDLE: Number 70?

15 CLERK OF COURT: 70.

16 MR. RIDDLE: Thank you.

17 CLERK OF COURT: What say for the state?

18 MR. RIDDLE: Please present the juror.

19 CLERK OF COURT: What say for the defense?

20 MS. ZMROCZEK: Please seat the juror.

21 CLERK OF COURT: Have a seat in the jury box, sir.

22 Number 50, Barbara Delacruz. What say for the state?

23 MR. RIDDLE: Please seat the juror.

24 CLERK OF COURT: What say for the defense?

25 MS. ZMROCZEK: Please seat the juror.

1 CLERK OF COURT: Have a seat in the jury box, ma'am.

2 Number 210, Ian Turner. What say for the state?

3 MR. RIDDLE: Please present the juror.

4 CLERK OF COURT: What say for the defense?

5 MS. ZMROCZEK: Please seat the juror.

6 CLERK OF COURT: Have a seat in the jury box, sir.

7 Number 34, the Assyria Stewart. What say for the
8 state?

9 MR. RIDDLE: Please present Ms. Stewart.

10 CLERK OF COURT: What say for the defense?

11 MS. ZMROCZEK: Please have a seat in the jury box,
12 ma'am.

13 Number 10, Jon Barnhart. What say for the state?

14 MR. RIDDLE: Please excuse Mr. Barnhart from the trial
15 of this case.

16 CLERK OF COURT: Return to your seat, please, sir.

17 85, Michele Grahn. What say for the state?

18 MR. RIDDLE: Please present the juror.

19 CLERK OF COURT: What say for the defense?

20 MS. ZMROCZEK: Please seat the juror.

21 CLERK OF COURT: Have a seat in the jury box, ma'am.

22 Number 5, Darren Atkins. What say for the state?

23 MR. RIDDLE: Please present Mr. Atkins.

24 CLERK OF COURT: What say for the defense?

25 MS. ZMROCZEK: Please seat Mr. Atkins.

1 CLERK OF COURT: Have a seat in the jury box, sir.

2 27, Evelyn Byrd. What say for the state?

3 MR. RIDDLE: Please present Ms. Byrd.

4 CLERK OF COURT: What say for the defense?

5 MS. ZMROCZEK: Please excuse Ms. Byrd for this trial.

6 CLERK OF COURT: Return to your seat, please, ma'am.

7 33, Jonathan Chandler.

8 (A PAUSE.)

9 CLERK OF COURT: Was he excused?

10 Just a moment, Your Honor.

11 (A PAUSE.)

12 MR. RIDDLE: May we approach? May we approach?

13 THE COURT: Yeah.

14 (OFF-THE-RECORD BENCH CONFERENCE.)

15 THE COURT: Mr. Chandler, I'm going to get you to go
16 back and have a seat if you would, please, sir.

17 Yes, ma'am.

18 CLERK OF COURT: Number 179, Lynn Roof. What say for
19 the state?

20 MR. RIDDLE: Please present Ms. Roof.

21 CLERK OF COURT: What say for the defense?

22 MS. ZMROCZEK: Please seat Ms. Roof.

23 CLERK OF COURT: Have a seat in the jury box, ma'am.

24 23, Terry Brady. What say for the state?

25 MR. RIDDLE: Please present the juror.

1 CLERK OF COURT: What say for the defense?

2 MS. ZMROCZEK: Please seat the juror.

3 CLERK OF COURT: Have a seat in the jury box, sir.

4 With 186, Pamela Schmitt. What say for the state?

5 MR. RIDDLE: Please present the juror.

6 CLERK OF COURT: What say for the defense?

7 MS. ZMROCZEK: Please excuse the juror for this trial.

8 CLERK OF COURT: Return to your seat, please, ma'am.

9 Number 15, Brandon Belton. What say for the state?

10 MR. RIDDLE: Please excuse the juror from the trial of
11 this case.

12 CLERK OF COURT: Return to your seat, please, sir.

13 104, Tony Huggins. What say for the state?

14 MR. RIDDLE: Please present the juror.

15 CLERK OF COURT: What say for the defense?

16 MS. ZMROCZEK: Please excuse the juror for this trial.

17 CLERK OF COURT: Return to your seat, please, sir.

18 83, Charles Goodwin. What say for the state?

19 MR. RIDDLE: Please present Mr. Goodwin.

20 CLERK OF COURT: What say for the defense?

21 MS. ZMROCZEK: Please seat the juror for this trial.

22 CLERK OF COURT: Have a seat in the jury box, sir.

23 13, Jeannie Bedenbaugh. What say for the state?

24 MR. RIDDLE: Please present the juror.

25 CLERK OF COURT: What say for the defense?

1 MS. ZMROCZEK: Please seat the juror for this trial.

2 CLERK OF COURT: Have a seat in the jury box, ma'am.

3 168, Kenneth Ray. What say for the state?

4 MR. RIDDLE: Please present the juror.

5 CLERK OF COURT: What say for the defense?

6 MS. ZMROCZEK: Please excuse the juror for this trial.

7 CLERK OF COURT: Return to your seat, please, sir.

8 219, Paul Wilson. What say the state?

9 MR. RIDDLE: Please present Mr. Wilson.

10 CLERK OF COURT: What say for the defense?

11 MS. ZMROCZEK: Please excuse Mr. Wilson for this
12 trial.

13 CLERK OF COURT: Return to your seat, please, sir.

14 Number 11, Diane Barr. What say for the state?

15 MR. RIDDLE: Please present the juror.

16 CLERK OF COURT: What say for the defense?

17 MS. ZMROCZEK: Please excuse the juror for this trial.

18 CLERK OF COURT: Return to your seat, please, ma'am.

19 126, Leeanne Marier. What say for the state?

20 MR. RIDDLE: Please present the juror.

21 CLERK OF COURT: What say for the defense?

22 MS. ZMROCZEK: Please excuse the juror for this trial.

23 CLERK OF COURT: Return to your seat, please, ma'am.

24 Number 166, Cynthia Quarles. What say for the state?

25 MR. RIDDLE: Please present the juror.

1 CLERK OF COURT: What say for the defense?

2 MS. ZMROCZEK: Please seat the juror.

3 CLERK OF COURT: Have a seat in the jury box, ma'am.

4 Proceed with alternates, Your Honor?

5 THE COURT: Yes, ma'am.

6 CLERK OF COURT: Number 173, Sandra Richardson. What
7 say for the state?

8 MR. RIDDLE: Please present the juror.

9 CLERK OF COURT: What say for the defense?

10 MS. ZMROCZEK: Please seat the juror.

11 CLERK OF COURT: Have a seat in the jury box, ma'am.

12 She's alternate one, Your Honor.

13 96, Samantha Hatfield. What say for the state?

14 MR. RIDDLE: One second, please, ma'am.

15 (A PAUSE.)

16 MR. RIDDLE: Please present the juror.

17 CLERK OF COURT: What say for the defense?

18 MS. ZMROCZEK: Please seat the juror.

19 CLERK OF COURT: Have a seat in the jury box, ma'am.

20 That's alternate number two, Your Honor.

21 THE COURT: All right. Any motions regarding jury
22 selection from the state?

23 MR. RIDDLE: None at this time, Your Honor.

24 THE COURT: Any motions regarding jury selection from
25 the defense?

1 MS. ZMROCZEK: None at this time.

2 THE COURT: All right, ladies and gentlemen of the
3 jury panel, I'm going to excuse you for the balance of
4 today and tomorrow, and, and I don't know what to tell you.
5 It may be for the week. It may, it may be we need you
6 back. I just -- at this point I don't know, so here's what
7 I'm going to do.

8 The card that you received has a phone number on it.
9 There's a phone number and there's a website you can refer
10 to as well, either one. If you would check that, call that
11 number or check the website after 6:00 tomorrow night. So,
12 after 6:00 on Tuesday night, if you would call that number
13 or check the website and then follow whatever instructions
14 are there, okay? We'll know -- I'll have a better idea
15 tomorrow afternoon on whether or not I need you back or
16 whether or not -- the instruction may either be I need you
17 back. It may be that I need you to call back at a later
18 time, or it may be that you're excused for the week. I
19 just don't know at this point. But if you would do that
20 for me after, after 6:00 tomorrow evening, okay? So, thank
21 you, ladies and gentlemen. You're excused for the balance
22 of the day.

23 (WHEREUPON, THE JURY PANEL EXITS.)

24 THE COURT: All right. Now, folks, they're, they're
25 not the only ones who get to play at recess and be gone for

1 the day. I'm about to excuse you for the balance of the
2 day, and the reason for that is this. You are the jury
3 that's going to hear this case, but we have several
4 pretrial matters that if we take those up this afternoon,
5 those are matters that we would take up outside your
6 presence. If we take those up, if we take this afternoon
7 to handle those, that's going to make the balance of the
8 trial go much quicker and be much more efficient rather
9 than have to take them up as we go along and having to
10 excuse you while we take up those matters and bring you
11 back in. So, we're going to try to eliminate that by using
12 this afternoon to take up several pretrial matters. So --
13 and it's going to take us the balance of the day to do
14 that.

15 So, we're going to actually start this case first
16 thing in the morning. Now -- but I'm going to need to send
17 you away with a little bit of instruction that I didn't
18 need to give to those folks.

19 Ladies and gentlemen, as I told you earlier when we
20 were doing jury selection, you're, you're the, you're the
21 folks that are going to decide this case and decide what
22 the facts are of this case, and so it's very important that
23 you not be influenced by anything outside this courtroom.
24 And so -- and that your decision in this case must be based
25 solely on the evidence that is presented during this trial,

1 and the things that go on in this courtroom and not on
2 anything outside the courtroom.

3 So, as I excuse you in just a moment, I'm going to ask
4 you to please do everything in your power to protect your
5 ability to be fair and impartial and that -- I'm going --
6 I, I got a few more things I'm going to tell you, but the,
7 the, the way to basically encapsulate what I'm going to
8 tell you is this. When you come back here tomorrow, you
9 should not know one thing more about this case than you
10 know right now.

11 Now having said that, family, friends, and loved ones
12 are going to be curious as to whether or not you were
13 selected to be on a, on a case. You can tell them that you
14 were selected and that you have to be back in the morning.
15 But, but if they're anything like my wife, who is an
16 awesome lady -- she's just curious about what goes on
17 during the day, and she'll ask me about my day. And so if
18 I was in your situation, she'd say, oh, you got chosen.
19 Great. What kind of case is it, or who's it about? Saying
20 something as innocent as, well, it -- it's, it's a lady
21 that's charged or alleged -- accused of murder or it's a
22 case that involves Shellie Davis, something as simple and
23 innocent as that could possibly elicit or solicit a
24 response that might affect my ability to be fair and
25 impartial. So, I tell folks all the time: you can tell

1 folks I'm on a jury. I have to be back in the morning, but
2 I can't tell you anything else about the case. I can't
3 tell you what the charge is. I can't tell you who, who the
4 defendant -- and the thing is this. When the case is over,
5 I can tell you everything you want to know, but until that
6 time, I can't have conversation about it at all. So -- and
7 that protects your ability to be fair and impartial.

8 The other thing that I would instruct you to do, and
9 we used to not have to do this because we didn't have the
10 technology we have today, but now with the technology we
11 have today, cell phones are basically little computers. We
12 have computers. We have Google. We have Facebook. We
13 have all kind of web searches and stuff. The bottom line
14 is this.

15 You're not to do any independent investigation. I, I
16 don't, I don't -- I send you from here instructing you and
17 telling you that you are not to have -- you're not to go on
18 a computer and, and, and try to look up anything about this
19 case. I don't know that you'd even find anything, but my
20 point is this. It -- it's improper. Your oath as jurors
21 and your duty to both the state and the defendant is to
22 focus, and any information you hear about this case comes
23 straight this courtroom, this witness stand, and any
24 exhibits that may come in during the trial. To, to, to
25 have anything else influence your decision would be so

1 highly improper. And so I would ask you to please just
2 leave here and enjoy the balance of your day.

3 If, if you have the opportunity, please try, try to
4 get a good meal and a good night's rest. You'll find
5 tomorrow as you go through and as we go through this case
6 that jury service may not be taxing physically from a
7 muscular standpoint, but it can be taxing from a mental
8 standpoint. So, coming in well rested is, is, is really
9 important. So, if you can do that, do that for me.

10 I'm going to ask you to -- of course -- and this goes
11 without saying. It goes with everything else I've talked
12 to you about. If you see anything -- newspaper,
13 television, any type of media coverage or anything, if
14 there is any -- you just have to turn that off, put that
15 aside. You are the folks that are going to decide this
16 case, and all your information must come from this
17 courtroom, okay?

18 Now, I'm going to ask you, if you would, to be back
19 here and be in the jury room ready to go at 9:00 tomorrow
20 morning. I, I say this all the time, and my wife has
21 gotten wind of it. I always use her as an example and, and
22 she's a great -- she's an awesome lady and she takes it in
23 good stride, but I always use her as an example. If we
24 have to be across town at a function at 7:00, she thinks
25 we're on time if we leave the house at 7:00 and, and

1 clearly we're late, right? So, you need to be here
2 tomorrow at 9:00. So, if you leave your house at 9, you're
3 late, okay? Don't do that. Account for -- I don't know
4 where everybody is coming from, but account for your
5 distance and for parking and, and for getting in the
6 building, if you would. Account for all of that, and if
7 you would, if you'd been here at 9:00 when everybody has
8 reconvened, we'll then bring you out, and we'll get started
9 with the case, all right?

10 So having said those things, as you leave, I'm going
11 to get you to follow Tommy. He's going to take you and
12 show you where jury room is, and then when you come back in
13 the morning, you'll be directed to that room, and that's
14 where you will reconvene.

15 Now, last thing. When you reconvene, you can
16 introduce yourselves to each other and get to know each
17 other, but that instruction that I gave about not having
18 any conversation about the case, that includes amongst your
19 fellow jurors. You're not to have any discussion or talk
20 about anything prior to your deliberations. So, sometimes
21 jurors will look at me kind of odd and go I thought we were
22 supposed to talk about it. Well, you are but not until all
23 the evidence is in, the lawyers have had a chance to talk
24 with you or present their arguments to you, and I've given
25 you the law. Only then is it proper for you to have a

1 discussion about the case. So, until that time, have no
2 discussion with anyone. Don't talk with anyone. Don't
3 allow anyone to talk with you, okay?

4 If you would take them, show them the jury room?

5 And then we'll see you back here at 9:00, ladies and
6 gentlemen.

7 (THE JURY EXITS AT 12:59 P.M.)

8 THE COURT: All right, folks, it's about 1:00. I
9 thought maybe we would take a lunch break and then come
10 back and deal with the things we next have to deal with.

11 MS. ZMROCZEK: Does that include -- do you want to
12 include the jury issues after lunch?

13 THE COURT: Yes.

14 MS. ZMROCZEK: Okay. I have ---

15 THE COURT: If you'd just make notes about anything
16 you want to bring up and we'll, we'll take that up. Is
17 that a, is that a problem?

18 MR. RIDDLE: Not a problem with me.

19 THE COURT: Okay.

20 MS. ZMROCZEK: Not a problem.

21 THE COURT: All right. Why don't we start back at
22 2:15.

23 MR. RIDDLE: That's fine.

24 THE COURT: Okay. We'll be in recess until 2:15.

25 (OFF THE RECORD.)

1 THE COURT: All right, why don't we first take up any
2 matters regarding jury selection that we need to put on the
3 record. Let me, if you don't mind, let me start with
4 Hope's help.

5 We had, after we did the jury qualification and we
6 took a break before we proceeded to jury selection, we had
7 a couple of jurors that we had some issues we had to deal
8 with, and I dealt with those issues with counsel for both
9 the state and the defense in chambers, and I just want to
10 put that on the record.

11 Juror number 203, when we took the break -- initially
12 we took the break. I went off the bench, and she was
13 making some comments or reference that she could not afford
14 to be on jury duty. She couldn't miss work and that was
15 overheard by Madame Clerk, who then explained to her that,
16 you know, simply need to work was, was not excuse. If she
17 needed to talk to the court about something else, she could
18 certainly do that, which seemed to satisfy her at the time.

19 And then when they returned from the break, or at
20 least when she returned from the break, Madame Clerk
21 observed that she was having a conversation with the
22 defendant in the case. And, and there's no allegations
23 that it was improper conversation, just that there was
24 conversation. And, and so there's no -- I mean, no one's
25 done anything wrong, but that, that conversation,

1 regardless of whatever it was -- just like how you doing,
2 how's your morning -- no matter what it is is not proper
3 conversation. And so both the state and the defense
4 counsel agreed to have her name removed from the name of
5 possible jurors for selection in this case.

6 Then we had a juror, I believe juror number 63, who
7 got sick or is that 63 or ---

8 CLERK OF COURT: 165, Mr. Propes, who was sick.

9 THE COURT: 165, juror 165 actually got ill and was in
10 the restroom sick, and I excused him and I'm going to
11 transfer his service, and we sent him home. And both the
12 state and defense counsel understood and from my
13 understanding had no objections to that.

14 And then the third was number 63, and, and that was a
15 situation where she had a conflict that had arisen with
16 regards to a disabled child that she had at home, and both
17 counsel for the state and the defense agreed with the court
18 to have her taken off for purposes of this case, and so we
19 did that prior to jury selection. And it is my
20 understanding, and I'll just allow counsel to either agree
21 or correct me, that both the state and the defense had no
22 objection to those, those moves.

23 Is that correct, Mr. Riddle?

24 MR. RIDDLE: Yes, sir.

25 MS. ZMROCZEK: Yes, Your Honor.

1 THE COURT: Okay. So, those are issues that we -- had
2 to do with a couple of jurors prior to jury selection, and
3 then we proceeded to jury selection. So, at this we'll
4 proceed with any matters regarding jury selection.

5 MR. RIDDLE: And, Your Honor, I think we had one that
6 -- remember when you said on the record ---

7 THE COURT: Juror 141.

8 MR. RIDDLE: 71.

9 THE COURT: 171.

10 MR. RIDDLE: That had some kind of a conflict on
11 Thursday morning, and I, I can't recall whether you excused
12 her on the record or ---

13 THE COURT: I gave her protection for Thursday
14 morning.

15 MR. RIDDLE: Yes, sir.

16 THE COURT: And we, we realized that this case was
17 going to go all week, so I think everyone agreed that she
18 would be removed in consideration.

19 MR. RIDDLE: Yes, sir.

20 MS. ZMROCZEK: Yes, sir.

21 THE COURT: Okay.

22 MR. RIDDLE: And then the, the other one, Your Honor,
23 was juror number 33. He, he was called. His last name was
24 Chandler. I don't recall what his first name is.

25 THE COURT: Okay.

1 MR. RIDDLE: But juror number 33 was called and nobody
2 responded, and a good ten or fifteen seconds went by. Then
3 all of a sudden, I think someone woke him up, frankly, and
4 he came to, came to the front of the courtroom. Obviously
5 had been asleep for a while because instead of doing what
6 every other juror did, which was turn around and face the
7 lawyers ---

8 THE COURT: He wasn't -- he didn't know the
9 instructions.

10 MR. RIDDLE: Yes.

11 THE COURT: Right.

12 MR. RIDDLE: He, he stood there and I think he
13 addressed Your Honor.

14 THE COURT: He just stared at the court.

15 MR. RIDDLE: Yeah, instead of turning around. At that
16 point, Your Honor, I asked for a bench conference on that
17 as I don't think either side should be stuck with a juror
18 that's sleeping through ---

19 THE COURT: I, I don't ---

20 MR. RIDDLE: --- qualification process.

21 THE COURT: I don't know his situation. I don't know
22 if he works third shift. Regardless, whatever the reason
23 was, you are correct it wasn't a good situation, and I
24 think both Mr. Riddle and Ms. Zmroczek agreed to have him
25 stricken for cause and, and we did that.

1 MS. ZMROCZEK: And that's correct, Your Honor.

2 THE COURT: Anything else with regard to those types
3 of matters? I realize we have other matters. Anything
4 further? Anything further from the state regarding
5 selection?

6 MR. RIDDLE: No, sir.

7 THE COURT: Okay. All right.

8 Ms. Zmroczek.

9 MS. ZMROCZEK: Thank you, Your Honor. For the record,
10 there were -- we had submitted several pages of defendant's
11 proposed voir dire, and some of those were discussed back
12 in chambers.

13 THE COURT: Right.

14 MS. ZMROCZEK: And just so that I can read them into
15 the record, the ones that we -- that were not asked of the
16 venire but that we have requested.

17 THE COURT: Okay.

18 MS. ZMROCZEK: And over our objection they were not
19 read.

20 Number 5: Have any of you ever commented on an
21 online news article that was related to a crime?

22 Number 6: Have any of you liked on Facebook
23 and/or followed on Twitter any law-enforcement
24 agency or anyone affiliated with law enforcement?

25 Number 15: Do you believe that a woman who has

1 been beaten would or should leave the home?

2 Number 18: Do you believe the killing of another
3 person is ever justified?

4 19: If there are circumstances where the law
5 allows one person to take the other -- take the
6 life of another, excuse me, can you accept the
7 idea that under those circumstances a person who
8 kills another is not guilty of a crime?

9 And the rest, Your Honor ---

10 THE COURT: Well, let me, let me just address those,
11 and, and, and the reason I obviously -- well, not
12 obviously, but the reason that I, that I didn't charge that
13 is because those would require the court to make some
14 comment as to the facts or for the jury to prejudge some
15 issues of fact that may appear during the course of the
16 trial. Number 19 is the best example. There are
17 situations where the law allows one person to take the life
18 of another. Can you accept the idea that under those
19 circumstances -- well, I don't know what those
20 circumstances will be and whether or not they're going to
21 appear in this trial.

22 The, the, the other matters again I dealt with, and
23 let me go back with regards to the 5 and 6. Whether or not
24 they ever commented on an online news article that was
25 related to a crime, without going into what their comment

1 was and what the article was, I, I just didn't think it was
2 relevant to any issues involved in this case without having
3 further information on that. It could have been the
4 comments were simply wow, I didn't realize that person got
5 arrested or something of that nature. And again, I realize
6 they weren't comments to another individual. They were
7 comments that would to be on, on the actual online article,
8 but those are the reasons that I didn't ask, ask those
9 questions.

10 Now, you were, I think, about go into several of the
11 matters dealing with a gun.

12 MS. ZMROCZEK: Oh, I was going to say those, for those
13 matters, the reason that we had requested those, just we
14 felt that they were relevant into inquiring into the, the
15 unique nature of this crime. The other ones I was going to
16 say -- I wasn't going to read them out. The other ones did
17 deal with the gun, but I felt like that the, that the court
18 actually did encompass what we were trying to seek with 35
19 and 36.

20 THE COURT: Okay.

21 MS. ZMROCZEK: So, I wasn't going to actually...

22 THE COURT: Okay.

23 MS. ZMROCZEK: Yeah. I was going to remove those
24 objections, just preserve the ones that I read out.

25 THE COURT: All right.

1 MS. ZMROCZEK: But I felt like the gun questions were
2 very well encompassed in 35 and 36, and I felt like those
3 were accomplished. And it may be just an issue of, as we
4 discussed, whether or not to do voir dire in non-capital
5 cases. We just felt like those questions were relevant to
6 this case.

7 THE COURT: Okay.

8 MS. ZMROCZEK: And I understand Your Honor's position
9 but did want to preserve our objection.

10 THE COURT: All right, and just for the record so that
11 it's clear, the defense has objected to the court not
12 asking questions 5, 6, 15 -- excuse me, what were the other
13 ones you objected -- 18 and 19. Is that right?

14 MS. ZMROCZEK: That's correct.

15 THE COURT: Okay, and that's certainly noted.

16 MS. ZMROCZEK: And, and I believe I read them into the
17 record, but we also submitted the voir dire if that would
18 make the record more clear, whichever ---

19 THE COURT: Sure. I think it would be helpful if you
20 have an extra copy. Do you have an extra copy of the
21 actual written voir dire that you ---

22 MS. ZMROCZEK: I do. It just has my little scratch
23 notes on it, but I don't...

24 THE COURT: Okay.

25 MS. ZMROCZEK: And I think I -- I have an extra one --

1 I know I gave a blank one to the court reporter. I mean,
2 not a blank one but one without notes on it to the court
3 reporter as well.

4 THE COURT: Okay.

5 MS. ZMROCZEK: I think I saw it. I think I saw it
6 right there.

7 THE COURT: All right, if we could just mark that as a
8 court's exhibit, and we'll allow that to be part of the
9 record. So, that will be in the record.

10 (DEFENDANT'S PROPOSED VOIR DIRE MARKED INTO EVIDENCE
11 AS COURT'S EXHIBIT NUMBER 1.)

12 THE COURT: All right, anything else regarding jury
13 selection?

14 MS. ZMROCZEK: No, Your Honor, not regarding jury
15 selection.

16 THE COURT: All right. Well, then we'll move on to
17 another matter.

18 MS. ZMROCZEK: I would inquire just about the jury.
19 Because of the length of the trial -- I know that we read
20 out eighty witnesses. I don't believe there will be eighty
21 witnesses but, Your Honor, before -- I've done trials that
22 are very complicated. I don't know how the court addresses
23 or feels about addressing whether they can take notes or
24 not, but I thought maybe we could discuss that.

25 THE COURT: Okay.

1 MS. ZMROCZEK: Prior to just -- just to have it clear
2 for tomorrow.

3 THE COURT: What I in the, in the past I'll -- to, to
4 me it really is a case-by-case basis. That's the way I've
5 always viewed it. But as a matter -- as a rule of thumb,
6 you know, if I've got a day and a half, two-day trial, I
7 typically don't allow it. This case I would imagine is
8 going to take most of the week, if not all of the week, and
9 on those cases I'm, I'm open to listening to counsel and
10 your thoughts on it. On cases that have taken that kind of
11 time, I, I have usually allowed it if either side wanted
12 it. But if both sides object to it, then I'll, I'll honor
13 that as well. So, I'll hear from you and your thoughts.

14 MS. ZMROCZEK: Sir, the reason I would ask -- I
15 inquired is because I believe it would be helpful, and I
16 understand that there are cautions and, and -- that, that
17 the court can read to the jurors about not using them in
18 their deliberations but just simply their own refreshment,
19 not -- I know that there are court ---

20 THE COURT: Right.

21 MS. ZMROCZEK: --- rules on that. So, we would
22 request that that be extended to them as an option in case
23 they're afraid to ask.

24 THE COURT: Okay.

25 Any, any position? Does the state have a position one

1 way or the other?

2 MR. RIDDLE: I don't think we object to it, but I
3 would like you to charge the jury that ---

4 THE COURT: I'll give them an instruction on the use
5 of notes.

6 MR. RIDDLE: Their notes and ---

7 THE COURT: Correct.

8 MR. RIDDLE: --- they have to stay in the courtroom
9 and, I mean, they can't take them home. They can't show
10 them to other jurors. That they're just for their own
11 personal use.

12 THE COURT: Right. Right. Okay.

13 MR. RIDDLE: I'm sure you have one of those somewhere.

14 THE COURT: Yeah. We'll do that.

15 All right. All right. So, and I -- and, and again
16 I'll also make it clear to them that it's not a
17 requirement. It's just we'll make paper and pencil
18 available to them, to any who would like to.

19 (A PAUSE.)

20 THE COURT: All right, any other pretrial matters that
21 we can take up? There was -- I think we discussed in
22 chambers that there had been an earlier *Jackson vs. Denno*
23 hearing that Judge Keesley had conducted.

24 MR. RIDDLE: That's correct, Your Honor.

25 THE COURT: And, and that both sides were satisfied

1 with Judge Keesley's ruling that the statement was freely
2 and voluntarily given and without coercion or whatever, but
3 that there was some discussion about stopping the statement
4 prior to asking for, for counsel. Is that ---

5 MS. ZMROCZEK: Correct, Your Honor. In, in chambers
6 we discussed she made two statements to, to police
7 officers. I believe they were I shot my husband. I want a
8 lawyer. And under the *Doyle, Doyle vs. Ohio*, we can
9 request that that be redacted from the, from the statement.
10 So, when the officers testify, it simply will be I shot my
11 husband, and then I believe ---

12 THE COURT: And then the conversation terminated?

13 MR. RIDDLE: Yes, sir, or here, here's, here's where
14 we are, Judge, and just so the record includes it, the
15 *Jackson vs. Denno* hearing was held in front of Judge
16 Keesley on September 30, 2013. I'm pretty sure the court
17 reporter was Stacy Shepherd because I went and looked it up
18 on the website over the lunch hour, and that's, that's at
19 least what the Court Administration website is showing.

20 THE COURT: Right.

21 MR. RIDDLE: Is Judge Keesley's court reporter, and
22 it, and it occurred, like I say, on Monday, September 30th
23 of 2013.

24 The circumstances of the statement were that after
25 what happened at Feather Run Trail, which is where Jermaine

1 Davis died, the defendant, Shellie Davis, went to
2 Charlotte. Ultimately she shot herself with the same gun
3 that was used to kill Jermaine Davis.

4 She was taken to hospital. While she was at the
5 hospital, the two officers involved in taking the statement
6 went to the hospital. They sought permission from the
7 medical staff as to whether or not they could talk with
8 her. Medical staff gave them their permission.

9 They approached her. They mirandized her. She
10 indicated that she understood. They asked a single
11 question about what had transpired. The response was I
12 shot my husband. I want a lawyer. Apparently at that time
13 Ms. Davis was speaking rather softly, and as Your Honor
14 knows, there is a whole lot of hissing and moving air in
15 hospital rooms, and they lean down and said could you
16 repeat that. She said I shot my husband. I want a lawyer,
17 and the conversation terminated at that point.

18 My proposal would be that we use the first half of
19 that statement, I shot my husband, and then just let them
20 say and did she terminate the conversation at that point?
21 Did y'all ask any more questions? No, and just move on
22 from there.

23 THE COURT: All right.

24 MR. RIDDLE: And I would like permission just for the
25 second part of that, just to lead them through it because I

1 don't want any issues to come up with that.

2 MS. ZMROCZEK: We would agree and prefer that that --
3 it -- that that -- especially that part because I know that
4 officers don't always understand the legal part of it .

5 THE COURT: Okay.

6 MS. ZMROCZEK: So, we won't object to him leading
7 through that part.

8 THE COURT: All, right and, and, and so the record is
9 clear then, we're going to incorporate Judge Keesley's
10 ruling that the statement was, in fact, freely and
11 voluntarily given without coercion and was appropriate for
12 purposes of admission and, and for the jury to decide that
13 issue, but that we're going to stop at that point so we
14 don't run into any *Doyle* violation.

15 Okay. All right. Well, we will do that. Anything,
16 anything further on that issue?

17 MR. RIDDLE: Just that I would like the record to
18 reflect that the hearing that we are incorporating did
19 include the advice of *Miranda* warnings.

20 THE COURT: Right.

21 MR. RIDDLE: And just so Your Honor knows, Ms. Davis
22 intends to mention that in her opening statement, but she's
23 only -- she's not going to say anything about terminating
24 the conversation at all.

25 THE COURT: Okay.

1 MR. RIDDLE: She's going to say she was asked what
2 happened, and she said I shot my husband.

3 THE COURT: Okay.

4 MR. RIDDLE: That's it.

5 MS. ZMROCZEK: And we agree with that, and if it would
6 help to make the record clear, I don't know if maybe we
7 should -- if you want us to order that part of the
8 transcript, or I don't -- if we -- I don't think that we
9 need to, but...

10 THE COURT: Well, I think -- I mean, because all, all
11 I'm admitting is that part that you agreed to, and Judge
12 Keesley has already conducted the hearing, and I think both
13 sides are satisfied that he found after hearing testimony
14 that the statement was in compliance with *Jackson vs. Denno*
15 and that it was freely and voluntarily and not coerced.
16 So, I think that ruling, both sides concur that that ruling
17 was appropriate and correct, and so we'll just let that
18 stand for what it is.

19 MS. ZMROCZEK: Thank you, Your Honor.

20 THE COURT: Okay. Anything? Anything else we need to
21 take up?

22 MS. ZMROCZEK: I believe that we have made -- we've
23 been communicating prior to the trial. We've agreed to
24 some stipulations, several stipulations that maybe we
25 should put on the record now as far as chain. I think that

1 Ms. Davis has -- Ms. Shannon Davis, not Ms. Shellie Davis.

2 THE COURT: Right.

3 MS. ZMROCZEK: Ms. Shannon Davis.

4 THE COURT: I tell you what. Ms. Shannon Davis, if
5 you don't mind, just so the record stays clear, if it's all
6 right with you, we're going to refer to you as Shannon, by
7 -- you want to go by your first name?

8 MS. SHANNON DAVIS: That is perfectly fine, Judge.

9 THE COURT: Okay. We don't mean any disrespect, but
10 we're just going to refer to you as Shannon so that the
11 record will differentiate between lawyer Davis and
12 defendant Davis, and so from now on feel free to refer to
13 her as Shannon.

14 MS. ZMROCZEK: Okay. In front of the jury, if you
15 want me to say Ms. Shannon, if -- either...

16 MS. SHANNON DAVIS: Shannon is fine.

17 THE COURT: No. I mean, I don't know that it will
18 come up often in the trial, but I'll let the jury know
19 that, that we have two Ms. Davises and so that the record
20 is clear and nobody gets confused, for purposes of this
21 case we will refer to Shannon Davis as simply Shannon, and
22 then Ms. Davis will be Ms. Davis. Okay.

23 MS. ZMROCZEK: Oh, and Shannon is the one who has -- I
24 think she sent an email with the stipulations. So -- and
25 you may have that in front of you. I don't know. She can

1 probably clarify what those stipulations were for the
2 record better than I could.

3 THE COURT: All right. Now, let me ask you this.
4 Before we go into those, I know y'all were going to take
5 some time to have exhibits premarked. Do you need get to
6 do that before we go into those?

7 MS. SHANNON DAVIS: I don't think so, Judge. I think
8 that we've been pretty clear going back and forth.

9 THE COURT: Okay.

10 MS. SHANNON DAVIS: In our conversations about
11 everything.

12 THE COURT: All right.

13 MS. SHANNON DAVIS: So, I think we'll be okay to mark
14 them afterwards. If we have anything to take up, we'll,
15 we'll do that in the morning.

16 THE COURT: Okay. Sounds good.

17 MS. SHANNON DAVIS: If that's okay with Your Honor.

18 THE COURT: Yeah. That's fine.

19 MS. ZMROCZEK: And while we're talking about that,
20 Your Honor, I -- there are some things that, that I've
21 provided that I know I'm going to use in my case in chief.
22 But there are some exhibits that it's going to depend on
23 the testimony of whether I need to impeach a witness or
24 not, and so I don't want to premark those exhibits. I
25 don't know.

1 THE COURT: Well, they can be marked. See, here's the
2 thing. When I, when I talk about marking an exhibit, I'm
3 not talking about admitting an exhibit.

4 MS. ZMROCZEK: Right.

5 THE COURT: Simply, you know, like, it's just like
6 assigning the state 200 numbers and the defense 200
7 numbers. Y'all have S-200, y'all have D-200, and we're
8 just going to mark them. Say you both had 200. We're
9 going to mark them 1 through 200. Now, you may not use
10 half of them, but they are at least marked for purposes so
11 that when we refer to them on the record, we're referring
12 to Defense Exhibit 45 rather than this stapler that the
13 defense is -- you know what I'm saying?

14 MS. ZMROCZEK: I do, and when, when we mark them, when
15 we premark them ---

16 THE COURT: And if you never use them, it's fine.

17 MS. ZMROCZEK: Do, do we, do we -- but do we hold on?
18 We hold on? I'm -- just to make sure.

19 THE COURT: Correct.

20 MS. ZMROCZEK: Okay. Okay.

21 THE COURT: They're not in evidence.

22 MS. ZMROCZEK: Okay.

23 THE COURT: So, what we're going to do, and this is my
24 thought.

25 And, Elizabeth, you tell me because I want to make

1 things easy for you.

2 At some point here this afternoon, we're, we're going
3 to premark any exhibit either side thinks they may use, and
4 then you'll get those back. We're -- nobody's going to
5 hold on to that stuff because that, that's your stuff. It,
6 it doesn't become a part of this record and it's not in
7 this record unless it's admitted in, okay?

8 (A PAUSE.)

9 THE COURT: We mark these things and then you get them
10 back because you may decide not to use certain exhibits.
11 Now, they're marked but they're only marked for
12 identification purposes, and I -- we, through Hannah here
13 -- I, I keep a list of everything that's been marked and
14 then we, as they're admitted in, we then check them off as
15 being admitted. So -- and I don't mean to use up your
16 stickers and stuff, but, but I don't want the clerk's
17 office having to hold onto a bunch of exhibits that end up
18 not being a part of the trial because it may be that you
19 don't use them. They're only being marked for
20 identification purposes. That's all. They're not being
21 marked for any other purpose unless you move them into
22 evidence. Then it will go from, for example, from -- it
23 will go from State's 14 for identification purposes only to
24 State's 14 exhibit in evidence.

25 MR. RIDDLE: Okay. Do you want us to try to agree on

1 exhibits that are admissible as well?

2 THE COURT: Well, for right now I'm, I'm, I'm going to
3 hear from Shannon, and we're going to put on the record the
4 things that you have stipulated to as far as issues that
5 you've stipulated to. For example, you talk about chain of
6 custody.

7 MR. RIDDLE: All right.

8 THE COURT: But as far as exhibits, stipulating to
9 certain exhibits, I would, I would like y'all this
10 afternoon to talk to each other to see what, if anything,
11 can be agreed to and then an we'll put that on the record,
12 and then those items you won't have to admit during your
13 case in chief. They're in evidence and you'll just refer
14 to them.

15 MS. SHANNON DAVIS: Your Honor, if we, if we end up
16 putting that on the record this afternoon, would we still
17 be able to keep our exhibits? What, what I don't want is
18 for them to be out of order and for Elizabeth to have to
19 keep a bunch overnight or the clerk's office to keep a
20 bunch overnight. So, will we just want to put the ones we
21 agree to it evidence in the morning?

22 THE COURT: What, what we're going to do, here's what
23 we're going to do. What we're going to do is y'all are
24 going to discuss what you think you can agree to and, and,
25 and what is stipulated to, and before we get started in the

1 morning -- and you'll have those exhibits.

2 MS. SHANNON DAVIS: Yes, sir.

3 THE COURT: You'll be able to say, Judge, we have
4 stipulated to 2 through 6, 8 through 12, 22 through 42, and
5 then those exhibits will the come up here and, and you will
6 lose possession of those. They're in the record.

7 MS. SHANNON DAVIS: Yes, sir.

8 THE COURT: Am I making this difficult? I don't mean
9 to. It's a little different, but what I don't want is --
10 I'm trying to avoid exhibits going back that don't belong
11 back there, which I realize we'll look at those before it
12 goes, but I also don't want you as a lawyer to -- I mean, I
13 think you can better handle your exhibits as you use them
14 or as they're admitted. Now if they're agreed to and
15 they're in, then they're in and you know it, but as you
16 mentioned earlier, Ms. Zmroczek, you have exhibits that you
17 may need for impeachment purposes but you may not need.
18 And so you were, you were concerned about them being up
19 here even though you weren't going to use them.

20 MS. ZMROCZEK: And they're -- and quite honestly,
21 Judge, if they're for impeachment, then I don't want to
22 tell the state so that I can't not ---

23 THE COURT: Right.

24 MS. ZMROCZEK: --- impeach because they already know.

25 THE COURT: I understand. I understand. That's why

1 I'm saying that what I'd, what I'd like to do is mark
2 everything. Elizabeth will have a record of that. We'll
3 have a record of that, and then, then -- and you'll have
4 those exhibits. In the morning, we will go over those
5 exhibits that were agreed upon.

6 MS. ZMROCZEK: Okay.

7 THE COURT: Those exhibits that are stipulated to will
8 then become a part of the record, and it may be that the
9 ones you couldn't agree on, then we'll deal with those as
10 they come up.

11 MS. SHANNON DAVIS: Yes, sir.

12 MS. ZMROCZEK: And so the ones that I believe will be
13 for impeachment, we won't even discuss until they ---

14 THE COURT: You don't need to.

15 MS. ZMROCZEK: Okay.

16 THE COURT: Right.

17 MS. ZMROCZEK: Okay, but they will be marked, but we
18 don't need ---

19 THE COURT: It will be marked, but you don't need
20 to ---

21 MS. ZMROCZEK: Okay.

22 THE COURT: I mean, we may never use them.

23 MS. ZMROCZEK: Right.

24 THE COURT: Okay?

25 All right, Shannon.

1 MS. SHANNON DAVIS: Yes, sir, Your Honor. I believe
2 the state and the defense have agreed that the defense will
3 not object to the chain on any of the evidence that's going
4 to be put in.

5 THE COURT: Okay.

6 MS. SHANNON DAVIS: Would you like me to go through
7 each individual piece that went to, that went to SLED or
8 went into the evidence room that we plan to use, Judge?

9 THE COURT: I think it's sufficient if it's a -- if
10 it's pretty much a blanket agreement.

11 MS. SHANNON DAVIS: Yes, sir.

12 THE COURT: That, that any chain of custody evidence
13 the defense agrees that the state...

14 MS. ZMROCZEK: We are waiving any objections to the
15 chain.

16 THE COURT: All right. So, we don't need to go
17 through that individually.

18 MS. SHANNON DAVIS: No, sir, and I also agree that the
19 state and the defense -- the defense had agreed that she is
20 not going to contest any of the warrants in the case,
21 search warrants or arrest warrants.

22 THE COURT: All right. That correct?

23 MS. ZMROCZEK: That's correct.

24 THE COURT: All right.

25 MS. SHANNON DAVIS: And then there are phone records

1 that were provided by Sprint, and I believe that the state
2 has agreed to waive her objection -- I mean, the state has
3 agreed as to authenticity, but we are reserving other
4 objections such as relevance or hearsay, Your Honor. So,
5 just to authenticity of the Sprint phone records. And then
6 there are phone records that were from the phone dumps of
7 the defendant and of the victim, and we are agreeing to
8 authenticity of those as well.

9 MS. ZMROCZEK: Certainly, and we agree, we agreed that
10 we would discuss relevancy and foundation ---

11 THE COURT: Right.

12 MS. ZMROCZEK: --- in the -- but as far as the
13 authenticity ---

14 THE COURT: You're not going to require either side to
15 bring in someone from Sprint or ---

16 MS. SHANNON DAVIS: Correct.

17 MS. ZMROCZEK: Verizon or wherever.

18 THE COURT: Whoever.

19 MS. SHANNON DAVIS: Correct, Your Honor.

20 THE COURT: Okay.

21 MS. SHANNON DAVIS: I believe the only other
22 stipulation we had was regarding Scott McDonald. He is
23 going to testify as an expert regarding cell phones for the
24 state. He's with Richland County Sheriff's Department. I
25 believe that Ms. Zmroczek had filed a motion previously

1 when this case was called to trial, and she has since then
2 told us that she will not object to his testimony.

3 MS. ZMROCZEK: And, and, Your Honor, I want the record
4 to be -- she is correct, and I want the record just to be
5 really clear because this is a motion that I fight a lot,
6 but it's not really relevant in this case, but usually I
7 object to his expertise and I object to phone records and
8 things like that. But, Your Honor, for this case, we're
9 admitting that she was there. So.

10 THE COURT: Okay.

11 MS. ZMROCZEK: So, she is correct that we're not ---

12 THE COURT: So for purposes of this trial, you don't
13 have any objection to that testimony?

14 MS. ZMROCZEK: Correct.

15 MS. SHANNON DAVIS: I believe that that is -- those
16 are all the stipulations, Your Honor.

17 MR. RIDDLE: Beg the court's indulgence.

18 THE COURT: All right.

19 (COUNSELORS CONFER.)

20 MR. RIDDLE: Judge, there's, there's two more items
21 that we're -- there's a fingerprint analysis done in this
22 case, and the expert that did the comparison on the
23 fingerprint, the latent fingerprint involved in this case,
24 he used the fingerprint card from this arrest to make that
25 comparison. Ms. Zmroczek is not contesting the known

1 prints of Shellie Davis that the expert used ---

2 THE COURT: To compare.

3 MR. RIDDLE: --- to make the comparison to the latent
4 print that was lifted in this particular case.

5 THE COURT: Is that correct?

6 MS. ZMROCZEK: That, that's correct, Your Honor, and I
7 think that you probably at this point understand the gist
8 of where we're going. We're not contesting that she was
9 there. This is not a whodunit. This is a why done it, and
10 so these issues I don't think are ---

11 THE COURT: Right.

12 MS. ZMROCZEK: --- are significant, and that's why --
13 and he's correct. We -- and there -- I understand that
14 there were things in evidence that were brought down from
15 Charlotte and -- because that's where she was. We don't
16 need the people from, from North Carolina.

17 THE COURT: Okay.

18 MS. ZMROCZEK: That, that chain is ---

19 THE COURT: Okay.

20 MS. ZMROCZEK: --- secure.

21 THE COURT: All right.

22 MR. RIDDLE: The, the other thing that Ms. Zmroczek
23 and I just spoke about, Your Honor. the, the original
24 Sprint cell phone records, the call detail records, which
25 phone dialed which phone, incoming, outgoing, that type of

1 thing, Scott McDonald with the sheriff's department over in
2 Richland took that original electronic data that was in a
3 spreadsheet format, and he ran it through a program which
4 law enforcement and I'm sure others use. I believe the
5 name of the program is called PinLink, and what that does
6 is it doesn't delete any information, but it takes off a
7 lot of the stuff that's really not very user friendly
8 unless you're Scott McDonald or some other type of expert
9 and puts it in a format that is just basically easier for
10 lawyers and everyday folks to work with. And I don't
11 believe Ms. Zmroczek -- I provided her a copy of that
12 report that Scott McDonald did, and I don't believe she
13 objects to us using that report that Scott McDonald
14 generated when we're dealing with witnesses as opposed to
15 the raw data from Sprint that, that ---

16 THE COURT: Is that correct?

17 MS. ZMROCZEK: That is correct.

18 THE COURT: Okay. All right.

19 (COUNSELORS CONFER.)

20 MR. RIDDLE: I'm pretty sure that's all the
21 stipulations. We, we may -- if we come up with some more,
22 we'll make a list to ---

23 THE COURT: Oh, yes.

24 MR. RIDDLE: --- put on the record in the morning,
25 Judge, but I think that ---

1 THE COURT: Sure.

2 MR. RIDDLE: --- as we go through the exhibits, I
3 think there's the possibility that some other stuff might
4 come up, but ---

5 THE COURT: Okay.

6 MR. RIDDLE: --- we'll see.

7 THE COURT: Any other motions, any other motions or
8 matters that we need to take up pretrial from the state?

9 MR. RIDDLE: Yes, sir. Yes, sir. There's several.
10 Number one, earlier today the news people were here, and
11 they put their camera right where my victim-witness people
12 sit and my victim's family on this first row.

13 THE COURT: Yeah, they're going to have to take a row
14 back.

15 MR. RIDDLE: Well, and I was going to tell Your Honor
16 that right -- actually, this row right here is an extra
17 wide row, and I don't if its, like, a handicapped row or
18 whatever. It's also got power nearby, and if they could
19 just set up on this wide row as opposed to ---

20 THE COURT: No, I don't want them back there.

21 MR. RIDDLE: Not back there?

22 THE COURT: I don't want the camera back there for
23 this reason.

24 MR. RIDDLE: Yes, sir.

25 THE COURT: The further back you go, the wider angle a

1 camera's going to pick up. I don't want the victims on
2 camera. I don't want jury on camera.

3 MR. RIDDLE: Okay.

4 THE COURT: And if that camera's on the very front row
5 right there, then the angle which comes this way protects
6 the jury. They're, they're not on camera, and then the
7 victims sit one row behind that, they're not on camera, and
8 that's, that's the way I wanted to do it because I don't
9 want -- if you put the camera back there and they're
10 setting up there, they're going to get on the camera, and,
11 and I don't, I don't want them on camera.

12 MR. RIDDLE: And that -- I would just -- I just want
13 to put this on the record because I'm not arguing with the
14 court. What, what I personally don't like about it as well
15 is that I can't talk with my people without having a live
16 mic right in my face when the cameras is right there. So,
17 if I need to discuss with one of the members -- my staff
18 members or one of the investigators from the sheriff's
19 department or something like that, there's a live mic right
20 there and I'm, I'm just -- I'm not comfortable with it, but
21 I, I, I wanted to put that concern ---

22 THE COURT: Well.

23 MR. RIDDLE: --- on the record, and if Your Honor ---

24 THE COURT: Well, I don't, I don't know that you need
25 to go over here and talk to them.

1 MR. RIDDLE: Okay.

2 THE COURT: Have them come over here to you.

3 MR. RIDDLE: Okay.

4 THE COURT: And talk to them, and, and I'll give you
5 any, any leeway you need. Like, for example, even, even in
6 the middle testimony if you need to stop and, and talk with
7 someone, have them come over to you.

8 MR. RIDDLE: Okay.

9 THE COURT: And talk with you, and I'll give you all
10 the time you need to do that.

11 MR. RIDDLE: Fair enough.

12 MS. ZMROCZEK: And, and, Your Honor, quite honestly
13 for the record, I -- that -- my concern with that is I know
14 that sometimes they have a, a lot of people and the fact
15 that the jury is right here, and if they're discussing
16 things, that -- it concerns me that unintentionally they
17 may overhear discussions just ---

18 THE COURT: Well, you know ---

19 MS. ZMROCZEK: And so ---

20 THE COURT: --- if you could redesign -- I mean, the
21 courtroom is what it is. You can't redesign it, but, you
22 know ---

23 MS. ZMROCZEK: But I think actually them coming to him
24 solves both problems.

25 THE COURT: I think it does, and, and another thing,

1 too, Mr. Riddle, is I try to take into consideration
2 victims as well as, you know, people who are here for the
3 defendant. And, and I like to give them some preferential
4 treatment, meaning, first of all, I want to protect them
5 from being exposed to video and camera that they're not --
6 they shouldn't be exposed to. And, and I can best do that
7 by having a camera in front of them and not behind them,
8 and I can't -- you know, I can control the cameraman to
9 some extent, but once he's got the camera going, where,
10 where -- what he's picking up and what he focuses out and
11 in on, I don't know unless I see it on a TV screen and then
12 he's called in. But to prevent that, if I put people
13 behind a camera not in front of a camera, they're
14 protected. But if I put that camera back there and I want
15 them behind the camera, now all of a sudden I've put them
16 at the back of the courtroom, and they don't need to be at
17 the back of the courtroom. They need to be up this way.
18 So, asking them to go one row back and put the camera up in
19 front protects them, it protects the jury, and it still
20 gives the media access.

21 And I, I appreciate your concern, but what I would
22 suggest is to -- and I agree with Ms. Zmroczek. Having
23 conversation that close to the jury box probably isn't a
24 good thing. You probably need to have them come over to
25 you. You know, I, I think this jury box is dangerously

1 close to counsel table. I -- but it is what it is, you
2 know.

3 So, any, anything else regarding that or, or, or
4 anything else that, you know?

5 MR. RIDDLE: Your Honor, earlier we gave Ms. Zmroczek
6 a rap sheet on one of our witnesses, a lady by the name of
7 Arletta Carr. She had a lengthy record back before the
8 year 2000, but I would submit that the only thing off of
9 her record that is admissible is I count five bad checks,
10 two from arrest date in 9/10 of 2004 and three from under
11 an arrest date on 2/23/2004. All of those conviction dates
12 on those five will be within ten years and under Rule 609.
13 I believe the rest of her record would not be admissible
14 under the ten year-plus rule. It's -- I believe it's
15 609(b). Have to look again. 609(b), Your Honor.

16 THE COURT: Okay. All right.

17 Ms. Zmroczek.

18 MS. ZMROCZEK: We would agree. He, he provided that,
19 and I had the chance to look it over prior to the court
20 coming ---

21 THE COURT: Okay.

22 MS. ZMROCZEK: --- and taking the bench, and we would
23 agree.

24 THE COURT: All right. So, those -- you'll explain to
25 Ms. Carr -- she in here?

1 MR. RIDDLE: No. I'll take care of ---

2 THE COURT: You'll explain to her that, that she's
3 subject to being asked about those, and I'm sure you're
4 going to ask her, but, but I'm saying just to make her
5 aware ---

6 MR. RIDDLE: Yes, sir.

7 THE COURT: --- that there -- and explain that there's
8 -- no one's going to be allowed to go into any more detail
9 other than you've got that conviction.

10 MR. RIDDLE: Right.

11 THE COURT: All right.

12 MR. RIDDLE: In connection with Ms. Carr, Your Honor,
13 there is an individual that Ms. Carr worked for and the
14 decedent, Jermaine Davis, worked for by the name of Lance
15 Wright. Lance Wright ended up getting indicted by the
16 feds. I'm not sure what the charges were. I don't think
17 that is relevant to this trial that he got indicted in
18 terms of Ms. Carr's testimony. I don't think Ms. Zmroczek
19 -- this a motion in limine, Your Honor. I don't think Ms.
20 Zmroczek should be allowed to ask Ms. Carr whether or not
21 Lance Wright has been indicted or convicted of any federal
22 crime unless she can tie that directly to Jermaine Davis
23 somehow. And so my motion is that she not be allowed to
24 probe into misconduct by Mr. Wright through Arletta Carr.

25 I did notice that Lance Wright is on her witness list,

1 and certainly it can come out, I think, at that time if, if
2 it -- if he takes the stand. But I don't think that she
3 should be allowed to ask Ms. Carr about that.

4 MS. ZMROCZEK: Your Honor, I have no intention of
5 asking Ms. Carr about Mr. Wright's legal issues. The only
6 thing that I intend on asking her about Mr. Wright is just
7 his connections and how he knew people in the community,
8 but certainly nothing to do with his criminal record.

9 THE COURT: Criminal history.

10 MS. ZMROCZEK: I'm not here to smear other people.
11 That's -- yeah.

12 THE COURT: Okay. All right. Thank you.

13 (A PAUSE.)

14 THE COURT: Anything further?

15 MR. RIDDLE: Just one last thing, Your Honor. In an
16 -- Ms. Davis was at her home on the morning that this
17 incident took place. She left there and went to the
18 victim's apartment. Prior to her leaving her home, she saw
19 her teenage son, a young man names Marlin, M-a-r-l-i-n,
20 Davis. Your Honor, in an effort to avoid bringing Marlin
21 in here to testify, Ms. Zmroczek and I have agreed that I
22 can ask essentially a hearsay question of another occupant
23 of the house who's going to testify. Do you know if Ms.
24 Davis saw any -- or if anyone in the house saw Ms. Davis
25 that morning? Yes. Who saw her? The son. What time?

1 And that's, that's not going to be objected to because I
2 don't want to have to put a teenage, teenage boy on.

3 THE COURT: Okay.

4 MR. RIDDLE: He's a man now. I shouldn't, shouldn't
5 call him a boy. He's about seventeen years old now, and
6 he's ---

7 THE COURT: Still a boy then.

8 MR. RIDDLE: --- getting on up there.

9 THE COURT: I'm old, I'm old school. He's still a
10 boy.

11 MR. RIDDLE: Fair enough.

12 THE COURT: Probably have too may kids running around
13 here think they're men and women. They're not.

14 MS. ZMROCZEK: And that is correct, Your Honor. In
15 fact, that, that was one of -- when that name was called
16 out today, it raised concerns because ---

17 THE COURT: Yeah.

18 MS. ZMROCZEK: --- the children have been through
19 enough.

20 THE COURT: Well, here, here's the thing, guys. You
21 know, y'all, y'all have both tried cases with me. I let
22 lawyers try their cases. If you object to something, we'll
23 deal with it. If you don't, I don't do the objection for
24 you. So, if -- I mean, I, I've sat here at times -- not
25 sat here, but I've sat on the bench at times thinking to

1 myself why doesn't that prosecutor or that defense lawyer
2 wake up and listen to the testimony. Why aren't they
3 objecting? You may have reasons why it's objectionable but
4 you're not objecting. There may be a strategy reason why.

5 So, I don't -- you know, if you go down that road, Mr.
6 Riddle, and Ms. Zmroczek stays in her seat, go as far down
7 that road as she'll let you go, okay? So, I'm fine with
8 that. Okay.

9 MR. RIDDLE: I believe that's all of our issues at
10 this time.

11 THE COURT: All right, Ms. Zmroczek.

12 MS. ZMROCZEK: Thank you. We also have a motion in
13 limine, Your Honor, and I discussed it a little bit
14 earlier. When we were talking -- this case obviously has
15 been going on for a while, and we've been talking about
16 theories of what happened. My concern is that when this
17 was supposed to be tried in September, we were provided
18 with some information that provided a very strong theory
19 for their case.

20 Your Honor, that witness is not on the witness list.
21 It's my understanding that she is not going to be
22 testifying and it had to do with the theory that would
23 relate to voluntary manslaughter, and this will come in
24 later when we argue about charges because the charge is
25 murder, and it's going to be our position that the facts do

1 not support a voluntary manslaughter charge, and we will
2 not be asking for one.

3 And what I'm concerned about is that in order to --
4 and this is just my guess, but I wanted to try to deal with
5 it ahead of time in order to prevent -- if the facts bear
6 out a voluntary manslaughter charge, which I don't believe
7 they will, but I don't want that to be able to be used just
8 to combat a self-defense, but if in opening they say he was
9 leaving her or if they provide some information that they
10 don't have a witness ---

11 THE COURT: Well.

12 MS. ZMROCZEK: --- to confirm that, then I'm concerned
13 that ---

14 THE COURT: Well, keep in mind, keep in mind now, and,
15 and I tell the juries this all the time. What you guys say
16 is not evidence. I mean, I'm not going to say you can say
17 whatever you want because you can't, but anything you say,
18 good or bad, that's evidence and it's not what they can
19 consider in their case -- I mean, in their decisions. But,
20 but I understand what you're saying.

21 MS. ZMROCZEK: Just ---

22 THE COURT: If they don't, if they don't have the
23 witnesses to support the theory, don't argue the theory in
24 front of the jury or don't ---

25 MS. ZMROCZEK: Or don't even present that it ---

1 THE COURT: Don't raise the theory in front of the
2 jury.

3 MS. ZMROCZEK: That's, that's my only concern, Your
4 Honor, and I don't -- and I'm not saying that they're going
5 to or not going to. It's just my concern even though what
6 we say is not evidence, as officers of the court and we
7 speak to them, even when you tell them not to listen to
8 it ---

9 THE COURT: Well, I mean, it goes, it goes to your
10 credibility because if you tell the jury this is what we
11 believe, this is what we're, this is what we're going to
12 show you and then you don't show it, that, that goes to you
13 credibility.

14 But anyway, Ms. Shannon.

15 MS. SHANNON DAVIS: Your Honor, the state's position
16 is everything that I intend to say in the opening is
17 something that I expect the state to be able to prove
18 through our case. In the event Ms. Zmroczek believes that
19 we haven't, that's definitely an issue she can take up, you
20 know, in her closing.

21 THE COURT: Sure.

22 MS. SHANNON DAVIS: Or in the proper motion at that
23 time. I just don't think it would be appropriate following
24 my opening to move for a mistrial ---

25 MS. ZMROCZEK: I mean, I'm not ---

1 MS. SHANNON DAVIS: --- if she doesn't agree with
2 something I say because she just wouldn't know what the
3 evidence that we would present ---

4 THE COURT: Well, I, I don't think ---

5 MS. SHANNON DAVIS: --- would be.

6 THE COURT: --- she's saying that, but I agree. What
7 ---

8 MS. SHANNON DAVIS: That's just from conversations
9 that we have had.

10 THE COURT: But I agree with what you're saying. That
11 whatever you -- your, your opening needs to be this is what
12 we intend to show you.

13 MS. SHANNON DAVIS: Everything that I intend to tell
14 the jury in opening is something that I intend for us to
15 have a witness to back up, Judge.

16 THE COURT: Okay.

17 MS. ZMROCZEK: And that was -- and the e -- the email
18 I sent it, and that's before the motion in limine, I just
19 wanted to try and discuss that with them. And that -- and
20 when I used the word mistrial, I didn't mean oh, like,
21 mistrial right at the beginning. I just meant at the end
22 if, if at some point we were arguing charges or, or things
23 like that that -- and -- that were clearly never going to
24 be ever presented but were mentioned in opening statements,
25 that, that, that was -- I was just trying to make sure that

1 we were clear about that.

2 THE COURT: Okay.

3 MS. ZMROCZEK: Unlike that statement.

4 THE COURT: Yeah. Okay. I think, I think we are.

5 MS. SHANNON DAVIS: I think we're clear, Judge.

6 Thanks.

7 THE COURT: Okay. All right, anything, anything else
8 that we can do?

9 All right. Well, here, here's what ---

10 MS. ZMROCZEK: Sorry.

11 THE COURT: Go ahead.

12 MS. ZMROCZEK: I just -- there's one more thing, Your
13 Honor. I told the state this. I plan to state in opening
14 Ms. Davis is going to testify. We had asked if there -- if
15 they had any *Lyle* information to provide us.

16 Your Honor, there is -- they provided us some
17 information in discovery about a charge that she was
18 arrested for in 2006 which was expunged but apparently not
19 expunged correctly because it's still showing up in an
20 incident report or something. It's my understanding that
21 the law of expungements is very clear that they're supposed
22 to destroy every incident report, everything connected with
23 that charge that was expunged. However, it was provided to
24 us in discovery. So, clearly it -- that wasn't followed.
25 I just didn't -- she is going to testify. I just thought

1 if we're trying to take things up that we knew are going to
2 come up, that we could take that up now.

3 MS. SHANNON DAVIS: Your Honor, if she's going to
4 testify and her defense is self-defense, I do think that,
5 you know, in the event the door is opened that she's going
6 to be talking about, you know, who the aggressor was, I
7 think that we are allowed to get into prior bad acts. And
8 I, I don't think it's our intention to talk about the
9 charge but that that act did occur. I mean, I don't think
10 we plan on putting in any, you know, ---

11 THE COURT: That she was arrested or charged.

12 MS. SHANNON DAVIS: Yes, sir, but I, I do think that
13 we are -- we should be able to -- in the event that that's
14 the road they're going down, which it just seems to be,
15 that we would be able to talk about that prior bad act if
16 she testifies and is alleging self-defense.

17 THE COURT: Well, I -- and I don't know what it is, so
18 I can't give you ---

19 MR. RIDDLE: And, and, and ---

20 THE COURT: --- a ruling at this time.

21 MR. RIDDLE: Just one other thing. In our case in
22 chief, we've given her all the statements. We've given her
23 all the incident, the incident reports, we've given her all
24 the detectives' supplementals. There is information in
25 there about Ms. Davis and about the relationship with her

1 husband. She's got all of that.

2 I don't know that we are offering anything that fits
3 under my view of what is *Lyle* evidence, but prior
4 difficulties we may be getting into, but I don't think any
5 of it constitutes what I think of when I use the term *Lyle*
6 evidence. I do not intend to offer convictions for any
7 prior crimes, which is what I understand *Lyle* or 404(b)
8 evidence to be. So, in my view we're not offering any *Lyle*
9 evidence.

10 I understand what her objection is about the prior CDV
11 arrest, and I will tell the court I will not address that
12 in front of the jury without giving Your Honor a chance in
13 context and at the appropriate time to hear both sides on
14 that.

15 THE COURT: Okay.

16 MR. RIDDLE: I will stop the proceedings and we'll
17 just ---

18 THE COURT: Let the jury out.

19 MR. RIDDLE: --- give you a chance, yeah, give you a
20 chance to hear it and hear the arguments and rule on it.

21 THE COURT: Okay.

22 MS. ZMROCZEK: And that's all -- that's, that's
23 certainly -- yeah, we, we ---

24 THE COURT: Okay.

25 MS. ZMROCZEK: --- understand things come up in trial.

1 We just wanted to make sure that, that we addressed it
2 before it could be unaddressed.

3 THE COURT: Sure. Okay. All right. Anything else?
4 I know y'all are going -- go ahead, Shannon. I'm sorry.

5 MS. SHANNON DAVIS: I was going to say none from the
6 state, Judge.

7 THE COURT: Okay, I know y'all are going to get with
8 Elizabeth, and you're going to premark exhibits and talk
9 about what you can stipulate to. If, if you need me for
10 anything, just let me know.

11 Now, we're starting at 9 with the jury. So, I'll,
12 I'll get here early and if there's -- if we can put on, we
13 can put on the record those exhibits that you did agree
14 upon and we can, we can put all that on the record. So if
15 y'all don't mind, we'll be ready to do some stuff at 8:30,
16 okay, and, and I'd like to start at 9 or as close to 9 as
17 we can since we told the jury that, okay?

18 MR. RIDDLE: The only other thing that might be a
19 little bit out of the ordinary, and I just wanted to ask
20 you before. When the SLED firearms expert is testifying
21 regarding ballistics and whatnot, I would like for us to be
22 able to remove the safety cable or the gun lock from the
23 firearm so that he can demonstrate the, the ---

24 THE COURT: I'll, I'll allow that to the extent it
25 remains in his hands.

1 MR. RIDDLE: Oh, I'm not going to touch it.

2 THE COURT: Yeah.

3 MR. RIDDLE: Yeah.

4 THE COURT: But, but, you know, obviously any time --
5 I mean, because -- and I've had cases before. You know,
6 you can't display to a jury, for example, and I don't know
7 if that's what we're doing, but you can't, if you have a
8 semi automatic ---

9 MR. RIDDLE: That's exactly what ---

10 THE COURT: --- you can't explain to the jury how, how
11 you, how you rack that back and chamber a round without
12 being able to show it to them. You can't do that with a
13 gun lock or a cable on it. So, as long as it's in his
14 hands -- and I'll allow him to do that, her, him or her,
15 whoever it is. But, but any time it's in the witness's
16 hands, you know, we'll make sure that that's on it and in
17 place. But that's fine for purposes of the witness.

18 (COUNSELORS CONFER.)

19 MS. ZMROCZEK: Judge, we were talking. Maybe when we
20 get to that testimony, since he's going to be doing it, if
21 maybe I can just see him or, or Mr. Downtin can see how he's
22 going to do it prior to -- maybe if we take a break like
23 right before he testifies just so it's -- so we're not all
24 -- because we haven't seen what he's going to do.

25 THE COURT: That's fine.

1 MS. ZMROCZEK: Okay.

2 THE COURT: I mean, I don't have -- if it's a -- if it
3 comes at a time when it would be an appropriate short
4 break, we'll, we'll let the jury take a short break and,
5 and -- before we have that witness take the stand, okay?

6 Okay, anything further?

7 MR. RIDDLE: The -- Ms. Zmroczek mentioned there,
8 there may be a scheduling issue with Dr. Schwartz-Watts.

9 THE COURT: Well, I think she, she's told -- I think
10 she's told Donna that she expects that you need her
11 Thursday afternoon, and all I was saying was as your case
12 close, you know, you'll have some idea as to when you think
13 you might be finishing up.

14 MR. RIDDLE: Right.

15 THE COURT: If it looks like that's going to change
16 that timeframe, just give her a heads up that it might so
17 she can stay in touch with ---

18 MR. RIDDLE: Sure, and I don't mind doing that. I
19 wanted to alert the court that we've got Dr. Janice Ross,
20 the pathologist out of Newberry. Apparently Barnwell has
21 got her next week, too, and I'm going to try to get that a
22 little bit squared away tonight, but we might have a
23 scheduling issue with ---

24 THE COURT: You mean Barnwell's got her this week.

25 MR. RIDDLE: Barnwell's got her -- Barnwell said or I

1 got a message that Barnwell has her locked down for
2 Wednesday and...

3 THE COURT: Well, we'll talk to Strom Thurmond. They
4 might can let her -- free her up a little bit.

5 MR. RIDDLE: Yeah. I might -- yeah, yeah.

6 MS. ZMROCZEK: And, and, and, Your Honor, if, if they
7 need to take her out of turn, we would not object to Dr.
8 Ross's testimony.

9 THE COURT: Okay. All right. We'll work it out then.

10 MR. RIDDLE: All right.

11 THE COURT: We'll work with them, too, if we need to,
12 all right? Okay. Well, then, for purposes of being on the
13 record this afternoon, we'll adjourn court and let y'all
14 continue to work here, and then we'll, we'll get started
15 back at 8:30 with anything we need to put on the record.

16 MR. RIDDLE: Okay.

17 THE COURT: Okay. All right.

18 (CALENDAR MARKED AS STATE'S EXHIBIT NUMBER 1 FOR
19 IDENTIFICATION.)

20 (APARTMENT DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 2
21 FOR IDENTIFICATION.)

22 (CELL PHONE POWER POINTS INDIVIDUALLY MARKED AS
23 STATE'S EXHIBITS 3, 4, 5, 6, 7 FOR IDENTIFICATION.)

24 (DISTANCE MAP MARKED AS STATE'S EXHIBIT NUMBER 8 FOR
25 IDENTIFICATION.)

1 (BEDROOM DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 9
2 FOR IDENTIFICATION.)

3 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBITS
4 10 THROUGH 55 FOR IDENTIFICATION.)

5 (BOX OF AMMUNITION MARKED AS STATE'S EXHIBIT NUMBER 56
6 FOR IDENTIFICATION.)

7 (SHELL CASINGS MARKED AS STATE'S EXHIBIT NUMBER 57 FOR
8 IDENTIFICATION.)

9 (MAGAZINE/LIVE AMMUNITION MARKED AS STATE'S EXHIBIT
10 NUMBER 58 FOR IDENTIFICATION.)

11 (2 LIVE ROUNDS MARKED AS STATE'S EXHIBIT NUMBER 59 FOR
12 IDENTIFICATION.)

13 (BULLET CORE/JACKET MARKED AS STATE'S EXHIBIT NUMBER
14 60 FOR IDENTIFICATION.)

15 (BERSA .380 MARKED AS STATE'S EXHIBIT NUMBER 61 FOR
16 IDENTIFICATION.)

17 (LATENT PRINT MARKED AS STATE'S EXHIBIT NUMBER 62 FOR
18 IDENTIFICATION.)

19 (GUNBOX/PAPERWORK MARKED AS STATE'S EXHIBIT NUMBER 63
20 FOR IDENTIFICATION.)

21 (ENVELOPE WITH RINGS/MONEY MARKED AS STATE'S EXHIBIT
22 NUMBER 64 FOR IDENTIFICATION.)

23 (PURPLE BAG WITH MISCELLANEOUS ITEMS MARKED AS STATE'S
24 EXHIBIT NUMBER 65 FOR IDENTIFICATION.)

25 (BEDSHEETS MARKED AS STATE'S EXHIBIT NUMBER 66 FOR

1 IDENTIFICATION.)

2 (BEDSPREAD MARKED AS STATE'S EXHIBIT NUMBER 67 FOR
3 IDENTIFICATION.)

4 (BLUE PURSE AND CONTENTS MARKED AS STATE'S EXHIBIT
5 NUMBER 68 FOR IDENTIFICATION.)

6 (VICTIM'S CELL PHONE MARKED AS STATE'S EXHIBIT NUMBER
7 69 FOR IDENTIFICATION.)

8 (SPRINT RECORDS MARKED AS STATE'S EXHIBIT NUMBER 70
9 FOR IDENTIFICATION.)

10 (TELEPHONE LOG REPORT MARKED AS STATE'S EXHIBIT NUMBER
11 71 FOR IDENTIFICATION.)

12 (DEFENDANT'S CONTACT LIST MARKED AS STATE'S EXHIBIT
13 NUMBER 72 FOR IDENTIFICATION.)

14 (GUN PURCHASE PAPERWORK MARKED AS STATE'S EXHIBIT
15 NUMBER 73 FOR IDENTIFICATION.)

16 (CONSENT TO SEARCH MARKED AS STATE'S EXHIBIT NUMBER 74
17 FOR IDENTIFICATION.)

18 (MIRANDA CARD MARKED AS STATE'S EXHIBIT NUMBER 75 FOR
19 IDENTIFICATION.)

20 (DEFENDANT'S CELL PHONE MARKED AS STATE'S EXHIBIT
21 NUMBER 76 FOR IDENTIFICATION.)

22 (DEFENDANT'S DRIVER'S LICENSE MARKED AS STATE'S
23 EXHIBIT NUMBER 77 FOR IDENTIFICATION.)

24 (BLUE SHIRT WITH BLOOD MARKED AS DEFENDANT'S EXHIBIT
25 NUMBER 1 FOR IDENTIFICATION.)

1 (BAG WITH BIBLE MARKED AS DEFENDANT'S EXHIBIT NUMBER 2
2 FOR IDENTIFICATION.)

3 (BAG OF LETTERS MARKED AS DEFENDANT'S EXHIBIT NUMBER 3
4 FOR IDENTIFICATION.)

5 (CASH REGISTER DRAWER MARKED AS DEFENDANT'S EXHIBIT
6 NUMBER 4 FOR IDENTIFICATION.)

7 (RECEIPT MARKED AS DEFENDANT'S EXHIBIT NUMBER 5 FOR
8 IDENTIFICATION.)

9 (JOURNAL ENTRY - 12 PAGES MARKED AS DEFENDANT'S
10 EXHIBIT NUMBER 6 FOR IDENTIFICATION.)

11 (NOTEBOOK MARKED AS DEFENDANT'S EXHIBIT NUMBER 7 FOR
12 IDENTIFICATION.)

13 (RED NOTEBOOK MARKED AS DEFENDANT'S EXHIBIT NUMBER 8
14 FOR IDENTIFICATION.)

15 (BLUE NOTEBOOK MARKED AS DEFENDANT'S EXHIBIT NUMBER 9
16 FOR IDENTIFICATION.)

17 (FORECLOSURE NOTICE MARKED AS DEFENDANT'S EXHIBIT
18 NUMBER 10 FOR IDENTIFICATION.)

19 (NOTICE TO VACATE MARKED AS DEFENDANT'S EXHIBIT NUMBER
20 11 FOR IDENTIFICATION.)

21 (FORECLOSURE NOTICE MARKED AS DEFENDANT'S EXHIBIT
22 NUMBER 12 FOR IDENTIFICATION.)

23 (WHEREUPON, THE CASE IS AT EASE.)

24 *TUESDAY, APRIL 22, 2014*

25 (COURT RESUMES AT 9:13 A.M.)

1 (PHOTOGRAPHS MARKED INDIVIDUALLY AS DEFENDANT'S
2 EXHIBITS 13 THROUGH 25 FOR IDENTIFICATION.)

3 (PHONE RECORDS MARKED AS DEFENDANT'S EXHIBIT NUMBER 26
4 FOR IDENTIFICATION.)

5 (PHOTOGRAPHS MARKED INDIVIDUALLY AS DEFENDANT'S
6 EXHIBITS 27 THROUGH 37 FOR IDENTIFICATION.)

7 (SUMMARY OF PHONE RECORDS MARKED AS DEFENDANT'S
8 EXHIBIT NUMBER 38 FOR IDENTIFICATION.)

9 (TEXT MESSAGES MARKED AS DEFENDANT'S EXHIBIT NUMBER 39
10 FOR IDENTIFICATION.)

11 (PHONE CONTACTS MESSAGES MARKED AS DEFENDANT'S EXHIBIT
12 NUMBER 40 FOR IDENTIFICATION.)

13 (PHOTOGRAPHS MARKED INDIVIDUALLY AS DEFENDANT'S
14 EXHIBITS 41 THROUGH 45 FOR IDENTIFICATION.)

15 (CAD REPORT MARKED AS DEFENDANT'S EXHIBIT NUMBER 46
16 FOR IDENTIFICATION.)

17 (PHOTOGRAPHS MARKED INDIVIDUALLY AS DEFENDANT'S
18 EXHIBITS 47, 48, 49 FOR IDENTIFICATION.)

19 (CD OF CT SCAN MARKED AS DEFENDANT'S EXHIBIT NUMBER 50
20 FOR IDENTIFICATION.)

21 (PHOTOGRAPHS MARKED INDIVIDUALLY AS DEFENDANT'S
22 EXHIBITS 51 THROUGH 57.)

23 (CD OF MOVIE MARKED AS DEFENDANT'S EXHIBIT NUMBER 58
24 FOR IDENTIFICATION.)

25 (PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 59

1 FOR IDENTIFICATION.)

2 (NAME QUERY MARKED AS DEFENDANT'S EXHIBIT NUMBER 60
3 FOR IDENTIFICATION.)

4 (EMAIL MARKED AS DEFENDANT'S EXHIBIT NUMBER 61 FOR
5 IDENTIFICATION.)

6 (EMPLOYMENT APPLICATION MARKED AS DEFENDANT'S EXHIBIT
7 NUMBER 62 FOR IDENTIFICATION.)

8 (CONCEALED WEAPONS COURT MATERIALS MARKED AS
9 DEFENDANT'S EXHIBIT NUMBER 63 FOR IDENTIFICATION.)

10 (PHOTOGRAPHS MARKED INDIVIDUALLY AS DEFENDANT'S
11 EXHIBITS 64 THROUGH 71.)

12 (DRIVING RECORD MARKED AS DEFENDANT'S EXHIBIT NUMBER
13 72 FOR IDENTIFICATION.)

14 (BAIL FORM MARKED AS DEFENDANT'S EXHIBIT NUMBER 73 FOR
15 IDENTIFICATION.)

16 THE COURT: All right, Mr. Riddle.

17 MR. RIDDLE: If it please the court, Your Honor?

18 THE COURT: Yes, sir.

19 MR. RIDDLE: By agreement between counsel, exhibits
20 number -- State's Number 1 through 9 are admitted into
21 evidence. Your Honor, that's a calendar, a diagram of the
22 apartment, five boards that deal with cell phone tracking,
23 a map, and a diagram of the particular bedroom of the
24 apartment in which this took place. Also by agreement,
25 Your Honor, State's 70, which is a 39-page report of Sprint

1 phone records. Those are admitted. 71, which is a
2 telephone log report for Shellie Davis's cell phone, and
3 72, which is the contact list from Shellie Davis's cell
4 phone have been admitted into evidence.

5 THE COURT: All right. So, State's 1 through 9, 70,
6 71, and 72.

7 MR. RIDDLE: Yes, sir.

8 THE COURT: All right.

9 MS. ZMROCZEK: And we have agreed, Your Honor.

10 THE COURT: All right. All right, those items are,
11 are in for without objection by stipulation.

12 (CALENDAR MARKED INTO EVIDENCE AS STATE'S EXHIBIT
13 NUMBER 1.)

14 (APARTMENT DIAGRAM MARKED INTO EVIDENCE AS STATE'S
15 EXHIBIT NUMBER 2.)

16 (CELL PHONE POWER POINTS INDIVIDUALLY MARKED INTO
17 EVIDENCE AS STATE'S EXHIBITS 3, 4, 5, 6, 7.)

18 (DISTANCE MAP MARKED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 8.)

20 (BEDROOM DIAGRAM MARKED INTO EVIDENCE AS STATE'S
21 EXHIBIT NUMBER 9.)

22 (SPRINT RECORDS MARKED INTO EVIDENCE AS STATE'S
23 EXHIBIT NUMBER 70.)

24 (TELEPHONE LOG REPORT MARKED INTO EVIDENCE AS STATE'S
25 EXHIBIT NUMBER 71.)

1 (DEFENDANT'S CONTACT LIST MARKED INTO EVIDENCE AS
2 STATE'S EXHIBIT NUMBER 72.)

3 THE COURT: Anything further before we bring the jury
4 out?

5 MR. RIDDLE: No, sir.

6 MS. ZMROCZEK: Nothing.

7 THE COURT: All right, let's bring the jury out.

8 (THE JURY ENTERS AT 9:17 A.M.)

9 THE COURT: Good morning, ladies and gentlemen. I
10 hope everyone had a, a good evening.

11 I'm going to go over just a couple of things with you
12 before we get started with the trial. One of the first
13 things that I want to share with you is it's important
14 that, that you folks are, are comfortable. If, if there's
15 -- I don't know how much control we might have over the
16 temperature, but to the extent if it gets too hot or cold,
17 let me know. We'll try to regulate that.

18 If at any time anyone needs to take a break, I don't,
19 I don't care if it's in the middle of a witness's answer,
20 if you need to stop and take a break, get my attention.
21 We'll stop because we can always start back where we left
22 off, and we'll take a break, okay?

23 If you can't hear either someone or -- and I don't
24 know if there's going to be any recordings in this case,
25 but if you can't hear anything, get my attention and, and

1 we'll have them repeat it and we'll make sure that they
2 talk louder.

3 Now, I'm going to -- let me find this because I've got
4 a little charge that I want to give you regarding about
5 whether you'll be allowed to take notes, and I'm going to
6 tell you and I'm just going to read this charge that, that
7 I've got regarding that.

8 Members of the jury, you may take notes during the
9 trial if you wish. Pads and pens will be made available.
10 Any notes that you take will be for your own personal use.
11 However, any time we take a break or you leave the
12 courtroom, those, those pads and, and everything need to
13 remain in the courtroom. You're not allowed to take them
14 back into the jury room during breaks or whatever. If
15 you'll just leave them on your chair, or you can hand them
16 to Tommy as you leave out, and he'll give them back to you
17 when you come in.

18 Now if you do take notes, please do not get so
19 involved in the note-taking process that you become
20 distracted from the proceedings. You must be cautious
21 because it's possible that while you're writing something
22 down that you've heard, you may be missing the next thing
23 that's being said. So, it, it's -- you know, I tell people
24 all that time note taking, it's a double-edged sword. It
25 can be helpful, but it can also cause issues of you missing

1 additional testimony. So, again I just, I just toss that
2 out to you to keep that in mind.

3 Also, the art of listening to testimony isn't just a
4 hearing thing. It's also an observation thing, and so it's
5 important when a witness testifies -- because as the jury,
6 you're going to have to decide the credibility and the
7 believability of witnesses, and often times that's done by
8 not only listening to what is said but also observing the
9 demeanor of the witness and manner of the witness as they
10 testify. And if you get too involved in note taking, you
11 may miss That. So, again I'm not trying to talk anyone out
12 of note taking. I'm just letting you know that it can be
13 a, it can be a helpful tool, but it can also be a
14 distraction, and I just caution you with regards to that.

15 Your notes should only be used as an aid to your
16 memory and should not be allowed to take precedence over
17 your independent recollections. Notes are for the juror's
18 personal use only and to refreshing your recollection of
19 testimony. When you begin your deliberations at the end of
20 the case, I would encourage you that your notes can be used
21 to refresh your memory but not to correct someone else's
22 memory, okay? I know that may sound a little contradictory
23 as well, but if someone else remembers testimony a certain
24 way and you don't quite recall and you check your notes and
25 your notes give you a different viewpoint, you can express

1 your viewpoint. But I guess what I'm trying to say is you
2 don't use your notes to correct someone else's memory. The
3 notes are to be used for your own purpose and your own,
4 your own recollection.

5 We -- once, once you've -- and again the, the notepads
6 will stay in the possession of the bailiff and the court
7 until you're ready to deliberate, and then they'll be
8 handed back to you, those of you who choose to take notes.
9 They'll be handed back to you at that point when you begin
10 your deliberations.

11 Now once you've completed your deliberations, once
12 you've arrived at a verdict and, and the case has ended,
13 your notes will then be collected by the bailiff and, and
14 destroyed. No one will read them; no one will have access
15 to them. We, we destroy the notes of the jury at the close
16 of the deliberations because what goes on in the jury room
17 is between you folks, not anyone else. So, those are
18 collected and destroyed, and no one will ever read or see
19 your notes. So, that's, that's what I'm going to tell you
20 with regards to note taking.

21 Tommy, I'm going to ask you if you would go ahead and
22 pass out the pads and pencils.

23 You're going to get a pad and pencil, but if you
24 choose to not take notes, then you can just set it on the
25 ground next to you or just hold it in your hand. Don't

1 worry with it. If you do choose to take notes, then you'll
2 have it available to do that, okay?

3 (A PAUSE.)

4 THE COURT: Also while you're, while you're doing
5 that, I'm going to go forward with another comment. When
6 you come in and out of the courtroom -- and I told the
7 lawyers I was going to talk to you about this. Typically
8 because of respect for you as jurors, often times the
9 counsel table -- the folks at the table will stand as you
10 enter and, and leave the courtroom. I have asked them not
11 to do that and, and let me, let me explain to you why.

12 Before I became a judge, I was a trial lawyer just as
13 these folks, and I have a tremendous amount of respect for
14 you as jurors, and -- but when you're in a trial, and
15 you'll, you'll probably recognize this throughout the
16 course of this trial. These folks aren't just working when
17 they're standing before you and questioning a witness or
18 whatever. There's something going on at the tables
19 constantly that -- and, and if you leave -- like I have to
20 send you to take a break for whatever reason, from the time
21 you leave when I ask the bailiff to bring the jury in, at
22 that time these attorneys, they may be talking to clients,
23 they may be talking to the next witness, they may be
24 writing something and stuff, and what I don't want to do
25 is, is to have you come in and everyone stand, but one of

1 the attorneys is engrossed in what they're doing and they
2 don't stand and then you misinterpret that as they don't
3 respect you because trust me, they do, but they're also
4 very busy doing what they do. And, and so to avoid that
5 misrepresentation -- and it goes back to when I, when I was
6 practicing law and, and I was at the table and I was
7 engrossed in, in something. The jury came in, and I was
8 trying to get this matter done and I didn't stand. And I
9 later found out that one of the jurors took offense to
10 that. That they looked at that as a form of disrespect.
11 And so once I became a judge and took the bench, I, I
12 really try to do a practice of asking the attorneys to --
13 everybody remain seated, and that I'll explain to the jury
14 that you're not standing because you're not -- because I
15 asked you not to. So, that's -- when you come in the
16 courtroom and everyone's seated and no one stands for you,
17 please understand that's not a form of disrespect. I've
18 asked them to do it so that we don't have a
19 mischaracterization, okay?

20 And then I think the last thing before we get started
21 that I wanted to share with you is, ladies and gentlemen,
22 you understand that the defendant is Ms. Shellie Davis, and
23 if you recall when the lawyers introduced themselves, we
24 also have Ms. Shannon Davis as an attorney.

25 Well, you and I know if I say I'll be happy to hear

1 from you, Ms. Davis, that Shannon will stand up and began
2 to speak, and we all see that and we know what we're
3 talking about. But the record is only going to reflect
4 that Ms. Davis stood up to speak, and we have two Ms.
5 Davises. So, throughout the course of the trial we will
6 always refer to the defendant, Ms. Davis, as Ms. Davis.

7 You may hear, if anyone does refer to the prosecutor
8 -- we'll just refer to her as Shannon. I've talked to
9 Shannon. She has no problem with that. So, if you
10 sometimes hear someone refer to Shannon instead of Ms.
11 Davis, they're not being disrespectful to her either. It's
12 just for the record. It, it will be clearer when we talk
13 about Shannon being the lawyer and Ms. Davis being the
14 defendant, okay?

15 So, I think that's the housekeeping matters that I
16 needed to take up with you, and so we're going to get ready
17 to proceed with the trial of the case. Before we -- before
18 I begin preliminary instruction to you, I'm going to ask
19 you to please give Madame Clerk your attention, and she is
20 going to place you under your oath for your role as jurors
21 in this case.

22 (WHEREUPON, THE JURY IS SWORN.)

23 THE COURT: All right, and now, ladies and gentlemen,
24 we are back to try the case of *The State of South Carolina*
25 *vs. Ms. Shellie Davis*. Before we begin, what I want to

1 share with you is that this trial more than likely will,
2 will be very different from what you might expect. Most
3 folks who, who have seen a trial have not sat in on an
4 actual jury trial such as you are doing this week. Most
5 folks' experience with regards to jury trial are what
6 they've seen on television or what they've read in books or
7 what they've seen in the movies. And as we, we all know,
8 those trials are full of high drama, intense action, and
9 riveting circumstances. One of the things that most
10 people, if you've ever seen -- I, I can't even remember the
11 -- *A Few Good Men*, I think, where, you know, Jack Nicholson
12 screams at Tom Cruise you can't handle the truth. And, you
13 know, that's, that's Hollywood and, and it's entertaining,
14 but it's not realistic.

15 During the course of this case, even though there may
16 be high drama, intense actioning -- intense action, or
17 riveting circumstances, it's important for you to remember
18 throughout this case is that this trial is not for your
19 entertainment. This trial is a fundamental part of our
20 democracy. It is a search for the truth in an effort to
21 make sure that justice is done between the parties that are
22 before the court. Searching for the truth and making sure
23 that justice is done often times is slow, deliberate;
24 sometimes it's repetitive. In other words, it, it's very
25 different from what you've seen in the movies or written in

1 books or seen on television.

2 This courtroom is a place of honor that is dedicated
3 to the protection and to the preservation of citizens'
4 rights through what many have called the greatest justice
5 system ever created.

6 The attorneys that appear before you are advocates for
7 the parties that they represent, but first and foremost
8 they are officers of the court sworn to uphold the
9 integrity and the fairness of our judicial system, and to
10 help you in your search for the truth. You should expect
11 them to be professional, competent, and ethical in the
12 representation of their client's interest.

13 Now, you've just taken an oath to try this case and to
14 reach a fair and a just verdict, and so you are also
15 expected to be professional, reasonable, and ethical in the
16 performance of your duties, which I have absolutely no
17 doubt you'll do, and I want to thank you for your
18 contribution to our system of justice here in Lexington
19 County and in South Carolina.

20 Now, the remarks that I'm making to you now are meant
21 to serve as an introduction to the trial of the case. This
22 is not an instruction on the law. I will give you the law
23 that applies to this case at the end of the trial before
24 you retire to deliberate. But what I'm going to do now is
25 just basically go through some things and, and explain to

1 you the procedures that we're going to follow so that you
2 can better follow along as, as we go through the trial of
3 the case.

4 Now, the defendant in this case is charged by an
5 indictment that was filed with this court, and she's
6 charged with the offense of murder. The elements of that
7 charge I will explain to you later when I give you a charge
8 on the law. What you need to understand is what I told you
9 yesterday about that indictment is that the indictment is
10 simply the charge which brings this case into court; it is
11 not in any sense evidence of any of the allegations that
12 are within that indictment.

13 The defendant has pled not guilty to that indictment,
14 and the state, therefore, has the burden of proving each of
15 the elements of the indictment beyond a reasonable doubt.
16 It's going to be your duty, ladies and gentlemen, to decide
17 whether or not the state has met that burden.

18 Your purpose as jurors is to find and to determine the
19 facts of this case. Now, you are the sole judges of the
20 facts in this case. If at any time I make any comment
21 regarding the facts, you must disregard those comments
22 because only you, the jury, are allowed to determine the
23 facts of this case.

24 You determine the facts from the testimony that you
25 hear and any other evidence that may be introduced during

1 the course of this trial. It is up to you to determine
2 what inferences which you feel may be properly drawn from
3 that evidence. It is especially important that you perform
4 your duty of determining the facts diligently and
5 conscientiously because ordinarily there's no that way we
6 can correct an erroneous determination of facts by a jury.

7 Now on the other hand but with equal emphasis, the
8 same law that makes you the judges of the facts makes me
9 the judge of the law. The law as given by the court is the
10 only law that you may consider. You must accept and follow
11 it even though you may disagree with it. I'm not allowed
12 to tell you about the facts of the case or what I believe
13 the facts of the case are, and you're not allowed to
14 disagree with me about what the law is or what you think
15 the law should be. Your job and your duty is to take the
16 law as I give it to you and to apply it to the facts as you
17 find the facts to be from the testimony of the witnesses
18 and any other evidence that may be introduced.

19 Now, until I tell you to begin your deliberations, you
20 are to have no conversation with anyone about this case,
21 and that includes even amongst yourselves. Once, once the
22 case is turned over to you for your consideration, you --
23 your deliberations must be confined to the jury room and,
24 and, and only into the -- the jury room.

25 During the course of this trial, it is important that

1 you keep an open mind and that you do not decide any issue
2 in this case until all of the evidence has been presented
3 and the parties have had an opportunity to address you with
4 their closing remarks, and then the court has given you the
5 law in this case. It is going to be your solemn
6 responsibility to determine the guilt or innocence of the
7 defendant, and your verdict must be based solely on the
8 evidence that is -- as it is presented to you during the
9 course of this trial and on the law as I instruct it.

10 Now, in just a moment I'm going to recognize the
11 attorney for the state to make what is called an opening
12 statement. In that statement, she'll explain to you what
13 the issues are in the case, or at least what she believes
14 those issues are. Once she has concluded her remarks, then
15 Ms. Zmroczek will have an opportunity to make any opening
16 remarks she needs to -- she chooses to make. However,
17 she's not required to make any opening remarks.

18 What is important for you to understand is this as it
19 relates to the opening statements. It -- they are not
20 evidence. What the attorneys tell you in their opening
21 statements is not evidence; it is merely their contention
22 as to what they believe the evidence in this case will
23 show. The evidence in this case is going to be presented
24 to you by the testimony of witnesses who are placed under
25 oath and take the witness stand and testify from the stand,

1 as well as any exhibits that may be introduced during the
2 trial of the case.

3 Now during this trial, from time to time you may hear
4 one of the attorneys say something along these lines.
5 Judge, we have a matter of law we need to take up with the
6 court or, Your Honor, may we approach the bench. Now,
7 during those times I may -- and it depends on the issue. I
8 may ask you to step back into your jury room. If I do
9 that, the only reason I would do that -- if I can handle
10 the matter here at the bench, I will do that, but if I ask
11 you to step back into the jury room, the only reason I
12 would do that is this.

13 As I told you earlier, you are the sole judges of the
14 facts in this case, and I'm not to have any influence over
15 you with regards to those facts. Sometimes when I'm
16 dealing with a matter of law or having to make a decision
17 on an issue, it requires me to make a comment about certain
18 testimony or about an exhibit that, that's coming in or
19 attempting to come in. Now, in an effort to protect you
20 from those comments, I may ask you to step back into the
21 jury room so that I can rule and make, make a decision on a
22 matter of law, which is my responsibility, and not
23 interfere with your responsibility as the fact finders.
24 So, to protect you from those comments, I may ask you to
25 step back into the jury room until I'm allowed to make that

1 determination and then bring you back in, and we'll
2 proceed.

3 Now, in determining what the true facts are in this
4 case, ladies and gentlemen, you're going to have to decide
5 whether or not the testimony of witnesses is believable.
6 It's going to be my responsibility to rule as a matter of
7 law whether certain testimony is allowed or is admissible
8 in this case, but once testimony is allowed in this case,
9 whether or not you believe it is solely up for you to
10 decide. In deciding whether to believe a witness, you have
11 the right to consider the interest of a witness, the bias
12 of any witness, the opportunity for the witness to see the
13 matters and the things about which that witness testifies,
14 and the way that the witness acts on the witness stand.

15 You have the right, ladies and gentlemen, to consider
16 anything that is in this record to help you evaluate the
17 testimony of witnesses. That means that it's your duty to
18 pay close to the witnesses, observe them, listen carefully
19 to the witnesses, pay close attention to the attorneys, as
20 well as to the court. Please do not let your thoughts
21 wander, but give strict attention to all testimony and
22 evidence in this case so that at the end of all of the
23 evidence, after the attorneys have made closing remarks to
24 you, and I've given you the law, you will then be in a
25 position to go back into the jury room, talk about the

1 evidence, deliberate about the evidence, apply the law to
2 that evidence, and arrive at a verdict.

3 Now, before I turn it over to the attorneys, let me
4 first inquire. Are there any objections or exceptions to
5 the court's opening remarks by the state?

6 MR. RIDDLE: No, sir.

7 THE COURT: Anything by the defense?

8 MS. ZMROCZEK: No, sir.

9 THE COURT: All right. Thank you, ladies and
10 gentlemen.

11 All right, I'm going to recognize Shannon for her
12 opening remarks and ask that you please give the attorneys
13 your undivided attention as they address you with their
14 opening statements.

15 MS. SHANNON DAVIS: Thank you, Your Honor. May it
16 please the court?

17 THE COURT: Yes, ma'am.

18 MS. SHANNON DAVIS: Wednesday, September 22, 2010, was
19 supposed to be a typical workday for thirty-eight year old
20 father of five Jermaine Davis. He was supposed to get up
21 early that morning and take his boss to Charleston. Little
22 did he know he would never leave his apartment that day
23 alive. That's because at the other end of town, Jermaine's
24 estranged wife, Shellie Davis, the defendant, she had a
25 different plan.

1 She got up that morning, got her gun, and drove over
2 twenty miles to Jermaine's apartment where he had been
3 living separate from her for the last five months. Somehow
4 the defendant got into his apartment and when Jermaine had
5 his back to her, she shot him in the back of the head,
6 killing him. If she couldn't have him, no one could have
7 him, not even their own children.

8 Now, after Shellie shot Jermaine, she didn't call for
9 help. Didn't call 911. Didn't call the police. Didn't
10 call EMS. Didn't even tell his roommate. No. Instead,
11 Shellie drove all the way to Northeast Columbia, quit her
12 job, left an envelope to be mailed to her parents, and then
13 she fled to Charlotte, North Carolina.

14 Now while the defendant was on the run, she received
15 multiple phone calls from people. Talked to people on the
16 phone, and she was told something's wrong with Jermaine.
17 You need to get to his apartment. She never showed. She
18 knew what she had done to him.

19 Law enforcement also called the defendant. Tried to
20 get touch with her. Left her a voicemail. She knew the
21 police were after her. When she thought they were closing
22 in on her, she shot herself, but unlike Jermaine, she's
23 still here with us today.

24 Now as the judge told you, I'm sure all of you have
25 seen crime shows on TV like *Law and Order* and *CSI* where

1 it's all very exciting and gets wrapped up in an hour. And
2 as the judge said, real life doesn't work quite like that.
3 But in this case, you will get to hear from actual crime
4 scene investigators, the ones that collected the evidence
5 in this case. You'll also get to hear from this forensic
6 scientist that tested that evidence. And, ladies and
7 gentlemen, the evidence in this case will show that a box
8 of ammunition that was found in the defendant's house in
9 her bedroom, in her dresser drawer with her fingerprints on
10 it, is the same type of ammunition that was used to kill
11 Jermaine Davis. And evidence in this case will also show
12 that the gun that the defendant used to shoot herself is
13 the same gun that she used to kill Jermaine.

14 During this case, you'll get to hear from the
15 law-enforcement officers that tracked the defendant to
16 Charlotte when she fled. When she talked -- when they
17 talked to her about what happened, she told them I shot my
18 husband. I shot my husband.

19 Now, ladies and gentlemen, the defendant is here today
20 charged with murder, the murder of Jermaine Davis, and as
21 the judge just told you and will tell you again at the end
22 of this case, the state has the burden of proof in every
23 criminal case. It's the state's job to prove that the
24 defendant is guilty beyond a reasonable doubt, and we
25 welcome that burden. You as the jury, your job is to be

1 the fact finders. It's your job to listen to all the
2 evidence that's presented, for you, you to use your common
3 sense and your life experiences, for you to determine what
4 happened to Jermaine Davis on September 22, 2010.

5 Ladies and gentlemen, I submit to you that at the
6 conclusion of this trial, the state will have met its
7 burden; we will have proven that the defendant is guilty
8 beyond a reasonable doubt. At that time, we'll come before
9 you. We'll ask you to return a verdict that is fair, a
10 verdict that is just. We will ask you to find the
11 defendant, Shellie Davis, guilty of the murder of Jermaine
12 Davis. Thank you for your attention.

13 THE COURT: Thank you, ma'am.

14 Ms. Zmroczek.

15 MS. ZMROCZEK: Thank you, Your Honor. May it please
16 the court?

17 THE COURT: Yes, ma'am.

18 MS. ZMROCZEK: Good morning. What is this? It's a
19 hand. You're thinking it's a hand. It's actually half a
20 hand. This is the other half of the hand. It's my job to
21 tell you the other half of the story. Fear can hold a
22 person hostage. Power and control is the secret life of a
23 battered wife.

24 About three weeks ago, I was at a wedding. Shannon
25 can agree with me. She was in the wedding; she was a

1 bridesmaid. I was thinking about this case. I was
2 thinking about Shellie and Jermaine and as I watched our
3 friends walk down the aisle and open and begin that new
4 chapter in their life, I thought how did we end up here,
5 and those are the questions that you're going to have and
6 want to have answered. To answer those questions, you're
7 going to need all the facts.

8 That very wedding, the groom's father stood up and was
9 giving his toast and he said son, new daughter-in-law, you
10 don't find the perfect mate. You be the perfect mate. And
11 I'll tell you in a little bit why those words stuck with
12 me.

13 You as jurors actually have a very hard job. You have
14 to look beyond a death and figure out why it happened. To
15 your right, to my left, are family members and friends of
16 Jermaine Davis, and they loved Jermaine, and some of the
17 testimony is going to be hard for them to hear because they
18 loved him and because they would not or could not or did
19 not see all sides of him.

20 This case, this case is about abuse. This case is
21 about manipulation. This case is about lies. This case is
22 not about cell phone tower records. It's not about guns
23 and bullets. It's not even about infidelity. Shellie
24 Davis, the wife of Jermaine Davis. A little further to
25 your right, to my left, are friends and family members of

1 Shellie who also loved Jermaine. Shellie is going to sit
2 on that witness stand. She's going to tell you what
3 happened that day but not just that day. What's happened
4 the last fourteen years of her marriage.

5 Ladies and gentlemen, Shellie has spent a lifetime
6 telling lies, the kind of lies that she has told to protect
7 herself, to protect Jermaine, to protect her family and
8 friends. She's going to tell you about some of those lies.
9 She's going to tell you that that morning, she lied about
10 the fight that they got into when people asked her. She's
11 going to tell you that morning, she lied about where she
12 was going, and it's going to be hard for her, and she's
13 going to tell you why she had the gun. It was her plan to
14 kill herself. She's going to tell you from that witness
15 stand how that plan got changed when Jermaine stood up and
16 did his trigger move, which was turn his back to her and
17 roundhouse punch her. Those were the worst, and she's
18 going to tell you that.

19 Ladies and gentlemen, the secret life of a battered
20 wife is not something we talk about, and it's not something
21 Shellie talked about. This is not a whodunit. Shellie
22 Davis did it in self-defense. This is a why. This is a
23 why done it, and the why goes back to the power and the
24 control and the manipulation.

25 The witnesses from the state, I expect, will testify

1 to cell phone records and telephone calls, but what they
2 won't tell you about are the text messages. They won't
3 tell you about what was found in that room that morning.
4 You'll get to hear the whole story from the witnesses on
5 that stand about the blood that was found on the bed in
6 apartment G8, and you'll get to hear how that blood was the
7 blood of Shellie Davis. You get to hear how two days
8 before this fatal incident, he anally raped her because she
9 had been bad.

10 Shellie's not the only witness that you're going to
11 hear from the defense. You're going to hear from
12 coworkers. The state talked to them. You're going to hear
13 from coworkers who said they saw bruises. They saw
14 changes. They tried to help her, but the secret life of a
15 battered wife is one that is very private.

16 You're going to hear a lot about battered woman's or
17 battered woman syndrome. There are -- going to be expert
18 testimony. That's not a defense. The experts are going to
19 tell you -- that helps to understand self-defense. It
20 helps to explain her fear. We who aren't in that
21 situation, the experts are going to tell you, have a
22 different understanding of what is reasonable. We base our
23 reasonableness on our experiences and often very limited in
24 this area. I want to be very clear. Being the victim of
25 domestic violence is not a justification for murder but

1 self-defense is.

2 Again there's evidence. You won't have to worry about
3 answering questions like why didn't she leave. Why would
4 she stay with somebody. You'll have to answer the
5 question: what was her fear that morning.

6 The state not only has to prove to you beyond a
7 reasonable doubt that she committed murder. They have to
8 prove to you beyond a reasonable doubt that she did not act
9 in self-defense. At the conclusion of this evidence, at
10 the conclusion of all of the evidence, you will have the
11 information. You will have the facts to find that this
12 loss of life, although tragic, was justified because
13 Shellie Davis acted in self-defense and is not guilty of
14 murder. Thank you.

15 THE COURT: Thank you.

16 All right, you may call your first witness.

17 MS. SHANNON DAVIS: Thank you, Your Honor. The state
18 calls Kristopher Lange.

19 THE COURT: Mr. Lange, come forward.

20 KRISTOPHER LANGE, BEING DULY

21 SWORN, TESTIFIES AS FOLLOWS:

22 CLERK OF COURT: Once you're seated, speak up loud and
23 clear, stating your name, spelling your last for the
24 record, please.

25 WITNESS: I'm Kristopher Lange, last name L-a-n-g-e.

K. LANGE - DIRECT EXAMINATION BY MS. SHANNON DAVIS

145

1 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

2 Q. Mr. Lange, where are you employed?

3 A. Lexington County Fire Service.

4 Q. How long have you been there?

5 A. About six and a half years.

6 Q. Okay. Were you working there September 22nd of 2010?

7 A. Yes, ma'am.

8 Q. Do you remember what engine you were working for at
9 that time?

10 A. Yes, sir, engine 301 out of Corley Mill Fire Station.

11 Q. During that day, do you remember being called out the
12 Quail Hollow Apartments?

13 A. Yes, ma'am.

14 Q. Do you remember what day of the week that was?

15 A. I do not recall what day of the week it actually was.

16 MS. SHANNON DAVIS: Your Honor, I'm showing him what's
17 been admitted as State's Number 1.

18 THE COURT: All right.

19 BY MS. SHANNON DAVIS:

20 A. The 22nd would be a Wednesday.

21 Q. Wednesday. So, this would have been the day that you
22 were called out to Feather Run Trail?

23 A. Yes, ma'am.

24 Q. And what was the nature of the call that you responded
25 to there?

K. LANGE - DIRECT EXAMINATION BY MS. SHANNON DAVIS

146

1 A. We were initially dispatched to the report of an
2 unconscious person.

3 Q. And who, who all would go to those type of calls?
4 Would it just be EMS and fire department?

5 A. EMS, EMS and fire department both respond to those
6 type of calls.

7 Q. Okay. Do you recall what time you responded there?

8 A. We were dispatched at 12:29 in the afternoon.

9 Q. When you arrived on scene, who was present?

10 A. Us on the engine, and EMS pulled up at the exact same
11 time.

12 Q. Okay, and what did you do when you arrived there?

13 A. Myself, along with one of the EMTs of the ambulance,
14 made entry into the apartment.

15 Q. Okay, and is this in Lexington County?

16 A. Yes, ma'am.

17 Q. Okay. When you entered the apartment, can you tell
18 the jury what you did then?

19 A. Yes. I was in front of the EMT, and we made entry
20 into the apartment and spoke with the gentleman who
21 identified himself as the roommate and the caller. He
22 directed us towards the bedroom where he initially said he
23 saw the victim lying down, and we went into the bedroom,
24 and that's when I grabbed the patient's wrist to see if he
25 had a pulse or any signs of life, and he was cold to the

K. LANGE - DIRECT EXAMINATION BY MS. SHANNON DAVIS

147

1 touch and stiff.

2 Q. Can you describe what you saw when you walked into the
3 victim's bedroom?

4 A. Yes, ma'am. We made entry, and the victim was lying
5 face up with his head partially under the bed and his feet
6 in the closet, and he was wearing just boxer shorts, and
7 there was a little bit of blood underneath the back of his
8 head.

9 Q. Okay, and you said that you checked his pulse on his
10 wrist?

11 A. Yes, ma'am.

12 Q. Did he have a pulse?

13 A. No, ma'am.

14 Q. And did you describe him as cold and stiff to the
15 touch?

16 A. Correct. Yes.

17 Q. What did that indicate to you?

18 A. That he had been deceased for some time.

19 Q. Okay. Did you make a call while you were inside the
20 apartment?

21 A. I personally did not.

22 Q. Okay. At any time, did you, other than touching his
23 wrist, did you touch the victim?

24 A. Yes, ma'am. Myself, along with the EMT that was
25 behind me, as I knelt down to check for a pulse, I noticed

1 what appeared to be blood underneath the head, and I
2 reported that to the EMT that was standing behind me. And
3 he suggested that we roll the victim over to see if he had
4 fallen on any type of object.

5 Q. Okay, and did you all, in fact, roll him over?

6 A. We did.

7 Q. Okay. Did you -- can you explain to the jury how you
8 did that?

9 A. Yes, ma'am. Myself, along with the EMT, we would grab
10 the head to support it and then at the waist or the stomach
11 area of the waist, and we rolled him about a quarter turn
12 to see if we had -- if he had fallen on some type of
13 object.

14 Q. And when you rolled him a quarter turn, what did you
15 observe?

16 A. I saw what appeared to be brain matter on the carpet
17 and a hole in the victim's head.

18 Q. And what did that indicate to you?

19 A. Possibly a crime scene due to maybe a gunshot wound is
20 what it looked like.

21 Q. After you observed that, what did you do next?

22 A. We rolled the victim back. The EMT suggested that we
23 look for some type of identification and once we found the
24 wallet, we exited the room, shut the door behind us, and
25 went back to our apparatus.

K. LANGE - DIRECT EXAMINATION BY MS. SHANNON DAVIS

149

1 Q. Where was the wallet located?

2 A. It was located -- let me look at my notes real quick.
3 In the top dresser drawer.

4 Q. Okay, and did it have any identification inside the
5 wallet?

6 A. It did.

7 Q. Were you able to identify the victim as Jermaine
8 Davis?

9 A. Yes, ma'am.

10 Q. After you found his wallet, what did you do next?

11 A. The EMT took the driver's license out of the wallet
12 and placed it back on the dresser, and then we left the
13 room.

14 Q. Okay. After you left the room, what did you do next?

15 A. Went down back to our trucks, and I told the engineer
16 what we had found, and that's when he requested the
17 sheriff's department for a crime scene.

18 Q. And does the sheriff's department not typically
19 respond to that type of call initially?

20 A. No, ma'am.

21 Q. So, they wouldn't show up until you all called them?

22 A. That's correct.

23 Q. Okay. Did you speak with anyone while you were on
24 scene?

25 A. Yes, ma'am.

1 Q. And who was that?

2 A. The gentleman that identified himself as the victim's
3 roommate.

4 Q. Okay. After law enforcement arrived on scene, did you
5 have any discussion with them?

6 A. Yes, ma'am. Actually, the individual who identified
7 himself as the roommate started talking to me and started
8 telling me certain ---

9 MS. ZMROCZEK: Objection, Your Honor.

10 THE COURT: Hearsay?

11 MS. ZMROCZEK: Yes.

12 THE COURT: Sustained.

13 BY MS. SHANNON DAVIS:

14 Q. Without saying what the roommate told you, what did
15 you do when law enforcement showed up?

16 A. I handed the law-enforcement officer a note, a piece
17 of paper that I had written some notes down on.

18 Q. And were those notes of your discussion with the
19 roommate?

20 A. Correct.

21 Q. After you passed that information on to law
22 enforcement, did you do anything else on the scene?

23 A. No, ma'am.

24 Q. How long do you believe that you were on scene?

25 A. Approximately about twenty-one minutes, twenty-two

K. LANGE - CROSS-EXAMINATION BY MS. ZMROCZEK

151

1 minutes roughly.

2 Q. Okay. So, you didn't have any -- you didn't take any
3 part in the investigation of the case?

4 A. Correct.

5 Q. And you said that you did a, a quarter turn of the
6 victim?

7 A. Yes, ma'am.

8 Q. When you put him back, was he in the same position as
9 he was originally when you saw him?

10 A. Yes, ma'am.

11 Q. And is that the extent of your involvement in this
12 case?

13 A. That is correct.

14 MS. SHANNON DAVIS: I have no further questions, Your
15 Honor.

16 CROSS-EXAMINATION BY MS. ZMROCZEK:

17 Q. Good morning, Mr. Lange.

18 A. Hello.

19 Q. Do you recall when you made the quarter turn, do you
20 recall was it to the right or to the left?

21 A. We rolled him onto his left side.

22 Q. You rolled him onto to his left side?

23 A. That's correct.

24 Q. With Mr. Cotterman, correct?

25 A. Correct.

1 Q. And, and then you rolled him back after you realized
2 that this was beyond your ability to help, correct?

3 A. Yes, ma'am.

4 Q. And I believe you testified that it was exact same
5 position, but it was as close as you could get, right?

6 A. Correct.

7 Q. Okay. Did you have to manipulate -- when you made the
8 quarter turn, did you have to move the body or pull the
9 body, or did you simply just turn it?

10 A. Simply just turned it.

11 Q. Simply just turned it?

12 A. That's correct.

13 Q. And then turned it right back?

14 A. That's correct.

15 Q. And you indicated that you had spoke with a gentleman
16 that identified himself as the roommate?

17 A. Yes, ma'am.

18 Q. When you got there, was he in the apartment or out of
19 the apartment?

20 A. He was in the apartment.

21 Q. Was anybody else around?

22 A. No, ma'am.

23 Q. Did you additionally speak with -- did he stay in the
24 room while you make the quarter turn?

25 A. No. The roommate? No.

K. LANGE - CROSS-EXAMINATION BY MS. ZMROCZEK

153

1 Q. Okay.

2 A. I believe at that point, he ended up leaving the room,
3 leaving the apartment and going outside.

4 Q. Going outside, and you had further discussions with
5 him?

6 A. That's correct.

7 MS. ZMROCZEK: I have no further questions, Your
8 Honor.

9 THE COURT: Anything on redirect?

10 MS. SHANNON DAVIS: No, sir, Your Honor.

11 THE COURT: Thank you, sir. You may step down.

12 WITNESS: Thank you.

13 MS. SHANNON DAVIS: May he be excused, Your Honor?

14 MS. ZMROCZEK: Your Honor, actually I would ask that
15 he remain under subpoena.

16 THE COURT: All right, what I'm going to do -- well,
17 step up here quick.

18 (OFF-THE-RECORD BENCH CONFERENCE.)

19 THE COURT: I'm going to excuse you.

20 WITNESS: Yes, sir.

21 THE COURT: For now.

22 WITNESS: Okay.

23 THE COURT: We're just going to have you on standby.

24 WITNESS: Okay.

25 THE COURT: In case they need you, okay?

K. LANGE - CROSS-EXAMINATION BY MS. ZMROCZEK

154

1 WITNESS: I am on standby today, and I have to go back
2 to my fire station.

3 THE COURT: Sure. You do whatever ---

4 WITNESS: Okay.

5 THE COURT: You just go about your business.

6 WITNESS: Right.

7 THE COURT: They'll call you if they need you.

8 WITNESS: Okay.

9 THE COURT: And we'll work, we'll work around you.

10 WITNESS: If I don't answer, I'm probably out on a
11 call.

12 THE COURT: Sure.

13 WITNESS: Thank you, sir.

14 THE COURT: All right. Thank you.

15 (THE WITNESS EXITS THE STAND.)

16 THE COURT: All right, you may call your next witness.

17 MS. SHANNON DAVIS: Thank you, Your Honor. The state
18 calls Jeff Palkowski.

19 THE COURT: All right, Mr. Palkowski, if you would
20 come around.

21 JEFFREY J. PALKOWSKI, BEING DULY
22 SWORN, TESTIFIES AS FOLLOWS:

23 CLERK OF COURT: Once you're seated, state your full
24 name, spelling your last on the record, please.

25 WITNESS: Jeffrey John Palkowski, P-a-l-k-o-w-s-k-i.

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 155

1 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

2 Q. Lieutenant Palkowski, where are you employed?

3 A. Lexington County Sheriff's Office.

4 Q. How long have you been there?

5 A. About nineteen years.

6 Q. Did you have any prior law-enforcement experience
7 before you were at Lexington County?

8 A. Yes, ma'am. I worked for Beaufort County Sheriff's
9 Office for about five and a half years, and before that I
10 was a military police dog handler in the Marine Corps.

11 Q. And is your current rank of lieutenant?

12 A. Yes, ma'am.

13 Q. Were you a lieutenant September of 2010?

14 A. I was a detective sergeant in 2010.

15 Q. Okay. What are your current duties as a lieutenant?

16 A. My current duties is I'm considered our watch
17 commander. I'm one of two people that, that hold this
18 position, and pretty much I work specifically at nighttime,
19 and I responsible for all law-enforcement activities during
20 the hours of darkness.

21 Q. How many people would you say you supervise as
22 lieutenant?

23 A. The, the entire county after, after the hours of dark.
24 So, it's, it's three shifts of about six deputies,
25 notwithstanding detectives, and, and whoever else might get

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 156

1 called out throughout the night.

2 Q. So, quite a few?

3 A. Yes, ma'am.

4 Q. Okay, and what would your duties have been back in
5 2010 as a detective?

6 A. I was assigned a Major Crimes team as a detective
7 sergeant, which consisted of -- I believe I had four people
8 back then, and I was just the senior guy on the team who
9 would, you know, kind of make the wheels on the bus go
10 round and round.

11 Q. Okay. Do you recall on September 22nd of 2010
12 responding to the Quail Hollow Apartments on Feather Run
13 Trail?

14 A. Yes, ma'am, I do.

15 Q. Okay. Do you recall when you responded?

16 A. I do believe the CAD reflects that I, I got there
17 about 1456 hours.

18 Q. And would that be 2:56?

19 A. Yes, ma'am.

20 Q. Okay, p.m.?

21 A. Yes, ma'am.

22 Q. And why were you called out there?

23 A. That was -- it was an incident where we were
24 investigating a, a -- the death of an individual, a
25 suspicious death of an individual which required police,

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 157

1 police action and further, further follow up.

2 Q. Okay. When you arrived on scene, do you remember who
3 was present?

4 A. By that period, I believe they were already about an
5 hour and a half into the investigation. I believe -- there
6 was, there was quite a number of people. Crime Scene had
7 already been there. Detective Collins was there, I believe
8 Detective Derrenbacher, maybe even Henry Dukes.

9 Q. Okay, and what was your role on the scene?

10 A. Simply I, I was kind of coordinating the scene. I, I
11 started a, a canvas of the area and just was kind of an
12 intermarry -- an intermediary between not only myself but
13 the, the, the guys that were at other locations and
14 reporting back to, to my chain of command what was
15 transpiring.

16 Q. And since other people were there, would you have gone
17 and spoken to someone to be briefed on the situation?

18 A. Yes, ma'am, I would have.

19 Q. And who would that have been?

20 A. Detective Steve Collins.

21 Q. Okay. After speaking with him, what were -- what was
22 your next job?

23 A. My next job is I, I do believe I started a, a canvas
24 of the area, in, in the immediate area of the apartment
25 complex to see if we can find any, any witnesses or anybody

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 158

1 that might have seen anything out of place or, or, or
2 something that can point us in a direction.

3 Q. Okay, and when you say canvassing, does that mean
4 you're speaking to people?

5 A. We're, we're knocking on doors, shaking trees and
6 bushes, see if, if we can locate witnesses or any potential
7 evidence or anything like that.

8 Q. And were you able to speak to anyone?

9 A. I spoke with a couple residents. At that time of the
10 day, most of the folks would have been at work.

11 Q. Okay, because you said was around 3 p.m.?

12 A. Yes, ma'am.

13 Q. When you arrived? Okay. Were you able to determine
14 who lived at the apartment complex, who the victim was?

15 A. The, the victim, after being briefed by Detective
16 Collins, I did learn that the victim's name was, was
17 Jermaine Davis and he also had two roommates, Charley and,
18 and Chris Rice.

19 Q. Okay. Did you know if he was married?

20 A. I did. I did learn that from Detective Collins.

21 Q. And is it typical when you have a, a victim that is
22 married to look for their spouse?

23 A. It would be, yes, ma'am, it would be good practice to
24 locate the spouse.

25 Q. Okay, and were you all attempting to locate his spouse

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 159

1 at that time?

2 A. Yes, ma'am, we were.

3 Q. And did she live there at the apartment?

4 A. No, ma'am. I believe they were estranged.

5 Q. Okay. Were you able to determine where she lived?

6 A. At, at a later time I was advised by Detective Collins
7 that she did live, I believe, in Richland County.

8 Q. Okay, and did they have you respond out to her
9 address?

10 A. No, ma'am.

11 Q. Did they have other officers respond to her address?

12 A. Yes, ma'am.

13 Q. Okay. Did they have you attempt to locate her?

14 A. I attempted to locate her by talking with Charley and
15 talking with some other people via the, via the telephone.

16 Q. Okay. In an attempt to locate her, you said you spoke
17 with Charley and you spoke with Chris?

18 A. Correct.

19 Q. Were you able to get her, the defendant's, phone
20 number?

21 A. Yes, ma'am. I, I spoke with, with Charley, who was
22 actually on scene. He actually handed me his cell phone
23 and said it was his brother, Chris. Chris said ---

24 MS. ZMROCZEK: Objection, Your Honor, to hearsay.

25 THE COURT: Sustained as to what Chris said.

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 160

1 BY MS. SHANNON DAVIS:

2 Q. Without telling me what was said during the
3 conversation, were you able to obtain the defendant's phone
4 number from one of the witnesses?

5 A. Yes, ma'am.

6 Q. And what did you do once you obtained that phone
7 number?

8 A. That phone number, I believe the phone number was
9 already obtained. Excuse me. I know, I know that
10 everybody was trying to get in touch with her.

11 Q. Okay. After you had the conversation with Chris Rice.

12 A. Yes, ma'am.

13 Q. What did you do next?

14 A. I spoke with, with Teph. I'm not sure if -- her last
15 name, I believe, is Jones.

16 Q. Okay, and, and why did you call Teph?

17 A. After speaking with, with Chris, it was learned that
18 Teph was also trying to get touch with her, and Teph had
19 the phone number for Ms. Davis.

20 Q. Okay, and when you spoke to Teph, what did you ask
21 her?

22 A. By the time I spoke with Teph, she indicated that she
23 was ---

24 MS. ZMROCZEK: Objection, Your Honor.

25 A. --- also trying...

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 161

1 MS. ZMROCZEK: Hearsay.

2 THE COURT: Sustained as to what anyone else told you.

3 BY MS. SHANNON DAVIS:

4 Q. Without telling me what Teph told you, what did you
5 ask her on the phone?

6 A. I asked her if she left a message or was able to get
7 in touch with the defendant.

8 Q. Okay.

9 A. And she replied ---

10 MS. ZMROCZEK: Objection.

11 A. --- she was not able to.

12 Q. Don't tell me what she said.

13 A. Okay.

14 THE COURT: Sustained.

15 BY MS. SHANNON DAVIS:

16 Q. We'll have her tell the jury what she said.

17 After your conversation with Teph Jones, what did you
18 do next?

19 A. I would have continued to stay at the area providing
20 security not only for our crime scene but waiting on Ms.
21 Davis to arrive.

22 Q. Why were you waiting on her to arrive?

23 A. We were all under the assumption that she was on her
24 way back after running errands.

25 Q. So, you had knowledge that people had spoken to Ms.

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 162

1 Davis?

2 A. Yes, ma'am.

3 Q. And that she had indicated she was on her way or was
4 going to come to the apartment?

5 A. That's correct.

6 Q. Okay. How long did you stay on scene at the Feather
7 Run apartment?

8 A. I left there at 9:31 p.m.

9 Q. Okay. Did Ms. Davis ever show up to the apartment ---

10 A. No, ma'am.

11 Q. --- while you were there?

12 A. No, ma'am. She never showed up.

13 Q. Okay. While you were on scene, was the victim's
14 vehicle also there?

15 A. Yes, ma'am, it was.

16 Q. Did you do anything with his vehicle?

17 A. The vehicle was actually a business vehicle. At, some
18 point during the evening, a representative of the company
19 came by, and I released the vehicle to him.

20 Q. So, you were the one that would have released the
21 victim's vehicle back to the company representative?

22 A. Yes, ma'am.

23 Q. Okay. After you left on scene at -- what did you
24 indicate, 9:31?

25 A. 9:31.

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 163

1 Q. Okay. Did you do anything else in this case?

2 A. There would have been a time later in the evening
3 where I would have met Judge Collins to obtain an arrest
4 warrant for Ms. Davis.

5 Q. And who is Judge Collins?

6 A. Judge Collins was the on-duty magistrate at the time.

7 Q. Okay, and that's who would have signed an arrest
8 warrant at that time?

9 A. Yes, ma'am.

10 Q. Okay, and who did you obtain the probable cause for
11 that warrant from?

12 A. That would have been transferred from Detective Steve
13 Collins.

14 Q. Okay, and are you -- were you the affiant of that
15 arrest warrant?

16 A. Yes, ma'am, I was.

17 Q. So, you would have met with Judge Collins. It would
18 have been around 10 p.m. that night to get the warrant
19 signed?

20 A. Yes, ma'am, approximately.

21 Q. Okay, and Judge Collins did sign that warrant at his
22 Oak Grove office?

23 A. Yes, ma'am.

24 Q. After you get an arrest warrant for a suspect, do you
25 put that into NCIC?

J. PALKOWSKI - DIRECT EXAMINATION BY MS. SHANNON DAVIS 164

1 A. For that particular warrant, yes, ma'am, we would
2 have.

3 Q. Okay, and can you explain to the jury why you would
4 have done that?

5 A. By that, by that juncture of the investigation, we
6 knew that Ms. Davis was out of state. She was in the
7 Charlotte area. For Charlotte authorities to hold or for
8 any other agency to hold that individual, they have to know
9 that she's, that she's wanted or -- and there's certain
10 criteria that we have to give them like a warrant number
11 that would specifically tell them this person's wanted. We
12 can go ahead and hold them and then contact you in the
13 event that we do, do meet up with them.

14 Q. And can you explain what NCIC is?

15 A. For better lack of words, it's the National Crime
16 Information Center. It's a, it's a nationwide network that
17 pretty much every single solitary law-enforcement agency
18 subscribes to. We put in stuff like stolen vehicles,
19 wanted people, missing people, stuff to that effect.

20 Q. So, it would be essentially a law-enforcement database
21 that other agencies can look on to see if someone's wanted
22 or anything like that?

23 A. Correct.

24 Q. Okay, and did you do that that night, put the
25 defendant in NCIC?

J. PALKOWSKI - CROSS-EXAMINATION BY MS. ZMROCZEK 165

1 A. I would have handed the paperwork to an NCIC operator,
2 and they would have put it in a computer, yes, ma'am.

3 Q. Okay. So, Ms. Davis was a wanted person that evening?

4 A. Yes, ma'am, she was.

5 Q. Okay. Was that the extent of your involvement in this
6 investigation?

7 A. Yes, ma'am, it was.

8 MS. SHANNON DAVIS: I have no further questions from
9 this witness, Your Honor.

10 MS. ZMROCZEK: I just have a few.

11 CROSS-EXAMINATION BY MS. ZMROCZEK:

12 Q. Lieutenant Palkowski.

13 A. Yes, ma'am.

14 Q. It's typical and good practice for law enforcement to
15 get written statements from witnesses at a crime scene,
16 correct?

17 A. Typically if their information is noteworthy, yes,
18 ma'am.

19 Q. I'm sorry. I didn't -- I'm sorry?

20 A. Typically if their information is noteworthy, yes,
21 ma'am.

22 Q. Is noteworthy?

23 A. Uh-huh.

24 Q. And you would consider information in helping locate
25 Ms. Davis noteworthy in this investigation, correct?

1 A. Yes, ma'am.

2 Q. Did you take any statements?

3 A. I, I met -- no, ma'am, I didn't take any statements
4 per se. The individuals that I met with that's documented
5 in my incident report really had no information to pass on.

6 Q. The people that said that they had or had not spoken
7 with Ms. Davis.

8 A. I ---

9 Q. Did you take any -- you did not take any statements
10 from the people who said they had spoken with Ms. Davis or
11 had given her information or given ---

12 A. No.

13 Q. --- you information?

14 A. No, ma'am. That would have come through the, through
15 the, the actual investigators that were handling the
16 specific -- mine was only done by phone. I didn't have
17 personal contact with her.

18 Q. With her? With?

19 A. With Teph or ---

20 Q. With Teph Jones?

21 A. Or with Lisa Jackson.

22 Q. And, and, and -- but you would expect the
23 investigators would get ---

24 A. Yes.

25 Q. --- statements from them? But you filled out a

J. PALKOWSKI - REDIRECT EXAM / C. RICE - DIRECT EXAM 167

1 detailed report on, on your recollection of what, of what
2 occurred that day?

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

4 MS. ZMROCZEK: Thank you. I have no further questions
5 at this time, Your Honor. We would ask that he remain on
6 telephone standby.

7 REDIRECT EXAMINATION BY MS. SHANNON DAVIS:

8 Q. Just to clarify, Lieutenant Palkowski, you did
9 document the conversations that you had with Teph Jones and
10 Charley Rice in your report?

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

12 MS. SHANNON DAVIS: No further questions, Judge.

13 THE COURT: All right, I'm going to excuse you, but if
14 you'll just remain on telephone standby if they need you.

15 WITNESS: Thank you, Judge.

16 THE COURT: Thank you very much.

17 (THE WITNESS EXITS THE STAND.)

18 MR. RIDDLE: Charley Rice.

19 CHARLEY L. RICE, JR., BEING DULY
20 SWORN, TESTIFIES AS FOLLOWS:

21 CLERK OF COURT: Once you're seated, speak up loud and
22 clear. State your full name, spelling your last for the
23 record for me.

24 WITNESS: My name is Charley Rice, R-i-c-e.

25 DIRECT EXAMINATION BY MR. RIDDLE:

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

168

1 Q. Slide back from the microphone just a hair, okay?

2 A. My name is Charley Rice.

3 Q. You nervous, Charley?

4 A. Slightly.

5 Q. Okay. Charley, where do you live?

6 A. I currently reside in Mississippi.

7 Q. Okay. What town?

8 A. Natchez.

9 Q. Okay. Is that where you were born?

10 A. Yes, sir.

11 Q. Okay. Were you raised there?

12 A. Yes, sir.

13 Q. Okay. What do you do for a living, Charley?

14 A. I currently work with a welder, small business owner.

15 Q. Okay, and how long have you been doing that?

16 A. Seven months now.

17 Q. Okay. Before you were there in Mississippi, where
18 were you living?

19 A. Dallas, Texas.

20 Q. Okay, and before Dallas, where did you live?

21 A. Columbia, South Carolina.

22 Q. Okay. How long did you live in the Columbia area?

23 Not at any particular address but in this area?

24 A. Fifteen years.

25 Q. Okay, and when did you move?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

169

1 A. In 2012, November 2012.

2 Q. All right. Now, Charley, did you live in Columbia
3 back on September the 22nd, 2010?

4 A. Yes, sir.

5 Q. Okay. Was that a Wednesday?

6 A. Yes, sir.

7 Q. Do you remember that day?

8 A. Yes, sir.

9 Q. Where were you living that day, Charley?

10 A. Quail Hollow Apartments in West Columbia.

11 Q. Is that at [REDACTED] Feather Run Trail?

12 A. Yes, sir.

13 Q. Is that in Lexington County, Charley?

14 A. Yes.

15 Q. All right. While you were living in Columbia, what
16 did you do for a living?

17 A. I was working at Trane manufacturing company.
18 Supervisor there for eight years.

19 Q. Trane, Trane does what?

20 A. Heating and cooling.

21 Q. Okay.

22 A. Yes.

23 Q. Air conditioning type units?

24 A. Correct.

25 Q. That's Trane, T-r-a-n-e?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

170

1 A. T-r-a-n-e.

2 Q. Okay.

3 A. Yes, sir.

4 Q. And how long did you say you were working with Trane?

5 A. Eight years.

6 Q. All right. Now, when you lived at Feather Run
7 apartments -- or, excuse me, Quail Hollow Apartments on
8 Feather Run Trail, who lived there with you?

9 A. My brother and Jermaine for periods -- short period of
10 time.

11 Q. Okay. Let's talk about that for a minute. Initially
12 who lived there?

13 A. My and my older brother, Chris.

14 Q. Chris. All right. How much older is Chris than you?

15 A. Six years.

16 Q. All right. What does Chris do for a living?

17 A. He's a truck driver.

18 Q. All right, and back then, who was he working for?

19 A. Waggoner Trucking and he was with DAS, I think, 2007,
20 I think.

21 Q. Okay. You two lived at Quail Hollow Apartment?

22 A. Yes, sir.

23 Q. What kind of apartment did y'all have? How many
24 bedrooms?

25 A. Three.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

171

1 Q. All right. Let me show you this, State's Exhibit
2 Number 2. Does that look familiar to you, Charley?

3 A. Yes, sir.

4 Q. What does that look like to you?

5 A. That's the layout of the apartment we lived in.

6 Q. Okay, and initially you and Chris lived here, correct?

7 A. Yes.

8 Q. Now, you indicated that Jermaine lived with you for a
9 period of time?

10 A. Yes, sir.

11 Q. All right. Did you know Jermaine?

12 A. Personally? No.

13 Q. Okay. How did he end up there?

14 A. He and my brother were coworkers and they were, I
15 guess, his friends or associates or whatever.

16 Q. Okay. So, Jermaine comes to live with you because he
17 knows your brother, Chris?

18 A. Yes, sir.

19 Q. Okay, and Chris is a trucker?

20 A. Yes, sir.

21 Q. On September 22nd of 2010, where was Chris?

22 A. He was on the road, Arizona or somewhere further out
23 at the time.

24 Q. Okay. Would he be gone for long periods of time?

25 A. Yes, sir.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

172

1 Q. Okay. Describe to the jury, I mean, what we're
2 talking about here. We talking days?

3 A. No, sir, weeks. Sometimes he'd be gone for anywhere
4 between a week to over three weeks at a time.

5 Q. Okay.

6 A. Yeah. Two weeks on average.

7 Q. All over the country? All right.

8 A. Yes, sir.

9 Q. And on September 22nd, he was gone somewhere?

10 A. Yes, sir.

11 Q. You were home?

12 A. Yes, sir.

13 Q. All right. Now, Chris, on State's Exhibit Number 2,
14 which one of these rooms was yours?

15 A. The room that was mine was the second.

16 Q. I'm going to let you point to it. That's probably the
17 best way to do it.

18 A. Yes, sir. It would be this bedroom right here.

19 Q. Okay. I'll write Charley on there.

20 A. Yes.

21 Q. And who lived in this bedroom up here?

22 A. Christopher, my brother.

23 Q. Okay. Now, initially no one was in this room,
24 correct?

25 A. Correct.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

173

1 Q. Did there come a time when someone else moved into
2 that room?

3 A. Once Jermaine moved in, but not prior.

4 Q. Okay. That's what I'm talking about.

5 A. Yes, sir.

6 Q. And when did he move in with you, Charley? In terms
7 of his death, how long he been there before he died?

8 A. I'd say about four or five months at, at best.

9 Q. All right, and he -- that's where -- this was the room
10 that Jermaine lived in?

11 A. Yes, sir.

12 Q. Okay. That was a lot easier to do when it was on the
13 flat. Now, when Jermaine moved in, Charley, did you know
14 he was married?

15 A. Yes, sir.

16 Q. Okay, and did you know him well at the time?

17 A. No, sir, I didn't.

18 Q. How many times do you think you had met Jermaine
19 before he moved in?

20 A. I only met him once.

21 Q. Prior to him moving in?

22 A. Correct.

23 Q. Okay. Who did he make the arrangements to move in
24 with? Was it you or Chris?

25 A. That was Chris initially.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

174

1 Q. Okay. Now, you knew he was married. You obviously
2 knew he was separated, correct?

3 A. Correct.

4 Q. All right. Now, Charley, what was your work schedule
5 like back in 2010?

6 A. I worked what is called a second shift from 2 p.m. to
7 10:15 p.m.

8 Q. Okay, and the plant that you worked at was located
9 where?

10 A. Killian Road in north, northeast part of Columbia.

11 Q. Okay, and so what time would you have to leave to go
12 to work?

13 A. Due to traffic, I'd say 1 p.m., an hour prior to my
14 shift.

15 Q. All right, and how long would it take you to get home
16 at night?

17 A. Forty minutes, forty to forty-five minutes on average.

18 Q. All right. Did you work every day? What days did you
19 work?

20 A. Monday through Friday with Saturdays at times.

21 Q. All right. Was Jermaine's schedule as fixed as yours?

22 A. No, sir.

23 Q. Okay. Did he work a lot?

24 A. Yes, sir.

25 Q. Okay. Do you know what he did for a living?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

175

1 A. He was an assistant driver for two businessmen, and I
2 think he did, like, chauffeuring and, and things of that
3 nature.

4 Q. Okay. Now, did Jermaine have some kids, Charley?

5 A. Yes, sir.

6 Q. How many did he have?

7 A. Five great kids.

8 Q. Did he spend time with them?

9 A. I, I have spent time around them and I have -- they're
10 great kids.

11 Q. Okay, I, I don't think you understood my question.

12 A. I'm sorry.

13 Q. I said did he spend time with them?

14 A. Oh, yes, sir.

15 Q. Okay.

16 A. I'm sorry about that.

17 Q. Did you spend some of that same time, too?

18 A. Yes, sir, due to being -- cohabitating with him.

19 Q. Right.

20 A. Yes.

21 Q. And he spent time with them even after he got
22 separated, correct?

23 A. Yes, sir.

24 Q. All right. Would the kids come to y'all's apartment?

25 A. Yes, sir.

1 Q. Would they spend the night there?

2 A. Yes, sir, they have.

3 Q. Okay. Did you ever observe Jermaine put his kids in
4 the middle of his disagreements with Shellie?

5 A. Never.

6 Q. Okay. Now, did you know the defendant, Shellie Davis?

7 A. I don't know her personally.

8 Q. Okay. You've met her?

9 A. Yes, sir. I met her.

10 Q. How did you meet her?

11 A. Through Jermaine with bringing the kids over.

12 Q. Okay. Where did you meet her?

13 A. At the apartment.

14 Q. At Feather Run?

15 A. Yes, at Feather Run Trail.

16 Q. Okay, and how often in the four, five months that
17 Jermaine lived there did you see Shellie over at that
18 apartment?

19 A. Multiple times.

20 Q. More or less than five?

21 A. More than five.

22 Q. More or less than ten?

23 A. More than ten.

24 Q. Okay. More or less than twenty?

25 A. I would say less than twenty.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

177

1 Q. Would ---

2 A. Between ten, between ten and twenty I know.

3 Q. Okay. Now, when you would see her there, would
4 Jermaine let her come?

5 A. Yes, sir.

6 Q. Okay. Did Jermaine always know she was coming?

7 A. No, sir.

8 Q. Did she ever come when Jermaine wasn't even there and
9 you were?

10 A. Yes, sir.

11 Q. Okay. Did she come unannounced?

12 A. One time in particular, yes, sir.

13 Q. Okay.

14 A. I know for sure that.

15 Q. Did she ever come over at odd hours?

16 A. Yes, sir.

17 Q. Okay, and tell the jury what you mean by odd hours.

18 A. I recall one, one time where I was off from work.
19 Like I say 10:00, 11, 12, and I had a knock on the door
20 that I can recall, and I didn't know who it was that was at
21 the door, and she was outside the door, and I allowed her
22 to come in.

23 Q. Did you know she was coming?

24 A. No, sir.

25 Q. Was Jermaine home?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

178

1 A. No, sir.

2 Q. Okay. What percentage of the time, if you can tell
3 us, did she just show up versus y'all knowing she was
4 coming?

5 A. The ratio was more I knew she was coming.

6 Q. The ratio was -- I don't understand the answer. The
7 ratio was more which way?

8 A. I -- that she -- I knew she was coming more than not.

9 Q. Okay. Based on your observations, could you tell who
10 was pursuing the relationship more?

11 A. Based on my observations, I -- Shellie pursued the
12 relationship more.

13 Q. Now, do you know whether or not she had a key to that
14 apartment?

15 A. No, sir, I don't know.

16 Q. Okay. Was there ever a time when you came home and
17 she was there?

18 A. Only one case I can say for sure, yes.

19 Q. Okay. Tell the jury what happened.

20 A. I came in one day and when I walked in, I, I saw that
21 she was there, and out of respect for him and her, I didn't
22 want to ask why, but I was kind of surprised she was there
23 when I walked in.

24 Q. Was Jermaine there?

25 A. Not at the time, no, sir.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

179

1 Q. Okay. Do you know how long this was before Jermaine
2 died?

3 A. I can't recall exactly when.

4 Q. Okay. Now, let's talk about September 22nd for a few
5 minutes, okay? You remember that day?

6 A. Yes, sir.

7 Q. All right. That day was the Wednesday, correct?

8 A. Correct.

9 Q. Did you work the day before that?

10 A. Yes, sir.

11 Q. All right, and did you work the hours that you
12 described to the jury earlier?

13 A. Yes, sir.

14 Q. All right, and I believe you said that was, like, from
15 2:00 til 10:00 and you'd get home at 11ish or so?

16 A. Yes, sir.

17 Q. All right. Now, was there something that happened
18 with you being a supervisor every Wednesday at work?

19 A. Yes, sir. We had, we had supervisor meetings a hour
20 prior to our normal schedule. So, I had to be there at
21 1:00 on Wednesdays. So, that was, that was on a Wednesday.

22 Q. Okay. Now, Tuesday night when you got home from work,
23 was anybody at your apartment then?

24 A. Jermaine was.

25 Q. Jermaine was home. Chris was already gone or not?

1 A. Chris, yes, he was gone days, a week probably before
2 that, yes, sir.

3 Q. Okay. When you got home from work, what time did you
4 get home from work that Tuesday evening?

5 A. I could say after 11, somewhere between 11:30 to
6 12:30, somewhere up in that timeframe.

7 Q. Okay, and did you see Jermaine there?

8 A. Yes, sir.

9 Q. Did y'all speak?

10 A. Briefly, yes, sir.

11 Q. Okay. Did you have an extended discussion with him or
12 what was -- kind of how did it go?

13 A. I walked in and he was in the hallway between that
14 first bedroom that you exhibited that says Jermaine on it,
15 and he was ---

16 Q. He was between the ---

17 A. --- in the bathroom, between his doorway and the
18 bathroom across from him. He was right in the middle of
19 hallway.

20 Q. Right here?

21 A. Yes, sir.

22 Q. Okay.

23 A. Correct.

24 Q. And you spoke to him at that time?

25 A. Yes, sir.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

181

1 Q. How was he dressed?

2 A. Like, T-shirt, shorts.

3 Q. And if you had to describe what he was dressed for,
4 what did you think he was fixing to do?

5 A. Like he was preparing to go to bed.

6 Q. Okay. After you spoke to him -- how long you think
7 y'all spoke?

8 A. Two, three minutes at best.

9 Q. Okay, and then what did you do?

10 A. Went to my room and prepared things to go to the
11 bathroom and took a shower and things of that nature.

12 Q. Okay.

13 A. Personal hygiene.

14 Q. Personal hygiene? Okay. After, after you did that,
15 did you go to bed?

16 A. I went to my room and turned the radio on and was
17 preparing myself to take a rest, yes, sir.

18 Q. Okay, and did you see him anymore that night?

19 A. No, sir.

20 Q. All right. Now, what was the habit at y'all's house,
21 Charley, about bedroom doors? Open? Closed?

22 A. Closed. We're men.

23 Q. When Chris left, did he shut his door?

24 A. Yes, sir.

25 Q. Okay, and when you would go to sleep, would you shut

1 your door?

2 A. Yes, sir.

3 Q. How about Jermaine?

4 A. Yes, sir.

5 Q. All right. Now, your schedule was different from
6 Jermaine's, right?

7 A. Yes, sir.

8 Q. All right, and did you do anything in your room as far
9 as making sure that y'all wouldn't disturb each other or
10 more importantly that he wouldn't disturb you when he got
11 up early in the morning?

12 A. Yes, sir. I, I kept my radio on every day after work.

13 Q. Okay.

14 A. For different reasons.

15 Q. For what?

16 A. For several reasons.

17 Q. Okay. What were those reasons?

18 A. Rest and I'll just say I'm single.

19 Q. Okay. Charley, where was your bed in your bedroom?

20 A. My headboard was facing where the end of your
21 illustration is. Right where your hand at the edge --
22 like, that's the wall.

23 Q. This is the wall?

24 A. Yes.

25 Q. Okay, and the headboard was on this wall?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

183

1 A. Yes, sir.

2 Q. Okay, and where was your stereo?

3 A. My stereo was against the wall, upper.

4 Q. This wall?

5 A. Yes, sir.

6 Q. Okay, and what did you keep it on?

7 A. I keep it on a, a dresser. I had ---

8 Q. You had ---

9 A. --- a dresser and mirrors.

10 Q. You had a dresser here?

11 A. Yes, sir.

12 Q. And then the stereo was on that?

13 A. Yes, sir, a disc changer.

14 Q. And your bed was here?

15 A. Yes, sir.

16 Q. Pointing out this way?

17 A. Yes. To make a better description, if I was laying
18 down, it was at my right ear. Like, if I was laying down
19 flat, it would be right here to me.

20 Q. Okay. Laying on your back?

21 A. Yes, sir.

22 Q. Your head would be on this end?

23 A. Yes, sir.

24 Q. Your feet on this end and the stereo to your right?

25 A. Yes, sir.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

184

1 Q. All right, and you said it was a disc changer?

2 A. Yes, sir.

3 Q. Okay, and did you sleep with that on?

4 A. Yes, sir.

5 Q. How loud did you sleep with that on, Charley?

6 A. Moderate. Enough for somebody else to get some rest,
7 but I try to keep it up a little loud.

8 Q. Okay. You use that to drown out noise?

9 A. Yes, sir. Working second shift so I don't hear
10 early-morning birds or lawn mowers or anything, yes, sir.

11 Q. Okay, and when he gets up and takes a shower and
12 stuff, it doesn't disturb you?

13 A. Not at all.

14 Q. Okay. Normally, what time of the day would you wake
15 up when you were working the second shift?

16 A. I'd say between 10, 11:00.

17 Q. After most people have already gone off to work?

18 A. Yes.

19 Q. Okay. Now the next day, Charley, did you wake up?

20 A. Yes, sir, I woke up the next day.

21 Q. All right. I get it. After you woke up, did you hear
22 anything at the apartment?

23 A. Yes, sir. What woke me up was a cell phone coming
24 from his bedroom.

25 Q. You ---

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

185

1 A. Multiple, multiple rings.

2 Q. Wasn't on silent?

3 A. No, sir.

4 Q. Wasn't on vibrate?

5 A. No, sir.

6 Q. Ringing loud?

7 A. Constant loud ringing.

8 Q. Okay, and approximately what time do you think that
9 was, Charley?

10 A. I'd say after 11:00, before 12.

11 Q. Okay, and does it go on for a period of time?

12 A. Yes, sir.

13 Q. Okay. Ultimately, what do you do?

14 A. Hearing the ring, I thought Jermaine left his cell
15 phone accidentally, and that's when I walked into his room.

16 Q. Was the door open or shut?

17 A. It was shut.

18 Q. Did you knock before you went in?

19 A. No, sir, because Jermaine -- excuse me. Sorry for
20 that. Jermaine is a lighter sleeper than I. I know if he
21 heard the phone ringing, he would have heard it long before
22 I ever did.

23 Q. Okay. So, what did you do at that point?

24 A. I walked directly to the room and turned to my right
25 once I opened the door looking at where his dresser is

1 because I know that's where he keep his phone and stuff on
2 top.

3 Q. Where was his dresser, Charley? Which -- come on down
4 here, and I need you to keep your voice up when you come
5 down, okay?

6 A. Yes, sir.

7 Q. Because there's no microphone.

8 THE COURT: Let me get y'all to swap sides.

9 MR. RIDDLE: I've got -- be glad to.

10 BY MR. RIDDLE:

11 Q. You stand over here. Now, talk loudly so that ---

12 A. Yes, sir.

13 Q. Okay, you're going to have to do louder than that, all
14 right? You were in your room?

15 A. Yes, sir.

16 Q. All right, thank you, and you got up and where did you
17 go?

18 A. I walked out of my room, and I went to Jermaine's
19 room, and his dresser was right here against this wall.

20 Q. The top?

21 A. The top wall.

22 Q. Where, where Jermaine's dresser was?

23 A. Yes, sir.

24 Q. All right, and did you see his cell phone there?

25 A. Yes, because it was up high.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

187

1 Q. Okay. All right, and is that what you were looking
2 for when you went in?

3 A. Yes, sir.

4 Q. When you initially went in, did you open the door all
5 the way?

6 A. I don't recall all the way, but it's enough to where I
7 could walk in to get to the dresser.

8 Q. All right, and so you went in looking in this area
9 here?

10 A. Yes, sir.

11 Q. All right. What, what did you see when you got into
12 Jermaine's room or into the doorway of the room?

13 A. Well, first I saw, you know, the phone.

14 Q. Yes, sir.

15 A. And, and out of my peripheral vision I notice that he
16 was laying on the floor.

17 Q. And where was he laying?

18 A. He was laying -- his head board right here. He was
19 laying with his head by the bed rail on the floor, but his
20 feet was facing the closet, which is on this wall right
21 here.

22 Q. This is the closet here?

23 A. Yes, sir.

24 Q. Okay. His feet were this way?

25 A. Yes, sir.

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

188

1 Q. And his head was back toward the bed?

2 A. Yes, sir.

3 Q. And his bed, the headboard was on this wall?

4 A. Yes, sir.

5 Q. Like that?

6 A. Yes, sir.

7 Q. All right, you can have a seat.

8 A. All right. Thanks.

9 Q. Charley, when you saw Jermaine laying on the floor,
10 what did you do?

11 A. I held the doorknob, and I banged the door real loud
12 as I was screaming his name because he looked like he was
13 unconscious at the time.

14 Q. Okay. Did you get a response from him?

15 A. No, sir, I didn't.

16 Q. Did you ever touch him?

17 A. No, sir, I didn't.

18 Q. After you couldn't get a response, what did you do?

19 A. Immediately called 911.

20 Q. Okay, and after you called 911, what did you do?

21 A. I called my employer and notified my supervisor that I
22 would not be going to work on time.

23 Q. For that 1:00 meeting?

24 A. Yes, sir. I wanted to wait on EMS, whatever.

25 Q. Right. Okay, and it was afternoon by this time?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

189

1 A. Correct.

2 Q. All right. Who else did you call?

3 A. I called my brother.

4 Q. Chris?

5 A. Yes, sir.

6 Q. Okay. After you called 911, did the ambulance and the
7 fire service come?

8 A. Yes, sir.

9 Q. Okay. At that time, did they transport Jermaine to
10 the hospital or anything?

11 A. No, sir.

12 Q. Okay. Did the police eventually come?

13 A. Yes, sir.

14 Q. Okay, but that was after the EMTs and them went into
15 the apartment and looked at him?

16 A. Correct.

17 Q. All right. Did you talk to the police that day?

18 A. Several of them, yes, sir.

19 Q. Okay. Did they ask if they could search your
20 apartment?

21 A. Correct.

22 Q. And did you tell them they could?

23 A. Correct.

24 Q. Let me show you what's been marked State's Number 74.
25 Do you recognize that?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

190

1 A. Yes, sir, I do.

2 Q. And does that have your signature on it?

3 A. Yes, sir, it does.

4 Q. Okay, and is this a consent to search?

5 A. Correct.

6 Q. Signed, filled out with your name?

7 A. Correct.

8 Q. And it was Detective Collins and Detective Frier?

9 A. Correct.

10 MR. RIDDLE: Your Honor, I'd offer 74 in evidence.

11 MS. ZMROCZEK: Without objection.

12 THE COURT: All right, State's 74 is in evidence
13 without objection.

14 (CONSENT TO SEARCH MARKED INTO EVIDENCE AS STATE'S
15 EXHIBIT NUMBER 74.)

16 BY MR. RIDDLE:

17 Q. One more thing about this before I move on, Charley.

18 This was done on September 22nd of 2010?

19 A. Correct.

20 Q. And it was done 1313, which is military time for 1:13
21 in the afternoon?

22 A. Correct.

23 Q. All right. Thank you. Chris, while the -- excuse me.

24 I've done that before, and I apologize. Charley, while the
25 police were there, did they ask to check your hands for

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

191

1 gunshot residue?

2 A. Correct.

3 Q. Okay. Did you let them do that?

4 A. Correct.

5 Q. You didn't have anything to hide?

6 A. No, sir.

7 Q. All right. Did you talk with the officers?

8 A. Yes, sir.

9 Q. Did you talk to them about Shellie Davis?

10 A. From what I knew far as that's his wife.

11 Q. Right. Did you tell the police that they were
12 separated?

13 A. Yes, sir, I did, when asked.

14 Q. Yes.

15 A. Yes, sir.

16 Q. And estranged?

17 A. Estranged?

18 Q. Yes, sir.

19 A. Could you rephrase? Estranged?

20 Q. Separated, not getting along.

21 A. To my knowledge, yes.

22 Q. Okay. Charley, did you tell the police that she was
23 controlling and jealous?

24 A. Yes, sir.

25 Q. And that was based on your observations of seeing her,

1 correct?

2 A. Correct.

3 Q. Did you tell the police, Charley, that she used the
4 kids to keep Jermaine in her life?

5 A. Correct.

6 Q. Okay, and again that was based on your observations?

7 A. Yes, sir.

8 Q. Did she -- did you tell the police that she had used a
9 broken air-conditioning unit to keep Jermaine in her life?

10 A. Yes, sir.

11 Q. And again that was based on your observations?

12 A. Correct.

13 Q. Charley, did you tell the police that you believed
14 Shellie had been violent in the past with Jermaine?

15 A. From what he told me, correct.

16 Q. Were you asked about trying to get a phone number for
17 her?

18 A. I recall that, yes, sir.

19 Q. Okay, and did you have her phone number?

20 A. No, sir.

21 Q. Did you try to help the police find a phone number?

22 A. I did what was asked of me, yes, sir.

23 Q. Okay. Did you call Chris?

24 A. Yes, sir.

25 Q. Did you let Lieutenant Palkowski talk to Christ?

C. RICE - DIRECT EXAMINATION BY MR. RIDDLE

193

1 A. Directly, yes, sir.

2 Q. Okay, because you didn't, you didn't have the number?

3 A. No, sir, I didn't.

4 Q. But you helped them find the number through Chris and
5 other friends?

6 A. Yes.

7 Q. All right. Were you around there all day, Charley?
8 All that afternoon?

9 A. Yes, sir, up until late that evening.

10 Q. Okay. Did you ever see Shellie Davis that day?

11 A. No, sir.

12 Q. When was the last time you had seen her?

13 A. Sunday prior to the 22nd, which -- I think the 19th.

14 Q. Let's look at the calendar real quick and make sure
15 you're -- we got the right number. You're sure it was
16 Sunday?

17 A. Yes, sir.

18 Q. Okay, and I'll let you see the calendar.

19 A. Yes, the 19th.

20 Q. Sunday the 19th. Where had you seen her on the 19th?

21 A. At a sports bar off two Notch Road. I think it was
22 Beckers.

23 Q. Okay, and that was up in Northeast?

24 A. Yes, sir.

25 Q. Okay. The day that Jermaine was killed was on

C. RICE - CROSS-EXAMINATION BY MS. ZMROCZEK

194

1 Wednesday the 22nd?

2 A. Correct.

3 Q. This day right here?

4 A. Yes, Wednesday the 22nd.

5 Q. All right.

6 MR. RIDDLE: Charley, thank you, and please answer any
7 of the defense lawyers' questions.

8 WITNESS: Yes, sir.

9 THE COURT: Cross.

10 CROSS-EXAMINATION BY MS. ZMROCZEK:

11 Q. Charley -- excuse me. Charley, what was your phone
12 number?

13 A. I don't recall my phone number at the time. It's
14 different today.

15 Q. It's different today? You said it's different today?

16 A. Yes, ma'am. Sorry.

17 Q. Your testimony was that the radio that you had was on
18 all night all the time?

19 A. Yes, sir -- yes, ma'am. Sorry.

20 Q. That's okay. It was -- the -- but you heard the cell
21 phone through the radio?

22 A. Yes, ma'am.

23 Q. But you didn't hear a gunshot through the radio?

24 A. No, ma'am.

25 Q. You know who Nina Pineda is, don't you?

C. RICE - CROSS-EXAMINATION BY MS. ZMROCZEK

195

1 A. Nina Pineda?

2 Q. Yes. Isn't she the, isn't she the property manager at
3 your apartment, or wasn't she?

4 A. I can't recall the lady's name at the time, but it
5 sounds familiar, but not definitely sure that's it.

6 Q. How would you pay your rent?

7 A. Money order.

8 Q. You would take it to the office?

9 A. Yes, ma'am.

10 Q. And give it to the lady whose name you can't remember?

11 A. Yes, ma'am.

12 Q. Did you get to know her? Did y'all speak often?

13 A. Yes, ma'am. I try to speak to everyone.

14 Q. And didn't you tell her that Jermaine just stayed on
15 the weekends to get away from his wife?

16 A. I don't recall saying that. I'm not, I'm not saying
17 that I have or haven't, but I just don't recall that
18 definite.

19 Q. Do you recall signing up on lease or telling anybody
20 that he had moved in permanently?

21 A. I remember him signing a lease.

22 Q. Charley, is your testimony that as soon as you walked
23 in the room, you called 911?

24 A. As soon as I knew that he did not respond to me
25 banging on the door, I called 911.

1 Q. From your cell phone?

2 A. Yes, ma'am, from my cell phone.

3 Q. Charley, sure you didn't run down to the office and
4 talk with the people in the office before you called 911?

5 A. I don't -- no, ma'am. I don't recall ever doing that.

6 Q. You testified that you didn't know Jermaine or Shellie
7 very well, correct?

8 A. No, ma'am, not, not very well.

9 Q. But you knew them well enough to tell the police that
10 she was controlling and jealous?

11 A. Based on my observation during the time he was there.

12 Q. What kind of, what kind of, what kind of things did
13 you observe?

14 A. In particular? Well, about the controlling thing, I
15 know from his, his demeanor and his expression due to the
16 time she have arrived more than one time that it was
17 unexpected and it wasn't something that he asked for or
18 even thought was expected from himself. Like, it was at
19 the pool. Based on his expression -- and he wasn't -- it
20 wasn't welcome.

21 Q. And you said that happened one time, right?

22 A. More than once.

23 Q. More than once?

24 A. Yes, ma'am.

25 Q. Okay, and you spoke with EMS that day?

C. RICE - CROSS-EXAMINATION BY MS. ZMROCZEK

197

1 A. Did I speak with EMS that day?

2 Q. You spoke with ---

3 A. Yes, ma'am.

4 Q. --- EMS?

5 A. Yes, ma'am. Sorry about that.

6 Q. That's okay. You, you told them, you told them you
7 had left the apartment, gone to Walmart, come back?

8 A. May you repeat the question?

9 Q. Did you ever tell the EMS workers that you had
10 actually left the apartment, gone to Walmart, and then come
11 back?

12 A. I don't recall ever saying that.

13 Q. You testified that the phone was ringing for twenty
14 minutes straight or -- is that what, is that what you
15 testified to? Is that what woke you up was the twenty
16 minutes straight of ringing?

17 A. Yes, ma'am. That what broke my sleep. I tried to
18 ignore it at first, but I eventually got up.

19 Q. And you went straight to his room. You didn't go to
20 the kitchen?

21 A. I don't recall going to the kitchen.

22 Q. You recall being at Icy's two nights earlier. I think
23 you might have said it was something else, but it could
24 have been Icy's, a bar out on Northeast?

25 A. Could have been. I think it did get a name change.

1 It could have been Icy's.

2 Q. Who was there that night with you?

3 A. It was Jermaine, Shellie, and his sister.

4 Q. Michon?

5 A. Michon, yes.

6 Q. And that night, Jermaine invited Shellie back to your
7 house, didn't he, or to y'all's house?

8 A. I know they ended up coming back to my house. I, I
9 left that sports bar before they did.

10 Q. But you know that she was there that night?

11 A. I know they ended up together that night.

12 Q. When the kids would spend the night, where would they
13 stay?

14 A. They would mostly been in the living room, or it's
15 been times when I let them have my bedroom and I'm
16 somewhere else.

17 Q. And I believe you started off the conversation by
18 talking about him being a great father?

19 A. From what I observed.

20 Q. Kept pictures of, of his family or his children in his
21 room or at your apartment?

22 A. I never mentioned anything about pictures. I don't, I
23 don't recall family pictures on the wall.

24 Q. You don't recall any family pictures? Do you recall
25 him saying he was going to move back in with his family?

C. RICE - CROSS-EXAMINATION / REDIRECT EXAMINATION

199

1 A. I recall him being undecided what to do other than
2 work on a regular basis.

3 Q. Work was important to him, correct?

4 A. Five kids and, and -- yes, ma'am.

5 Q. And he liked his job, right?

6 A. Yes. Yes, he, he liked working.

7 Q. That night that y'all were at Icy's, Michon and
8 Shellie had gotten into a fight, hadn't they?

9 A. I noticed tension, but I didn't know the details.

10 MS. ZMROCZEK: Beg the court's indulgence.

11 THE COURT: Yes, ma'am.

12 BY MS. ZMROCZEK:

13 Q. Just a few more questions. You said that Shellie was
14 violent?

15 A. Based on what Jermaine told me.

16 Q. Never saw her being violent?

17 A. No, ma'am.

18 Q. Never saw one incident?

19 A. I never saw a violent moment between either one of
20 them.

21 MS. ZMROCZEK: Those are all the questions I have.

22 Thank you.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION BY MR. RIDDLE:

25 Q. You never saw him being violent with her, did you?

C. RICE - REDIRECT EXAMINATION BY MR. RIDDLE

200

1 A. No. No, sir.

2 Q. Let me ask you just a couple of things. You talked
3 about the phone ringing for, like, you heard it for, like,
4 twenty, twenty minutes?

5 A. Yes, sir.

6 Q. Okay. I mean, it wasn't, it wasn't one ring after
7 another after another after another after another for
8 twenty minutes, was it? I mean, or was it, like, ring four
9 times and then in a few minutes later it'd ring four times
10 again? Do you understand the question? I mean, you're not
11 saying that cell phone was just nonstop ringing?

12 A. It was repetitive rings.

13 Q. Okay, repeated calls?

14 A. Repeated calls. Constant ringing.

15 Q. Okay. Now, the last thing I wanted to ask you about
16 because she asked you if you had said he was a great
17 father. I think you said that he had great kids. Is that
18 what you said?

19 A. Yes, sir.

20 Q. Okay. You liked the kids?

21 A. Very respectful, nice kids.

22 Q. Okay.

23 MR. RIDDLE: All right. Thank you. That's all I
24 have.

25 MS. ZMROCZEK: I have nothing.

C. RICE - REDIRECT EXAMINATION BY MR. RIDDLE

201

1 THE COURT: Thank you very much, sir. You may step
2 down.

3 MR. RIDDLE: Your Honor, I'd ask that he be excused.

4 MS. ZMROCZEK: Without objection.

5 THE COURT: You are free to go. Thank you.

6 (THE WITNESS EXITS THE STAND.)

7 MR. RIDDLE: Your Honor, can we approach?

8 THE COURT: Yeah.

9 (OFF-THE-RECORD BENCH CONFERENCE.)

10 THE COURT: Ladies and gentlemen, we've been going a
11 couple, almost a couple of hours. I'm going to -- we're
12 going to take a break. If you need anything while you're
13 back there, let the bailiff know and we'll get you whatever
14 you need. Please have no conversation about the case, and
15 we'll just take about ten, fifteen minutes and we'll get
16 started back, okay?

17 Everyone else remain seated while the jury is excused.

18 (THE JURY EXITS AT 11:04 A.M.)

19 THE COURT: All right, we'll be at ease for about ten,
20 fifteen minutes.

21 (OFF THE RECORD.)

22 (JUROR NUMBER 23 ENTERS THE COURTROOM.)

23 THE COURT: Mr. Brady, come on around here if you
24 would, sir.

25 Y'all can come, y'all can come up.

C. RICE - REDIRECT EXAMINATION BY MR. RIDDLE

202

1 (THE FOLLOWING CONFERENCE IS HELD AT THE BENCH WITH
2 COUNSEL PRESENT.)

3 THE COURT: All right, I want you to speak loud enough
4 for her to hear, but I don't want for everybody to hear.

5 I know that you, you recognize Ms., Ms. Laverne. Is
6 that right? Okay, I just wanted to let you know she's not
7 a witness.

8 JUROR: Okay. Well, I didn't recall hearing her name.

9 THE COURT: Yeah. Right. She's not witness. She's
10 just a member of the general public who's here. But what I
11 wanted to ask was the fact that she's present and sitting
12 there, would that in any way affect your ability to be fair
13 and impartial?

14 JUROR: No, sir.

15 THE COURT: Okay. That's fine but I just wanted to --
16 I know you were probably thinking did they call her name
17 and I didn't hear.

18 JUROR: That's exactly what I'm saying.

19 THE COURT: Yeah, but, no, she's not a witness.

20 JUROR: Okay.

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

22 (END OF DISCUSSION AT THE BENCH. JUROR NUMBER 23
23 EXITS THE COURTROOM.)

24 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT
25 NUMBER 2.)

C. RICE - REDIRECT EXAMINATION BY MR. RIDDLE

203

1 THE COURT: All right, is there anything we need to
2 take up before we get started back?

3 MS. SHANNON DAVIS: Not from the state, Your Honor.

4 MS. ZMROCZEK: Nothing from the defense.

5 THE COURT: Just for y'all's information, we have
6 arranged for lunch to be brought in for the jury whenever
7 we do take a lunch break, but we will take a break so
8 you'll be able to go and do whatever you need to do, okay?

9 MR. RIDDLE: Thank you, Your Honor.

10 THE COURT: All right, let's bring the jury in,
11 please.

12 (THE JURY ENTERS AT 11:24 A.M.)

13 THE COURT: All right, folks, if you recall when we
14 took that break, the state was still on their case.

15 And so I would recognize the state for your next
16 witness.

17 MR. RIDDLE: Your Honor, the state would call Arletta
18 Carr.

19 THE COURT: All right, Ms. Carr, if you would please
20 come around and be sworn.

21 ARLETTA CARR, BEING DULY SWORN,
22 TESTIFIES AS FOLLOWS:

23 CLERK OF COURT: Once you're seated, speak up loud and
24 clear. State your full name, spelling your last for the
25 record, please, ma'am.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

204

1 WITNESS: My name is Arletta Carr, C-a-r-r.

2 DIRECT EXAMINATION BY MR. RIDDLE:

3 Q. Slide just a shade closer, please, Ms. Carr. Ms.
4 Carr, where do you live?

5 A. Columbia, South Carolina.

6 Q. And how long have you lived in Columbia?

7 A. About twenty, twenty-three, twenty-four years.

8 Q. Okay. Where were your born?

9 A. In Holly Hill, South Carolina.

10 Q. And were you raised in Holly Hill?

11 A. Yes, sir.

12 Q. Go to school there?

13 A. Yes, sir.

14 Q. All right. When did you move to Columbia?

15 A. About twenty, twenty-three years.

16 Q. Okay. Do you have any kids?

17 A. I do.

18 Q. How many?

19 A. Two.

20 Q. How old are they?

21 A. Twenty-three and twenty-one.

22 Q. Boys or girls?

23 A. The girl is twenty-three and a boy, twenty-one.

24 Q. All right. Now, are you employed now?

25 A. Yes, sir.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

205

1 Q. Okay, and who do you work for?

2 A. Ahava Hospice.

3 Q. Can you spell that?

4 A. A-h-a-v-a.

5 Q. Ahava?

6 A. Ahava.

7 Q. Okay, and where is that located?

8 A. In Irmo.

9 Q. All right. Is it on St. Andrews Road?

10 A. It's on Lake Murray, Lake Murray Boulevard.

11 Q. Lake Murray Boulevard, okay, and how long have you
12 been working there at the hospice?

13 A. About three years.

14 Q. Okay. Prior to that, where did you work?

15 A. For Rust Social Club in the Vista.

16 Q. In the Vista, all right. Now, Ms. Carr, back in 2004,
17 you had convictions for five bad checks, did you not?

18 A. Correct.

19 Q. Okay. The Rust Social Club and the hospice, are they
20 owned by the same person?

21 A. They were.

22 Q. They were?

23 A. Uh-huh.

24 Q. Is Rust no longer in business?

25 A. It's not.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

206

1 Q. Okay. Back in 2010, you worked for Rust?

2 A. Yes, sir.

3 Q. All right, and what was your job there?

4 A. General manager.

5 Q. Okay, and from your job there, did you come to know
6 Jermaine Davis?

7 A. Yes, sir.

8 Q. Okay. How did you meet Jermaine?

9 A. Jermaine used to work for a chauffeur company, CMI
10 and ---

11 Q. CMI?

12 A. CMI.

13 Q. Okay, and was that, like, a limousine company?

14 A. Exactly.

15 Q. All right, and what did he do for them?

16 A. He was the driver.

17 Q. All right.

18 A. He was the driver.

19 Q. And did there come a time when he came to work for the
20 same company as you?

21 A. Yes, sir.

22 Q. Okay, and when was that approximately?

23 A. I think in 2009. Not certain.

24 Q. Okay. How long had you known him prior to him coming
25 to work with you?

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

207

1 A. Probably about a year.

2 Q. Okay.

3 A. Or a little better.

4 Q. How long total do you think you knew Jermaine?

5 A. About two.

6 Q. Two years?

7 A. Uh-huh.

8 Q. Now, when he came to work for you guys, what were his
9 job duties?

10 A. He was in charge of transportation. He would take the
11 CEOs to different meetings.

12 Q. Okay.

13 A. Or functions.

14 Q. All right, and what was his work ethic like?

15 A. He was definitely on time and dedicated.

16 Q. Okay. Did he show up late?

17 A. Never.

18 Q. Did he lay out of work for no reason?

19 A. No.

20 Q. Okay. Was he reliable?

21 A. Definitely.

22 Q. Okay. Was he working with you guys on September 22nd
23 of 2010?

24 A. Yes.

25 Q. Okay, and that's the day he was killed?

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

208

1 A. Yes.

2 Q. All right. Do you know what Jermaine was supposed to
3 be doing that day?

4 A. He was supposed to be driving our CEO to Charleston,
5 South Carolina.

6 Q. Okay.

7 A. For a meeting.

8 Q. And what time was the meeting supposed to be?

9 A. At 11.

10 Q. Okay. So, what time was he supposed to pick him up?

11 A. Probably about 9, between 9 and 9:30.

12 Q. Okay, and had you spoken to Jermaine?

13 A. Yes.

14 Q. On the 22nd?

15 A. No.

16 Q. Okay. When was the last time before the 22nd that you
17 talked with him?

18 A. It would be the night before, the 21st.

19 Q. The 21st?

20 A. Uh-huh.

21 Q. Okay, and looking at State's Exhibit Number 1, that
22 would be Tuesday night?

23 A. Correct.

24 Q. All right. Approximately what time had you talked to
25 him that night?

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

209

1 A. Around between 9 and 9:30.

2 Q. Okay, p.m.?

3 A. P.m.

4 Q. On Tuesday night?

5 A. Yes.

6 Q. How long did y'all talk for roughly?

7 A. Not certain. Few minutes just to kind of go over what
8 his duties were going to be.

9 Q. The next day?

10 A. The next day, uh-huh.

11 Q. Okay. Now on the 22nd, how did you find out something
12 was wrong?

13 A. My CEO called and said that Jermaine didn't show up to
14 pick him up and, you know, he was kind of upset. He was
15 like -- he couldn't get in touch with him.

16 Q. Okay.

17 A. And -- yeah.

18 Q. And was that unusual for him not to be on time?

19 A. Very unusual.

20 Q. All right, and as a result of that, what did you do?

21 A. I started calling Jermaine.

22 Q. Okay, and do you know about what time you started
23 calling him?

24 A. Between 10 and 11.

25 Q. Okay. Did you call him more than one time?

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

210

1 A. Yes.

2 Q. Okay. Could you ever get ahold of him?

3 A. No.

4 Q. Okay. How many times do you think ballpark you called
5 him?

6 A. Oh, probably ten.

7 Q. Okay. After you couldn't get ahold of Jermaine, what
8 did you do?

9 A. I then called his wife, his -- Shellie. Called the
10 job to -- you know, her job to try to find out if she had
11 spoken to him.

12 Q. So, you called her at her office?

13 A. Uh-huh.

14 Q. At ERA?

15 A. Yes.

16 Q. Okay, and was she there?

17 A. She wasn't.

18 Q. Okay. What did you do then?

19 A. They gave me her cell number.

20 Q. Okay.

21 A. And I tried contacting her on her cell.

22 Q. All right, and when you tried to call her, what, what
23 kind of response did you get?

24 A. Initially it just rung a couple of times. I never got
25 initially a person.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

211

1 Q. Okay, when you first started calling?

2 A. Yes, sir.

3 Q. Okay. After you couldn't get her to answer the phone,
4 what did you do then?

5 A. I sent her a text asking her to give me a call.

6 Q. All right, and after you sent her a text, did you hear
7 back from her?

8 A. She then called. She called me.

9 Q. When she called you back, what did she tell you?

10 A. I asked her if she had spoken to Jermaine.

11 Q. Uh-huh.

12 A. And she said that she spoke to him earlier and that
13 they had a big fight.

14 Q. All right. Did she tell you she had shot him?

15 A. No. No, sir.

16 Q. Did you tell her you were trying to get in touch with
17 him?

18 A. Yes.

19 Q. Did you tell her he hadn't shown up at work?

20 A. I think I basically just told her I was trying to get
21 in touch with him; the CEO was trying to get in touch with
22 him as well.

23 Q. Okay. What did she tell you that Jermaine would do?

24 A. She said that he would -- she said that he was going
25 to -- he was going to call her. He said that he was going

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

212

1 to call her when he got up and that he would probably -- he
2 would give me a call when he woke, when he woke up because
3 she said he was -- I asked her -- when she said they had a
4 big fight, I asked her what happened, and she said, you
5 know, nothing. He just -- he said he was going to just
6 call me when he woke up.

7 Q. She told you he was asleep?

8 A. Uh-huh.

9 Q. Would that be unusual for Jermaine to be asleep at
10 that time of day?

11 A. Very.

12 Q. After you got off the phone with Shellie, what did you
13 do?

14 A. I then tried calling Jermaine a couple of more times
15 and during that time, it was -- it would ring or it would
16 not ring. Like, you know, go straight to voicemail.

17 Q. All right. After you did that, did you ever talk to
18 Shellie again?

19 A. I called her back again.

20 Q. Okay.

21 A. Just to kind of, you know, ask her some -- you know,
22 like when -- the last you talked to him, did you actually
23 see him or you talked to him on the phone, that type thing
24 because I just didn't -- I know that he would have, you
25 know -- if he got up to answer his phone initially, then he

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

213

1 -- he's the type person I'm sure would be up. He would be
2 up.

3 Q. Right.

4 A. Yes.

5 Q. When you asked her -- did you ask her if she knew
6 where he was?

7 A. Initially, yeah. I said did you talk to him or, you
8 know, did you -- do you know where he at, that type
9 conversation.

10 Q. Okay, and what did she say about knowing where he was?

11 A. She was kind of evasive with things that, you know, I
12 was asking her. She kind of paused a little and was
13 hesitant in answering my questions.

14 Q. Did you ask her to have Jermaine call you?

15 A. Yes.

16 Q. What did she tell you to that?

17 A. She said that, she said that she was trying to call
18 him, too, that she was trying to call him, too. And she
19 would, she would have him call me if she talked -- I said
20 if you talk to him, would you ask -- tell him to call me.
21 She said -- she paused a little and she said okay.

22 Q. After you got off the phone with her, what actions did
23 you take at that point, Arletta?

24 A. I knew something wasn't right. I just had a bad
25 feeling, and I still tried calling him again, and, and I,

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

214

1 you know, tried calling her.

2 Q. Tried to call?

3 A. Shellie.

4 Q. Okay. Did you get an answer?

5 A. No.

6 Q. Okay. What did you do after that?

7 A. After that, I, I think I went to, I went to the gas
8 station. I called the gentleman that kind of handles the
9 vehicles for us at the time and -- to get him to call
10 OnStar to see where the truck, the company vehicle was.

11 Q. Right.

12 A. So that we could kind of locate where Jermaine was.

13 Q. Okay.

14 A. At that point.

15 Q. And did you find out where the vehicle was?

16 A. Yes.

17 Q. Where was it?

18 A. At Jermaine's apartment.

19 Q. Okay. After you found out where the vehicle was,
20 what, if anything, were you going to do?

21 A. I was going to go over there and see, you know, what
22 was going on.

23 Q. Did you ever have any other contact with Shellie
24 Davis?

25 A. No. I sent her a text at that point because she

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

215

1 stopped answering my calls.

2 Q. Uh-huh.

3 A. So, I sent her a text saying that I knew something
4 wasn't right, and I was going to call the police.

5 Q. All right.

6 MR. RIDDLE: Beg the court's indulgence.

7 (PHONE RECORDS MARKED AS STATE'S EXHIBIT NUMBER 78 FOR
8 IDENTIFICATION.)

9 BY MR. RIDDLE:

10 Q. Arletta, let me show you something, please. This is a
11 list of the contacts in Shellie Davis's phone. Contact
12 number 125, do you recognize that?

13 A. Yes. That's my phone number.

14 Q. Okay. 466-██████?

15 A. Correct.

16 Q. Okay, and looking at State's Exhibit 78 for ID, is it
17 the same page from the contact list?

18 A. Yes.

19 Q. With your name and number highlighted?

20 A. Yes, sir.

21 Q. Okay, and you testified about you had sent her two
22 text messages that day?

23 A. Yes, sir.

24 Q. Okay. Let me show you this. Ask you if you recognize
25 the highlighted portions.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

216

1 A. Yes, sir.

2 Q. Okay, and does that show a text going to her phone
3 from you at 1441 or 2:41 in the afternoon?

4 A. Yes.

5 Q. And the text says:

6 Shellie, this is Arletta. Can you please call me
7 back ASAP? Thanks.

8 A. Yes. Yes.

9 Q. Okay, and does it likewise show a second text from you
10 at 1603 or 4:03 in the afternoon that says:

11 Hey. Still no response, so I'm going to call
12 some friends at the police department.

13 A. Yes, sir.

14 Q. Okay. That was no response from Jermaine, so you were
15 going to ---

16 A. Exactly.

17 Q. You were going to call law enforcement?

18 A. Uh-huh.

19 Q. Okay. Attached to this as well, Arletta, are some of
20 Ms. Davis's cell phone records from September 22, 2010.
21 Are there some phone calls highlighted there from you?

22 A. Yes, sir.

23 Q. Okay. Specifically, there was one at 1:41 in the
24 afternoon?

25 A. Yes, sir.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

217

1 Q. Okay, and that was an incoming call from you to her?

2 A. Yes, sir.

3 Q. All right, and then a number on this page -- 1, 2, 3,
4 4 -- and those are all incoming ---

5 A. From ---

6 Q. --- for her from you?

7 A. Uh-huh. Yes, sir.

8 Q. All right, and then two more incoming from you at ---

9 A. Yes, sir.

10 Q. --- 2:45?

11 A. Yes, sir.

12 Q. All right, and then she called you back the first
13 time?

14 A. Yes, sir.

15 Q. And y'all talked for 123 seconds?

16 A. Yes, sir.

17 Q. All right, and then some more phone calls incoming
18 from you ---

19 A. Yes.

20 Q. --- to her?

21 A. Yes, sir.

22 Q. All right. Then later on you called her at 3:19 and
23 3:20?

24 A. Yes, sir.

25 Q. And then again at 4:01, 1601, 4:01?

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

218

1 A. Yes, sir.

2 Q. In the afternoon, okay.

3 MR. RIDDLE: Your Honor, I'd offer this into evidence,
4 I believe without objection.

5 MS. ZMROCZEK: That is correct, Your Honor.

6 THE COURT: That's State's?

7 MR. RIDDLE: State's 78, Your Honor.

8 THE COURT: 78 without objection.

9 (PHONE RECORDS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
10 NUMBER 78.)

11 BY MR. RIDDLE:

12 Q. Now, Arletta, later on that same afternoon, did you
13 find out something had happened to Jermaine?

14 A. Yes, I did.

15 Q. What did you find out about him?

16 A. That he was killed.

17 Q. Okay, and were you contacted by law enforcement?

18 A. Yes, sir.

19 Q. And did you meet with an officer that day?

20 A. Yes, sir.

21 Q. Give a statement to that officer?

22 A. I did.

23 Q. Okay. Where did you meet the officer?

24 A. It was at a little shopping center off of Bush River,
25 Outlet, Outlet Point.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

219

1 Q. Outlet Point?

2 A. Yes, sir.

3 Q. Okay. Was that your idea or the officer's idea to
4 meet there?

5 A. The officer.

6 Q. Okay, and you met him there at Outlet Point?

7 A. Yes, sir.

8 Q. Did you get into his car?

9 A. Yes, sir.

10 Q. And you gave a statement at that time?

11 A. Yes, sir.

12 Q. All right. Now, when you talked to the officer that
13 day, did you talk to him about Shellie Davis?

14 A. I did.

15 Q. Okay, and did you tell him about an event that you ---

16 MS. ZMROCZEK: Your Honor, I'm going to object to
17 leading.

18 MR. RIDDLE: I'm just trying to direct her
19 conversation, and then I'm going to ask her, ask her...

20 THE COURT: I'm going to sustain to the objection.

21 MR. RIDDLE: All right.

22 BY MR. RIDDLE:

23 Q. Had there been an occasion where you and Jermaine
24 would work at the same event?

25 A. Yes.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

220

1 Q. Okay.

2 A. Yes.

3 Q. Did Shellie Davis ever come to those events?

4 A. She came to one that she wasn't invited to.

5 Q. Exactly. Showed up unannounced?

6 A. Unannounced.

7 Q. All right, and what did she want to do?

8 A. Confront Jermaine at this event.

9 Q. All right. What did you do in response to that?

10 A. When I realized what was going on, I demanded Jermaine
11 contact Shellie on the phone and give me the phone so that
12 I could talk to her myself.

13 Q. What did you tell her at that time?

14 A. I explained to her -- I basically said Shellie, you
15 know that we -- you know we're here working at this
16 function. Jermaine is working. You know, why would you
17 show up that -- you know, show up unannounced and cause
18 confusion while he's working. And, you know, she said,
19 well, you know, I -- he didn't tell me. He never tells me
20 where he's going and I wanted, you know, to see where he
21 was going. And, and I told her. I said, you know,
22 Jermaine is working. You know he has a job and, you know,
23 you cannot just pop up at his job at functions and cause
24 confusion because he, he will end up losing his job, and
25 then what will you and the five kids do then. And she said

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

221

1 you're right. You're right. And I told her, I said, well,
2 you know, I'm going to have to report it to my boss. I
3 said but I'm going to give Jermaine until tomorrow to talk
4 to the CEO and try to explain this to them. But I assure
5 you, you know, this continues to happen, he will be without
6 a job.

7 Q. You told her that?

8 A. I told her that.

9 Q. Okay. Now, what was the timeframe of when that
10 happened?

11 A. Maybe a couple of months prior to or so before he...

12 Q. So, September 22nd minus how much?

13 A. Maybe a month or so.

14 Q. Okay.

15 A. Month and a half. It was very recent.

16 Q. It was close to the time of his death?

17 A. Yes, sir.

18 Q. Okay. During that timeframe, do you know if Jermaine
19 and Shellie were separated?

20 A. Oh, yes. Yes, sir.

21 Q. Did she ever show up at other places where Jermaine
22 was working?

23 A. Yes, sir.

24 Q. Would that be invited or uninvited?

25 A. Uninvited.

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

222

1 Q. Okay. What other places did she show up at where
2 Jermaine was doing a job and driving people?

3 A. She would show up at Hemingway where he would drive
4 and drop them off for meetings.

5 Q. Is that in Irmo?

6 A. Irmo.

7 Q. Okay. Where else?

8 A. Gamecock Pavilion. That's downtown.

9 Q. Where, where, where is that? I don't know where that
10 is.

11 A. Downtown by the stadium.

12 Q. Okay.

13 A. She would show up at -- with Chris.

14 Q. Okay.

15 A. Wherever.

16 Q. All right. Arletta, did Shellie Davis ever tell you
17 anything about Jermaine and if they didn't stay together?

18 A. Yeah. I mean, she, she told me that they were
19 separated.

20 Q. Right. Did she tell you anything near your birthday
21 about Jermaine?

22 A. That she, she loved him and she, you know, wanted
23 their marriage to work and, and we had a conversation. In
24 my mind set, I'm, you know, I'm a divorcee and I went on
25 with my life. And I told her, you know, it's not the end

A. CARR - DIRECT EXAMINATION BY MR. RIDDLE

223

1 of the world. If y'all are meant to be, y'all will be. If
2 not, go on about -- you know, go on with your life. You
3 can, you can move on. You can move forward.

4 And, you know, she mentioned about having five kids
5 and, you know, and I think she felt that with five kids, no
6 one would want her. And I explained to her, oh, yeah, you
7 can move. You can move on and you can leave the kids with
8 him on the weekend and go and enjoy your life.

9 Q. Uh-huh.

10 A. That's exactly what I told her.

11 Q. What did she say to that?

12 A. She was basically -- if she didn't have him, nobody
13 else would. She wanted him. She want -- she said she
14 wanted Jermaine, and I explained to her again that, you
15 know, children don't keep a man, and you shouldn't want
16 him. If he don't want to be with you, you don't want him.
17 Just move forward with your life.

18 Q. She said if she couldn't have him, no one ---

19 A. Nobody. Nobody.

20 Q. And that was -- you said it was around your birthday.
21 When was your birthday?

22 A. In July.

23 Q. In July?

24 A. Uh-huh. It was after.

25 Q. Okay. Was that in 2010?

A. CARR - DIRECT EXAMINATION / CROSS-EXAMINATION

224

1 A. Yes, sir.

2 Q. Okay. So, a couple of months before he died?

3 A. Yes.

4 Q. All right.

5 MR. RIDDLE: Beg the court's indulgence.

6 THE COURT: Yes, sir.

7 (A PAUSE.)

8 MR. RIDDLE: Your Honor, that's all I have at this
9 time.

10 Ms. Carr, please answer any of the defense lawyer's
11 questions.

12 THE COURT: Cross?

13 CROSS-EXAMINATION BY MS. ZMROCZEK:

14 Q. So, she told you if she couldn't have him, nobody else
15 could?

16 A. Exactly.

17 Q. And you told that to the police, right?

18 A. I told the police everything basically about -- well,
19 when I spoke with them that day, of course I was upset and,
20 you know, I found out he was dead. And I know I said
21 without a doubt I felt she did it prior to, to that.

22 Q. You wrote a statement, right?

23 A. I did.

24 Q. And in that statement, you told the police that if she
25 couldn't have him, nobody could?

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

225

1 A. I didn't, I didn't put that, I don't think, in that
2 statement.

3 Q. You didn't put that in the statement?

4 A. I don't think so.

5 Q. You just told it to the police?

6 A. I'm not certain exactly what all I said to them. I
7 know that that day, it was a very emotional day, and I'm
8 sure I said a lot of things to them that I didn't write in
9 the statement.

10 (A PAUSE.)

11 BY MS. ZMROCZEK:

12 Q. Ms. Carr.

13 MS. ZMROCZEK: May I approach, Your Honor?

14 THE COURT: Yes.

15 Q. I'm going to show you a picture that's been marked
16 Defendant's ID Exhibit Number 47.

17 A. Uh-huh.

18 Q. I know it's a little blurry, but can you recognize
19 that?

20 A. Yeah. That's my birthday.

21 Q. This is your birthday?

22 A. Uh-huh.

23 Q. What day is that?

24 A. July -- well, my birthday's on the 21st, so it should
25 be around that time, the weekend of.

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

226

1 Q. What year would that be?

2 A. 2010.

3 Q. Do you recognize the people in it?

4 A. Uh-huh.

5 Q. Who are they?

6 A. Jermaine and Shellie.

7 Q. Does this fairly and accurately represent this
8 evening? Does this picture fairly and accurately represent
9 this evening?

10 A. Part of the evening.

11 Q. Part of the evening?

12 A. Uh-huh.

13 MS. ZMROCZEK: Your Honor, at this time we'd like to
14 move Defendant's Number 47 for ID into evidence.

15 MR. RIDDLE: No objection.

16 THE COURT: All right, without objection.

17 (PHOTOGRAPH MARKED INTO EVIDENCE AS DEFENDANT'S
18 EXHIBIT NUMBER 47.)

19 THE COURT: Let me get y'all to step up here quickly
20 before you move on.

21 (OFF-THE-RECORD BENCH CONFERENCE.)

22 BY MS. ZMROCZEK:

23 Q. Ms. Carr, will you tell the jury what this picture
24 depicts?

25 A. Jermaine and Shellie at my birthday party.

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

227

1 Q. Jermaine and Shellie together at your birthday party?

2 A. Correct.

3 Q. And she was invited?

4 A. By -- yeah, she was invited.

5 Q. And that was on July 23, 2010?

6 A. Yes.

7 Q. So, it was incorrect when you testified earlier that
8 he didn't -- she wasn't welcome at places where he was?

9 A. The places that I stated that she showed up to, she
10 wasn't invited to.

11 Q. But there were some that she was invited to?

12 A. I'm certain there probably was.

13 Q. Like your birthday?

14 A. I'm sorry?

15 Q. Like your birthday?

16 A. Yeah.

17 Q. And that was a little less than two months before this
18 incident?

19 A. Uh-huh.

20 Q. I'm sorry, you have to say yes or no ---

21 A. Yes.

22 Q. --- for the court reporter.

23 A. I apologize.

24 Q. It's okay. I know people who aren't testifying -- so
25 I'm not trying to correct you. It's just making a clear

1 record.

2 You told the police that, that you spoke with Jermaine
3 every day?

4 A. Yes.

5 Q. That you were like his little sister?

6 A. Correct.

7 Q. You knew everything about him?

8 A. I wouldn't say I knew everything about him.

9 Q. You knew -- did, did you know everything about his
10 relationship with Shellie?

11 A. Of course I didn't know everything about his
12 relationship.

13 Q. But you testified you knew that they were separated?

14 A. I did.

15 Q. And that he did not want to get back together with
16 her?

17 A. Well, initially he was having mixed feelings about
18 getting back with her, but at one point he had made a final
19 decision to not get back.

20 Q. When was that point?

21 A. I would say it was the, maybe the week, the week that
22 he was killed.

23 Q. That week he decided?

24 A. He was -- yeah, he leaning toward not, you know,
25 getting back.

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

229

1 Q. And you'd known him for a year or two years?

2 A. About two.

3 Q. And you knew he had a girlfriend?

4 A. I don't know what -- yeah, I knew he, he was seeing
5 somebody, or wanted.

6 Q. In fact, you gave the police her name and number that
7 day, didn't you, that this happened?

8 A. Uh-huh.

9 Q. You testified, Ms. Carr, that you told Shellie that
10 she, she could get on with her life, right?

11 A. Of course, yes.

12 Q. Because that's what you did?

13 A. Yes.

14 Q. You never had any problems with your ex-husband or any
15 of their girlfriends?

16 MR. RIDDLE: How is that relevant, Your Honor?
17 Objection.

18 THE COURT: Is that an objection?

19 MR. RIDDLE: Yes.

20 THE COURT: Sustained.

21 BY MS. ZMROCZEK:

22 Q. On the day that you said you spoke with her, it was
23 123 seconds I believe the phone records say? 123 ---

24 A. Yes.

25 Q. --- seconds?

1 A. I, I think so, yes.

2 Q. And that in that conversation you had heard about the
3 fight, talked about how he was supposed to call her back or
4 when she woke up, and you asked that she call -- he call
5 you, right?

6 A. Uh-huh.

7 Q. All of that happened in that 123 seconds?

8 A. I spoken to her twice. So, I don't know what part of
9 what phone call was where I asked those questions. I'm not
10 certain of that, but I did talk to her twice.

11 Q. Didn't Jermaine tell you that he had purchased a gun
12 in July?

13 A. He did tell me that he purchased a gun.

14 Q. In July?

15 A. I'm not certain if it was July, but he did purchase a
16 gun.

17 Q. Recently?

18 A. I'm sorry?

19 Q. Recent to this incident?

20 A. Yes. Before this incident.

21 Q. And he told you that he had gotten his concealed
22 weapons permit?

23 A. No. He said that -- he told me that he was going to
24 get a concealed weapons permit.

25 Q. And his job was a driver?

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

231

1 A. Yes.

2 Q. And you knew him to be a very good worker?

3 A. Correct.

4 Q. And did you know that his driver's license was
5 suspended?

6 A. I did not know that.

7 Q. But his job was to drive the CEO and other important
8 people in this community around, correct?

9 A. Correct.

10 Q. And your CEO had a lot of connections with a lot of
11 influential people in the, in the Columbia area, correct?

12 A. I, I don't know what he had but, I mean, he, he knew
13 people. He definitely knew people.

14 Q. Y'all hung out with -- at events with important
15 people, right?

16 A. Correct.

17 Q. The mayor?

18 A. At what time? No. 2010? I don't know if the mayor
19 was the mayor at that time.

20 Q. Okay.

21 A. The mayor that I know. I don't know if you meant the
22 mayor at ---

23 Q. Steve Benjamin.

24 A. --- that time. Oh, yeah, Mr. Benjamin, yeah.

25 Q. He hung out at -- y'all hung out at events with him?

1 A. Uh-huh.

2 Q. Yes?

3 A. Yes. Yes.

4 Q. That's all right, and judges?

5 A. Judges, yeah.

6 Q. And senators and representatives?

7 A. Yes.

8 Q. On September -- excuse me -- on September 22nd, you
9 started around 11 or so -- I'm not trying to hold you to
10 that -- you started to call Jermaine?

11 A. Yes, ma'am.

12 Q. And how many times did you say you called the, the
13 first -- trying to get in touch with him?

14 A. I mean, I know at least ten times.

15 Q. At least ten?

16 A. Yeah.

17 Q. Phone rang every time?

18 A. Yeah.

19 Q. It would sometimes go straight to voicemail?

20 A. Correct.

21 Q. Did you leave voice messages?

22 A. I'm not certain. Probably the first time I'm, I'm
23 sure I probably said Jermaine, where are you, you know?
24 Boss is looking for you. Bossman looking for you.

25 Q. Did you have a -- did Jermaine go out of town

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

233

1 sometimes with, with your boss?

2 A. Yes.

3 Q. Did Shellie ever join him?

4 A. Not that I knew of.

5 Q. Do you recall a time around September 1st, 2nd, 3rd,
6 early part of September where Jermaine had to take your
7 boss and some other people down to Atlanta?

8 A. Not offhand, but it could have been.

9 Q. But it's your testimony that he never took Shellie to
10 any of these functions?

11 MR. RIDDLE: That's ---

12 A. That's not ---

13 MR. RIDDLE: Objection. That's not what she said.

14 Excuse me.

15 THE COURT: Make your objection.

16 MR. RIDDLE: Objection.

17 THE COURT: Sustained.

18 BY MS. ZMROCZEK:

19 Q. Could you repeat what you told me? I'm sorry. I
20 don't mean to put words in your mouth.

21 THE COURT: Y'all step up here for a minute.

22 (OFF-THE-RECORD BENCH CONFERENCE.)

23 BY MS. ZMROCZEK:

24 Q. Ms. Carr, I apologize if I have that written down
25 wrong. What did you say about Shellie going out of town

1 with Jermaine for work?

2 A. I mean, not certain. I mean, if I said it in here, it
3 would be on the transcript because I'm not certain.

4 Q. Okay, I'll ask the question again. Do you know if
5 Jermaine took Shellie out of town for work?

6 A. Not that I know of.

7 Q. Okay. Did you communicate with Jermaine a lot via
8 text?

9 A. Could have been.

10 Q. Is that a way that he communicated with people?

11 A. I'm not certain if he preferred texting over calling;
12 I know I spoke to him a lot on the phone.

13 Q. And his job was very important to him?

14 A. Of course it was.

15 Q. And when did you have the conversation with Shellie
16 that she said if she couldn't have him, nobody could?

17 A. Not certain what month it was, but I do know Jermaine
18 was at my house. I said it in front of him to her via
19 telephone, you know, that -- to move on with her life. All
20 of that was in -- within the same conversation. And he was
21 sitting there just smiling, and I was telling his wife
22 basically to leave him, move on, you know. Go, you know.

23 Q. Is that before your birthday or after your birthday?

24 A. I think it was -- I'm not certain. It might, might
25 have been before my birthday. I didn't -- I'm not certain.

A. CARR - CROSS-EXAMINATION BY MS. ZMROCZEK

235

1 MS. ZMROCZEK: Beg the court's indulgence.

2 (A PAUSE.)

3 BY MS. ZMROCZEK:

4 Q. Ms. Carr, how often did you speak with Shellie?

5 A. Not often at all. I mean, I can count probably about
6 three or four times.

7 Q. How often did you see her and Jermaine together?

8 A. When she would come to-- you know, pop up at some
9 function, or I think one time they were going to handle
10 some business and she was with him.

11 Q. Did you ever call the cops when she would show up
12 unannounced?

13 A. Would I? No.

14 Q. Were they ever called when she would show up
15 unannounced?

16 A. Not that I know of.

17 Q. Do you know what the relationship was between Jermaine
18 and Shellie?

19 A. I know that they were separated.

20 MS. ZMROCZEK: I have no further questions, Your
21 Honor.

22 THE COURT: Any redirect?

23 MR. RIDDLE: No redirect, Your Honor.

24 THE COURT: All right, thank you, ma'am. You may ---

25 MR. RIDDLE: I'd ask that you ---

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 236

1 THE COURT: --- step down.

2 MR. RIDDLE: I'm sorry. I didn't mean to talk over
3 you.

4 THE COURT: That's okay.

5 MR. RIDDLE: I'd ask that she be excused.

6 MS. ZMROCZEK: Without objection.

7 THE COURT: Thank you very much, ma'am. You're free
8 to go.

9 (THE WITNESS EXITS THE STAND.)

10 THE COURT: Would y'all step up?

11 (OFF-THE-RECORD BENCH CONFERENCE.)

12 THE COURT: All right, you may call your next witness.

13 MS. SHANNON DAVIS: Thank you, Your Honor. The state
14 calls Lisa Jackson.

15 THE COURT: Ms. Jackson, if you'd please come around
16 and be sworn.

17 LISA JACKSON, BEING DULY SWORN,
18 TESTIFIES AS FOLLOWS:

19 CLERK OF COURT: Once you're seated, please state your
20 full name, spelling your last for the record.

21 WITNESS: My name is Lisa Jackson, J-a-c-k-s-o-n.

22 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

23 Q. Good afternoon, Ms. Jackson.

24 A. Good afternoon.

25 Q. Where do you live?

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 237

1 A. Hopkins, South Carolina.

2 Q. Is that where you're from?

3 A. No.

4 Q. Where are you from?

5 A. Bronx, New York.

6 Q. Bronx, New York. When did you come to the South?

7 A. 2003.

8 Q. Why did you come down here?

9 A. The cost-of-living was extremely high, and my husband
10 at the time, we wanted a better place to raise the kids.

11 Q. You have, you have children?

12 A. I do.

13 Q. How many children?

14 A. Three.

15 Q. How old are they?

16 A. Seventeen and the twins are sixteen.

17 Q. Did you all have any ties to South Carolina, or you
18 just picked here?

19 A. My husband at the time, he has family here in the
20 Columbia area.

21 Q. Okay, and where do you work?

22 A. Right now I work at a place called Right at Home and
23 Still Hopes.

24 Q. And, and what is that?

25 A. It's a nursing, nursing facility.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS

238

1 Q. Okay. Ms. Jackson, do you know Jermaine Davis?

2 A. I do.

3 Q. How do you know him?

4 A. My husband and him drove truck together at Waggoners.

5 Q. What's your, what your ex-husband's name?

6 A. Sidney Jackson, Jr.

7 Q. Do you remember when you met Jermaine?

8 A. Maybe around 2004.

9 Q. Okay, and did you meet him through your husband, or
10 did you know him separately?

11 A. No. I met him through my husband.

12 Q. Okay. Do you know Shellie Davis?

13 A. I do.

14 Q. How do you know her?

15 A. My husband introduced me to her through Jermaine, of
16 course.

17 Q. Okay, because he worked with Sidney?

18 A. Yes.

19 Q. Okay, and was that at Waggoners?

20 A. Yes.

21 Q. Okay. Did you all spend time together as couples?

22 What type of relationship did you have with the Davises?

23 A. We spent a little time as couples. We have kids that
24 are pretty much in the same age category, and we did a lot
25 of family stuff together. We ate breakfast at each other's

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 239

1 house. We ate lunch at each other's house. We had dinner
2 together. Jermaine would take my son with him if he would
3 take his boy somewhere. My son would go with them.

4 Q. Now, you said that y'all had breakfast and lunch at
5 each other's houses. Did you live near each other?

6 A. We did. We actually lived maybe about not even five
7 minutes from each other.

8 Q. And was that in the Algrave community?

9 A. Yes.

10 Q. Okay.

11 A. They lived to the Highlands, and we lived in Winslow.

12 Q. Okay. So back in 2010, you all lived near them?

13 A. Yes, we did.

14 Q. Okay. Did you ever have holiday parties or anything
15 together?

16 A. We did.

17 Q. Okay. So, you would say that y'all are pretty decent
18 friends?

19 A. Yes.

20 Q. Were you better friends with Jermaine or with Shellie?

21 A. Probably equally because we basically just did stuff
22 as a family as a whole.

23 Q. And was your ex-husband, Sidney, was he good friends
24 with Jermaine?

25 A. He was, yes.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 240

1 Q. Okay. Did you ever have the occasion to spend time
2 with them at a Hallo -- at a Fourth of July party?

3 A. Yes. I was the host of all the Fourth of July
4 parties.

5 Q. Is that a yearly thing you do?

6 A. It was a yearly thing, yes.

7 Q. Tell me about the party. Was it a little party or big
8 party?

9 A. Usually they got out of hand, so they were pretty big.

10 Q. Okay. It was a big family party?

11 A. Big family parties. We never had alcohol or drinking,
12 smoking, nothing like that.

13 Q. Family-friendly?

14 A. Family-friendly.

15 Q. Okay, and in 2010, did you have a Fourth of July
16 party?

17 A. Yes. I think it was the last Fourth of July party we
18 had.

19 Q. Do you know if Jermaine and Shellie came to that
20 party?

21 A. I think they were there at that party, yes.

22 Q. Okay. Did they come together?

23 A. I think Shellie came and then Jermaine came later on
24 that day.

25 Q. Did they bring their kids?

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 241

1 A. I think the kids were there. I can't really remember,
2 but they didn't usually travel anywhere without them, so.

3 Q. Okay. Did you know that Shellie and Jermaine were
4 separated at that time?

5 A. Yes, I knew.

6 Q. How did you know that?

7 A. Shellie and I talked, and then of course Jermaine and
8 my ex-husband, they were good friends. So, as husband and
9 wives or -- we talked.

10 Q. Okay. Did you know that Jermaine had moved out of
11 their residence at Algrave?

12 A. I did.

13 Q. Did you know where he moved to?

14 A. I did, yes.

15 Q. Where did he move to?

16 A. He moved in with Chris Rice. I don't know exactly
17 where that was, but I knew just that he moved in with him.

18 Q. Okay. How do you know Chris?

19 A. Again, my ex-husband and Chris, they all drove --
20 they're truck drivers. They all drove truck together.

21 Q. So, they were all Waggoners together?

22 A. They were at Waggoners, yes.

23 Q. Okay. Did you know if Shellie ever went to Jermaine's
24 apartment?

25 A. I can't say that I ever saw her there, no.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 242

1 Q. Okay. I want you to think back to September 22nd of
2 2010, okay?

3 A. Okay.

4 Q. On that day, did you learn about anything happening to
5 Jermaine Davis?

6 A. I did.

7 Q. And how did you learn that, and what did you learn?

8 A. I guess what I learned is that Jermaine was killed
9 that day.

10 Q. Who told you that?

11 A. Later on that day, I found out -- I guess it initially
12 started with my ex-husband. He called me at work.

13 MS. ZMROCZEK: Objection, Your Honor. Hearsay.

14 THE COURT: She hasn't said anything of what he said
15 yet.

16 A. He called me ---

17 THE COURT: Don't go down any, don't go down any road
18 on hearsay.

19 MS. SHANNON DAVIS: Yes, sir.

20 BY MS. SHANNON DAVIS:

21 A. He called me at work to ask for Shellie's phone
22 number.

23 Q. Did you give Sidney Shellie's phone number?

24 A. I think I gave it to him. I'm pretty sure I did, but
25 I called Shellie myself.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 243

1 Q. Okay. Did you have Shellie's number in your phone?

2 A. Yes.

3 Q. Was that her cell phone number?

4 A. Yes.

5 Q. Do you remember what the number was?

6 A. I do remember that number.

7 Q. What was that number?

8 A. 319-0820.

9 Q. Is that 803?

10 A. Yes.

11 Q. Why did you try to call Shellie?

12 A. Because something had happened to Jermaine, and they
13 were trying to get in touch with her.

14 Q. When you called Shellie, did you know that Jermaine
15 had been killed?

16 A. No, I did not.

17 Q. What did you know about Jermaine at that time?

18 A. All I knew was that something happened to him, and
19 they were calling me, trying to figure out how to get touch
20 with Shellie. They were trying to get a phone number for
21 her.

22 Q. Okay. So, you knew people were looking to talk to
23 Shellie to let her know something had happened ---

24 A. Yes.

25 Q. --- to Jermaine? You didn't know what at the time ---

1 A. I did not.

2 Q. --- you called Shellie? Okay. After you spoke to
3 Sidney, did you end up trying to call Shellie?

4 A. I did.

5 Q. Okay, and on her cell phone?

6 A. I did.

7 Q. Okay. Were you able to reach her?

8 A. I did.

9 Q. Okay. Do you remember what time that was?

10 A. Late afternoon. I don't know exactly what time.

11 Q. Okay.

12 A. 12, 1:00 maybe.

13 Q. Okay. Whenever you were able to reach her, tell me
14 what happened during that conversation.

15 A. I was talking to her, and I asked Shellie where -- I
16 said Shellie, where are you, and she said, if I remember
17 correctly, she said I'm out running some errands. I'm in
18 Columbia. I'm running some errands, and I guess I began to
19 get very emotional on the phone. At that time, I think
20 Teph had called me.

21 Q. Okay.

22 A. And I had Teph on one phone and Shellie on the other
23 phone, and at that time my coworkers began to come back to
24 see what exactly -- what was going on. And Teph said don't
25 tell her, don't tell her. She said I'll tell her

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 245

1 something's going on.

2 Q. Okay. Did you have -- did you tell Shellie to call to
3 Teph?

4 A. I think I did tell Shellie. I said call Teph. Teph
5 has something to tell you.

6 Q. Okay. So when you spoke to Shellie, you didn't tell
7 her anything had happened ---

8 A. I didn't ---

9 Q. --- to Jermaine?

10 A. --- tell her. I said something -- all I said was
11 something's, something's going on with Jermaine.
12 Something's happened.

13 Q. Okay, and when you spoke to Shellie, she said she was
14 running errands in Columbia?

15 A. Yes.

16 Q. Okay. Did she tell you anything about seeing Jermaine
17 that day?

18 A. No.

19 Q. She tell you she had shot Jermaine?

20 A. No. No.

21 Q. When you spoke to Shellie on the phone, what was her
22 demeanor? How was she acting?

23 A. Fine. Like she was just really out running errands.
24 She was, like, I'm just running some errands. I'm in
25 Columbia. I'm running some errands.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 246

1 Q. So, nothing abnormal?

2 A. No.

3 Q. Okay. How long do you think you talked to Shellie
4 when you spoke to her?

5 A. It couldn't have been no more than three or four
6 minutes.

7 Q. Okay. Did you talk to Shellie anymore that day?

8 A. No, I didn't.

9 Q. Did you try to call her any other times?

10 A. I did.

11 Q. But she never answered?

12 A. No.

13 Q. About how many times do you think you tried to call
14 her?

15 A. I don't know. Less than ten. I know that. Less than
16 eight maybe.

17 (PHONE RECORDS MARKED AS STATE'S EXHIBIT NUMBER 79 FOR
18 IDENTIFICATION.)

19 Q. Ms. Jackson, I'm going to hand you what has been
20 marked as State's Exhibit 79 for ID. It's three pages. If
21 you'll look at that first page.

22 (A PAUSE.)

23 Q. Now, there's a name highlighted on that. What name is
24 that?

25 A. Lisa Jackson.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS 247

1 Q. Is that you?

2 A. Yes.

3 Q. Okay, and the phone numbers listed, are those your
4 phone numbers?

5 A. Yes.

6 Q. And that has a number 326 next to your name. Is that
7 right?

8 A. Yes.

9 Q. I'm showing you what has been entered as State's
10 Exhibit 72. Take a look at that.

11 MS. ZMROCZEK: Your Honor, we don't object to any of
12 these.

13 THE COURT: All right, those items are in without
14 objection.

15 (PHONE RECORDS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
16 NUMBER 79.)

17 BY MS. SHANNON DAVIS:

18 Q. Is the contact page of Exhibit 79 which is now in
19 evidence the same as the page I'm showing you of Exhibit
20 72?

21 A. Yes, it is.

22 Q. If you'll flip that page. You see some highlighted
23 phone calls? Would you look at those and see who was
24 calling who? Is that your phone number calling Shellie's?

25 A. Uh-huh. Yes, it is.

L. JACKSON - DIRECT EXAMINATION BY MS. SHANNON DAVIS

248

1 Q. And back and forth? She called you sometimes?

2 A. Yes.

3 Q. Is that around the time that you all spoke?

4 A. Yeah.

5 Q. 1324, which would be 1:24?

6 A. Yes.

7 Q. Does that sounds about right?

8 A. Yes.

9 Q. Now, Ms. Jackson, you said that you spoke to Shellie
10 often. Y'all spent time together?

11 A. Yes.

12 Q. Did, did you ever see her and Jermaine fighting?

13 A. No, I never saw them fighting.

14 Q. No physical fighting?

15 A. None.

16 Q. Okay. Did Shellie ever make any complaints to you
17 about any abuse?

18 A. No.

19 Q. Did you ever see any bruises on her?

20 A. No.

21 Q. Did Shellie ever act scared of Jermaine?

22 A. No.

23 Q. Did she ever tell you she was scared of Jermaine?

24 A. No.

25 Q. How would you explain Jermaine's personality?

L. JACKSON - DIRECT EXAMINATION / CROSS-EXAMINATION 249

1 A. He was one of the type of men when he walked into the
2 room, he would just light up the room. Everybody loved
3 him. He would come to my job sometime, my -- at previous
4 job and he would come and order food, and everybody would
5 ask who, who was that? Who was that, but he just had that
6 type of affect on people.

7 Q. A very outgoing man?

8 A. Yes.

9 Q. How would you describe Shellie?

10 A. She was more of a introvert. She, she was more
11 business minded and she was a mother, you know, to her
12 kids. She was more of a homebody, not as outgoing as he
13 was.

14 Q. Who would you say wore the pants in their
15 relationship?

16 A. I would say more so Shellie. You know, whatever she
17 wanted, she told him and he pretty much tried to do it.

18 MS. SHANNON DAVIS: I have no further questions, Your
19 Honor.

20 Please answer any Ms. Zmroczek has for you.

21 WITNESS: Okay.

22 CROSS-EXAMINATION BY MS. ZMROCZEK:

23 Q. Ms. Jackson, how long did y'all know each other as far
24 as couples?

25 A. I guess we -- probably for the last eight years, I

1 would say, seven or eight years.

2 Q. Always looked like the perfect family?

3 A. Pretty much.

4 Q. Shellie never threatened Jermaine?

5 A. Not in front of me.

6 Q. The last time y'all hung out together was in July of
7 2010?

8 A. I'm assuming that was the last big cookout we had in
9 2010.

10 Q. And they were there together?

11 A. Shellie was there first, and then Jermaine came later
12 on.

13 Q. Were they together, or were they staying apart?

14 A. I don't know. It's -- we had, like, fifty people
15 there, so I didn't keep up with who was coupled up where.
16 Everybody pretty much mingled together. Everybody knew
17 everybody.

18 Q. And it was just a normal July 4th gathering?

19 A. Yes.

20 Q. Nothing out of the ordinary?

21 A. No.

22 Q. You stated that you knew that Jermaine had moved out?

23 A. Yeah. My, my husband at the time told me first, and
24 then Shellie and I -- you know, she eventually told me.

25 Q. Did she ever say she was angry and wanted to kill him?

L. JACKSON - CROSS-EXAMINATION BY MS. ZMROCZEK

251

1 A. Not to my knowledge.

2 Q. She never said that. Did she -- she never said if I
3 can't have him, nobody can? She never said that to you,
4 did she?

5 A. Not to me.

6 Q. And y'all were close friends?

7 A. We weren't -- we were friends.

8 Q. Eight years?

9 A. Yeah but, you know, she had a life and I had mine. I
10 worked and she was more of a homebody. I worked a 9 to 5
11 job.

12 Q. Did -- to your knowledge, did she work?

13 A. I guess she did. She sold houses.

14 Q. And, and, and she also took care of their five
15 children, correct?

16 A. Yes.

17 MS. ZMROCZEK: I have no further questions.

18 MS. SHANNON DAVIS: Your Honor, we'd ask that Ms.
19 Jackson be excused.

20 THE COURT: Any objection?

21 MS. ZMROCZEK: No objection.

22 THE COURT: All right, thank you very much, ma'am.
23 You're free to go.

24 WITNESS: You're welcome.

25 (THE WITNESS EXITS THE STAND.)

1 THE COURT: All right, ladies and gentlemen, we're
2 going to break at this time for lunch. Now, let me tell
3 you what's going on.

4 We haven't shared with the jury what we're doing have
5 we, Hope?

6 CLERK OF COURT: No, sir.

7 THE COURT: Some of you may be aware, and I'm not from
8 here and don't know his name. The long-time coroner ---

9 MR. RIDDLE: Harry Harmon, Your Honor.

10 THE COURT: Okay. His funeral is, is today and it's
11 -- it has caused -- so, it's critical. It's, the fact is
12 it's caused -- law enforcement has had to block off several
13 streets and it's going to be incredibly congested to be
14 able to get around. So, what I've done is I've gone ahead
15 and I'm ordered lunch in for you.

16 Now, what we're going to do is we're going to break
17 for lunch, and same admonition you've always had is do not
18 talk about the case, do not discuss it. But you, you can
19 eat lunch here, and then if any of you want to go outside
20 and stretch your legs or just get outdoors to get some
21 fresh air, any number of the bailiffs are here, and they'll
22 go down with you and allow you to do that, okay?

23 But just normally I would send you out to lunch and
24 just have you come back at a certain time, but I'm being
25 told that it may be very difficult to get around this area

1 for the next couple of hours. So, I went ahead and had
2 lunch brought in.

3 So, we're going to do that at this time. If you need
4 anything while you're back there, let us know, and then
5 like I said. If anybody wants to go out and get some fresh
6 air and stretch or whatever, we'll certainly accommodate
7 you on that, okay?

8 So, everyone please remain seated the members of the
9 jury are excused.

10 (THE JURY EXITS AT 12:27 P.M.)

11 THE COURT: All right, we'll break at this time and
12 reconvene about 1:30, okay? I'll be here if anyone needs
13 me during the break. I'll be here.

14 (OFF THE RECORD.)

15 (PHONE RECORDS MARKED AS STATE'S EXHIBIT NUMBER 80 FOR
16 IDENTIFICATION.)

17 THE COURT: All right, anything we need to take up
18 before we get started back?

19 MR. RIDDLE: No, sir.

20 MS. ZMROCZEK: No, sir.

21 THE COURT: All right. Let's bring the jury in,
22 please.

23 MS. ZMROCZEK: Oh, I believe they, they have -- their
24 next witness has stipulated to the evidence, so.

25 MS. SHANNON DAVIS: Yes, sir, State's Number, Number

1 80, Your Honor.

2 THE COURT: 80?

3 MS. SHANNON DAVIS: Yes, sir.

4 MS. ZMROCZEK: Sorry, Your Honor.

5 (COUNSELORS CONFER.)

6 MR. RIDDLE: Your Honor, just for the record, State's
7 80 is in.

8 THE COURT: Right.

9 MR. RIDDLE: Yeah. I didn't want it to be confusing.

10 THE COURT: Okay.

11 (PHONE RECORDS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
12 NUMBER 80.)

13 (THE JURY ENTERS AT 1:48 P.M.)

14 THE COURT: All right, folks, I hope everyone had a
15 decent lunch break for not being able to leave the
16 premises, but I appreciate your understanding of that.

17 You are still on the state's case, so we'll recognize
18 the state for its next witness.

19 MS. SHANNON DAVIS: Thank you, Your Honor. State
20 calls Tephania Jones.

21 THE COURT: All right, if you would come around and be
22 sworn.

23 TEPHANISA JONES, BEING DULY SWORN,
24 TESTIFIES AS FOLLOWS:

25 CLERK OF COURT: Once you're seated, speak up loud and

T. JONES - DIRECT EXAMINATION BY MS. SHANNON DAVIS 255

1 clear. State your full name, spelling your last, please.

2 WITNESS: All right. Tephania Jones, J-o-n-e-s.

3 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

4 Q. Ms. Jones, do you go by Teph?

5 A. Teph, yes.

6 Q. Did you mind if I call you Teph?

7 A. Not a problem.

8 Q. Okay. Great. Where do you live, Teph?

9 A. In Elgin.

10 Q. Okay. Is that where you're from?

11 A. No. I'm from Mississippi.

12 Q. Okay. How did you get here?

13 A. I was in the Navy.

14 Q. Okay. How long were you in the Navy?

15 A. Four active, four active reserve, so a total eight.

16 Q. Is your husband in the military, too?

17 A. He was.

18 Q. Okay. What branch was he in?

19 A. Navy as well.

20 Q. Do you have any children?

21 A. Yes.

22 Q. How many?

23 A. Two, boy and a girl.

24 Q. How old are they?

25 A. Twenty and sixteen.

1 Q. Okay, and where, where are you employed?

2 A. I'm a full-time student now.

3 Q. Where are you a student?

4 A. I'm at Phoenix.

5 Q. Okay. Do you know Jermaine Davis?

6 A. Yes.

7 Q. How do you know him?

8 A. Through -- it's by my husband. They were coworkers.

9 Q. What's your husband's name?

10 A. Darius.

11 Q. Okay. Where did they work together?

12 A. Waggoners Trucking.

13 Q. Did they have any other affiliations, Darius and
14 Jermaine?

15 A. They were Masons.

16 Q. Okay. Do you remember when you met Jermaine, about
17 what time?

18 A. Had to be about ten years ago.

19 Q. Okay. So, you've known him for a while?

20 A. Well, known of him, yes.

21 Q. Do you know Shellie Davis?

22 A. Yes.

23 Q. How did you know her?

24 A. Jermaine's wife.

25 Q. Okay. So, you met Shellie through Jermaine?

T. JONES - DIRECT EXAMINATION BY MS. SHANNON DAVIS

257

1 A. Exactly.

2 Q. What was your relationship with Shellie and Jermaine?
3 Did you spend time with them, that kind of thing?

4 A. Casual family gatherings.

5 Q. So, y'all would have family functions together
6 sometimes?

7 A. Right.

8 Q. Any holidays?

9 A. Yes, some, some holidays.

10 Q. Okay. Did you hang out with Shellie alone? Were
11 y'all good friends?

12 A. No. We didn't hang out.

13 Q. Okay. Did you ever come to know that Jermaine and
14 Shellie were separated?

15 A. Yes.

16 Q. When did you learn that?

17 A. Probably about a couple of months before he passed.

18 Q. Okay. How did you find that out?

19 A. Through conversations with Darius.

20 Q. Okay, your husband?

21 A. Uh-huh.

22 Q. Okay. Did you know that Jermaine had moved out of the
23 house?

24 A. I didn't at the time.

25 Q. Okay. Did you know that he was living with Chris and

1 I, I think you call him Chuckie?

2 A. Yeah, Chris and Chuckie, yeah, I, I knew that, that
3 they -- that he lived -- he had lived there a few months
4 before I knew about it.

5 Q. And Chuckie is Charley Rice?

6 A. Right.

7 Q. Okay. How do you know Chris and Chuckie?

8 A. Through Darius.

9 Q. They also worked at Waggoners?

10 A. Yeah. Chris worked at Waggoners as well.

11 Q. Okay. So, through your husband?

12 A. Uh-huh.

13 Q. Okay. Do you recall the last time that you saw
14 Jermaine?

15 A. Yes. At the Fourth of July cookout at Lisa Jackson's.

16 Q. That would have been the cookout Lisa was talking
17 about?

18 A. Right.

19 Q. Okay. Did you know that Shellie and Jermaine were
20 separated at that time?

21 A. I'm not sure if I knew at that time they were, but
22 they were there together.

23 Q. Okay.

24 A. But yes.

25 Q. I want you to think back on September 22nd of 2010.

T. JONES - DIRECT EXAMINATION BY MS. SHANNON DAVIS

259

1 A. Okay.

2 Q. That morning, did you receive a call from your
3 husband?

4 A. Yes.

5 Q. Okay, and did you come to know that Jermaine had been
6 killed?

7 A. Right.

8 Q. When Darius called you, what did you tell Darius? Did
9 he ask you for Shellie's phone number?

10 A. Yes. He asked if I had her, had her number, had
11 Shellie's number.

12 Q. Okay, and why did he want Shellie's number?

13 A. Well, he think -- because Jermaine was dead.

14 Q. People were looking for Shellie?

15 A. Right.

16 Q. Did you give it to him?

17 A. Yes.

18 Q. Okay. Did you later receive a call from Chris?

19 A. Yes.

20 Q. Chris Rice?

21 A. Right.

22 Q. Did you give Chris Shellie's number?

23 A. I did.

24 Q. Did you ever try to call Shellie that day?

25 A. I did.

1 Q. Do you remember when you called her?

2 A. It was probably about close to 1:15 that afternoon.

3 Q. Okay. Did you, did you talk to her at that time when
4 you called?

5 A. No. I didn't reach her the -- when I, when I
6 attempted to call her.

7 Q. Did you leave her a voicemail?

8 A. No.

9 Q. Okay. At some time later, did you speak with Lisa
10 Jackson?

11 A. Yes.

12 Q. Okay. Do you remember when that was in relation to
13 the call with -- where you left -- or where you called
14 Shellie?

15 A. It was probably about ten, fifteen minutes after that.

16 Q. So, close in time?

17 A. Right.

18 Q. Okay. What did you tell Lisa?

19 A. We, we basically just had a conversation that we could
20 not believe that, you know, this was going on and that he
21 was dead.

22 Q. Okay. While you were on the phone with Lisa, did
23 Shellie call Lisa on another phone?

24 A. Right.

25 Q. Okay.

T. JONES - DIRECT EXAMINATION BY MS. SHANNON DAVIS

261

1 A. Lisa was talking to me on my, my work phone at the
2 time, and I think Shellie, Shellie called her on her cell
3 phone. So, I could hear Lisa having a conversation with
4 Shellie as well.

5 Q. Okay. So, Lisa was on one phone with you, one phone
6 with Shellie?

7 A. Right.

8 Q. But you could hear the conversation between Lisa and
9 Shellie?

10 A. Right.

11 Q. Okay. Did you tell Lisa to have Shellie call you?

12 A. Right. Lisa stated that -- you know, tell her. She
13 doesn't, she doesn't know anything.

14 Q. Okay.

15 A. And so I told her just have her to call me.

16 Q. You would be the one to talk to her about it?

17 A. Well, I, I would try, yes.

18 Q. Okay. So, did Shellie ever call you?

19 A. She did.

20 Q. Okay, and tell me about y'all's conversation.

21 A. She mentioned that she was running some errands at
22 work, and I let her know that -- I told her that paramedics
23 were at the, at the apartment and something was wrong with
24 Jermaine. I did not tell her that he was dead; I could not
25 tell her that over the phone.

1 Q. That's not something you wanted to tell her over the
2 phone.

3 A. Right.

4 Q. Okay, and you just told her something was wrong with
5 Jermaine?

6 A. Right, and I thought she should go over there and
7 offered to ride along with her if she needed me.

8 Q. You offered to go with her over there?

9 A. Yes.

10 Q. What did she say to that?

11 A. She said she was going to take care of some things
12 that she was wrapping up on her job, and then she was going
13 to go over there.

14 Q. Okay. So, she didn't need you to go with her?

15 A. Right. She didn't ask me to.

16 Q. And you told her that EMS was at Jermaine's apartment?

17 A. I did.

18 Q. Okay. When you spoke to Shellie, she said she was
19 running work errands?

20 A. Right.

21 Q. Did she tell you that she had quit her job earlier
22 that morning?

23 A. No.

24 Q. Did you have Shellie's number in your phone?

25 A. Yes.

T. JONES - DIRECT EXAMINATION BY MS. SHANNON DAVIS

263

1 Q. So when she called, it would have come up as Shellie?

2 A. Right.

3 Q. Okay. So, you knew that's who you were talking to?

4 A. Right.

5 Q. When you were talking to her, what -- how was

6 Shellie's demeanor? What did she sound like?

7 A. Well, she sounded normal to me. She didn't sound like
8 she heard anything was wrong. So, I mean, when I told her
9 that something was wrong, she, she sounded concerned.

10 Q. Okay. So when you originally talked to her she --
11 before you told her anything was wrong ---

12 A. Right.

13 Q. --- with Jermaine, she sounded perfectly normal?

14 A. Right.

15 Q. Okay. Did she tell you about taking a new job?

16 A. No.

17 Q. How long do you think you talked to her?

18 A. It -- probably about three to four minutes.

19 Q. So, not too long?

20 A. Right.

21 Q. When she talked to you, did she tell you anything
22 about Jermaine?

23 A. No.

24 Q. Did she tell you she had seen him that day?

25 A. No.

1 Q. After you got off the phone with Shellie, did you
2 receive a phone call from Chris Rice later?

3 A. Yes.

4 Q. Do you remember when that was?

5 A. It was about -- between 2:45, 3, 3:00 because I picked
6 my daughter up. I picked my daughter up from school during
7 that time and take her home.

8 Q. Okay, and you had picked up your daughter by that
9 time?

10 A. Right.

11 Q. So, you know it had to be around then?

12 A. Right.

13 Q. Okay. Why was Chris calling you again?

14 A. He wanted to basically double check that I had
15 actually spoken to Shellie.

16 Q. And did you tell him you had talked to Shellie?

17 A. Yeah, I did.

18 Q. And had Shellie not shown up at the apartment by then?

19 A. Right. That's what he let me know.

20 Q. Okay.

21 A. That they were still waiting.

22 Q. Okay. Do you remember talking with an officer on the
23 telephone that day?

24 A. Yes.

25 Q. Okay. What did you tell him?

T. JONES - DIRECT EXAMINATION BY MS. SHANNON DAVIS

265

1 A. The same. Basically said that -- the timeframe that I
2 spoke with her, and he asked me as well if she sounded
3 different or -- you know, she sounded normal to me, and
4 that's what I let him know.

5 Q. So, essentially what you're telling us today?

6 A. Right.

7 Q. Okay. Did you tell the officer that Shellie was
8 supposed to be coming to the apartment?

9 A. Right.

10 Q. Okay. Did you -- I believe you told him some times
11 that she had talked to her. Where did you get those times
12 from?

13 A. Well, I just went back into my cell phone and just
14 gave them the time, you know, from the time I made a
15 outbound call to her to when she called me. I just read it
16 off my phone.

17 Q. So, you would have looked back through your cell phone
18 to ---

19 A. Right.

20 Q. --- see what time? Okay. Do you know if Shellie ever
21 showed up at the apartment that day?

22 A. It's my understanding no, she didn't.

23 Q. Okay. Did you have any more conversations with
24 Shellie after you talked to her that day?

25 A. No, I didn't.

1 Q. Teph, I want to show you what is in evidence as
2 Exhibit 80.

3 A. Okay.

4 Q. If you'll look at first page, that looks like a
5 contact list, and there's a highlighted name. Do you
6 recognize that name and number?

7 A. Yes. That's mine. That's my number.

8 Q. So, TJ would be you?

9 A. Right.

10 Q. Teph Jones?

11 A. Right.

12 Q. And this is your cell phone number?

13 A. That's right.

14 Q. Okay. It says DJ's wife. Darius, okay. Flip the
15 page ---

16 A. Right.

17 Q. --- for me. Now, these are call records from
18 Shellie's phone and the highlighted ones, are those your
19 phone number with Shellie's phone number?

20 A. Yes. Yeah.

21 Q. I want you to look at line 1312. It's a phone call,
22 outgoing from Shellie's phone to your phone at, at 1 -- or,
23 yes, 1:26. You're better at military time than me.

24 A. Right.

25 Q. 1:26?

T. JONES - DIRECT EXAMINATION / CROSS-EXAMINATION

267

1 A. Right.

2 Q. Okay. It lasted for about 193 seconds.

3 A. Okay.

4 Q. Does that sound about right?

5 A. Yeah, that's about right.

6 Q. So, that would have been the conversation that you ---

7 A. Right.

8 Q. --- spoke with Shellie?

9 A. Uh-huh.

10 Q. When she told you she was running work errands?

11 A. Right.

12 MS. SHANNON DAVIS: That's all the questions I have.

13 Please answer any Ms. Zmroczek has for you.

14 WITNESS: Sure.

15 CROSS-EXAMINATION BY MS. ZMROCZEK:

16 Q. Good afternoon, Ms. Jones.

17 A. Hey. How are you doing?

18 Q. Well. How are you?

19 You said that you knew Shellie through Jermaine?

20 A. Right.

21 Q. But you -- and I may have heard this wrong, but
22 correct me if I, if I did. You didn't really hang out with
23 Shellie. You just knew her through your husband and their
24 contacts?

25 A. Exactly.

1 Q. So, it's not somebody -- she's not somebody that you
2 would call or hang out with, but you, but you saw her in
3 social settings?

4 A. Exactly.

5 Q. And you saw her at the barbecue on July 4th?

6 A. Right.

7 Q. And, and you said they were together?

8 A. Right.

9 Q. And how long had y'all known them? How many years?

10 A. Had to be seven, at least seven.

11 Q. A good ---

12 A. Had to be seven.

13 Q. A good number of years?

14 A. Right.

15 Q. Did they always present to you to be a very perfect
16 family?

17 A. Well, there's no perfect family but, you know, normal.

18 Q. A normal ---

19 A. To me ---

20 Q. A normal family?

21 A. --- I didn't see any...

22 Q. No problems?

23 A. Not that I could judge.

24 Q. And you said your husband was a Mason?

25 A. Yes.

T. JONES - CROSS-EXAMINATION BY MS. ZMROCZEK

269

1 Q. That's just an organization of gentlemen that, that
2 help each other out, or is it like a fraternity? I -- what
3 do the Masons do?

4 A. I'm not sure.

5 Q. It's still a secret ---

6 A. It's an organization.

7 Q. Okay, but it's a men's gathering group?

8 A. Right.

9 Q. Okay. It's only for men, no women allowed?

10 A. Right.

11 Q. Okay. How -- prior to the barbecue, how often did
12 y'all hang out with, with the Davises?

13 A. I recall maybe a Thanksgiving. I remember maybe
14 Jermaine and the kids, I think, the last time. I think
15 Shellie was out of town with her family. We -- but we'd
16 done some holiday dinners at my house.

17 Q. And you indicated that you had thought she had said
18 she was going to get back over to the apartment but she
19 sounded concerned. I just want to make sure that I heard
20 you correctly, that she sounded concerned when you told her
21 that the paramedics were there?

22 A. Right. She did.

23 MS. ZMROCZEK: I have no further questions. Thank
24 you.

25 WITNESS: You're welcome.

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

270

1 MS. SHANNON DAVIS: Your Honor, we ask that Ms. Jones
2 be excused.

3 MS. ZMROCZEK: Without objection.

4 THE COURT: All right. Thank you very much, ma'am.

5 WITNESS: Thank you.

6 THE COURT: You're free to go.

7 WITNESS: Thank you.

8 (THE WITNESS EXITS THE STAND.)

9 MR. RIDDLE: Your Honor, the state would call Billy
10 Derrenbacher to the stand.

11 THE COURT: All right, Mr. Derrenbacher, if you would
12 please come to the stand.

13 WILLIAM DERRENBACHER, BEING DULY
14 SWORN, TESTIFIES AS FOLLOWS:

15 CLERK OF COURT: Once you're seated, state your full
16 name, spelling your last on the record, please.

17 WITNESS: William Derrenbacher. Derrenbacher is
18 spelled D-e-r-r-e-n-b-a-c-h-e-r.

19 DIRECT EXAMINATION BY MR. RIDDLE:

20 Q. You go by Billy?

21 A. I do.

22 Q. Where are you employed?

23 A. County of Lexington.

24 Q. And what do you do with the county?

25 A. I am the director of Lexington County Animal Services.

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

271

1 Q. Okay. Back in 2010, were you employed with Animal
2 Services?

3 A. I was not.

4 Q. Where were you employed at that time?

5 A. Lexington County Sheriff's Office, Major Crimes
6 Division as a detective.

7 Q. How long did you work with the Major Crimes Division?

8 A. Approximately three years.

9 Q. Okay. Can you tell us what your career or your
10 background in law enforcement is?

11 A. Kind of wide variety of backgrounds far as law
12 enforcement. I've done a little of this, little of that.
13 Traffic enforcement, patrol deputy, narcotics
14 investigations, major crimes investigations, that sort of
15 thing.

16 Q. All right. Back in September of 2010, you were in
17 Major Crimes?

18 A. That's correct.

19 Q. Okay. Did you respond to the death call at Feather
20 Run Trail?

21 A. I responded as, as a form of an assistant to
22 investigators that were already on the scene and assigned
23 to that investigation.

24 Q. And, Billy, approximately what time do you think you
25 arrived at Feather Run?

1 A. 1:30, 2:00.

2 Q. Okay, and were you by yourself or were you with
3 somebody?

4 A. No. Detective Joe Chappell, Joseph Chappell was also
5 with me. Actually, I was riding with him in his vehicle.
6 We both responded at the same time.

7 Q. Okay. Was he new to investigations or Major Crimes at
8 that time?

9 A. He was.

10 Q. All right. When you responded to Feather Run, did you
11 know who the case officer was that was charge at that time?

12 A. I did.

13 Q. And who was that?

14 A. Steve Collins. He was a detective at that particular
15 time.

16 Q. Okay.

17 A. Assigned to the case.

18 Q. And did you speak with him upon your arrival at
19 Feather Run?

20 A. We did. We spoke briefly. He kind of gave us the
21 Reader's Digest version and indicated that we, we needed to
22 expand our investigation and asked us to check the
23 residence over on Algrave.

24 Q. Did you ever go inside Feather Run?

25 A. I did not.

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

273

1 Q. Okay. You mentioned the residence over on Algrave.
2 He asked you to go there?

3 A. Yes.

4 Q. Okay, and did you, in fact, do that?

5 A. We did.

6 Q. Okay, and who went with you?

7 A. Detective Chappell.

8 Q. Okay, and Algrave is located where, Detective?

9 A. It's in Northcleas -- Northeast Columbia area of
10 Richland County.

11 Q. Okay. Out sort of Spring Valley High School, past
12 there?

13 A. Yes, sir.

14 Q. All right. When you arrived there, did you speak with
15 anyone?

16 A. Yeah. Upon our arrival, we spoke with a lady that
17 identified herself as Michon Mansfield.

18 Q. Yes.

19 A. She indicated that she was the sister-in-law of the
20 defendant, Ms. Davis.

21 Q. And the brother of Jermaine?

22 A. And the brother of Jermaine.

23 Q. Or, excuse me, the sister of Jermaine?

24 A. The sister of -- Jermaine was her brother. That's
25 what she indicated to us, yes, sir.

1 Q. Right. What, if anything, did y'all ask her at that
2 time, Billy?

3 A. Onset initially we just, we inquired as far as if she
4 knew where Ms. Davis's -- or Shellie Davis's whereabouts,
5 if she knew where she was at, if we could contact her. She
6 indicated at that point in time that she had not, she had
7 not seen her or ---

8 MS. ZMROCZEK: Objection.

9 A. --- had any contact with her.

10 THE COURT: Problem?

11 MS. ZMROCZEK: I'm sorry. I was just objecting to
12 hearsay.

13 THE COURT: Right. Let me get y'all to step up here
14 real quick.

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 THE COURT: All right, sustained.

17 MS. ZMROCZEK: Thank you.

18 BY MR. RIDDLE:

19 Q. You spoke with Ms. Mansfield?

20 A. I did.

21 Q. Okay. Was Ms. Shellie Davis there?

22 A. She was not.

23 Q. Did you attempt to learn where she was employed?

24 A. I did.

25 Q. Okay, and were you given some of that information?

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

275

1 A. We were. We learned that she was employed by ERA
2 Realty.

3 Q. Okay.

4 A. We also learned that she was not at her work and that
5 she had recently resigned from employment at ERA.

6 Q. All right. Now, let me ask you this. After you spoke
7 to Michon Mansfield, did you, did you tell her about
8 Jermaine's death at that time?

9 A. Not at that time, no, sir.

10 Q. Okay. Did -- you left the residence?

11 A. We left the immediate area of the residence, the
12 curtilage area around the house. However, we did park our
13 vehicle a few houses down to where we could maintain a
14 visual of the residence itself.

15 Q. And why did you do that?

16 A. Just to see if anyone left or arrived at the, at the
17 residence, specifically Ms. Shellie Davis.

18 Q. Okay, and did you ultimately see somebody arrive at
19 the residence there?

20 A. We did. A short time later, a white Cadillac pulled
21 up, and then we walked back up to the residence again to
22 make identification of the individual driving that vehicle.
23 We learned that the individual driving that vehicle was Mr.
24 William Deloach, who identified himself as Michon's
25 husband.

1 Q. Okay, and did you ask, inquire of him if he knew where
2 Shellie Davis was?

3 A. We did. We spoke to him. Basically was provided the
4 same information that, that Michon gave us. He had not
5 seen her and -- since the night before was when he
6 indicated he that he had, he had last seen Shellie.

7 Q. And at that time what, if anything, did you and
8 Detective Chappell decide to do?

9 A. At that particular time -- actually intermittently
10 contacted Detective Collins, and we decided it was
11 appropriate time to make a death notification to the family
12 at that time.

13 Q. All right, and so did you do that?

14 A. Yes, sir.

15 Q. And who did you do that to?

16 A. I made that notification to Michon and to William
17 Deloach.

18 Q. Okay. Now, did y'all ultimately decide that you
19 needed to search that residence there on Algrave?

20 A. We did.

21 Q. Okay, and did another officer go and obtain a search
22 warrant?

23 A. They did.

24 Q. All right. While y'all are waiting for that search
25 warrant, did you interview Michon?

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

277

1 A. We did. We had the opportunity to, to interview
2 Michon and Mr. Deloach. We interviewed both of them
3 separately out of earshot and eye shot. That is standard
4 procedure as far as when you have multiple individuals that
5 you are interviewing. So, we did that at that particular
6 time, and we both received verbal statements from each of
7 them, as well as written statements.

8 Q. Okay, and did you learn that the defendant and
9 Jermaine were separated?

10 A. We did.

11 Q. Okay. Did you learn about some of the history of the
12 relationship?

13 A. We did. We also learned that there was a past history
14 of some domestic issues between the two parties and, you
15 know, the fact that they were currently separated.

16 Q. Okay, and who was the aggressor in the past histories?

17 A. The aggressor was Ms. Shellie Davis as it was advised
18 to us.

19 Q. All right. Now, did the search warrant come?

20 A. It did.

21 Q. Okay, and did y'all call a deputy from Richland County
22 to come to the scene at that point in time?

23 A. We did.

24 Q. Okay. Tell us why you did that.

25 A. When a search warrant is executed in a jurisdiction,

1 the officers that execute that search warrant must maintain
2 jurisdiction in that area. Example, Lexington County
3 deputies normally do not go over to Richland County and
4 execute search warrants. So, we would have to have a
5 deputy or investigator from the sheriff's department of
6 that jurisdiction to actually execute a search warrant.
7 So, we contacted Richland County Sheriff's Department to
8 had a -- to have a liaison from their department meet with
9 us to execute that search warrant.

10 Q. Y'all can work on the search warrant?

11 A. Absolutely.

12 Q. But you need to have a member of their sheriff's
13 department ---

14 A. Representing the department and their county.

15 Q. All right, and did Renee Strickland from your
16 department come over there?

17 A. She did.

18 Q. And she's one of the crime scene ---

19 A. She's the ---

20 Q. --- investigators?

21 A. --- crime scene investigator, yes, sir.

22 Q. All right, and did she take some pictures of the house
23 and some of the -- excuse me -- some of the items taken?

24 A. She did.

25 Q. All right. Mr. Derrenbacher, one piece of evidence

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

279

1 that was seized was some ammunition. Do you recall that?

2 A. I do.

3 Q. Okay, and was that found in Ms. Shellie Davis's
4 bedroom?

5 A. It was. It was found in her bedroom. I believe it
6 was located in a dresser drawer of sorts.

7 Q. Okay. Do you recall what type of ammo it was?

8 A. I recall the caliber. I do not recall the make at
9 that particular time. It was .380.

10 Q. All right, and did Renee Strickland secure that?

11 A. She did.

12 Q. All right. Were you aware that a .380 caliber shell
13 casing had been found over at Feather Run?

14 A. We were pursuant to Detective Collins's investigation
15 on his end of it where he was overseeing at the incident
16 location. We were aware that .380 casing was, was located
17 on scene there.

18 Q. Okay. Now, as y'all were wrapping up the search
19 warrant, did someone else arrive at the scene?

20 A. They did. A lady by the name of Enola Thornton
21 arrived, and basically there were several people out and
22 about around in this -- in front of this residence, and she
23 immediately seeked out law enforcement. I was the first
24 one she met with.

25 Q. Okay, and how did she identify herself?

1 A. She identified herself as a friend of Shellie Davis's.

2 Q. Okay, and did you speak with her?

3 A. I did.

4 Q. And did she tell you about a phone call that she had
5 received?

6 A. She did. She, she advised us that she had received
7 a phone call from Shellie Davis's phone. However, it was
8 not Shellie Davis that called her. It was a male
9 individual that indicated that Shellie was visiting them as
10 friends and that Shellie had been injured, and I believe
11 the -- actually what she said was she had hurt her head.
12 She had ---

13 Q. Okay.

14 A. He had indicated that there was something -- an injury
15 to her head. She wanted to advise somebody; she was
16 wanting to tell somebody. So, they found her number first,
17 I think it was, or in the phone directory contact list and
18 made contact with somebody just to make notification.

19 Q. All right, and did you take a statement from her at
20 that time?

21 A. I did.

22 Q. All right, and did you pass that information along to
23 Detective Collins?

24 A. I did.

25 Q. Okay, and you did a report summing up the actions you

W. DERRENBACHER - DIRECT EXAMINATION BY MR. RIDDLE

281

1 took in this case?

2 A. I did. The, the report that I maintained was provided
3 to Detective Collins for his case file.

4 Q. All right. In your report, does your report refer to
5 the defendant by the name of Michelle instead of Shellie?

6 A. It does.

7 Q. And tell us why that is.

8 A. That was, that was my mistake when I was documenting
9 my -- the information of my part in this investigation. I,
10 I honestly took Shellie to be a derivatin [sic] or a ---

11 Q. Shortened version ---

12 A. --- nickname of Michelle. So, up until that point, I
13 really hadn't seen any legal terms or legal names or
14 anything like that with, with her full information on it.
15 So, that was just an assumption on my part, on my behalf.

16 Q. Okay. You hadn't seen an ID or ---

17 A. No, sir.

18 Q. --- driver's license or anything like that?

19 A. No, sir.

20 Q. Okay. All right. The information that you received
21 from Ms. Thornton about her being in Charlotte and being
22 hurt, did you pass that along to Steve Collins?

23 A. Yes, sir. That was immediately passed on to Detective
24 Collins to aid his investigation on, on his side of it.

25 Q. Okay, and where was he at the time?

W. DERRENBACHER - CROSS-EXAMINATION BY MS. ZMROCZEK 282

1 A. He was actually in Charlotte during that time not far
2 from where apparently Ms. Davis was at when she was
3 injured.

4 Q. Okay.

5 MR. RIDDLE: Thank you. Please answer any of Ms.
6 Zmroczek's questions.

7 WITNESS: Yes, sir.

8 CROSS-EXAMINATION BY MS. ZMROCZEK:

9 Q. How are you today?

10 A. Doing well. Yourself?

11 Q. Great. I'm not going to make you go through -- you've
12 been in law enforcement a long time, right?

13 A. Yes, ma'am.

14 Q. And you know how important reports are, right?

15 A. Yes, ma'am.

16 Q. And you testified that you made a thorough report and
17 gave it to Investigator Collins because he was the lead
18 detective?

19 A. That's correct.

20 Q. And so he's the one who gathers all the information to
21 put the case together, correct?

22 A. He receives information from every aspect of every
23 investigator or deputy that took part in it.

24 Q. Every investigator that spoke with any person that had
25 something to say, right?

W. DERRENBACHER - CROSS-EXAMINATION BY MS. ZMROCZEK

283

1 A. If a report was, was done, yes.

2 Q. Or did something?

3 A. Right.

4 Q. And it's important to put accurate information into
5 those reports so that he can establish the case, correct?

6 A. I agree.

7 Q. And did you assist him in any way with any other
8 reports or just this one?

9 A. This is the one I did.

10 Q. Okay. Who was, who was it your understanding that
11 lived at that house on Algrave Way?

12 A. It was my understanding that Shellie Davis lived
13 there.

14 Q. Anyone else?

15 A. That Michon Mansfield, that she and her husband,
16 William Deloach, also were living there as well.

17 Q. And did they have children?

18 A. I'm not sure if Michon did or not. I can't, I can't
19 recall. I do know that Ms. Shellie Davis and Jermaine had
20 several children.

21 Q. Okay.

22 A. There were several children in the household when we
23 were there.

24 Q. And you were told that there were history of domestic
25 issues, right?

1 A. That's correct.

2 Q. And being in law enforcement for all these years,
3 certainly that's something you would follow up on, right,
4 or someone in the case would follow up on, right?

5 A. We would receive that information, and I'm sure it
6 would be followed up on with, with someone inside there if
7 it was significant within that investigation.

8 Q. So, if you have a deceased victim and you've been told
9 that there were previous history of domestic violence
10 between the deceased victim and the person for whom you're
11 looking, that would be important to the case, right?

12 A. It would be important to the case. Obviously we,
13 we've got an individual that's dead, and the most important
14 thing at that particular time is locating an individual
15 that may have knowledge of why that person is dead.

16 Q. But then afterwards, you would want to follow up and
17 confirm the reports instead of just taking what people say,
18 right?

19 A. Obviously people will tell you one thing or another.
20 You can't take everyone's word verbatim. However, the
21 information at some point is going to be collected whether
22 a report be documented or not. That's an account that
23 they're providing that was a domestic history between the
24 two of them. Whether it was ever documented in our county
25 or Richland County is a totally different story. I can't

1 answer that.

2 Q. Certainly, but somebody should have followed up on
3 that.

4 A. I agree.

5 Q. Okay, and there were a lot of things taken from the
6 residence, correct?

7 A. Yeah, there are several things taken from the
8 residence. I wouldn't consider it a tremendous amount. I
9 mean, my past experience in a narcotics search warrant,
10 we're taking a lot of stuff that's particular in the search
11 warrant. It would be a general amount.

12 Q. And those were things to help assist also in the
13 investigation. That's why, that's why you collect evidence
14 ---

15 A. Correct.

16 Q. --- correct? Because that evidence can help explain
17 or understand about a case, right?

18 A. In some cases. Sometimes it doesn't have any
19 evidentiary jury value as it turns out, but you don't know
20 it at the time when you take it.

21 Q. And who makes that final decision?

22 A. Whether you take it or whether it's evidentiary?

23 Q. Whether it's evidentiary.

24 A. Well, a lot of times it's how it pertains to the case.
25 In this particular investigation, Detective Collins was the

1 chief investigator of, of this investigation, and obviously
2 I was assisting him with not as much information as far as
3 this case may go, as far as what he may know. And given
4 the facts of it, of what we're looking for, I may have --
5 find something that may to me be more of value than it may
6 be to him because he, he knows the case more intimately
7 than I.

8 Q. So, ultimately it's the, it's the lead investigator,
9 whoever is assigned to the case, job to make sure that all
10 the loose ends are tied up. That's what you would do if
11 you were the lead investigator?

12 A. Well, traditionally, but there's -- it's -- making
13 sure all loose ends are tied up in a homicide is a very
14 daunting task. So, will you ever be done with it? You
15 know, probably not, but do you do the best you can to make
16 sure that justice is served? Yes.

17 Q. Because police actions can end up with people losing
18 their liberty, right?

19 A. Exactly.

20 Q. You took statements from all the witnesses there,
21 correct? Or --

22 A. Not all ---

23 Q. I think you said -- no.

24 A. There were several people there. I took statements
25 from three people.

W. DERRENBACHER - CROSS-EXAMINATION BY MS. ZMROCZEK 287

1 Q. Okay, and that were -- that was Mr. Davis's sister,
2 her husband or the person who was identified to you as her
3 husband?

4 A. Uh-huh.

5 Q. And Ms. Thornton?

6 A. That's correct.

7 Q. Ms. Thornton, what time did she arrive on the scene?

8 A. I want to say it was somewhere in the neighborhood of
9 around 8, 8:30, 9:00. I can tell you if you'd bear with me
10 just a second.

11 Q. No worries.

12 A. Her, her written statement was documented at -- she
13 indicated on her statement form 22 hours, so that's 10 p.m.
14 That is at the conclusion of, of any verbal statements. If
15 I recall, I want to say it was probably somewhere in the
16 neighborhood of about 9, 9:30.

17 MS. ZMROCZEK: Beg the court's indulgence.

18 (A PAUSE.)

19 BY MS. ZMROCZEK:

20 Q. And, and do you recall that CSI Strickland is the -- I
21 believe that's -- you testified was the officer for
22 Lexington County who actually gathered the materials
23 pursuant to the search warrant, right?

24 A. She logged, photographed, and that sort of thing, not
25 necessarily gathered.

1 Q. Okay, logged and photographed, okay.

2 A. She documented, yes.

3 Q. And she was the one who collected them?

4 A. She collected them, yes. She was responsible for them
5 at the end of the day.

6 MS. ZMROCZEK: I have no further questions. Thank
7 you.

8 MR. RIDDLE: Briefly.

9 REDIRECT EXAMINATION BY MR. RIDDLE:

10 Q. Billy, just so we're clear, you learned that they were
11 separated due to marital issues?

12 A. That's what we learned, yes, sir.

13 Q. Okay, and you learned that there was a, a prior
14 history of domestic abuse against Jermaine?

15 A. Where, whereas Jermaine would have been the victim.

16 Q. And that -- you've got it as Michelle but that Shellie
17 had assaulted Jermaine in the past?

18 A. Yes, sir.

19 Q. Okay.

20 MR. RIDDLE: Thank you. That's all I have.

21 MS. ZMROCZEK: I just have one follow up.

22 RECROSS-EXAMINATION BY MS. ZMROCZEK:

23 Q. And, and if that were your case and you were the lead
24 investigator, that would be something that you would
25 certainly follow up on as evidence in the case, correct?

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

289

1 A. I'm certainly not going to armchair quarterback
2 someone else's investigation of how they handled it, but I
3 have every bit of confidence in Detective Collins that it
4 was handled the way it should have been.

5 MS. ZMROCZEK: I have no further questions.

6 THE COURT: Thank you very much, sir.

7 WITNESS: Thank you, Your Honor.

8 (THE WITNESS EXITS THE STAND.)

9 MR. RIDDLE: Your Honor, I'd ask that Mr. Derrenbacher
10 be excused.

11 MS. ZMROCZEK: Telephone standby, Your Honor.

12 THE COURT: Come on up here.

13 (OFF-THE-RECORD BENCH CONFERENCE.)

14 THE COURT: All right, you may call your next witness.

15 MR. RIDDLE: Michon Mansfield.

16 MICHON MANSFIELD, BEING DULY
17 SWORN, TESTIFIES AS FOLLOWS:

18 CLERK OF COURT: Once you're seated, state your full
19 name, spelling your last on the record, please.

20 WITNESS: My name is Michon Mansfield,
21 M-a-n-s-f-i-e-l-d.

22 DIRECT EXAMINATION BY MR. RIDDLE:

23 Q. Ms. Mansfield, Jermaine is your brother?

24 A. Yes, sir.

25 Q. How old would Jermaine be if he was alive today?

1 A. He would be forty-one.

2 Q. How old are you?

3 A. Thirty.

4 Q. So, he's ten years older than you, a little bit more?

5 A. Yes. I'll be thirty-one next month, so yeah.

6 Q. Where are you from?

7 A. I'm from Washington, D.C.

8 Q. That where you grew up?

9 A. Yes, sir.

10 Q. Did Jermaine grow up there as well?

11 A. He did not.

12 Q. Okay. You moved down here?

13 A. Yes.

14 Q. Where do you live currently?

15 A. In Columbia.

16 Q. All right. Who do you live with?

17 A. Myself, William, and six kids.

18 Q. Okay. You working?

19 A. Yes.

20 Q. Where do you work, Michon?

21 A. South Carolina Department of Corrections.

22 Q. What do you do with them?

23 A. I'm a med tech and I process the, intakes. So, the
24 new guys that's coming in, I do vital signs and...

25 Q. You do medical stuff on new inmates?

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

291

1 A. Yes, sir. Yes.

2 Q. At the male prison?

3 A. Yes.

4 Q. How long have you been living in the Columbia area?

5 A. Going on three years.

6 Q. Were you living here in the summer of 2010?

7 A. Yes.

8 Q. Okay. Where did you live at that time?

9 A. I lived with Shellie.

10 Q. Okay.

11 A. At her place of residence.

12 Q. The house on Algrave?

13 A. Yes, sir.

14 Q. Okay. Did you have all six of your kids at that time?

15 A. Well, then I had five.

16 Q. Okay.

17 A. And we only had four that was with us.

18 Q. Okay. So, it was you and William and four of the
19 kids?

20 A. Yes.

21 Q. Okay. How did you come to live on Algrave?

22 A. What do you mean by that?

23 Q. Where were you living before you moved to Algrave?

24 A. Before? I was living in D.C.

25 Q. Okay.

1 A. Yes.

2 Q. And why did y'all move down here?

3 A. Because we used to always come and visit Jermaine and
4 Shellie, and we liked the area.

5 Q. Okay.

6 A. So.

7 Q. And you moved in with, with Shellie on Algrave?

8 A. Yes, sir.

9 Q. When you moved down here?

10 A. Yes.

11 Q. All right. Was Jermaine living there at the time?

12 A. He wasn't.

13 Q. Where was he living?

14 A. He was living at the apartments in Lexington.

15 Q. Okay. Did you know that when you moved?

16 A. He, he told us about a couple of days before we moved.

17 Q. Uh-huh.

18 A. That they were separated and he wasn't living there.

19 Q. Okay. Did he give you a choice about where to live?

20 A. At first he did. He said either we can stay with him
21 at the apartment, or we can live with Shellie, but I guess
22 he didn't speak with his roommates about us staying there.

23 Q. Okay.

24 A. So, he allowed us to stay with Shellie.

25 Q. All right. Did Jermaine visit with his kids?

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

293

1 A. He did.

2 Q. Okay. Did you take your kids over to Jermaine's house
3 to swim and stuff like that?

4 A. Yes.

5 Q. Okay. Was Jermaine working at that time?

6 A. He was.

7 Q. Where was he working, or what was he doing?

8 A. He was the chauffeur.

9 Q. Okay.

10 A. I'm not sure what's the name of that company now.

11 Q. He was driving?

12 A. Yes.

13 Q. Was Shellie Davis working?

14 A. Yes.

15 Q. Where was she working?

16 A. ERA.

17 Q. Okay. Where was that located, Michon?

18 A. On Two Notch and Sparkleberry.

19 Q. Up in Northeast?

20 A. In Northeast, yes.

21 Q. Okay. While you were living with Shellie, did she
22 ever complain about any marital issues with Jermaine?

23 A. Not really, no.

24 Q. What was her only complaint?

25 A. Just the fact that he up and left her.

1 Q. Okay.

2 A. You know.

3 Q. Would Shellie go over to Jermaine's apartment?

4 A. She would.

5 Q. Okay. When she would do that, who would have the
6 kids?

7 A. Myself and William.

8 Q. All right. So, you'd have your four and her five?

9 A. Yes.

10 Q. All right. Now, how often did she go over to
11 Jermaine's apartment while y'all were there?

12 A. If not every night, then maybe every other night.

13 Q. Okay. Would she spent the night sometimes?

14 A. Yes.

15 Q. Okay. Do you know if she had a key to Jermaine's
16 apartment?

17 A. I'm not sure exactly if she had a key.

18 Q. She ever say ---

19 A. She did say she ---

20 Q. --- anything about a key?

21 A. Yeah. She said she was going to make a copy. I'm not
22 sure she acted on it or not.

23 Q. Okay. Did she say that was going to be with or
24 without Jermaine's knowledge?

25 A. Without his knowledge.

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

295

1 Q. Without his knowledge. Now, you were staying at
2 Algrave?

3 A. Uh-huh.

4 Q. And she would go over to his apartment. When she
5 would go to his apartment, would she take clothes with her?

6 A. Not that I'm aware of, no.

7 Q. Okay.

8 A. I never seen any bags or anything.

9 Q. All right. What would she do when she got back home?

10 A. I guess she would get dressed and take her shower and
11 get, get ready for work.

12 Q. Okay. She wouldn't do that at Jermaine's? She'd come
13 back to Algrave to do that?

14 A. Most of the time she, she, she did it at her place of
15 residence.

16 Q. And your place?

17 A. Yeah, at her house, yes.

18 Q. Okay. When's the last time you saw Jermaine?

19 A. That Monday.

20 Q. Okay.

21 A. He came over to pay us for working at the concession
22 stand.

23 Q. Okay. Y'all had -- tell us a little bit about the
24 concession stand. Jermaine had started a little business?

25 A. Yeah, and we sold food and candy on, on the football

1 field that was down on Polo.

2 Q. Polo Road?

3 A. Yeah.

4 Q. Okay, in Northeast?

5 A. In Northeast.

6 Q. Okay. Big park out there?

7 A. Yes.

8 Q. Okay. Y'all had done that on Sunday?

9 A. Yeah. That was the first Sunday that we -- that he
10 started it.

11 Q. That would have been Sunday the 19th?

12 A. Yes, sir.

13 Q. Okay, and then you saw him on the 20th, Monday?

14 A. Yes.

15 Q. And he came to pay y'all?

16 A. Uh-huh.

17 Q. Financially, had Sunday been a good day?

18 A. Yeah.

19 Q. At the concession stand?

20 A. Pretty much.

21 Q. Okay.

22 A. Yeah.

23 Q. Now let's talk about Monday just for a minute, okay?

24 A. Okay.

25 Q. Did you talk to Jermaine that day after he came to pay

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

297

1 you?

2 A. No. I don't recall.

3 Q. Okay.

4 A. I don't recall.

5 Q. All right. How -- when he came to pay you, what was
6 his state of mind like? Did he seem ---

7 A. He was in good spirits.

8 Q. Okay.

9 A. Yeah.

10 Q. Did you see Shellie Davis on Monday?

11 A. Yes.

12 Q. Okay, and did you -- where did you see her?

13 A. At the house.

14 Q. Algrave?

15 A. Yes.

16 Q. Okay, and were you there taking care of the kids?

17 A. We all was there.

18 Q. Okay. When you say we all, who are you referring to?

19 A. Myself, William, and Shellie.

20 Q. Okay. Was there an issue going on Monday night with
21 one of Shellie's children, Martinique?

22 A. Yeah. That was on Tuesday.

23 Q. I'm sorry. I apologize.

24 A. That's okay.

25 Q. No wonder you're not tracking with my questions. The

1 21st.

2 A. Yes.

3 Q. Is Tuesday. On Tuesday, was there -- did you talk to
4 Jermaine that day?

5 A. I did.

6 Q. Okay.

7 A. Uh-huh.

8 Q. All right. Did you talk to him in person or on the
9 phone?

10 A. It was over the phone.

11 Q. Okay. You saw him on Monday, but you talked to him on
12 the phone on Tuesday?

13 A. Yes.

14 Q. All right. Now, can you tell us what the issue was
15 that was going on with Martinique that night?

16 A. She came downstairs and complained that her stomach
17 was hurting.

18 Q. Uh-huh.

19 A. And that she just threw up, and I told her to let her
20 mother know, and she said my momma's not here. So, then I
21 told her to give her a call, and by then Jermaine had
22 called.

23 Q. Jermaine called you?

24 A. Yes.

25 Q. All right. Jermaine was not there?

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

299

1 A. No, he wasn't.

2 Q. All right, and did you talk to Jermaine?

3 A. I did.

4 Q. All right. A short time later, did you see the
5 defendant?

6 A. Yes.

7 Q. Where did you see her?

8 A. She was on the steps speaking with her kids.

9 Q. Okay, and about what time of night was that on Tuesday
10 night?

11 A. Around a 8:50-something.

12 Q. Okay.

13 A. Yeah.

14 Q. How do you know that precisely what time it was?

15 A. Because it was about their bedtime.

16 Q. Okay, and is that what Shellie was talking to the kids
17 about?

18 A. Yes.

19 Q. Okay, and is that the last time you saw her on that
20 Tuesday?

21 A. Yes.

22 Q. Okay. Right before 9 p.m.?

23 A. Uh-huh.

24 Q. All right.

25 A. Yes.

1 Q. After 9 p.m. Tuesday night, did you see her again?

2 A. No.

3 Q. Okay. No more that evening?

4 A. No more that evening.

5 Q. All right. Do you know if she was there? If you
6 don't, that's fine.

7 A. Yeah, I'm not sure.

8 Q. Okay. Let's move to Wednesday morning the 22nd.

9 A. Okay.

10 Q. The day that Jermaine died. Did you see Shellie that
11 morning?

12 A. No.

13 Q. What did you do that day?

14 A. That morning I woke as always to get the kids ready
15 for school.

16 Q. Uh-huh.

17 A. And I had been in pain for a few days, and later that
18 morning I went to the hospital.

19 Q. All right, let me back you up just a minute. Did you
20 see Shellie Davis that morning?

21 A. I didn't.

22 Q. Okay.

23 A. No.

24 Q. Had anyone at the house seen her?

25 A. Marlin told me he seen her that morning.

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

301

1 Q. Okay. Do you know about what time that was?

2 A. It had to be around 5.

3 Q. Okay, and do you know what she said to Marlin?

4 A. He stated that she asked him to get the kids, the rest
5 of his siblings, up at 5:30 to get ready for school.

6 Q. And then what did she do?

7 A. She left. She said -- she told him that she would be
8 back.

9 Q. All right, and you got the kids, including Marlin, off
10 to school that day?

11 A. Yes.

12 Q. They all ride the bus?

13 A. Yes, sir.

14 Q. Okay. So, what time would they be out of the house in
15 the morning, Michon?

16 A. By 6:30.

17 Q. By about 6:30?

18 A. Yeah.

19 Q. All right, and as soon as they left, you mentioned
20 something about going to the doctor?

21 A. Yes. Soon as they left, I went off to the hospital.

22 Q. Okay, and how long were you gone?

23 A. About a hour and a half.

24 Q. Okay, and what time do you think you got back home?

25 A. Around 8:30.

1 Q. Okay. At that time -- well, let me ask you this.
2 When you left, was the defendant's car there?

3 A. It wasn't.

4 Q. Okay. When you got back home, was the defendant's car
5 there?

6 A. No.

7 Q. Okay. Did she -- did you know she had left?

8 A. No, I didn't until I left the house that morning.

9 Q. All right. So, from 9:00 the night before ---

10 A. Until that morning, I didn't ---

11 Q. --- until you saw that her car was gone when you went
12 to the doctor?

13 A. Right.

14 Q. Okay. Did you ever see Shellie Davis that day?

15 A. No.

16 Q. All right. Now, Michon, later on that day, did the
17 cops come to your house?

18 A. Yes.

19 Q. Okay, and what were they doing there?

20 A. They was asking about Shellie's whereabouts.

21 Q. Okay.

22 A. And if I seen her.

23 Q. And did you tell them you hadn't?

24 A. Yeah.

25 Q. All right, and did they leave the house at that point?

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

303

1 A. They left the front, yeah.

2 Q. Okay.

3 A. But they were still in -- I could see them still
4 outside.

5 Q. Down the street?

6 A. Yeah.

7 Q. Okay.

8 A. Well, kind of like, like across the street really.

9 Q. Okay. They stayed nearby?

10 A. They did.

11 Q. But not in the house?

12 A. Right.

13 Q. Did they come back a little bit later?

14 A. Yes.

15 Q. And when did that happen?

16 A. That was after William had pulled up.

17 Q. All right, and at that time, did they tell y'all about
18 Jermaine being dead?

19 A. Yes. After they spoke with, with William for a while,
20 they then came and got me and told me.

21 Q. Okay. Now on an ordinary day, would y'all hear from
22 Shellie Davis during the daytime?

23 A. Yes. Around the time that the kids would get home,
24 she will call and make sure that they got home safe.

25 Q. Okay. On this particular day, Wednesday the 22nd that

1 Jermaine died, did you hear from her that day?

2 A. No.

3 Q. Did you try to call her?

4 A. I did, yeah.

5 Q. Did you call her work number or her cell number?

6 A. I called her cell number.

7 Q. Okay. 319-0820?

8 A. I can't remember at the time.

9 Q. When you called her cell number, did anything unusual
10 happen?

11 A. I believe it went straight to voicemail, and I just
12 left her a message.

13 Q. All right. She didn't pick up?

14 A. No.

15 Q. She ever call you back?

16 A. No.

17 Q. Did she ever tell you that she was planning on
18 quitting her job at ERA?

19 A. No.

20 Q. After the -- after this day, did the kids stay with
21 you?

22 A. Yes.

23 Q. Okay, and you and William stayed there with all of
24 them?

25 A. Yes.

M. MICHON - DIRECT EXAMINATION BY MR. RIDDLE

305

1 Q. Did there come a time when your mom and dad moved down
2 here?

3 A. Yes. Eventually they moved down.

4 Q. They were from -- they were living where at the time?

5 A. In Maryland.

6 Q. In Maryland?

7 A. Yes.

8 Q. And where did they move to?

9 A. They moved to the residence on Algrave.

10 Q. Okay. They had worked it out that they could stay in
11 the house?

12 A. Yes.

13 Q. And why did they do that?

14 A. I believe so they won't have to move the kids to a
15 different state, you know, being as though they was used to
16 where they was at, and also so they could continue going to
17 the same school.

18 Q. Okay. Kids still living with your parents?

19 A. Yes, they are.

20 Q. And they're raising them?

21 A. Yeah.

22 Q. Now, Michon, did Shellie ever complain to you of any
23 abuse by Jermaine?

24 A. No.

25 Q. Her only complaint was that he left?

1 A. Uh-huh. Yes.

2 Q. Did you ever see a physical fight between the two?

3 A. No.

4 Q. No name calling?

5 A. No.

6 Q. But you told the police what you knew about the prior
7 assault, correct?

8 A. Yes.

9 Q. Okay, and you told that to Detective Derrenbacher that
10 just testified?

11 A. Yes.

12 Q. Okay.

13 MR. RIDDLE: Thank you. That's all the questions I
14 have at this time.

15 THE COURT: Cross?

16 MS. ZMROCZEK: Thank you.

17 CROSS-EXAMINATION BY MS. ZMROCZEK:

18 Q. Ms. Mansfield, I want to start with the first question
19 that -- the last question that Solicitor Riddle asked you.
20 You said you knew about the prior assault?

21 A. Right.

22 Q. Isn't it true that you told the officers that she
23 would chase him around the house with a knife?

24 A. No, I didn't tell the officers that, at least I don't
25 recall telling them that.

M. MICHON - CROSS-EXAMINATION BY MS. ZMROCZEK

307

1 Q. Do you recall giving a statement?

2 A. Yes.

3 Q. If you could review that statement, do you think it
4 would refresh your recollection?

5 A. Maybe so.

6 Q. What I'm handing you, is that your statement?

7 A. Yes.

8 Q. I'll give you time to review it.

9 A. Okay.

10 (A PAUSE.)

11 A. Okay.

12 Q. Does the refresh -- I'll take that statement back, and
13 does that refresh your recollection?

14 A. Yes.

15 Q. Do you want me to ask the question? Did, did -- you
16 told the officer that Shellie would chase Jermaine around
17 with a knife?

18 A. Yes.

19 Q. Did you ever see that?

20 A. I never seen that, no.

21 Q. And you never saw any bruises on him?

22 A. On him? No.

23 Q. You never -- he never told you he was scared of her?

24 A. No, of course not.

25 Q. And, and when did you and, and your husband move down?

1 A. July 2010.

2 Q. July 2010. Before you moved down, were you aware that
3 he had moved out?

4 A. Yes.

5 Q. Okay, and so it was you and Bill and your four kids
6 and then Shellie and her, and her five children?

7 A. Yes.

8 Q. And y'all helped each other out?

9 A. Yes.

10 Q. She was a good mom?

11 A. Uh-huh.

12 Q. And I believe you said she would call and make sure
13 they got home from school?

14 A. Yes.

15 Q. And she took them to their sports programs?

16 A. I guess.

17 Q. Took them to church every Sunday?

18 A. Oh. I'm sorry.

19 Q. I'm sorry. She took them to church every Sunday?

20 A. I wouldn't say every Sunday.

21 Q. But ---

22 A. But, you know, we went to church on some Sundays.

23 Q. And this -- the past Sunday right before this
24 incident, y'all had talked about the Polo Road concession
25 stand?

M. MICHON - CROSS-EXAMINATION BY MS. ZMROCZEK

309

1 A. Yes.

2 Q. That was a business venture that Jermaine and Shellie
3 had together, wasn't it?

4 A. I guess. I know for sure Jermaine.

5 Q. Okay, and, in fact, Marlin and, and his older brother
6 Marquis, Shellie and Jermaine's sons, they used their own
7 money to buy candy, didn't they, to, to sell?

8 A. I guess. I'm not -- I can't answer that.

9 Q. But you went in and worked that day?

10 A. Yes.

11 Q. Did you and Shellie get along all the time?

12 A. No, not all the time.

13 Q. A lot of kids, a lot of tension in the house?

14 A. Probably some.

15 Q. You recall a couple of nights before this September
16 22nd meeting Jermaine at Icy's and his roommate Charley was
17 there?

18 A. Yes, ma'am.

19 Q. And y'all -- and then Shellie showed up, too, right,
20 and y'all had been fighting, but you mended fences, right?

21 A. Yes.

22 Q. And she actually went home with Jermaine, right?

23 A. Yes.

24 Q. And, and I think you testified that she did that quite
25 often?

1 A. Did what quite often?

2 Q. Spent the night or go there.

3 A. Yes, uh-huh.

4 Q. And Jermaine never complained about that to you?

5 A. No.

6 Q. He, he -- it was your understanding he wanted her
7 there, right?

8 A. I, I would think so, yeah.

9 Q. And they took trips together. They went to the beach,
10 right?

11 A. I can't -- I don't know if they went to the beach.

12 Q. Okay.

13 A. But...

14 Q. Did she, did she go to Atlanta and meet him?

15 A. She did, uh-huh.

16 Q. And you watched the kids ---

17 A. Yes.

18 Q. --- while he was -- he had a work thing in Atlanta,
19 and, and she went and he invited her to come down, didn't
20 he?

21 A. Yes.

22 Q. And then -- and sometimes she would watch your kids
23 when you and Bill -- I believe maybe September 17th, which
24 was that Friday before?

25 A. Uh-huh.

M. MICHON - CROSS-EXAMINATION BY MS. ZMROCZEK

311

1 Q. You and Bill went to Maryland, or you, you had to go
2 out of town, right?

3 A. I don't recall.

4 Q. Did you and Bill ever ---

5 A. We went ---

6 Q. --- go out of town?

7 A. --- out of town after all that happened, but I'm not
8 sure. I can't recall going before.

9 Q. Did she ever watch your kids for you?

10 A. I believe so.

11 Q. Okay, and you never had any fear that she would ever
12 do anything ---

13 A. No.

14 Q. --- to your kids?

15 A. No.

16 Q. Never scared of her?

17 A. No.

18 Q. In fact, she would help buy shoes and make sure all
19 the kids were taken care of, right?

20 A. Help buy shoes? Buy whose shoes?

21 Q. Well, your daughter's shoes. Sometimes she would give
22 you money for, for daughter's clothes and things like that?

23 A. No, ma'am.

24 Q. Okay. Were you working at the time?

25 A. No.

1 Q. Just assisting?

2 A. Yeah.

3 Q. Okay.

4 A. Yeah.

5 Q. So, the only money you had coming in was what?

6 A. Well, William was working and then we was getting
7 assistance.

8 Q. Okay, and, Michon, you told the police that you
9 weren't aware of any financial problems that Jermaine and
10 Shellie were having. Is that correct?

11 A. No, that's not correct.

12 Q. Okay. What did you tell the police?

13 A. As far as finance?

14 Q. Yes.

15 A. I don't think I told them anything as far as finance.

16 MR. RIDDLE: Your Honor, can we approach?

17 THE COURT: Yes, sir.

18 (OFF-THE-RECORD BENCH CONFERENCE.)

19 BY MS. ZMROCZEK:

20 Q. Michon, let me ask the question this way. Were you
21 aware of any financial troubles, especially with the house
22 in which you were living?

23 A. Yes.

24 Q. Okay. Well, how -- what did you know about that?

25 A. Far as the house? That it was under foreclosure.

M. MICHON - CROSS-EXAMINATION BY MS. ZMROCZEK

313

1 Q. And how many jobs did Shellie have?

2 A. Two.

3 Q. She had two jobs?

4 A. Eventually she got two, yeah.

5 Q. Do you know whether she was told to get another job?

6 A. No.

7 Q. You don't know?

8 A. Mm-mmm.

9 Q. But you knew she sold real estate?

10 A. Yes.

11 Q. You said that that morning Marlin had seen her?

12 A. Yes.

13 Q. So, she had come home. She was there Tuesday night
14 the 21st at some point?

15 A. Yeah.

16 Q. Because I remember you telling the story of her
17 daughter or somebody's daughter had thrown up.

18 A. Right.

19 Q. But she wasn't there, but -- so eventually she came
20 home?

21 A. Yes.

22 Q. You don't know where she was?

23 A. Mm-mmm. No.

24 Q. And when you were out at Icy's, was Jermaine telling
25 her -- she was giving you a hard time, wasn't she?

1 A. At Icy's? Not at Icy's.

2 Q. Prior to, prior to that.

3 A. Yeah, prior to, yeah.

4 Q. The house was -- were they under a lot of stress?

5 A. Yeah.

6 Q. Had she asked, had she asked you to move out?

7 A. No, not that I know of.

8 Q. Did Jermaine tell her to straighten up and make up
9 with you?

10 A. That night?

11 Q. Or before.

12 A. Not that I know of.

13 Q. Okay.

14 A. No.

15 Q. But somehow y'all just made up?

16 A. Yeah. That -- well, that night at Icy's we did talk
17 about it, yeah.

18 Q. Okay.

19 MS. ZMROCZEK: Beg the court's indulgence.

20 (A PAUSE.)

21 BY MS. ZMROCZEK:

22 Q. And, and just to be clear, you said that any history
23 of domestic violence that you knew about came from
24 Jermaine. You never saw them fight or ---

25 A. No.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 315

1 Q. --- anything?

2 A. Not like that.

3 MS. ZMROCZEK: I have no further questions.

4 MR. RIDDLE: Nothing further, Your Honor.

5 THE COURT: Thank you, ma'am. You may step down.

6 WITNESS: Okay.

7 (THE WITNESS EXITS THE STAND.)

8 THE COURT: Call your next witness.

9 MS. SHANNON DAVIS: Your Honor, we would ask Ms.
10 Mansfield be excused.

11 THE COURT: All right, she's excused.

12 MS. SHANNON DAVIS: The state calls Janice Rosemann.

13 JANICE ROSEMAN, BEING DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 CLERK OF COURT: Once you're seated, state your full
16 name loud and clear. State your full name, spelling your
17 last on the record, please.

18 WITNESS: Okay. Name is Janice Rosemann,
19 R-o-s-e-m-a-n-n.

20 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

21 Q. Ms. Rosemann, where do you live?

22 A. Columbia.

23 Q. I can tell by your accent you're not from there.
24 Where are you from?

25 A. England originally.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 316

1 Q. When did you move to the States?

2 A. Twenty-six years ago.

3 Q. And when did you move to South Carolina?

4 A. 2004.

5 Q. So, you've been here about ten years?

6 A. Uh-huh.

7 Q. Okay, and where do you work?

8 A. ERA Wilder Realty.

9 Q. How long have you worked there?

10 A. '05.

11 Q. Okay.

12 A. Nine years nearly.

13 Q. And is that at the Sparkleberry office?

14 A. Uh-huh.

15 Q. And you've been at that office the entire time?

16 A. Yes.

17 Q. What is your job duties there?

18 A. Office manager, but I put in listings and sales,
19 process sales, closings, pretty much everything.

20 Q. Keeping, keeping the business afloat?

21 A. Yes.

22 Q. Okay. Do you recall Shellie Davis working there?

23 A. Yes.

24 Q. Do you remember when she started working there?

25 A. Can't remember exactly. I really don't recall, but it

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 317

1 was a while; it was a good while.

2 Q. Did she start after you started in 2005?

3 A. I think so.

4 Q. Okay.

5 A. I think so.

6 Q. And what was her position there?

7 A. Real estate agent.

8 Q. Okay, and was her office located in the Sparkleberry
9 office?

10 A. Yes.

11 Q. Did you see Shellie often in the office?

12 A. Maybe part-time pretty much. Not part-time but she
13 would come in and she would work in a subdivision.

14 Q. Okay.

15 A. So, she used to come in and go onsite working at model
16 homes.

17 Q. And ---

18 A. Of a subdivision.

19 Q. And where is that subdivision?

20 A. Belleclave, Manors of Belleclave.

21 Q. And is that in Northeast Columbia?

22 A. Uh-huh.

23 Q. Okay. So, she would sometimes come to the office but
24 worked onsite at Belleclave ---

25 A. Yeah.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 318

1 Q. --- other times. So, she ---

2 A. That was in the latter, but in, in the earlier days
3 she did just work as an agent as well.

4 Q. Okay. So, she wasn't in her office in Sparkleberry
5 every day?

6 A. No.

7 Q. How often would you say you would see her?

8 A. Two or three times a week maybe.

9 Q. Okay. How would you describe your relationship with
10 Ms. Davis?

11 A. We weren't close friends. We were just business
12 associates. Just very, you know, on a professional basis
13 pretty much.

14 Q. So, just coworkers?

15 A. Yes, coworkers, uh-huh.

16 Q. Okay. Had you ever met her husband, Jermaine Davis?

17 A. Yes.

18 Q. About how many times had you seen Mr. Davis?

19 A. Maybe half a dozen maybe over the course of the...

20 Q. And, and where would you see him?

21 A. Couple of times he'd come to the office, and then saw
22 him out shopping, grocery stores.

23 Q. So, Jermaine would come to the office at ERA to see
24 Shellie?

25 A. To see Shellie, yeah.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 319

1 Q. Did you know that she had any children?

2 A. Yes, five children, uh-huh.

3 Q. How would you describe Jermaine in your interactions
4 with him?

5 A. Very pleasant. He was -- always walked in with a big
6 smile on his face and always asked how I was doing, how my
7 husband was doing. He was always pleasant.

8 Q. How about her children?

9 A. Good. They all came in and if they came into the
10 office, they all were well behaved and sat together on the
11 sofa.

12 Q. Did you have any knowledge of Shellie having any
13 financial issues?

14 A. Little. I know, I know she mentioned that there were
15 -- he was looking for a job, I think truck driving. He was
16 trying to find work. You know, switching jobs. And then
17 also mentioned one time they may move up to Maryland, just
18 more work up there, but -- and then I knew -- I'd seen mail
19 come to the office. So, yeah, I'd see -- and then we'd get
20 some calls asking for Shellie, and I knew they were, like,
21 business, you know, bill related, so.

22 Q. Part of your duties as office manager was to answer
23 the phone?

24 A. Uh-huh. Uh-huh.

25 Q. And so you would have spoken to these people looking

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 320

1 ---

2 A. Yes.

3 Q. --- for Shellie?

4 A. Yes.

5 Q. Okay. On September 22, 2010 -- that would have been a
6 Wednesday.

7 A. Uh-huh.

8 Q. If you're looking at State's Exhibit Number 1, a
9 Wednesday.

10 A. Uh-huh.

11 Q. That would have been a work day. Would you have been
12 at ERA that morning?

13 A. Yes.

14 Q. What time do you normally get to work?

15 A. 8:30.

16 Q. Okay, and did Shellie come in that day?

17 A. Yes.

18 Q. Do you recall ---

19 A. About quarter to 9.

20 Q. Quarter to 9 ---

21 A. Uh-huh.

22 Q. --- in the morning?

23 A. Approximately.

24 Q. Was that normal for her to come in that time of the
25 morning?

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 321

1 A. It can -- you know, it varies because they're in and
2 out all the time. So, I wouldn't say it was normal, but
3 it, it didn't -- you know, I didn't think anything at the
4 time when ---

5 Q. It wasn't unusual.

6 A. --- she walked in. It wasn't usual.

7 Q. Okay. What times does the office open?

8 A. 8:30.

9 Q. Okay. So, that was shortly after the office opened?

10 A. Uh-huh.

11 Q. Was anyone else at the office that morning?

12 A. Yeah. My broker, Eddie Wilder, he was at the office,
13 which is the office manager, and I can't recall who --
14 which agents were in at that time.

15 Q. Okay.

16 A. It was just early.

17 Q. Okay. Do you remember how Shellie was dressed when
18 she came in that morning?

19 A. I remember her being in black. Just remember...

20 Q. Okay. Was she dressed professionally?

21 A. I think pants and a black shirt, if I remember right.

22 Q. Okay, and what did she do when she came in to the
23 office?

24 A. She'd gone in to see the broker. The broker's office
25 is just right next to mine pretty much, and she'd gone in

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 322

1 to see Eddie. She was in there for ten minutes or so.

2 Q. Okay.

3 A. And then she came out and -- I don't remember if she
4 came right to my desk or -- I'm not sure.

5 Q. Okay. After she came out of her meeting with Eddie,
6 did she speak to you at all?

7 A. Yes. She came over. I think before then I'd gone in
8 to see Eddie to have him sign something, and he said go
9 ahead and out process Shellie.

10 Q. What does that mean, out process?

11 A. Means she's leaving the company, and I have to do
12 everything to get her out of the system.

13 Q. So, you're in charge of ---

14 A. Yes.

15 Q. --- taking people out of the system when they quit
16 their job there?

17 A. Yes.

18 Q. Okay, and Shellie had done that the morning of the
19 22nd?

20 A. Right, and they said she's putting the license into
21 referrals.

22 Q. And what does that mean?

23 A. Means that she's not going to practice real estate.
24 She'd just basically work on referrals, anybody moving into
25 town that she knows.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 323

1 Q. Okay.

2 A. You know, just word of mouth kind of thing.

3 Q. So, she would no longer be with ERA but could get
4 referrals and still ---

5 A. Correct.

6 Q. --- work if she needed to?

7 A. Yes.

8 Q. Okay. So, her license would stay ---

9 A. Uh-huh.

10 Q. --- where she could still be able ---

11 A. Her license would be transferred into our referral ---

12 Q. Okay.

13 A. --- department.

14 Q. Okay. Do you recall what Shellie said when you spoke
15 to her?

16 A. Yes. She came up to my desk and she said here's my
17 keys. Here's my keys and I'm, like, oh. I think I said
18 I'm sorry you're leaving. Have you got, have you got a
19 job, and I think she said I don't know but maybe. But she
20 says there's my keys, and then she gave me an envelope and
21 just says could you make that -- make sure that goes out in
22 the mail as well and then pretty much left.

23 Q. Okay. Let's talk about the keys. Were those the keys
24 to her office?

25 A. Yes.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 324

1 Q. Was her office ---

2 A. Front door, her office door, uh-huh.

3 Q. Was her office cleaned out when she gave you the keys?

4 A. No.

5 Q. Does that seem odd to you?

6 A. Uh-huh. Usually they would hold on to a key until
7 their office is cleaned out. If, you know, they've moved
8 everything out. If she was leaving, then she would turn in
9 the key once she was done. I think she said she may be
10 back, but I can't remember.

11 Q. Okay.

12 A. Exactly ---

13 Q. Did she come back?

14 COURT REPORTER: Could you repeat that last bit,
15 please?

16 A. I thought she said she may, she may be back when --
17 she said -- she gave me the keys. I'll be back, I thought
18 she said. I can't remember if she did.

19 Q. Did she come back and clean out her office?

20 A. No.

21 Q. Okay. Do you recall Shellie's demeanor that morning
22 when she came in?

23 A. Just didn't look happy. She was just, you know --
24 looked like she was just -- she wasn't smiling, you know,
25 her normal smile. She was just very somber.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 325

1 Q. Okay. Was she crying?

2 A. Mm-mmm.

3 Q. Just very sullen?

4 A. Yeah.

5 Q. Okay. Do you remember seeing any injuries on her that
6 morning?

7 A. No.

8 Q. Okay, and you, you said that she gave you an envelope
9 to mail. Do you recall if it was just a little, white
10 envelope?

11 A. Yes. It was a regular envelope.

12 Q. Okay. Do you know who it was addressed to?

13 A. Maryland. So, I was assuming it was her parents. I
14 think it was her parents.

15 Q. Did you see what was inside of it?

16 A. Uh-uh. No.

17 Q. You didn't open it?

18 A. Didn't open it.

19 Q. Okay. Do you recall what time Shellie left?

20 A. I would think maybe around ten after 9 or so.

21 Q. Did you speak to Shellie any more that day?

22 A. No.

23 Q. Did she ever come back to ERA, to the office after ---

24 A. No.

25 Q. --- that morning?

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 326

1 A. Uh-uh.

2 Q. During that day on the 22nd, did anyone call the
3 office looking for Shellie?

4 A. Uh-huh.

5 Q. Do you remember who that was?

6 A. The -- Tyler, Detective Tyler or something.

7 Q. So, law enforcement called?

8 A. Yes, law enforcement called me around 4, around 4,
9 approximately 4 p.m.

10 Q. Okay, and what did you tell law enforcement?

11 A. They asked if Shellie was at the office, and I said
12 no, and they said, well, we -- I can't remember exactly all
13 he said, but I believe he told me then, well, Jermaine was,
14 was dead and they were looking for Shellie, trying to trace
15 Shellie.

16 Q. Did you give law enforcement her cell phone number
17 then?

18 A. I can't remember.

19 Q. Do you know ---

20 A. Probably did. Probably did if he asked.

21 Q. Do you know if you told law enforcement that she had
22 quit her job that morning?

23 A. Yes.

24 Q. Okay.

25 A. Uh-huh.

J. ROSEMAN - DIRECT EXAMINATION BY MS. SHANNON DAVIS 327

1 Q. Did you tell them about the envelope that ---

2 A. Yes.

3 Q. --- she left you? Okay, what did they tell you to do
4 with the envelope?

5 A. They said, well, we're going to talk to you tomorrow.
6 We'll come out. He said don't do anything with the --
7 don't mail that envelope. They said keep hold of it until
8 I ---

9 Q. Okay.

10 A. --- talk to you.

11 Q. So, you didn't mail that envelope that day?

12 A. Mm-mmm. Mm-mmm.

13 Q. And the next day, which would have been the 23rd which
14 is a Thursday, did law enforcement come out there and meet
15 with you in person?

16 A. Yes.

17 Q. Okay, and that was at ERA?

18 A. Uh-huh.

19 Q. The office on Sparkleberry?

20 A. Yes.

21 Q. What did you tell that officer?

22 A. Exactly just what I've told you. I mean, told him all
23 the details.

24 Q. Okay.

25 A. What happened.

1 Q. And ---

2 A. About the keys, about leaving, and just a full
3 statement of what had happened.

4 Q. Did you show him the letter that she had left?

5 A. I gave him the letter, yes.

6 Q. Okay. Did he have you write a written statement?

7 A. Yes.

8 Q. Okay. Had you ever seen any bruises on Shellie ---

9 A. No.

10 Q. --- while she worked there?

11 A. No.

12 Q. Did she give any -- ever complain to you of any abuse
13 by Jermaine?

14 A. No.

15 Q. Who ended up cleaning out her office?

16 A. Me and another agent, and we just put everything
17 outside on a hallway upstairs.

18 MS. SHANNON DAVIS: Ms. Rosemann, thank you for
19 coming. I have no further questions. Please answer any
20 Ms. Zmroczek ---

21 WITNESS: Okay.

22 MS. SHANNON DAVIS: --- has for you.

23 CROSS-EXAMINATION BY MS. ZMROCZEK:

24 Q. Ms. Rosemann, you just, you described Shellie's
25 behavior that morning. You said she wasn't happy. She

1 wasn't her normal self, right?

2 A. Correct.

3 Q. Because typically she was chipper and never let on
4 that there was any problems, right?

5 A. Well, I, as I say, I didn't know her that well. So --
6 but she always had, you know, a big smile, yeah.

7 Q. And this morning, she did not have a big smile?

8 A. Mm-mmm.

9 Q. She was definitely out of sorts?

10 A. Uh-huh.

11 Q. I think that you described it as somber.

12 A. Yes.

13 Q. Could -- you had noticed a change in her physically
14 over the last few ---

15 A. Yeah, she ---

16 Q. --- last few months?

17 A. --- had lost a lot of weight.

18 Q. She had lost a lot of weight?

19 A. Uh-huh.

20 Q. What other things did you notice?

21 A. That's it.

22 Q. Anything about her hair?

23 A. No.

24 Q. Was her hair falling out or, or ---

25 A. No.

1 Q. Or she just lost a lot, a lot ---

2 A. Just ---

3 Q. --- of weight?

4 A. --- lost weight.

5 Q. You said that you saw Jermaine a few times?

6 A. Yeah.

7 Q. He would come by the office?

8 A. Yeah. Over the course of the years, yeah. Can't
9 recall exactly when, but yes.

10 Q. Would those visits to the office coincide with days
11 that she had checks coming in from closings?

12 A. I really don't know. He would just go upstairs and
13 see her. Yeah, she was...

14 Q. And you said that she also worked offsite.

15 A. Yes.

16 Q. Correct? Did she have a teammate?

17 A. Yes.

18 Q. And that was someone within your company?

19 A. Yes.

20 Q. Who was that?

21 A. Enola Thornton.

22 Q. Enola Thornton, and she worked with Ms. Thornton?

23 A. Uh-huh, and Judy Lennon. There was three of them.

24 Q. Oh. There were three of them?

25 A. Uh-huh.

J. ROSEMAN - CROSS-EXAMINATION BY MS. ZMROCZEK

331

1 Q. And, and would they work more closely than they would
2 with you?

3 A. Um.

4 Q. Let me ask it this way. You kind of oversaw
5 everything?

6 A. Yes.

7 Q. Okay.

8 A. Yes.

9 Q. So, they ---

10 A. They were a team out at a subdivision trying to sell
11 new houses.

12 Q. But they worked together as a team?

13 A. Yes. Uh-huh.

14 Q. And she was a hard worked, right?

15 A. As far as I knew.

16 Q. Never had any problems with her? Never had to write
17 her up?

18 A. No.

19 Q. You stated that around 4:00, you got a call from law
20 enforcement?

21 A. Uh-huh.

22 Q. Did ---

23 A. Yes.

24 Q. Oh. Sorry. Did you receive a call from any -- was
25 that the only call you received that day inquiring about

1 her?

2 A. Yes. Uh-huh.

3 Q. No, no ---

4 A. As far as I can recall, yes.

5 Q. Okay. You don't recall any female friends calling and
6 asking for her cell phone or anything?

7 A. I can't recall and if they did, I'd never even thought
8 anything about it, you know. So, I can't remember until
9 the officer called, uh-huh.

10 Q. But you remember the officer calling?

11 A. Yes.

12 Q. And that was around 4?

13 A. Uh-huh.

14 Q. And the envelope, you said it was addressed, you
15 believe, in Maryland?

16 A. Uh-huh.

17 Q. And you knew that's where her parents were?

18 A. Yes.

19 Q. You were surprised with her coming in that morning,
20 right?

21 A. I was surprised when she -- yes, I was surprised she
22 was just leaving and just turned in the keys.

23 Q. That was out at the ---

24 A. And that's the letter that I -- yeah.

25 Q. That was out of the ordinary?

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 333

1 A. Uh-huh.

2 MS. ZMROCZEK: Beg the court's indulgence.

3 I have no further questions.

4 WITNESS: Okay.

5 MS. SHANNON DAVIS: Your Honor, we'd ask for her to be
6 excused.

7 THE COURT: All right. Thank you very much, ma'am.

8 WITNESS: Thank you.

9 THE COURT: You may step down.

10 WITNESS: Thank you.

11 (THE WITNESS EXITS THE STAND.)

12 THE COURT: You may call your next witness.

13 MS. SHANNON DAVIS: State calls Joe Chappell.

14 JOSEPH CHAPPELL, BEING DULY SWORN,
15 TESTIFIES AS FOLLOWS:

16 CLERK OF COURT: Once you're seated, state your full
17 name, spelling your last on the record, please.

18 WITNESS: Name's Joseph Chappell. Chappell,
19 C-h-a-p-p-e-l-l.

20 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

21 Q. And, Investigator Chappell, where are you employed?

22 A. With Lexington County Sheriff's Department.

23 Q. How long have you been there?

24 A. Little over five years now.

25 Q. Do you have any other law enforcement experience?

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 334

1 A. I worked military police with the Air Force for nine
2 years.

3 Q. Okay. Anything else?

4 A. No. That's it.

5 Q. And is your current rank investigator?

6 A. Yes.

7 Q. Okay, and what are the duties of an investigator?

8 A. We get assigned a case, either on scene for follow up
9 after initial deputies responded. We gather, continue
10 gathering the information after we review what
11 information's there. Interview, make sure evidence is
12 collected, and take proper actions, whether that be search
13 warrants, arrest warrants, and then ultimately any arrests
14 that need to be made, and, and follow up with court.

15 Q. Okay. Were you working on September 22, 2010, with
16 Lexington County?

17 A. I was.

18 Q. And were you an investigator at that time?

19 A. Yes.

20 Q. Were you a new investigator?

21 A. I was.

22 Q. Okay. When had you become an investigator?

23 A. I believe it was -- I can't be exact. It was in the
24 summertime, maybe midsummer towards the end. I was in
25 training status with Detective Derrenbacher.

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 335

1 Q. Okay. So, he was your field training officer?

2 A. That's correct.

3 Q. And does that mean you essentially shadow him?

4 A. Yes.

5 Q. Okay. Do you recall if you and Derrenbacher were
6 called to Feather Run Trail on that day?

7 A. Yes, we were.

8 Q. Okay, and did you know what the nature of the call
9 was?

10 A. It was -- we were just told it was a death under
11 investigation is what I remember, and we responded to
12 assist Detective Collins.

13 Q. Do you remember what time you got there?

14 A. I do not.

15 Q. Okay. Do you remember it was in the afternoon time?

16 A. Yes.

17 Q. Okay. Who was on scene when you arrived?

18 A. The ones I remember seeing, Detective Collins and
19 Lieutenant Frier, the ones that we saw. I wasn't on scene
20 long. We made it to the parking lot of Feather Run Trail,
21 and then we were directed to go elsewhere, elsewhere.

22 Q. So, you and Derrenbacher didn't have anything to do
23 the investigation at Feather Run?

24 A. No.

25 Q. So soon after you arrived, you were sent somewhere

1 else?

2 A. Yes.

3 Q. And where were you all sent?

4 A. If I recall, it's Algrave, over that -- the Northeast
5 Columbia area.

6 Q. And ---

7 A. That -- the big part about that one, I don't recall a
8 lot since it was -- I believe it was one of my first large
9 cases. So, it was a lot to take in. I really kind of
10 connected at the hip with Derrenbacher, trying to learn
11 what's going on.

12 Q. So when you went to Algrave, you weren't doing
13 anything alone? You were shadowing?

14 A. Everything was with Detective Derrenbacher, yes.

15 Q. Okay. Do you recall if Billy spoke to anyone at
16 Algrave?

17 A. I remember speaking to at least two people, but, but
18 names-wise I'm not sure.

19 Q. Okay, and do you recall him giving a death notice
20 while he was there?

21 A. Yes.

22 Q. And were you present while he interviewed the people
23 there?

24 A. I believe for one of them I was definitely right there
25 with him, but the other one I'm not -- I can't recall.

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 337

1 Q. Okay, and did he get statements from those people?

2 A. Yes.

3 Q. Okay. A search warrant was later obtained at that
4 residence. Is that right?

5 A. Yes.

6 Q. Did you help execute that warrant?

7 A. I was in the house, yes, and then helped kind of look
8 around.

9 Q. Okay.

10 A. In that, in that manner, kind of looked around and
11 pointed out things that I might -- that other people might
12 think is interesting or something of, of evidentiary value,
13 like we heard, and, and point it out to other individuals.

14 Q. So, Billy took the lead. You were -- just were there
15 to help?

16 A. Exactly. Exactly. Yes.

17 Q. And CSI Renee Strickland, was she the one collecting
18 the evidence?

19 A. Yes.

20 Q. Okay, and when you left the residence, did you leave
21 when Billy left?

22 A. Yes.

23 Q. You all were riding together?

24 A. That's correct.

25 Q. Okay. Were you given any instructions of something to

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 338

1 do the next day on the 23rd?

2 A. I was, and the, the numerous parties involved as far
3 as investigators, everybody had a task to do something.
4 With everybody running on something else, Lieutenant Frier
5 asked me to ride out to -- from Feather Run Trail and, and
6 kind of map the mileage out from Feather Run to ERA Realty.

7 Q. Okay.

8 A. To get the mileage.

9 Q. And Feather Run would have been the ---

10 A. The ---

11 Q. --- the victim's apartment?

12 A. Correct.

13 Q. And he asked you to do the mileage from the victim's
14 apartment to where?

15 A. ERA Wilder over in Northeast Columbia off of
16 Sparkleberry Lane Extension.

17 Q. Okay, and that would have been the defendant's place
18 of employment?

19 A. Correct.

20 Q. Okay, and how far was that?

21 A. About 23 miles approximately.

22 Q. Okay. Do you remember how long it took you to get
23 there?

24 A. Was about twenty-seven minutes.

25 Q. Okay.

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 339

1 A. Approximately.

2 Q. Okay, and when you went to ERA, did you speak with
3 anyone there?

4 A. I did. I spoke to Janice Rosemann.

5 Q. Okay. Did she give you anything while she -- while
6 you were there?

7 A. I was instructed that, that -- Lieutenant Frier spoke
8 to her on the phone, and she had a envelope that Ms. Davis
9 had, had left for her, that they want us to look and -- to
10 get a statement from Ms. Rosemann about Ms. Davis coming in
11 and, and dropping off her keys.

12 Q. Okay, and did you get a statement from Ms. Rosemann?

13 A. I did.

14 Q. Okay, and with regard to the envelope, did you look at
15 that envelope?

16 A. I did.

17 Q. What can you tell me about it?

18 A. It was one of the thinner white, just plain, white
19 envelopes with none of the security features on the inside,
20 you know, with the pattern and texture. So, it was just
21 plain, white paper about letter size.

22 Q. Okay. Were you able to see who it was addressed to?

23 A. I did. It was addressed to Harry and Veronica Shipman
24 at 5902 East Pines Drive, Riverdale, Maryland.

25 Q. And do you know if that's the defendant's parents?

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 340

1 A. That's what I was told.

2 Q. Okay. Were you able to see what was in the envelope?

3 A. It, it actually was a very sunny day, so I kind of
4 just looked at the envelope and as I was holding it up, I
5 saw there was two pieces of paper. One was a check, and
6 one was a federal savings bond.

7 Q. Okay. Did you open the envelope?

8 A. I did not open the envelope.

9 Q. So, you were able to hold it up to the light and just
10 see what was in it?

11 A. Correct.

12 Q. Okay. Did you take the envelope with you?

13 A. I did not.

14 Q. Why not?

15 A. I called Lieutenant Frier to tell him what I'd found,
16 and he told me just to leave the check.

17 Q. Okay. Did you speak with anyone else while you went
18 to ERA?

19 A. I spoke to the broker, Eddie Wilder.

20 Q. Did you get a statement from him?

21 A. I don't believe I did. Actually, I don't believe I
22 did, no.

23 Q. Do you recall how long you were at ERA total?

24 A. I'd say appropriately thirty, forty minutes tops.

25 Q. Investigator Chappell, as part of the investigation in

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 341

1 this case, were you asked to chart other routes?

2 A. I was. I was actually asked to chart the route or, or
3 time the route from [REDACTED] Algrave Way, which would be the
4 home that Ms. Davis -- they, they shared to ERA Realty, and
5 then also from Algrave Way to Feather Run Trail, the
6 victim's residence.

7 Q. And, Joe, can you see this from where I am?

8 A. Yes.

9 Q. Okay, and what is this? This is State's Exhibit
10 Number 8.

11 A. It's a map that includes edges of Lake Murray, which
12 also has Feather Run Trail marked on it, to Northeast
13 Columbia. It has Algrave Way and the Sparkleberry Lane
14 Extension, which would be the location of ERA.

15 Q. Okay, and you were asked to map the route from the
16 defendant's home, which would be in Algrave?

17 A. Correct.

18 Q. To the victim's apartment?

19 A. Yes.

20 Q. Which would have been Feather Run Trail?

21 A. That's correct.

22 Q. And how far away did you say that was?

23 A. That one is about 21 and a half miles.

24 Q. How long did you say it took to get there?

25 A. About thirty minutes.

J. CHAPPELL - DIRECT EXAMINATION BY MS. SHANNON DAVIS 342

1 Q. Okay, and you were also asked to do the victim's
2 apartment, Feather Run, to ERA. How far was that?

3 A. That's the one we did on September 23rd of 2010.
4 There one was 23 miles.

5 Q. That was the one you did at the direction of?

6 A. Lieutenant Frier.

7 Q. And how long did it take you to get there?

8 A. About twenty-seven minutes.

9 Q. Okay, and the defendant's house in Algrave to ERA, her
10 work?

11 A. It was 5 and a half miles.

12 Q. And how long was that drive?

13 A. Eleven minutes.

14 Q. And did you grow up in this part of town?

15 A. I did. I grew up in Northeast Columbia.

16 Q. So, you're familiar with the routes to and from all
17 those locations?

18 A. Yes.

19 Q. And what type of routes would you say you took?

20 A. Most direct routes based on traffic during the time of
21 day I went.

22 Q. So, you didn't take any crazy, typical back roads or
23 anything like that?

24 A. From Algrave to Sparkleberry Lane Extension, there's,
25 there's a few main roads, but there's a -- not necessarily

J. CHAPPELL - DIRECT EXAMINATION / CROSS-EXAMINATION 343

1 shortcuts. Just it seemed to be the most direct route that
2 I took and, I mean, a lot of people I know that's from the
3 area use that same route to get from Hardscrabble area,
4 which is where Algrave Way is located, over to Two Notch
5 and Spring Valley area.

6 Q. So, someone who lives and works in that area would be
7 familiar with that route?

8 A. Yes.

9 Q. Investigator Chappell, was that the extent of your
10 involvement in this investigation?

11 A. Yes.

12 MS. SHANNON DAVIS: I have no further questions.

13 CROSS-EXAMINATION BY MS. ZMROCZEK:

14 Q. When you went to Algrave, you were helping point out
15 what you thought would be of evidentiary value, right? You
16 didn't collect it but you were ---

17 A. Right. I didn't collect anything, but if I saw
18 something that looked -- that, that would be of interest,
19 then I, I pointed it out to Strickland or Derrenbacher.

20 Q. Because that kind of evidence helps make sense of a
21 case or confirm or confirm facts or help explain
22 situations, correct?

23 A. Yes, it could.

24 Q. And you rode -- and you were with Billy Derrenbacher
25 at that point?

1 A. That's correct.

2 Q. But the next day you went by yourself, right?

3 A. Yes.

4 Q. And you spoke with Ms. Rosemann and got a statement?

5 A. Uh-huh.

6 Q. And did, did she describe any changes that she had
7 seen in Ms. Davis?

8 A. That Ms. Rosemann noticed in Ms. Davis?

9 Q. You, you don't have to tell them to me, but did she
10 describe some physical ---

11 A. She did.

12 Q. --- differences?

13 A. She describe some change that she had noticed of the,
14 the recent history with Ms. Davis, yes.

15 Q. And did she describe her mood that morning?

16 A. She did.

17 Q. And, and you also spoke with Eddie Wilder. He was the
18 broker, right?

19 A. Correct.

20 Q. But you didn't, you didn't take a statement?

21 A. No.

22 Q. And you put all that information in your report, and
23 you gave that to Detective Collins, right?

24 A. Yes.

25 Q. The envelope, if it hadn't been your first time out on

J. CHAPPELL - CROSS-EXAMINATION BY MS. ZMROCZEK

345

1 your own by yourself, would you have collected that for
2 evidence?

3 A. Well, the reason I didn't collect it is I called the
4 lieutenant, and he said he didn't need it. So, I didn't
5 collect it.

6 Q. Okay, but you saw that there were a check and a
7 savings bond in there?

8 A. Correct.

9 Q. And it was put in an envelope for her parents?

10 A. Yes.

11 MS. ZMROCZEK: I have no further questions.

12 WITNESS: All right.

13 THE COURT: Anything on redirect?

14 MS. SHANNON DAVIS: No, sir, Your Honor. We ask that
15 he be excused.

16 THE COURT: Thank you very much, sir. You're free to
17 go.

18 (THE WITNESS EXITS THE STAND.)

19 (A PAUSE.)

20 THE COURT: All right, we're going to have to take
21 care of a computer issue here, so we're going to take a
22 short break. Please have no conversation about the case.
23 Let us know if you need anything while you're back there.
24 As soon as we get this resolved, we'll call you back.

25 (THE JURY EXITS AT 3:20 P.M.)

1 THE COURT: We'll be at ease for a few minutes.

2 (OFF THE RECORD.)

3 THE COURT: All right, anything we need to take up
4 before we bring them out?

5 MR. RIDDLE: No, sir.

6 MS. ZMROCZEK: No, sir.

7 THE COURT: Okay, let's bring them out.

8 (THE JURY ENTERS AT 4:01 P.M.)

9 THE COURT: All right, you may call your first witness
10 -- or your next witness, sorry.

11 MR. RIDDLE: Thank you, Your Honor. State calls Scott
12 McDonald.

13 SCOTT MCDONALD, BEING DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 CLERK OF COURT: Once you're seated, state your full
16 name, spelling your last for the record, please.

17 WITNESS: Scott McDonald, M-c-D-o-n-a-l-d.

18 VOIR DIRE EXAMINATION BY MR. RIDDLE:

19 Q. Scott, where you employed?

20 A. Richland County Sheriff's Department.

21 Q. And what is your rank over there?

22 A. I'm a captain in the Major Crimes unit.

23 Q. Okay, and how long have you been doing that?

24 A. I just got appointed captain in February of this year.

25 Q. Okay. What are your job duties over there, Scott?

S. MCDONALD - VOIR DIRE EXAMINATION BY MR. RIDDLE

347

1 A. Help investigate and supervise all assaults,
2 robberies, homicides, suicides, those type cases.

3 Q. All right. How long have you been in law enforcement?

4 A. Twenty-six years now.

5 Q. All right. You work anywhere besides the Richland
6 sheriff's department or have you spent your ---

7 A. No. I started there 1988 and have continued ever
8 since.

9 Q. All right. Scott, what's your educational background?

10 A. I graduated from USC with a B.S. in criminal justice
11 in 1986. Began with Richland County in 1988. I've
12 attended the South Carolina Criminal Justice Academy in
13 '89. Since that time, I've attended numerous seminars,
14 classes, training in all aspects of law enforcement.

15 Q. And have you had some specific training dealing with
16 cell phones and cell phone tracking and that type of thing?

17 A. Yes, I have. My instruction to that began back in
18 November 2001, a murder case where we met with engineers
19 and personnel from different phone companies learning about
20 towers and sectors and how to place phones in general areas
21 around geographical areas. Since that time, I've attended
22 numerous other trainings, to include cell phone
23 investigations classes in 2007. Also in 2008 in May, I
24 attended the Mobile Forensics World Conference in Chicago.
25 This is a world conference where leading authorities from

1 around the world come to speak on cutting-edge technologies
2 and ways to improve on the craft. June of 2008 I attended
3 another class of mobile forensics. This was on downloading
4 of cell phones and that type thing, and attended a couple
5 more classes on that. The most recent one would be
6 November 2012 wherein I took an advanced cell phone and
7 smartphone training class on downloading and other
8 information that could be obtained from smartphones.

9 Q. You ever been qualified as expert in the area of cell
10 phone investigations before?

11 A. Yes, sir, I have. Six times in general sessions court
12 in South Carolina.

13 Q. All right.

14 MR. RIDDLE: Your Honor, at this point I'd move to
15 qualify Mr. -- or Captain McDonald as a -- as an expert in
16 cell phone investigations, plotting and tracking cell
17 phones from historical call record data, and mapping
18 locations of cell phones during investigations.

19 MS. ZMROCZEK: Your Honor, I believe that we covered
20 this pretrial in my prior stipulation for the matter, for
21 this trial.

22 THE COURT: All right. So, he, he, he is an expert
23 for the purposes of this case to testify under -- in that
24 fashion. I'm not going to try to repeat everything you
25 just said. He is an expert in that field.

S. MCDONALD - DIRECT EXAMINATION BY MR. RIDDLE

349

1 MR. RIDDLE: All right.

2 THE COURT: All right.

3 DIRECT EXAMINATION BY MR. RIDDLE:

4 Q. Captain, can you step down for just a moment?

5 A. Yes, sir.

6 Q. Let me start by asking you this. Did the solicitor's
7 office ask you to look at some cell information that was
8 obtained from Sprint?

9 A. Yes, I did.

10 Q. All right, and let me show you what's been marked as
11 State's Exhibit 70. Is that part of that information that
12 you were provided?

13 A. Yes. This is the cell phone records I was ---

14 Q. All right.

15 A. --- provided from Sprint.

16 Q. And you didn't get them in paper form. You had them
17 electronically. Is that correct?

18 A. That's correct, electronic format.

19 Q. On a disc?

20 A. Yes.

21 Q. Okay. Keep your voice up because there's no
22 microphone down here. What I -- let me hand you this
23 pointer and let me trade places with you, and then I want
24 you to explain to the jury what it is you do with cell
25 phones. And I know you prepared some of these diagrams, so

1 I'm going to let you walk them through it. We're starting
2 at State's Exhibit Number 3.

3 A. Basically this is just real simple, bare bones how a
4 cell phone works. Basically when your cell phone is on,
5 it's always searching out the strongest signal to complete,
6 anticipating a call or call coming in to you. Nowadays
7 with smartphones, data, and other things like that, it's
8 constantly communicating with towers as well.

9 So for this example here, cellular phone A wants to
10 call cell phone B. She picks it up; she starts to dial the
11 call. The switch verifies that she is a customer and
12 verifies the account and once that's established -- all
13 this happens in microseconds, just very quickly -- it's
14 sent to a switch which then sends out the signal looking
15 for caller number B's phone. Once again verifying that
16 this is an actual phone that is current, that it can
17 receive a call. It searches out that phone and then
18 connects with that call. So, all this happens very
19 quickly.

20 Q. And that's every time you dial the phone?

21 A. That's right.

22 Q. All right, and every time that phone is dialed, does
23 it generate a record like in State's Exhibit Number 70?

24 A. It does.

25 Q. Okay.

S. MCDONALD - DIRECT EXAMINATION BY MR. RIDDLE

351

1 A. Yes.

2 Q. And that would track incoming and outgoing calls for
3 every phone?

4 A. That's correct.

5 Q. Well, for the particular phone you're ---

6 A. Generally they also text messages, too.

7 Q. Okay.

8 A. Activity.

9 Q. All right. That's fine. Take it down, and if you
10 would, just read out what that is, State's 4.

11 A. This is a cell phone tower configuration. Basically
12 how is a cell phone tower set up? Most of the towers in
13 South Carolina around this area are on a three-sector
14 tower. This would be if you were looking kind of straight
15 down on the tower from above. We've all seen cell towers,
16 I'm sure, when you're driving around and see all the
17 antennas and things up there, but basically there's three
18 sides, and each sector in general is broken down into 120
19 degrees. However, nowadays we're starting to see 120
20 degrees vary. High population areas, high volume areas, it
21 may be more narrow than 120 degrees.

22 How do we determine that? When the phone company
23 sends us the records, they provide the azimuth of that
24 tower, and the azimuth is basically the center point or
25 gives us a range of how wide that sector is going to be.

1 Q. And when you say the azimuth, that will be the center
2 between here and here?

3 A. Right.

4 Q. Okay.

5 A. And we have some formulas we used to determine the
6 sector with if it's not the perfect 120 degree, which we're
7 finding -- as population increases and more and more cell
8 phones are out there, they're starting to move them around
9 because they want maximum coverage, maximum call density
10 they can get on these towers. It's basically all about
11 money.

12 These towers can be labeled A, B, you know, A, B, C.
13 Sector 1, 2, 3. In this particular case, Sprint uses a
14 technology called Lucent, so they name it 2, 3, 4. So when
15 you hear sector 2, you know, you're thinking it's going to
16 be here, but actually sector 2 is going to be where sector
17 1 is here. That's a little bit confusing, but that's just
18 a different technology they use. So, 2, 3, 4.

19 Q. Which one is this, Scott?

20 A. This is State's 5.

21 Q. Okay.

22 A. These are the actual call detail records for Sprint
23 phone number of 803-319-0820 for the date of September 22,
24 2010. This is the defendant's cell phone records, and
25 these are the actual records from -- provided by Sprint

S. MCDONALD - DIRECT EXAMINATION BY MR. RIDDLE

353

1 minus this column right here which I added in when I was
2 doing my analysis of this.

3 What you see here is pretty self-explanatory. These
4 are -- this is the calling number, meaning that's the
5 number that's calling that number. That's the digits that
6 were dialed, which is kind of redundant. This tells
7 whether it was an inbound or outbound call. So, that was
8 an outbound call from that number to that number. That's
9 your start time, which is the 22nd at 6:58 a.m. and 47
10 seconds. That's the ending time of the phone call, and
11 that's the duration in seconds, 52 seconds. The repoll
12 number, that's a switch. On that illustration we did
13 initially where the, the call goes into the little
14 building, there's a switch. The Columbia switch is 631 on
15 Sprint, this whole Columbia area.

16 First cell and last cell. This is the first cell
17 tower that call hits at the beginning of the call, and the
18 last cell is the ending tower at the end of that call. And
19 the way Sprint does theirs, when I was talking about
20 sectors 2, 3, and 4, this very first number here, 4, is
21 going to be the sector number. So, there's going to be 2,
22 3, 4. That's going to be that third one around, followed
23 by the tower number which is tower number 86. And they
24 provide a list of towers for me for all the towers in this
25 repoll number. So, tower number 86 is going to be a tower

1 at 1076 Chris Drive here in the Lexington area just off
2 I-26 near Lexington Medical Center.

3 At the commission of that call, you can see it's still
4 in the same sector, but it's changed towers to tower 143
5 now. That's going to be a tower on 621 on Dixie Avenue,
6 which is over across Monticello Road in Richland County.
7 So, what you can learn from that is very possibly that
8 phone was moving at that time. It starts on one tower and
9 ends on another tower.

10 You want me to go through each one or?

11 Q. Well, however works best for you.

12 A. Okay. What we see on this data and what I was asked
13 to see is are there any calls that we can place in a
14 geographical area around the incident crime scene, and
15 beginning at 6:58 that morning on the 22nd we do. We see a
16 call. This is the defendant calling the victim in this
17 case. It's a fifty-two second phone call, and the call
18 begins when she is in a general area around Chris Drive,
19 and you'll see a slide in a minute that shows the sector in
20 the general area, how close that is to the crime scene.
21 So, she calls the victim, and she's in that general area.

22 We then see the next call not until 8:09 a.m. So,
23 that's over an hour later we see a call, and this is once
24 again her calling a number. Lasts thirty-one seconds.

25 She's hitting off a quadrant of a tower on Bush River Road,

S. MCDONALD - DIRECT EXAMINATION BY MR. RIDDLE

355

1 and it switches over to Greystone Road. So, once again
2 could be overload of the tower where it gets switched, or
3 it could be that phone is in motion. That's why it's
4 hitting on one tower and then jumps to another as the
5 vehicle or the phone is moving.

6 Once again the very next call, another call at 8:09,
7 outbound call. Once again hitting on the tower on
8 Greystone Boulevard. 8:11 we have another call of thirty
9 seconds. It's hitting off the tower on Chris Drive again.
10 That's sector 4, which is going to be facing the Lexington
11 Medical Center area.

12 8:11 you have another call. This is a long call: 1080
13 seconds, about eighteen minutes or so worth. And on this
14 call, it's very interesting because on this, the call
15 begins on Chris Drive and it ends at a tower off Whitaker
16 Road, which is in the Northeast area of Columbia up near
17 Algrave where the defendant lives, up in that general area.
18 So, what I would assume from looking at these records and
19 looking at the geographical location is that phone was in
20 motion leaving the West Columbia, Lexington area heading
21 back to the Columbia Northeast area.

22 Then you have these calls at 9:14, 9:15, 9:16. All
23 these are fairly short -- thirty-one seconds, fourteen
24 seconds, thirty-two seconds -- hitting off the tower on
25 Risdon Way, which is a tower adjacent to the ERA Realty

1 office, up in that general area.

2 Q. All right. Now, do -- does this, this board here,
3 State's Number 5, does it relate to State's Number 6?

4 A. It does.

5 Q. All right. Tell us what State's Number 6 is. I'm
6 going to lean this one right back up there in case you need
7 it again.

8 A. All right, the records I just went over down here
9 where you see the dates and times, this is illustrated in
10 map format. There's that first call at 6:58: tower number
11 86, sector number 4, which is Chris Drive. This is tower
12 number 86.

13 Q. Slide back ---

14 A. Okay.

15 Q. --- just a shade if you can because he can't see.

16 A. I'm sorry.

17 Q. I'm sorry.

18 A. This is tower number 86 here on Chris Drive. That's
19 going to be sector 4. You see how narrow that is. That's
20 one of those, those sectors that's not a perfect 120 degree
21 sector. I can only assume -- I don't know; I'm not an
22 engineer with Sprint -- that Lexington Medical Center
23 probably has a ton of calls happening during a day with all
24 the people in the hospital. So, they have narrowed that
25 down. Anyway, this is your incident location right here,

1 ■■■■ Feather Run Trail. 6:58 in the morning, she's
2 somewhere in this sector.

3 Now, I need to explain to you that for illustrative
4 purposes, this is drawn in a circle and it looks like a pie
5 wedge. By no means can I say that's the outside sector
6 area for that. It could be out here. Could be in a little
7 bit. The sectors kind of ebb and flow, and there is some
8 overlap that you will see because they don't want you to
9 drop a call. Only the actual engineers that design these
10 towers, and they kind of change all the time, can tell you
11 exactly. I, I went out a mile. Typically towers can go 2,
12 3, 4, 5, sometimes 10, 12 miles out in the country. When
13 you are in an urban area like this, they're generally
14 fairly close together due to the number of calls because
15 there is a finite amount of calls that a tower can handle.
16 So, you have to add more towers, more antennas all the
17 time.

18 Q. So, these should sort of overlap?

19 A. Right.

20 Q. So that the calls don't get dropped?

21 A. Right. So, what I'm saying is her phone's not
22 definitely in this general area. It could be anywhere like
23 that, but we know it's in this general area.

24 Q. It's in this direction from the tower location?

25 A. That's right.

1 Q. Okay.

2 A. Right. So, just consider this as a guide for
3 illustrative purpose, but by no means is that the absolute
4 barrier of that particular sector.

5 The next call, like I said, over an hour later is
6 8:09, tower number 120, which is 1500 Bush River Road,
7 which is going to be sector 3 which going to be the second
8 sector. Again, you get more of a littler wider sector on
9 this particular one. So, she's somewhere in this general
10 area.

11 Q. And ---

12 A. When I say that, she wouldn't be in this area because
13 she'd be hitting off this tower over here. So, in general
14 somewhere in this area.

15 Q. And the incident location is here?

16 A. Is right there.

17 The next call at 809 hours, hitting off sector 4 of
18 the Greystone -- 180 Greystone Boulevard, which is going to
19 be this general area right here.

20 Q. And the coverage on that Greystone tower, might that
21 stretch all the way up to I-20?

22 A. Oh easily, yeah.

23 Q. Okay.

24 A. This is just illustrative. I only went out a mile
25 just -- I was consistent on all of them. I did a mile

S. MCDONALD - DIRECT EXAMINATION BY MR. RIDDLE

359

1 range, but they can differ much further than that.

2 The next call at 8:11 is hitting back off the Chris
3 Drive tower, sector 4, once again over in this general
4 area. And then the tower, that last call that lasts 1080
5 seconds, begins in this general area hitting off the Chris
6 Drive tower, and you'll see on the next slide where it ends
7 in Richland County.

8 Q. All right, and the next one is going to be State's
9 Number 7?

10 A. Number 7. As I was saying, that last 1080 second call
11 ends right here at this tower on Whitaker Road, sector
12 number 4 somewhere in this general area. I believe the
13 defendant's residence is right in this general area,
14 Algrave Drive up off ---

15 Q. Algrave Drive is in this area here?

16 A. Right, and then the final call that I plotted was the
17 ones at 9:16, 9 -- 9:14 -- 9:16, which is hitting off the
18 tower right here in Risdon Way in sector 3, and you have
19 the business ERA Wilder Realty right here. So, it kind of
20 places her, and we know she was there, so places her in
21 that area right there.

22 Q. Is there any landmarks in this that would kind of clue
23 the jury in as to where we are exactly?

24 A. All right.

25 Q. In Richland County?

1 A. This is Two Notch Road here, main thoroughfare coming
2 out towards the Elgin area. There's Clemson Road right
3 there. Sandhills is, you know, right in here if you're
4 familiar with that shopping area.

5 Q. Okay. Now, Scott, based on your knowledge and
6 training, can you tell us whether or not the defendant's
7 cell phone was at or near Feather Run Trail on or between
8 the hours of 6:59 and about 8:09 in the morning?

9 A. I can say that the phone was in the general area
10 around the crime scene, yes.

11 Q. Okay, and can you tell us for what period of time that
12 phone was in ---

13 A. From ---

14 Q. --- that general area?

15 A. From approximately 6:58 a.m. to appropriately 8:09
16 a.m. Some time during that call at 8:09 is when it went to
17 that second tower. I don't know. Some time in that 1080
18 seconds it moved to the second tower, so I can't say she
19 was there for ten minutes and then moved or was there three
20 seconds and began to move because all I have is the first
21 tower and the last tower. I don't have all the towers in
22 between. They don't track that, but on shorter calls we
23 would have more motion. If we had a thirty-second call and
24 thirty-second call and she was heading that way, you would
25 see towers along. Generally if it's along an interstate,

S. MCDONALD - DIRECT EXAMINATION BY MR. RIDDLE

361

1 you'll see it just kind of ping pong back and forth. You
2 could see it go right up the highway generally.

3 Q. But going back up to this, she was there for a minimum
4 of from 6:59 or 6:58:47 ---

5 A. Right.

6 Q. --- through at least 8:11:40?

7 A. That's correct.

8 Q. Okay, and maybe some time after 8:11:40 as this call
9 progresses. Is that ---

10 A. That's correct, yes.

11 Q. All right. You can have a seat.

12 Scott, let me ask you one more thing, if I could. We
13 looked at State's Exhibit Number 70. State's Exhibit 70 is
14 the raw data from Sprint that you got?

15 A. Right.

16 Q. And I want to show you State's 71, which is a
17 telephone log report for Shellie Davis's cell phone.

18 A. Right.

19 Q. Is that just -- well, who generated this?

20 A. I generated that. I have -- our case database
21 software is called ASUS. One of the features we have is we
22 can dump phone records into that database and once they're
23 dumped in, it auto populates any known numbers that are in
24 there. So, let's say five or six subscribers from another
25 case or another incident report that is populated in that

S. MCDONALD - DIRECT EXAMINATION / CROSS-EXAMINATION 362

1 the system already, when I drop these records in, it
2 automatically tells me who that phone comes back to.

3 Others, like other numbers I was provided in this case
4 -- the defendant, the victim, other people of interest -- I
5 put those in manually myself so when these records were
6 dumped in and we ran a report, it auto populated those in
7 there. So, I generated that report.

8 Q. Okay. This report gives you the call records with the
9 times and the phone numbers just like that but without some
10 of the tower data and those things?

11 A. Right. That's kind of easier to look at to kind of --
12 when you're trying to see who's calling who if you can
13 populate as many of the known people. A lot of times when
14 we dump a phone, we'll take the contact or phonebook and
15 use all that information to populate so when we do the
16 records, ninety percent maybe of the calls will be
17 populated. We call tell who's calling who, inbound or
18 outbound, how long, that type thing.

19 Q. All right.

20 MR. RIDDLE: Thank you, Scott. That's all the
21 questions I have at this time. Please answer any questions
22 they might have.

23 CROSS-EXAMINATION BY MS. ZMROCZEK:

24 Q. Mr. McDonald, did they pay you for your testimony
25 today?

S. MCDONALD - CROSS-EXAMINATION BY MS. ZMROCZEK

363

1 A. Excuse me?

2 Q. Did they pay you to generate all these charts?

3 A. Yes, ma'am.

4 Q. And did they ask you to -- I think you were qualified
5 as an expert in cell phones and smartphones and all the
6 information you can get off of those, right?

7 A. Correct.

8 Q. They never asked you to look at the text messages to
9 and -- to who, who was having conversations and what was
10 said?

11 A. No, ma'am.

12 Q. And they never asked ---

13 A. Just, just the call detail records themselves.

14 Q. And they never asked you to look at anything for the
15 defendant's phone -- I mean, for the victim's phone?

16 A. What? In what regard?

17 Q. Any messages or any information from his phone, any
18 cell dumps or anything like that?

19 A. No. I didn't look at any cell dumps in this case.

20 MS. ZMROCZEK: I have no further questions.

21 THE COURT: Anything further?

22 MR. RIDDLE: That was it.

23 THE COURT: Thank you very much, sir. You can step
24 down.

25 (THE WITNESS EXITS THE STAND.)

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

364

1 MR. RIDDLE: Your Honor, I'd ask that he be excused.

2 THE COURT: All right. Without objection.

3 MR. RIDDLE: Your Honor, the state would call Henry
4 Dukes.

5 THE COURT: Mr. Dukes, if you would please come
6 around.

7 HENRY DUKES, JR., BEING DULY
8 SWORN, TESTIFIES AS FOLLOWS:

9 CLERK OF COURT: Once you're seated, state your full
10 name, spelling your last for the record, please.

11 WITNESS: Henry Dukes, Jr., D-u-k-e-s.

12 DIRECT EXAMINATION BY MR. RIDDLE:

13 Q. Henry, where are you employed?

14 A. Calhoun County Sheriff's Office.

15 Q. And what do you do with them?

16 A. I'm a lieutenant over investigations.

17 Q. All right. When did you start with the Calhoun
18 sheriff's department?

19 A. I've been there almost three years.

20 Q. All right. Back in September of 2010, where were you
21 employed?

22 A. Lexington County Sheriff's Office.

23 Q. Okay, and what did you do with the sheriff's
24 department here back in 2010?

25 A. I was assigned to the Fugitive Task Force connected to

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

365

1 the United States Marshals Service.

2 Q. Okay, and explain what that means.

3 A. What is the Marshals Service? They get officers that
4 are with agencies and we get assigned to those -- the
5 Marshals Service Task Force on a full-time basis. That
6 gives us the liberty of being able to assist in federal
7 cases and also state cases throughout the United States.
8 Like if we have a case here in South Carolina, we can send
9 it to another state. Not necessarily -- we don't always
10 have to travel to that state, but in some cases it also
11 gives us the authority to be able to go to that case --
12 that state and be able to assist with an investigation that
13 branches out from South Carolina to another state.

14 Q. So, you're essentially dual commission when you're on
15 that task force?

16 A. Correct.

17 Q. Okay. So, you can be commissioned as a Lexington
18 sheriff's deputy and as a U.S. marshal?

19 A. Correct.

20 Q. Okay, and that gives you the ability to not only work
21 here in Lexington, but you could work in Richland or
22 Charlotte or wherever?

23 A. Wherever, yes, sir.

24 Q. In the United States?

25 A. Yes, sir.

1 Q. All right. This particular case, were you working on
2 September 22nd of 2010?

3 A. Yes, sir, I was.

4 Q. All right, and did you respond to Feather Run Trail,
5 the Quail Hollow Apartments?

6 A. Yes, sir, I did.

7 Q. All right, and did you go inside there, Henry?

8 A. No, sir, I did not.

9 Q. All right. What were you doing there?

10 A. I had previously received what we call a command page
11 that went out that there was a deceased individual at
12 Feather Run. What it is is an organization inside the
13 department that gets the information out to everybody
14 within the department. I received that page, and I
15 realized from previous cases in my experience that I would
16 possibly get, get called upon. So, at that time I
17 proceeded to Feather Run to see if my assistance was
18 needed.

19 Q. All right, and what is your primary function as part
20 of the Fugitive Task Force? What are you interested in
21 doing?

22 A. Apprehending fugitives and also tracking cell phones.

23 Q. Okay, and when you say tracking cell phones, what do
24 you mean?

25 A. I take and handle the legal compliance with the cell

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

367

1 phone company that allows us to get the information and to
2 also be able to get the cell phone company to tell us a GPS
3 location of where that device is at a, you know, specific
4 time.

5 Q. All right, and did you become involved in this case?

6 A. I did.

7 Q. All right, and did you obtain the phone number for the
8 defendant's cell phone?

9 A. I did.

10 Q. And what did you do with that information once you got
11 it?

12 A. Once I got it, I established who the carrier was,
13 which in this case it was Sprint. I notified Sprint that
14 we had a case that was involving what we call a target
15 number because that's what we call that telephone. It
16 becomes our target, and we notified them that we were going
17 to need to get some GPS tracking with what, in laymen's
18 words, understand is we want to ping the phone to find out
19 where it's at.

20 Q. That's what y'all call pinging?

21 A. Yes, sir.

22 Q. Okay, and pinging the telephone, what does that cause
23 the phone to do?

24 A. It sends a message. The, the switch in the tower
25 sends a message out to the phone and actually locates that

1 phone, and then in return sends the information to us
2 through the computer or either manually. Sometime the
3 operator that we would talk to at the phone company would
4 tell us the GPS location. But in most cases where I've
5 done so many of these, it's supplied through our computer
6 system, and it would give me a GPS location. Also give me
7 a -- what we call Google map where all I have to do is
8 click on it, and it goes straight there and opens up a
9 pretty map and shows me where that phone's at. It also
10 will tell me a radius, whether it's 2 meters, 3 meters.
11 Could be as high as 10 meters. It gives me an isolated
12 area where to go start looking for that device.

13 Q. All right, and from Feather Run, did you go anywhere
14 else that day, Henry?

15 A. I did. Prior, I was provided with the telephone
16 number, the target number, and it sometimes takes a while
17 getting all the paperwork done, getting in touch with the
18 phone company, getting everything set up. It's just not
19 where they go flip a little switch and they start having
20 the data information for us. There's paperwork that I have
21 to fill out. I have to supply it to them. Then they have
22 to look at it. It has to be approved and sent back. So,
23 while -- my office was my vehicle. That -- I didn't have
24 an office where I went and sat down in a nice
25 air-conditioned -- my office was my vehicle where I had my

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

369

1 computer, everything set up. I could do everything from
2 email to actually send a fax straight from my computer in
3 the vehicle.

4 I was asked to travel over to Algrave, which was the
5 residence where the defendant resided at. They asked me if
6 I would travel over there and assist in watching the
7 residence.

8 Q. This is while you were getting the paperwork up and
9 running to actually track the phone?

10 A. Correct.

11 Q. Okay, and once you got the initial tracking going,
12 approximately what time was that?

13 A. It was in the afternoon. I don't -- can't tell you
14 the exact time. I think we had it on a paper, but I don't
15 have it in front of me at this time.

16 Q. Okay. Does 4:50 eastern time sound about right?

17 A. Yes, that's correct. Yes, sir.

18 Q. Okay. At the time you first got a signal on the
19 defendant's cell phone, where was that phone located?

20 A. It was located in Charlotte, North Carolina.

21 Q. All right. That's the first time you saw it?

22 A. Yes, sir.

23 Q. Okay. Once you got that -- well, where were you when
24 you got that signal?

25 A. When I got the first -- basically we'll go ahead and

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

370

1 call it a ping. When I got the first ping, GPS location on
2 the phone, I was still sitting in front of the residence at
3 Algrave.

4 Q. All right, and as a result of getting that ping, what
5 did you do at that point?

6 A. I contacted the investigators that were overseeing the
7 case and let them know that I had their target phone. It
8 alerted it was in Charlotte, North Carolina, and that --
9 you know, let them make the decisions. Did they want us to
10 travel to Charlotte to try to locate the, the device, or
11 did they want to send an investigator with us. Basically
12 what do you want us to do from this point. I can tell you
13 where the device is at.

14 Q. And what decision was made?

15 A. The decision was made that I would respond back to the
16 apartment complex and pick up Steve Collins at that time,
17 and they were requesting that I travel to Charlotte, North
18 Carolina, to see if I can locate the device and the
19 individual with the device.

20 Q. All right, and who went to Charlotte with you?

21 A. Myself, Steve Collins, and Deputy Garth Justice.

22 Q. And was Garth Justice also on the, the Marshals Task
23 Force?

24 A. Yes, sir, he was.

25 Q. Okay. Lieutenant, you go from Algrave back to Feather

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

371

1 Run, and then y'all go straight to Charlotte?

2 A. Correct.

3 Q. All right. Approximately what time do you arrive in
4 Charlotte?

5 A. Again, I can't tell you the exact times. If I had my
6 paper in front of me, I could set there and tell you. All
7 of that information is wrote down. I didn't have that with
8 me to bring to the stand.

9 Q. Okay. When you got to Charlotte, where did y'all go?

10 A. We went to an apartment complex.

11 Q. Okay. What was the name of that apartment complex?
12 Do you recall?

13 A. No, I don't. I don't recall that.

14 Q. Is it Providence Square, Henry?

15 A. Yes, sir, it is.

16 Q. Okay, and while you were on the way to Charlotte, were
17 you tracking the phone?

18 A. We were. We would get updated pings. We can set it
19 from a variation, and with Sprint you could actually do
20 what we call a force pinging, which we could get a ping
21 every three minutes or every fifteen minutes. In this
22 case, since we were traveling, we were just getting a ping
23 every fifteen minutes. So, we were getting updates.

24 Q. And was the phone staying essentially stationary at
25 that point?

1 A. It was.

2 Q. All right. Were there slight variations?

3 A. Yes, sir.

4 Q. And in -- what did that, in your experience, tell you?

5 A. That the device was not necessarily traveling. It
6 would be like if I'm standing -- say I'm talking on my
7 phone right now and I walk to the back of the courtroom,
8 you're going to see that little bit of variation, where if
9 I was on the phone in a vehicle traveling down the road,
10 you figure a fifteen minute window, the variation should be
11 great. Not feet away but it would actually be possibly up
12 to miles away or even changing towers.

13 Q. Okay, and the phone pretty much stayed put while y'all
14 were on the way to Charlotte?

15 A. Correct.

16 Q. And when y'all arrived at Providence Square, did you
17 find Ms. Davis?

18 A. No, we did not.

19 Q. Did you see any vehicles that you were on the lookout
20 for?

21 A. We did.

22 Q. And what kind of vehicle was that?

23 A. It was a vehicle the belonged to Ms. Davis that she
24 was operating.

25 Q. All right. Did she appear to be in the vehicle?

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

373

1 A. No, she did not.

2 Q. All right. Did you approach the vehicle and look in?

3 A. We did. I got out of the vehicle and walked past it
4 where I could look, you know, down inside and make sure
5 there wasn't nobody laying inside the vehicle.

6 Q. Okay, and that was at the apartment complex?

7 A. Yes, sir.

8 Q. All right. During this timeframe, Lieutenant, did,
9 did the phone pinging stop functioning for a period of
10 time?

11 A. It did. Prior to us getting to the apartment complex,
12 the phone started to give us failed, what we call failed
13 pings, which means it could be a lot of different things.
14 It could be that the phone is off. It could be that the
15 phone is out of service area. It could be in a tunnel. I
16 mean, there's a lot things that could pause it, but we were
17 getting consistent failed pings, which in my experience
18 tells me that the device was powered off at that time.

19 Q. All right, and as a result of getting failed pings
20 during this timeframe, what did y'all decide to do?

21 A. We set up on the vehicle at the apartment complex
22 where we went to where those last pings were at, and we
23 located the vehicle that we were looking for, that we had
24 information that the defendant was driving. We decided to
25 set up on that vehicle in that apartment complex.

1 Now, we didn't have an exact apartment to go to; we
2 didn't have any real information in that apartment complex
3 that said she could be at somebody else's house. The
4 choice that we had was to sit there, watch the vehicle,
5 hope she came back to it, she walked out to it, or were
6 able to gather some more information.

7 Q. All right. Now, when you say set up on the vehicle,
8 you mean sitting across in the parking lot where you can
9 still maintain a visual on it and just watching it? Is
10 that correct?

11 A. Correct.

12 Q. Okay. Did y'all do that for a period of time?

13 A. We did.

14 Q. All right, and at some point did circumstances change
15 regarding the pinging and the failure of the pings?

16 A. It did. While we were doing that, of course there was
17 a lot going on. Investigator Collins was talking to
18 people. I was talking to some of my counterparts up in
19 Charlotte because of course when I go to somebody else's
20 area, I want them to know I'm there. They were alerted
21 ahead of time that we were traveling to Charlotte, what
22 kind of case we had, everything. They did not know where
23 we were going at. Also you have to understand is that it
24 takes -- if, if somebody called me right now, depending on
25 what I'm doing, I've got to get a team together. So,

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

375

1 they're getting people together to come out and assist us.
2 So, we're actually, you know, communicating back and forth.

3 There's a lot going on in the vehicle, and we got a
4 telephone call, Detective Collins did. He received a
5 couple of telephone calls and didn't recognize the number.

6 Q. Right.

7 A. That he was getting on his phone. Then he got a call
8 from back here in South Carolina stating that something had
9 happened to Ms. Davis, the defendant, up in Charlotte.
10 About the same time, my computer stuff started going off
11 and sending me alerts that the device was back on, and I
12 was getting accurate GPS readings on it again.

13 Q. And when you were -- when you started getting the
14 accurate pings, was that near Providence Square, or was it
15 some distance away?

16 A. No. It was some distance away. It was over in Union
17 County.

18 Q. All right, and Union County, is that -- well,
19 Charlotte's in Mecklenburg, right?

20 A. Right.

21 Q. Is Union County the county that would be just east of
22 Charlotte?

23 A. Correct.

24 Q. I believe?

25 A. Correct.

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

376

1 Q. All right, and once you started getting the new,
2 active pings and you got the phone call from the detectives
3 back here in the Columbia area, what did y'all do?

4 A. We immediately -- was my -- just so you understand my
5 equipment, it's, it's, it's like your Garmin or your Nuvi
6 in your car. Once -- all I have to do is click on where
7 it's giving me that target, click on it, and it gives me a
8 route, my shortest route to the target to try to get to it.
9 So, I immediately clicked on it, and we immediately started
10 traveling in the direction of where that device was giving
11 me the GPS reading at.

12 Q. Okay, and during the course of this, did Detective
13 Collins contact the police dispatchers up there?

14 A. He did.

15 Q. And ---

16 A. He got in touch with dispatch up there.

17 Q. And was that to try to determine whether there was an
18 incident involving Shellie Davis in ---

19 MS. ZMROCZEK: Your Honor.

20 Q. --- Union County?

21 MS. ZMROCZEK: I object to leading.

22 THE COURT: Sustained.

23 BY MR. RIDDLE:

24 Q. Did he talk to 911?

25 A. He did.

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

377

1 Q. Okay, or to dispatch? Excuse me.

2 A. He did.

3 Q. All right. What was his purpose?

4 A. The purpose was we received information from South
5 Carolina that Ms. Davis had been involved, the defendant,
6 in some type incident. We -- number one, first thing we
7 want to do is verify that what we're doing, we're not
8 leaving a location where we needed to stay. That -- and
9 also that we weren't going into an area -- being law
10 enforcement from another jurisdiction, we wanted to make
11 sure that their law enforcement was already on scene and
12 handling whatever situation, and they had the information
13 because of what we were being provided.

14 Q. And what did y'all do at that point once contact was
15 made with the dispatchers?

16 A. We were provided information that there had been an
17 incident involving the defendant where she had been shot.

18 Q. And did y'all take any action as a result of that?

19 A. We continued to travel to that location.

20 Q. All right, and did you find the location?

21 A. Yes, sir. We did.

22 Q. All right. When you arrived there, was law
23 enforcement on the scene?

24 A. They were.

25 Q. All right. Was Ms. Davis there?

1 A. No, sir.

2 Q. Had she already been transported?

3 A. Yes, sir, she had.

4 Q. All right. Did y'all get out and talk to the officers
5 there?

6 A. We did.

7 Q. All right, and during the course of the time that
8 y'all were there, Henry, did you collect some car keys?

9 A. Yes, sir, we did.

10 Q. And where did you get those from?

11 A. They were given to us by -- I think it was transferred
12 from one of the officers to Deputy Justice.

13 Q. Okay, the, the third individual with you and Mr.
14 Collins?

15 A. Correct.

16 Q. Okay. After y'all talked with the officers there, did
17 you talk with some other individuals?

18 A. There was -- Detective Collins talked to some other
19 individuals. All I really talked to was the law
20 enforcement that was there.

21 Q. Okay. After y'all finished there, what did y'all do
22 next?

23 A. We traveled to the hospital in Charlotte.

24 Q. All right, and what was the purpose of going there?

25 A. To take and check on Ms. Davis and see what state she

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

379

1 was in.

2 Q. All right, and when you got there, was there any law
3 enforcement at the hospital?

4 A. There was.

5 Q. And what, if anything, did they do for you?

6 A. They carried us upstairs to the room where Ms. Davis
7 was at.

8 Q. All right, and could you see Ms. Davis at that point?

9 A. I could.

10 Q. Could you hear her?

11 A. Yes, sir.

12 Q. Was she able to speak?

13 A. She was.

14 Q. Was she, was she talking?

15 A. Yes, sir.

16 Q. Who she talking with?

17 A. She was talking to the medical staff that was in the
18 room tending to her. We were standing out in the hallway,
19 but the room had had a big sliding door that was open and
20 we could see into it, and the, the nurses and the medical
21 staff was caring to Ms. Davis.

22 Q. Was it more like a bay than a room?

23 A. Yes, sir.

24 Q. Okay. The type of questions that the nursing staff or
25 the hospital staff, rather, was asking, what were they?

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

380

1 A. Day, day of the week, if she knew where she was at,
2 who the president was, you know, things like that that I
3 would take from my experience being they were trying to
4 make sure that she was in her right state of mind, you
5 know, and knew what was going on.

6 Q. You could hear the questions?

7 A. Correct.

8 Q. Could you hear the answers?

9 A. Yes, sir, some of them.

10 Q. All right. Was she answering correctly from what you
11 could gather?

12 A. She was.

13 Q. She knew who the president was?

14 A. Yes, sir.

15 Q. Knew what day it was?

16 A. Yes, sir.

17 Q. Okay. How long did you observe all this going on
18 between her and the nurses?

19 A. I think it was in the neighborhood of five to ten
20 minutes we were standing out there, you know, observing the
21 whole action that was going on.

22 Q. All right. At some point, did y'all speak to one of
23 the nurses yourselves?

24 A. We did. There was kind of a point where they started
25 walking out the room, and we actually spoke to one of the

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

381

1 nurses and asked if we could speak to Ms. Davis and what
2 was her condition, and they told us that she was conscious.
3 She was alert, that she, you know, knew where she was at,
4 knew what was going on and that, yes, we could. We were
5 granted permission to go in and talk to her.

6 Q. All right, and who went in to speak with her?

7 A. Myself and Detective Collins walked in to speak to
8 her.

9 Q. And did you introduce yourselves?

10 A. We did. We introduced ourself. Detective Collins
11 introduced his self and he also introduced me as being from
12 Lexington County Sheriff's Office from Lexington, South
13 Carolina.

14 Q. And at that time, was Ms. Davis advised of her rights?

15 A. She was. Detective Collins read to her Miranda rights
16 off of a card that he carries in his billfold.

17 Q. Let me show you what's been marked State's 75 for
18 identification. I'm going to ask you if you recognize what
19 that is.

20 A. There's the suspect right Miranda card.

21 Q. And is that what Detective Collins carries?

22 A. It is.

23 Q. And did he read her her rights from this?

24 A. Yes.

25 Q. Well, from the original of this form?

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

382

1 A. Yes, sir, he did.

2 Q. All right.

3 MR. RIDDLE: Your Honor, I'd offer this into evidence
4 at this time.

5 THE COURT: Any objection?

6 MS. ZMROCZEK: That's fine, Your Honor.

7 THE COURT: Without objection.

8 (MIRANDA CARD MARKED INTO EVIDENCE AS STATE'S EXHIBIT
9 NUMBER 75.)

10 BY MR. RIDDLE:

11 Q. Lieutenant Dukes, put your eyes back on. Tell the
12 jury what rights Ms. Davis was informed of on that
13 occasion, please, sir.

14 A. You have the right to remain silent. Anything
15 you say can and will be used against you in a
16 court of law. You have the right to talk to an
17 attorney and have him or her present with you
18 while you're being questions -- questioned. If
19 you cannot afford or -- hire an attorney, one
20 will be appointed to represent you before any
21 questions if you want. You can decide at any
22 time to execute these rights and not answer any
23 questions or make any statements. Do you
24 understand these rights I have explained to you?
25 Having these rights in mind, do you wish to talk

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

383

1 to us now?

2 Q. All right. She was read the rights?

3 THE COURT: Let, let me get y'all to step up here real
4 quick. I'm sorry to interrupt.

5 (OFF-THE-RECORD BENCH CONFERENCE.)

6 BY MR. RIDDLE:

7 Q. Hold that if I could. You -- she was read her rights
8 by Detective Collins just as you just read them?

9 A. Correct.

10 Q. Okay, and then part 6 of this says: Do you understand
11 these rights that I have explained to you.

12 That statement was made to her?

13 A. Yes.

14 Q. And did she respond to that?

15 A. She did.

16 Q. And did she respond in the affirmative or in the
17 negative?

18 A. Affirmative.

19 Q. Okay, and then was she told that: Having these rights
20 in mind, do you wish to talk to us now?

21 A. Correct.

22 Q. And did she respond to that question?

23 A. She did.

24 Q. In the affirmative or the negative?

25 A. Affirmative.

1 Q. All right, and, Lieutenant, at that time, was she
2 asked if she understood why, why y'all where there or
3 something close to that?

4 A. My exact words was I asked her, I said do you
5 understand why we're here.

6 Q. And what was her statement at that time?

7 A. Her statement to us was, when I asked that question,
8 she said I shot, I shot my husband.

9 Q. Okay, and after she said I shot my husband, what did
10 you do?

11 A. I looked at Detective Collins in -- kind of in
12 disbelief. Asked him did you hear what I did, and he shook
13 his head. I mean, it's not like we sit there and had a
14 meeting. It was kind of we looked at each other, and you
15 could tell the expression on both our faces. He knew what
16 I was asking him, and we shook the head yeah, and at that
17 time I leaned down and asked her again if she would repeat
18 what she said, and I kind of leaned down real close to her.

19 Q. You asked her to repeat it?

20 A. Yes. I asked her, I said will you repeat what you
21 said.

22 Q. And what did she say to you?

23 A. She said I shot my husband.

24 Q. And ---

25 A. I need an attorney.

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

385

1 Q. Mr. Dukes, did she terminate the conversation at that
2 time?

3 A. She finished her statement.

4 Q. Did she terminate the conversation?

5 A. We did.

6 Q. Okay.

7 MS. ZMROCZEK: Your Honor, may we approach, please?

8 THE COURT: Uh-huh.

9 (OFF-THE-RECORD BENCH CONFERENCE.)

10 THE COURT: Ladies and gentlemen, let me get you to
11 step back to the jury room while I take up a matter of law.
12 Please have no conversation about the case.

13 (THE JURY EXITS AT 4:55 P.M.)

14 THE COURT: All right, let me meet with the lawyers
15 out in the hallway.

16 (OFF THE RECORD.)

17 THE COURT: Go ahead, Ms. Zmroczek.

18 MS. ZMROCZEK: Your Honor, I've been able to discuss
19 with my client about the *Doyle* violation and the pros and
20 cons of any curative instruction and how that would draw
21 attention to what we don't want to draw attention to.

22 Your Honor, she's been in jail almost four years.
23 We've filed *Langford* motions. She understands that if a
24 mistrial even were granted, that she would just go back to
25 jail and we'd start all over again. And, Your Honor, at

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

386

1 this point -- and I believe that she agrees with me that we
2 would just like to continue.

3 THE COURT: Is that correct, Ms. Davis?

4 DEFENDANT: Yes, sir.

5 THE COURT: Okay, and, and, and I will -- and we've
6 discussed this, and I will say this is day one of the
7 trial. We're not that far into it. More than likely --
8 and I'm just going to use this as an example because I,
9 because I don't know at this point whether or not I would
10 grant a mistrial anyway, but if I did, simply what would
11 happen is we would come back here in another term of court
12 and we'd start again, and we'd probably have the exact same
13 testimony and the exact same responses to that testimony.

14 So, I'm, I'm going to -- and I agree with your
15 decision. I think in this case, for the purposes of this
16 case, I think it would be in your best interest to not do a
17 curative instruction, and so here's -- this is what I would
18 propose. That when the jury comes back in, I would simply
19 say to the members of the jury something like ladies and
20 gentlemen, thank you for your patience. I've taken up the
21 matter of law, and now we're ready to proceed. Mr. Riddle,
22 you may proceed with your question and simply leave it at
23 that, okay? All right.

24 MS. ZMROCZEK: Thank you, Your Honor.

25 MR. RIDDLE: Your Honor.

H. DUKES - DIRECT EXAMINATION BY MR. RIDDLE

387

1 THE COURT: Yes.

2 MR. RIDDLE: For the record, I have instructed Mr.
3 Dukes that the next words out of my mouth are going to be:
4 And at that point, did y'all leave the hospital.

5 THE COURT: All right, and you just ---

6 MR. RIDDLE: And the answer is going to be yes because
7 that's -- that is, in fact, when they left.

8 THE COURT: All right, I'll get you to -- well, I'll
9 just let you continue with your examination, and then of
10 course Ms. Zmroczek will have her opportunity to cross.

11 All right, bring them back in.

12 (THE JURY ENTERS AT 5:23 P.M.)

13 THE COURT: All right, ladies and gentlemen, thank you
14 for your patience while I took up that matter of law. All
15 right, I think we, when we took that break, Mr. Riddle was
16 doing his direct examination.

17 And I'll allow you to continue with that.

18 MR. RIDDLE: Thank you, Your Honor.

19 BY MR. RIDDLE:

20 Q. At that point in time, Lieutenant, did y'all leave the
21 hospital?

22 A. Yes, sir.

23 Q. Okay, and when y'all left the hospital, where were
24 y'all heading to?

25 A. Going back to the apartment complex where the vehicle

1 was at.

2 Q. All right, and did you, did you do that?

3 A. We did.

4 Q. And what was the purpose of going back to the
5 apartment complex?

6 A. At that time, to meet up with some Charlotte law
7 enforcement and to have the vehicle towed.

8 Q. All right, and did y'all accomplish that that night?

9 A. We did.

10 Q. All right, and at the time y'all got back to the
11 apartment complex, did a gentleman approach y'all and give
12 y'all an item?

13 A. There was a gentleman that approached Detective
14 Collins and did give him an item, yes.

15 Q. Okay. It was a purple bag?

16 A. Yes, sir.

17 Q. All right, and did y'all secure that and bring that
18 back to Lexington?

19 A. Yes, sir.

20 Q. Okay. Lieutenant, did there come a time approximately
21 two days later where you went back to Charlotte and brought
22 the car from the impound lot at Charlotte P.D. back to
23 Lexington County?

24 A. Yes, sir, I did.

25 Q. All right, and you also performed the extradition on

H. DUKES - CROSS-EXAMINATION BY MS. ZMROCZEK

389

1 Ms. Davis and brought her back to Lexington County as well,
2 correct?

3 A. Yes, sir, I did.

4 Q. All right.

5 MR. RIDDLE: Thank you. Please answer Ms. Zmroczek's
6 questions.

7 (COUNSELORS CONFER.)

8 (OFF-THE-RECORD BENCH CONFERENCE.)

9 CROSS-EXAMINATION BY MS. ZMROCZEK:

10 Q. Lieutenant Dukes, how long have you been in law, law
11 enforcement?

12 A. Right at twenty-five years.

13 Q. Your training, experience, you know that when people
14 are in situations and law enforcement doesn't have an ID,
15 they identify the person by, like, a trauma name?

16 A. Correct.

17 Q. That's what happened in this case, right?

18 A. I believe it was.

19 Q. And so you were able -- but you were able to find Ms.
20 Davis at the hospital?

21 A. Correct. Yes.

22 Q. At the, at the ICU?

23 A. Correct.

24 Q. And you still thought it would be a good idea to go
25 and, and ask her some questions?

H. DUKES - CROSS-EXAMINATION BY MS. ZMROCZEK

390

1 A. Correct.

2 Q. Okay, and then after that, the only thing else you did
3 was, was bring her car back, right?

4 A. Correct.

5 Q. And bring her back?

6 A. Correct.

7 Q. And when you brought her back, was she -- how many
8 days did she stay in the hospital?

9 A. She spent a number of days in the hospital.

10 Q. She doesn't look the same as she did when you brought
11 her back, does she?

12 A. No, ma'am.

13 MS. ZMROCZEK: I have no further questions.

14 THE COURT: Anything further from this witness?

15 MR. RIDDLE: No, sir.

16 THE COURT: All right. Thank you very much, sir. You
17 may step down.

18 (THE WITNESS EXITS THE STAND.)

19 MR. RIDDLE: Can we approach, Your Honor?

20 THE COURT: Yes, sir.

21 (OFF-THE-RECORD BENCH CONFERENCE.)

22 THE COURT: All right, ladies and gentlemen, I was
23 just talking with the attorneys about -- the next witness
24 would probably take us probably longer than we want to go
25 this evening. So, we're going to, we're going to, we're

1 going to stop at this point.

2 Now, last night when you went home, you were able to
3 tell your family, friends, and -- family, friends, and
4 loved ones that, that you were selected to be on a case and
5 that you had to be back here today, but you -- there really
6 wasn't much else that they could ask about. You've now had
7 a full day of hearing testimony, and I know they're going
8 to be curious, but you need to let them know that you are
9 not allowed to have any conversation at all. But just ask
10 them to be patient because you, you will be able to share
11 with them everything at the conclusion of the trial. But
12 right now you're just still under the order of the court to
13 have no conversation about the case.

14 You know, I don't know how you feel, but after a long
15 day in court, sometimes I just want to go home and I don't,
16 I don't want to deal with anything that happened here today
17 at all. I want to go home. I want to be with my family,
18 you know. So, just do that. Go have a good evening and,
19 and hopefully again a restful night's sleep. Sleep well.
20 Get you some rest, and we'll start back in the morning at
21 9:00. So, if you would please be back in the jury room at
22 9:00, when everyone gets reconvened, we'll start back,
23 okay?

24 So, if everyone in the courtroom will please remain
25 seated, ladies and gentlemen, we'll see you back here at

1 9:00 tomorrow morning. Leave your pads there, and we will
2 collect them.

3 (THE JURY EXITS AT 5:31 P.M.)

4 THE COURT: Okay, what we'll do then is, as I told
5 them, we'll start back at 9. I intend, unless y'all tell
6 me, I intend to start a 9:00 every morning this week. It's
7 only thirty minutes earlier than we normally do, but thirty
8 minutes is thirty minutes.

9 MR. RIDDLE: Two and a half hours over a week.

10 THE COURT: Yes.

11 MR. RIDDLE: That's like a half day.

12 THE COURT: And so we'll do that. I have been working
13 up here with regards to the charge, and of course I've got
14 all the boilerplate stuff I use that we have in there, and
15 I've got what is typically a murder charge.

16 Now, and I know we're not there yet as far as
17 discussing if any -- if anybody's requesting a lesser
18 included or whatever, and I know I don't know everything
19 about the defense or what will be alleged, but -- so,
20 obviously this isn't remotely complete, but if you have,
21 like I said, any special request to charge or any specific
22 request to charge you want me to consider, if you could
23 have someone from your office, whatever, email those to us.
24 And if you do that, please do it in Word format so that we
25 can cut and paste and do stuff to it.

1 And the reason I ask this early on about the charge, I
2 know y'all are probably thinking good gosh, Judge, we're
3 focused on this and we ain't thinking about a charge right
4 now. But as you both have tried cases, or all of you have
5 -- I, I send the charge back with the jury, and so rather
6 than being able to cut and paste or read off of this page
7 and then pick up this page, I have to have it in a final
8 form that the jury is going to have. So, it just kind of
9 helps me and get a jump on it so that I don't take up any
10 more time when, when it comes time to charge the jury.

11 So, again that does take second seat to anything else
12 that may be on your mind right now, but there's four of
13 you. So, I figure maybe two of y'all can focus on that
14 while the other two focus on something else, okay?

15 All right, is there anything we need to take up before
16 we adjourn for the evening?

17 MR. RIDDLE: No, sir.

18 MS. ZMROCZEK: No, sir.

19 THE COURT: Then we'll, we'll, we'll start back at
20 9:00. Court will be in recess until 9.

21 (WHEREUPON, THE CASE IS AT EASE.)

22 *WEDNESDAY, APRIL 23, 2014*

23 (COURT RESUMES AT 9:07 A.M.)

24 (PHONE RECORDS INDIVIDUALLY MARKED AS STATE'S EXHIBITS
25 81, 82 FOR IDENTIFICATION.)

1 THE COURT: Thanks, folks. Y'all have a seat.

2 MR. RIDDLE: We've got a little technical issue going
3 on here we're working on.

4 (A PAUSE.)

5 THE COURT: 81 and 82, what are they?

6 MR. RIDDLE: Your Honor, they're phone records. 81 is
7 phone records, and I don't know how your list is going, but
8 they're phone records between the defendant's phone and
9 Detective Collins and Detective Justice's phone, and that's
10 81 and they're coming in without objection.

11 MS. ZMROCZEK: That's correct.

12 THE COURT: Okay.

13 MR. RIDDLE: And then 82 is a populated list.

14 THE COURT: What's that?

15 MR. RIDDLE: It's a ---

16 MS. ZMROCZEK: A populated ---

17 MR. RIDDLE: --- populated phone records, and just to
18 show Your Honor, it's where Detective Collins went back and
19 compared the contact numbers in her phone to call records
20 and was able to identify ---

21 MS. ZMROCZEK: It's a call list with a lot of friends.

22 MR. RIDDLE: --- the names. Yeah.

23 THE COURT: All right.

24 MR. RIDDLE: And those are both without objection ---

25 MS. ZMROCZEK: That is correct.

1 MR. RIDDLE: --- is my understanding.

2 THE COURT: All right.

3 (PHONE RECORDS INDIVIDUALLY MARKED INTO EVIDENCE AS
4 STATE'S EXHIBITS 81, 82.)

5 THE COURT: And, and for the record, Your Honor, this
6 is Mr. Downtin's, like, first jury trial, and when he was
7 coming off the elevator, he almost bumped into jurors.
8 They both apologized, said I'm sorry, walked off, but that
9 was the extent of the conversation.

10 THE COURT: That's fine.

11 MS. ZMROCZEK: He wanted to make sure that ---

12 THE COURT: You did good to apologize.

13 MS. ZMROCZEK: Yes.

14 THE COURT: The worst thing you can do is say nothing,
15 and then they think you're rude, and all you were doing is
16 trying not to speak to the juror. No, that's no problem.

17 We left off. You, you, okay, you've got -- we left
18 off yesterday because I think your next witness may be
19 rather lengthy.

20 MR. RIDDLE: The next witness is Detective Collins,
21 Your Honor.

22 THE COURT: Okay.

23 MR. RIDDLE: And I would like to assure the court that
24 I have thoroughly instructed him regarding the issue we had
25 yesterday afternoon.

1 THE COURT: Okay.

2 MR. RIDDLE: And he indicates that he understands. I,
3 I think ---

4 THE COURT: Are we going back down that road?

5 MR. RIDDLE: I think I have to, Judge, because he was
6 the officer that was present at the time that statement was
7 made.

8 THE COURT: All right. All right. Well, we'll bring
9 the jury out if there's nothing else. We good? Okay.

10 Before we get started, I'm going to bring the jury
11 out. I'm, I'm going to ask one of the jurors to serve as
12 the foreman. So, I'm going to deal with that for a minute
13 before we get started.

14 MS. ZMROCZEK: Oh, and, Your Honor, did you get the
15 email we sent last night, proposed charges?

16 MR. RIDDLE: I didn't get an email.

17 THE COURT: I haven't -- well, I haven't looked.

18 MS. ZMROCZEK: Scott told me he sent it, but I'll make
19 sure that -- because he had CC'd all of y'all.

20 THE COURT: I don't have anything, so.

21 MS. ZMROCZEK: I didn't get the email and I was
22 supposed to be CC'd.

23 (A PAUSE.)

24 THE COURT: All right, let's bring the jury out,
25 please.

1 (THE JURY ENTERS AT 9:11 A.M.)

2 THE COURT: I need to do a little, little bit of
3 musical chairs with you for a second.

4 Mr. Brady.

5 JUROR: Yes, sir.

6 THE COURT: Would you be kind enough to serve as the
7 foreman of the jury, and if you are, I need you to swap
8 seats with this young lady, and, and you can either swap
9 seats or wait until the next break, and then when we come
10 back, if you'll occupy this first chair.

11 Let me explain to everybody what the role of the, the
12 foreperson is. Any time you have a group of folks, you
13 know, such as twelve, fourteen people such as y'all are,
14 it's just easier to deal with a group by, by dealing with
15 one individual on behalf of the group rather than having to
16 deal with everybody individually.

17 The foreperson is basically the, the spokesperson for
18 the jury. If any of you have any questions about anything
19 or whatever, then the foreperson would write that question
20 out, pass it out to the court, and depending on what the
21 question is I'll either write my response back and send it
22 back to you, or I'll bring all of you out and respond to
23 it. But that is actually the main role of the foreperson
24 is to be the communicator between the jury panel and the
25 court.

1 The other role that the foreperson does is that when
2 you do begin your deliberations, any time, again, that you
3 have a group of folks and you're doing your deliberations,
4 you need to have somebody to start and stop the
5 deliberations because I will tell you now that when you do
6 begin your deliberations, everyone must be present for
7 those deliberations so that if any member of the panel
8 needs to excuse themselves maybe to use the restroom, then
9 the foreperson would say, okay, let's stop our conversation
10 until that person returns. And then upon their return, all
11 right, let's start back.

12 What is important for you to understand is this. As
13 in all cases, your verdict must be unanimous. You must all
14 agree on the verdict, whatever it is, and so because of
15 that, you are all equal members of the jury. The
16 foreperson carries no more authority or no more weight to
17 their thoughts or their opinions than anyone else on the
18 jury. You're all equal members of the jury. And, and so
19 as you go through the deliberation process, as I tell
20 juries all the time, you need to listen to everybody. You
21 know, give everybody's thoughts and opinions consideration,
22 you know, weigh those considerations against your, your own
23 personal opinions for -- to, to verify whether or not
24 you're seeing things properly, whatever, but you consider
25 everybody. That's, that's what the whole process of the

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

399

1 deliberation process is, is that you take in what
2 everybody's thoughts and opinions are and you go through
3 that. So, because it -- and your verdict must be
4 unanimous. Everybody must agree on the verdict. The
5 foreperson carries no more weight or more authority than
6 anyone else on the jury.

7 But, anyway, so whenever we take a break and we return
8 back, if you'll occupy this seat, and then the rest of you
9 again sit wherever you're comfortable.

10 When we adjourned yesterday, we were still on the
11 state's case. So, I would recognize Mr. Riddle or Ms.
12 Shannon for the next witness.

13 MR. RIDDLE: Your Honor, the state calls Steve
14 Collins.

15 THE COURT: All right, could you please come around
16 and be sworn, sir.

17 STEPHEN COLLINS, BEING DULY SWORN,
18 TESTIFIES AS FOLLOWS:

19 CLERK OF COURT: Once you're seated, state your full
20 name, spelling your last on the record, please.

21 WITNESS: Stephen, S-t-e-p-h-e-n, Collins,
22 C-o-l-l-i-n-s.

23 DIRECT EXAMINATION BY MR. RIDDLE:

24 Q. Mr. Collins, where are you employed?

25 A. Lexington County Sheriff's Department.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

400

1 Q. And what do you do with the sheriff's department?

2 A. I'm a detective with the sheriff's department.

3 Q. How long have you been with them?

4 A. I've been with the sheriff's department for fourteen
5 years.

6 Q. All right. You start out as a detective?

7 A. No. I started off as a patrol officer.

8 Q. All right. Subsequently got promoted?

9 A. Yes, sir.

10 Q. All right. Do you serve in the Major Crimes Division?

11 A. I did at the time of this incident. I work in a
12 region now.

13 Q. All right. Which region do you work in?

14 A. The West Region, which is the Lake
15 Murray/Batesburg/Gilbert area. Lexington.

16 Q. All right. All right. Now, were you in Major Crimes
17 back on September 22nd of 2010?

18 A. Yes, sir.

19 Q. All right, and were you called out to Feather Run
20 Trail, Quail Hollow Apartments in reference to a death
21 case?

22 A. I responded to Feather Run Trail in reference to a
23 death case.

24 Q. All right. How did you arrive there on scene?

25 A. I was riding with another officer, Scottie Frier.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

401

1 Q. All right, and why were you with him?

2 A. We are both members of the South Carolina Hostage
3 Negotiation Association, and at the time our conference was
4 that first week in October. We're both board members. I
5 wasn't scheduled to work at the time. We were out
6 discussing business about the conference, and when we were
7 heading back from lunch and doing some association
8 business, we heard the call at Feather Run Trail and we
9 were in the area, so we went.

10 Q. And approximately what time did that call out?

11 A. I believe around 1:00.

12 Q. All right. What time did you arrive on scene?

13 A. My vision isn't what used to be reading photocopies,
14 but it looks like Scottie signed us out -- on scene at
15 1:01.

16 Q. Okay, and after you arrived on scene, what did you do
17 at the time?

18 A. Spoke with the patrol units who were on scene to get
19 information from them about what they had going on.

20 Q. And had they established a crime scene log?

21 A. Yes, they had.

22 Q. And explain to the jury what a crime scene log is,
23 please, sir.

24 A. Once the sheriff's department determines that there is
25 an incident that may need to be further investigated, the

1 crime scene log is simply a piece of paper where
2 individuals that come and go from the crime scene sign in
3 and out of the crime scene.

4 Q. All right, and do you have a copy of that with you?

5 A. Yes, sir, I do.

6 Q. And did you enter the crime scene on that occasion?

7 A. Yes, sir, I did.

8 Q. What time did you go in?

9 A. Sorry. I was -- oh, 1:17.

10 Q. All right, and what was your purpose of going in that
11 first time?

12 A. To examine the crime scene to see if we could start to
13 determine what had taken place at the incident.

14 Q. And did you observe the deceased, Mr. Davis, there?

15 A. Yes, sir, I did.

16 Q. All right, and when y'all have an incident such as
17 this, does the coroner need to come?

18 A. Yes, the coroner will respond to a death scene.

19 Q. Okay, and do y'all have to wait on him?

20 A. We will wait on him, yes, sir.

21 Q. Okay, and you went in and observed, observed Mr.
22 Davis, but did y'all do anything or touch anything at that
23 point in time?

24 A. No, sir, we did not.

25 Q. All right. Did you subsequently exit the scene there?

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

403

1 A. Yes, sir, we did.

2 Q. And what time did you go out of the scene that first
3 time?

4 A. 1:30

5 Q. All right, and did you wait on the coroner to arrive?

6 A. The coroner had arrived at that point, which is the
7 reason why we exited. Yes, sir, we did. We did exit the
8 crime scene. I see another sign in further down the sheet.

9 Q. Okay.

10 A. We did sign out and wait for the coroner to arrive.

11 Q. All right, and did you subsequently go back in with
12 the coroner?

13 A. Yes, sir, we did.

14 Q. Okay, and what time was that?

15 A. 1:35.

16 Q. Okay, and when you went back in with the coroner,
17 what, if anything, did y'all do?

18 A. I just observed the coroner and I believe Crime Scene
19 began to examine the body. Initially we had no idea that
20 this case was a murder; we did not know how Mr. Davis had
21 been killed or died at that point.

22 Q. Okay, and what, if anything, did you see the coroner
23 do with the body at that point in time?

24 A. The coroner rolled the body over and examined the
25 wound that was at the base of his skull.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

404

1 Q. Okay, and at that point, what did y'all decide y'all
2 needed to do before you proceeded further?

3 A. At that point, the examination revealed that the wound
4 to the base of the skull was most likely caused by a
5 gunshot wound, and at that point we determined that we
6 needed to obtain a search warrant to continue on getting
7 further evidence, it being a crime scene.

8 Q. All right, and so did y'all obtain a search warrant in
9 this case?

10 A. Yes, sir, we did.

11 Q. All right, and once the search warrant -- well, when
12 did the search warrant arrive?

13 A. I can't tell you exactly when the search warrant
14 arrived, but the crime scene officers went back into the
15 crime scene. The first one it looks like signed in at
16 2:53. So, we would not have gone back into the crime scene
17 until the search warrant arrived. So, it would have been
18 within minutes of that time on the positive side.

19 Q. Soon, soon as the warrant got there, the search would
20 have started?

21 A. Yes.

22 Q. And ---

23 A. There's no reason to delay once the search warrant is
24 there.

25 Q. And the search started at 2:53?

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

405

1 A. That's when the first crime scene officer signed in.
2 yes, sir.

3 Q. All right. Now, Detective Collins, let me show you
4 what's been marked State's Exhibit Number 81 and ask you if
5 you recognize what these are.

6 A. The phone records.

7 Q. Okay, and are those of the defendant's cell phone?

8 A. Yes, sir.

9 Q. All right, and during the course of the search warrant
10 being executed, did you make a phone call to the
11 defendant's cell phone?

12 A. Yes, sir, I did.

13 Q. Okay, and what time did you make that cell phone call?

14 A. Again I apologize. I definitely need new glasses. It
15 looks like 3:47. Is that correct?

16 Q. 3:47, that is correct.

17 A. Thank you.

18 Q. And did you leave a voicemail ---

19 A. Yes, sir, I did.

20 Q. --- at that time, and the lines directly below that,
21 does that show where Ms. Davis checked the voicemail?

22 MS. ZMROCZEK: Objection, Your Honor.

23 A. Yes.

24 MS. ZMROCZEK: Speculation.

25 BY MR. RIDDLE:

1 Q. Well, let me ask it this way. The lines directly
2 below that, does that show Ms. Davis's phone call -- or
3 dialing from her number to her number?

4 A. Yes, sir, it does.

5 Q. Okay, and in your experience as a law-enforcement
6 officer, does that indicate someone is checking their
7 voicemails?

8 A. Yeah. With my experience with phones in general, when
9 somebody calls their number, that's them checking their
10 phone.

11 Q. Right. Okay. I'm going to leave this right here
12 because we're going to go back to that in a minute.

13 So, you left Ms. Davis a message while the search
14 warrant was being executed?

15 A. Yes.

16 Q. What did you tell her that in a message?

17 A. I don't remember exactly, but would have been
18 essentially that I'm Detective Collins with Lexington
19 County Sheriff's Department, and we would like to talk to
20 her about an incident involving her husband.

21 Q. Okay. Now, subsequently, Detective Collins, did you
22 learn that Detective Dukes had located Ms. Davis's phone?

23 A. Yes, sir, I did. That knowledge was passed on to me
24 while I was at the scene.

25 Q. Okay, and what, what did you do in regards to that

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

407

1 knowledge?

2 A. We began to suspect Ms. Davis might have had
3 involvement in the murder of her husband.

4 Q. All right, and as a result ---

5 MS. ZMROCZEK: Your Honor, may we approach for a
6 moment?

7 THE COURT: Yes, ma'am.

8 (OFF-THE-RECORD BENCH CONFERENCE.)

9 BY MR. RIDDLE:

10 Q. After you learned the phone was in Charlotte, did
11 y'all make a decision about where you should go from there?

12 A. Yes, sir, I did.

13 Q. All right, and where did you decide to go?

14 A. To Charlotte, North Carolina.

15 Q. All right, and approximately what time did you leave?

16 A. Leave, we left right about quarter till 6.

17 Q. All right, and from -- well, Feather Run Trail is
18 located where?

19 A. Behind the hospital off of 378 right new I-26 heading
20 towards West Columbia.

21 Q. All right. You're talking about the Lexington
22 hospital?

23 A. Yes, Lexington hospital.

24 Q. And so y'all proceeded to the Charlotte area?

25 A. Yes, sir, we did.

1 Q. All right. Now at that point in time, did you know
2 that there have been a .380 shell casing found at Feather
3 Run Trail?

4 A. Yes, sir, I did.

5 Q. Did you know that people had spoken to Ms. Davis and
6 told her that something was wrong?

7 A. Yes, sir, I did.

8 Q. Okay, and you had already spoken with Charley Rice and
9 had his information?

10 A. Yes, sir, I had.

11 Q. Did you also -- excuse me, did you also know that the
12 defendant had been in the area near Jermaine's apartment
13 that morning?

14 A. Yes, sir, I did.

15 Q. And that was according to the cell phone records?

16 A. Correct.

17 Q. Okay. Were you aware at that point in time that Ms.
18 Davis had quit her job that morning?

19 A. Yes, sir, I was.

20 Q. All right. Were you aware that her and Mr. Davis were
21 estranged?

22 A. Yes, sir, I was.

23 Q. Okay, and you were aware -- because you had been at
24 the scene -- that Ms. Davis had not come to Feather Run,
25 correct?

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

409

1 A. Correct.

2 Q. And you knew her phone was in Charlotte?

3 A. Yes, sir.

4 Q. All right. Now upon going to Charlotte, did y'all go
5 to a particular location?

6 A. Yes, sir. We went to the location where the phone
7 last indicated being present in Charlotte.

8 Q. Okay, and was that the Providence Square Apartments?

9 A. Yes, sir, it was.

10 Q. And approximately what time did y'all arrive?

11 A. I don't -- it's about an hour and a half drive. We
12 left a quarter -- I'd say around 7:30.

13 Q. Okay.

14 A. That evening, give or take a minute.

15 Q. All right, and were you able to locate anything that
16 you thought was connected to Ms. Davis at that time?

17 A. Yes. The vehicle that we'd been told that Ms. Davis
18 drives was there, and we were able to verify that by the
19 license plate on the car.

20 Q. All right. Now, at the time you arrived in Providence
21 Square, were y'all getting good information on her phone at
22 that point in time?

23 A. At that point, I wasn't paying as much attention to
24 the phone as I was trying to coordinate some other issues,
25 but Henry was indicating that the phone data was -- we were

1 getting updated every fifteen minutes, and it was
2 indicating that the phone wasn't moving. So, it was our
3 belief at that time that Ms. Davis was probably in one of
4 those apartments, and the phone was inside with her.

5 Q. Okay. The -- what did y'all decide to do at that
6 point in time?

7 A. At that point in time, we -- the only decision was to
8 wait.

9 Q. Okay.

10 A. I mean, we just wait.

11 Q. And y'all stay there where you could see the car?

12 A. Yes, sir.

13 Q. All right. Did you subsequently get information that
14 the phone might be in a different location than ---

15 A. Yes.

16 Q. --- the apartments, and approximately when did that
17 get to you, Detective Collins?

18 A. If my vision is right, it looks like about 8:30.

19 Q. All right. About the same time that you got that
20 information, did you receive a phone call from the
21 defendant's cell phone?

22 A. That is what I was basing that timeline on. That is
23 the phone call, yes, sir.

24 Q. Okay, and that phone call you received was at 2036?

25 A. Yes, sir.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

411

1 Q. And that's a 8:36?

2 A. Yes, sir.

3 Q. All right. Now, when you received that phone call,
4 that was on your cell phone?

5 A. Correct.

6 Q. 223-████ is your number?

7 A. That is my work phone, yes, sir.

8 Q. Okay. When you received that phone call from her cell
9 phone, was it a male or female on the phone?

10 A. It was a male.

11 Q. All right. Did you recognize that number?

12 A. No, I did not.

13 Q. Okay, and what was, what was said to you at that time?

14 A. My recollection is ---

15 MS. ZMROCZEK: Objection, Your Honor. Hearsay.

16 MR. RIDDLE: I'm not asking it for the truth of the
17 matter asserted; I'm just asking it to explain his actions
18 from this point.

19 THE COURT: All right. Overruled.

20 BY MR. RIDDLE:

21 A. It was something to the effect do I know Shellie
22 Davis.

23 Q. All right, and did you know who that was?

24 A. I had no idea, no, sir.

25 Q. And so what did you do?

1 A. I said no.

2 Q. Okay, and did the phone call terminate at that point?

3 A. Yes, sir, it did.

4 Q. All right. Did you subsequently receive a phone call
5 from Detective Derrenbacher?

6 A. Yes, sir, I did.

7 Q. All right, and did he relay some information to you
8 that he had gotten at the Algrave house?

9 A. Yes, sir.

10 Q. From a lady, from Enola Thornton?

11 A. Correct.

12 Q. All right. So, you had gotten the phone call from the
13 unknown male, correct?

14 A. Correct.

15 Q. And you had gotten new cell information that the phone
16 was in a different location now, correct?

17 A. Yes, sir.

18 Q. And then you had talked to Detective Derrenbacher?

19 A. Yes, sir.

20 Q. And based on all of that, what do you do at that
21 point?

22 A. We made the determination then we need to leave the
23 location we are at currently and go to the incident
24 location where the cell phone is now giving us indication.

25 Q. Okay, and during the course of that trip, did you talk

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

413

1 with the Charlotte police dispatchers?

2 A. Yes, sir, I did.

3 Q. All right, and why did you do that?

4 A. Well, the information that we got initially that came
5 to me from Billy was that Ms. Davis had been involved in an
6 incident in Union County, North Carolina, where she had
7 received an injury to her head. It was believed she had
8 shot herself in the head. We had nothing at that point to
9 verify that there was any truth or validity to that. We
10 wanted to confirm that we were going to something
11 legitimate. It wasn't some kind of issue to get us out of
12 the area so Ms. Davis could leave, or any number of other
13 things that would have been possible. So, we called in to
14 the Charlotte dispatch.

15 I spoke with the dispatcher, advised her who I was,
16 and asked if there was any similar incident to what I had
17 just described taking place in Charlotte or any of the
18 surrounding areas. They were able to tell me that yes, in
19 fact, there was and that a similar situation had just taken
20 place in Union County, North Carolina.

21 Q. So, y'all proceeded over there?

22 A. Correct.

23 Q. All right, and when you arrived there in Union, was
24 Ms. Davis still there?

25 A. No, sir, she was not.

1 Q. Okay. She had been transported?

2 A. That is correct.

3 Q. All right.

4 A. Yes, sir.

5 Q. And did you speak with the Union officers on scene?

6 A. Yes, sir, I did.

7 Q. Okay, and did you also while you were there talk with
8 Naeka and Antoine Collins?

9 A. Yes, sir, I did.

10 Q. And did you determine that that's who Ms. Davis had
11 been with?

12 A. Yes, sir, I did.

13 Q. Were you able to determine at that time that car that
14 y'all have been sitting on was at their residence?

15 A. Yes, sir, we were able to connect those dots at that
16 point.

17 Q. All right, and while you were there on scene in Union
18 County, did y'all receive the keys to that vehicle?

19 A. Yes, sir. The keys were transferred to us from one of
20 the Union County deputies.

21 Q. All right. After y'all left that area up in Union
22 County, did you go to the hospital?

23 A. Yes, sir, we did.

24 Q. Okay, and were some officers there that escorted you
25 to her room?

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

415

1 A. Yeah. We came into contact with a
2 Charlotte-Mecklenburg officer when we went into the
3 hospital, and I don't know whether he was waiting on us. I
4 know Union had made some phone calls on our behalf, but he
5 was able to bring us up to the room where Ms. Davis was.

6 Q. All right, and when you got up there, were you able to
7 observe Ms. Davis?

8 A. Yes, sir, we were.

9 Q. And could you see her interacting with the medical
10 staff?

11 A. Yes, sir.

12 Q. And did they appear to be having a conversation?

13 A. Yes, sir, they did.

14 Q. Could you hear the conversation?

15 A. I could not hear the conversation. I could see that
16 it was taking place and it appeared to be give-and-take
17 conversation.

18 Q. All right. Did you seek out one of the nurses or the
19 medical staff and ask for permission to speak with Ms.
20 Davis?

21 A. Yeah. When there was a break and the medical staff
22 seemed to be at a point where they were no longer
23 proactively providing aid, we made an inquiry whether it
24 was okay if we talked to Ms. Davis at that point.

25 Q. And did you receive permission?

1 A. Yes, sir, we did.

2 Q. And did you approach Ms. Davis at that point in time?

3 A. Yes, sir, we did.

4 Q. All right. Did you introduce yourselves, Detective
5 Collins?

6 A. Yes, sir, I did.

7 Q. All right, and did you give Ms. Davis her Miranda
8 warnings?

9 A. Yes, sir, I did.

10 Q. Do you carry a card in your pocket?

11 A. Yes, sir, I do.

12 Q. Okay, and is State's Exhibit Number 75 a copy of the
13 card that you actually carry?

14 A. Yes, sir, it is.

15 Q. All right. Could you give the jury the Miranda
16 warnings as you would have given them to Ms. Davis that
17 night?

18 A. Yes, sir.

19 You have the right to remain silent. Anything
20 you say can and will be used against you in a
21 court of law. You have the right to call ---

22 I apologize. My vision is not what it should be. I'm
23 embarrassed.

24 You have the right to talk to an attorney or have
25 him or her present with you while you are being

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

417

1 questioned. If you cannot afford to hire an
2 attorney, one will be appointed to represent you
3 before questioning if you want. You have -- you
4 can decide at any time to execute these rights
5 and not answer any questions or make statements.
6 Do you understand the rights I have explained to
7 you? Having these rights in mind, do you wish to
8 talk to me now?

9 Q. Okay. So, you read her the rights?

10 A. Yes, sir, I did.

11 Q. And did you ask her if she understood?

12 A. Yes, sir, we did.

13 Q. And did she respond in the affirmative ---

14 A. Yes, sir.

15 Q. --- or the negative?

16 A. She did. She indicated that she understood the
17 rights.

18 Q. And, and did you ask her if she wished to talk to you
19 at that time?

20 A. Yes, sir.

21 Q. And did she respond to you in the affirmative or the
22 negative?

23 A. The affirmative.

24 Q. Okay. Now, y'all asked her a question at that point
25 generally about did she know why y'all were there?

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

418

1 A. Yes. Henry Dukes asked the question and ---

2 Q. Okay.

3 A. --- if she knew why we were there.

4 Q. All right, and did she respond to that?

5 A. Yes, sir, she did.

6 Q. What did she say to you?

7 A. She advised that she had shot her husband.

8 Q. All right. Was she speaking softly?

9 A. Yes, sir, very softly.

10 Q. Was, was she asked to repeat her answer so that you
11 could make sure that you heard it correctly?

12 A. Yes, sir, she was.

13 Q. And what did she say when you asked her to repeat it?

14 A. She gave the same answer.

15 Q. All right, and at that point, did she choose to
16 terminate the conversation?

17 A. Yes. At that point, there were no further questions.

18 Q. All right, and after speaking with her, do y'all then
19 leave the hospital at that point in time?

20 A. Yes, sir. We leave the hospital at that point.

21 Q. All right, and where do y'all go, Detective Collins?

22 A. We go back to the apartment complex. I believe it was
23 New Providence or Providence.

24 Q. Providence Square?

25 A. Providence Square, yes, sir.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

419

1 Q. Okay, and what was y'all's purpose in going back to
2 Providence Square?

3 A. To seize the vehicle which Ms. Davis had droven -- had
4 driven up to North Carolina as evidence.

5 Q. Okay, and what's the process for doing that? Can you
6 do that by yourself when you're out of your jurisdiction?

7 A. No, I couldn't really do it by myself in my -- we need
8 a wrecker service to come and tow the vehicle.

9 Q. I, I guess you're going to need a wrecker anywhere.

10 A. Yeah.

11 Q. But did you need a local officer there as well?

12 A. Yes, sir. I understand your question. We did.

13 Q. And while you were in the process of securing the
14 vehicle, did you see Antoine Collins again?

15 A. Yes, sir, I did.

16 Q. Okay, and did he come out of his apartment and give
17 you something?

18 A. Yes, sir, he did.

19 Q. All right. What was it that he gave you, Detective
20 Collins?

21 A. Easily describe it as a purple bag.

22 Q. A purple bag?

23 A. Yes, sir.

24 Q. Did it have contents in it?

25 A. There were contents in it, yes, sir.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

420

1 Q. All right. Let me show you what has been marked
2 State's Exhibit Number 65 and ask you if you recognize
3 this.

4 A. That is the purple bag that Mr. Collins gave us in
5 Charlotte, North Carolina.

6 Q. All right, and did you secure this at that time?

7 A. Yes, sir. We took possession of it.

8 Q. All right, and did you bring this back to Lexington
9 County?

10 A. Yes, sir, we did.

11 Q. And you logged it into evidence?

12 A. Correct.

13 Q. All right.

14 MR. RIDDLE: Your Honor, I'd offer this into evidence
15 at this time.

16 MS. ZMROCZEK: Without objection, Your Honor.

17 THE COURT: Without objection, that's State's?

18 MS. ZMROCZEK: 65.

19 MR. RIDDLE: 65, Your Honor.

20 THE COURT: All right.

21 MR. RIDDLE: And, Your Honor, this exhibit number is
22 not sticking well. I'm going to let her mark it and the
23 I'll staple to the bag.

24 (PURPLE BAG WITH MISCELLANEOUS ITEMS MARKED INTO
25 EVIDENCE AS STATE'S EXHIBIT NUMBER 65.)

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

421

1 BY MR. RIDDLE:

2 Q. Mr. Collins brought that bag from out of his house?

3 A. Yes, sir, that is correct.

4 Q. Okay. Now, that night, did you search that bag?

5 A. No, sir, we did not.

6 Q. All right. Where had that bag come from?

7 A. I was told that it had been brought from the Columbia
8 area up to Charlotte, North Carolina, by Ms. Davis.

9 Q. And left at the Collins' residence?

10 A. Correct.

11 Q. Now, after y'all collected the purple bag and
12 impounded Ms. Davis's vehicle, by then what, what time of
13 night or day are we talking about it is?

14 A. It was well into the early morning hours, probably
15 some time around 3 a.m. give or take.

16 Q. Okay, and did y'all wrap up in Charlotte and come back
17 to Lexington at that point in time?

18 A. Correct.

19 Q. All right. The next day, did you go back to
20 Charlotte?

21 A. We went back to Union County, North Carolina, yes,
22 sir.

23 Q. Okay, and at that time, did you go and collect some
24 evidence that had been seized by the Union County
25 authorities?

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

422

1 A. Yes, sir, we did.

2 Q. All right. Did you get Ms. Davis's purse and the
3 content of that?

4 A. Yes, sir.

5 Q. And did you get the shirt that ---

6 MS. ZMROCZEK: Your Honor, I'm going to object to
7 leading.

8 THE COURT: Sustained.

9 BY MR. RIDDLE:

10 Q. What evidence did you get?

11 A. We took possession of all evidence that was collected
12 by the Union County Sheriff's Department during their
13 processing of the crime scene where Ms. Davis was located
14 in Union County, North Carolina: purse, gun, a blouse. I
15 may be leaving something out, but that's...

16 Q. Did you sign an evidence receipt for that?

17 A. Yes, sir, we did.

18 Q. Is that the evidence receipt that you signed?

19 A. Yes, sir, that is.

20 Q. What did you get from Union County on that occasion?

21 A. Black skirt; a black purse containing cell phone,
22 tickets, and personal items; two live rounds, PMC .380 auto
23 Bersa; .380 magazine with one live -- I can't make out the
24 word -- .380 rounds; and a Bersa firearm .380, serial
25 number A68037, and then the words. Nothing follows after

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

423

1 that.

2 Q. Okay. Does that say skirt or shirt, Steve?

3 A. I'm going to go with shirt now that you've called my
4 attention to it.

5 Q. All right. Did you bring that back to Lexington
6 County?

7 A. Yes, sir, we did.

8 Q. And did you log that into evidence as well?

9 A. Yes, sir. That was logged into evidence in Lexington
10 County.

11 Q. And was the vehicle retrieved from Charlotte a couple
12 of days later?

13 A. The vehicle was retrieved from Charlotte, yes, sir.

14 Q. All right. Now, did you subsequently get search
15 warrants in this case?

16 A. Yes, sir, I did.

17 Q. Okay, and did you get a search warrant for that purple
18 bag that's in evidence?

19 A. Yes, sir, we did.

20 Q. And did you get a search warrant for Ms. Davis's cell
21 phone?

22 A. Yes, sir, we did.

23 Q. And did you get a search warrant for the vehicle
24 itself?

25 A. Yes, sir, we did.

1 Q. Okay, and did Shelby Derrick execute those warrants?

2 A. Yes, sir, she did.

3 Q. All right. Now, Steven, let me ask you about a couple
4 of other things.

5 A. Yes, sir.

6 Q. Subsequently, Ms. Davis was brought back to Lexington
7 County and charged with this crime, correct?

8 A. That is correct.

9 Q. All right, and did you subsequently get some cell
10 phone records in this case?

11 A. Yes, sir.

12 Q. All right. Let me refer you, if I could, to exhibit
13 Number 71. Is that Mr. -- or Mr. McDonald's call log
14 report on Shellie Davis's cell phone?

15 A. Yes, sir.

16 Q. All right, and did you take a portion of that report
17 which goes -- stores all the way back to September 1st?

18 A. Yes, sir.

19 Q. And compare it to State's Exhibit 72, Shellie Davis's
20 contact list?

21 A. Yes, sir, I did.

22 Q. All right, and were you able to populate the list or
23 determine who most of the phone calls came from for
24 September the 22nd, the date of the incident?

25 A. Yes, sir, I was.

S. COLLINS - DIRECT EXAMINATION BY MR. RIDDLE

425

1 Q. All right, and did you write on that list the name and
2 then the contact number from the contact list?

3 A. Yes, sir, I did.

4 Q. And whether it was their work line or cell line or
5 whatever ---

6 A. Yes, sir.

7 Q. --- whatever type of line it was?

8 A. Yes, sir.

9 Q. All right, and did you do that to the best of your
10 ability for each call on the 22nd?

11 A. Yes, sir, I did.

12 Q. All right. Now, looking at State's Exhibit Number 82,
13 is that the populated list that you made?

14 A. Yes, sir. That is a copy of the work that I did.

15 Q. Okay.

16 A. Identifying the numbers.

17 Q. All right. Also contained on State's Exhibit Number
18 21, it has the report from the day before. Were there any
19 phone calls the day before between Shellie Davis and
20 Jermaine Davis?

21 A. The day before?

22 Q. The 21st, yes, sir, because those were numbers -- were
23 auto populated by ---

24 A. Yes, yes. I apologize. I didn't -- yeah, two
25 numbers. Jermaine Davis.

S. COLLINS - DIRECT EXAMINATION / CROSS-EXAMINATION

426

1 Q. And that's -- but what date is that on?

2 A. That would be -- oh, that's the 20th.

3 Q. 21st?

4 A. The 21st starts there, I think.

5 (A PAUSE.)

6 A. No. No, sir, I do not, do not see any. It looks like
7 that one came in on the 22nd.

8 Q. Right. The first phone call on the 22nd, the day of
9 the incident.

10 A. Yes.

11 Q. Was the phone call that Detective McDonald testified
12 about earlier?

13 A. Correct.

14 Q. All right.

15 MR. RIDDLE: Bed the court's indulgence for a moment.

16 THE COURT: Yes.

17 (A PAUSE.)

18 MR. RIDDLE: Your Honor, I don't have any other
19 questions.

20 Detective, please answer any of Ms. Zmroczek's
21 questions.

22 WITNESS: Yes, sir.

23 CROSS-EXAMINATION BY MS. ZMROCZEK:

24 Q. Detective Collins, you would agree with me that the
25 integrity and the quality of your investigation is

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

427

1 important as a law enforcement officer, correct?

2 A. Yes.

3 Q. As and investigator for the Major Crimes Unit of
4 Lexington County, right?

5 A. Yes, ma'am.

6 Q. Because your actions begin someone's experience in, in
7 the criminal legal process, correct? Their -- some actions
8 and then ---

9 A. Yeah, their actions precipitate our involvement, but
10 yes, essentially at that point we begin an investigation
11 once we believe somebody has committed a crime.

12 Q. Okay, and you had that -- do you still have your crime
13 scene log up with you?

14 A. Yes, ma'am.

15 Q. Were you assigned this case as the lead investigator?

16 A. Yes, ma'am, I would be classified as the lead
17 investigator on the case.

18 Q. Tell the jury what that means to be the lead
19 investigator.

20 A. It simply means at the end of the day, all of the
21 paperwork from the case ends up in my file.

22 Q. Does it mean a little bit more than that, right? You
23 don't have any extras possibilities as the lead
24 investigator?

25 A. Well, it's my case to investigate. I mean, I am the

1 investigator who investigates the case.

2 Q. And you follow up on the information that's provided
3 to you by other officers, correct?

4 A. Yes.

5 Q. And you verify the veracity, the truthfulness of all
6 that, correct?

7 A. I don't follow up on everything, but if, if there was
8 something that needed to be followed up on in an
9 investigation, then it would be my responsibility to follow
10 up on that, but if there -- I, I don't fact check
11 information given to me necessarily from one detective or
12 not. It depends on a situation. It's not ---

13 Q. What ---

14 A. --- black and white.

15 Q. What about from witnesses is what -- witnesses with
16 whom you spoke?

17 A. I, I'm not really sure I'm following your question.
18 I'm not trying to be evasive.

19 Q. Certainly. You spoke with Charley Rice?

20 A. Correct.

21 Q. And he told you that Ms. Davis was controlling and
22 violent.

23 A. Correct.

24 Q. And my question is what did you do to follow up on
25 that?

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

429

1 A. What do you mean? Did I...

2 Q. Did you investigate the truthfulness and -- of, of
3 those statements?

4 A. I, I mean, I went to Richland County and the city of
5 Columbia and asked if there were incident reports ---

6 MR. RIDDLE: Your Honor, can we approach?

7 (OFF-THE-RECORD BENCH CONFERENCE.)

8 THE COURT: Let me have you step back to the jury room
9 while I take up a matter of law, ladies and gentlemen.
10 Please don't have conversation about the case. We'll get
11 you back out here shortly.

12 (THE JURY EXITS AT 9:52 A.M.)

13 THE COURT: All right.

14 MR. RIDDLE: If it please the court, Your Honor,
15 during the pretrials Monday afternoon, we discussed an
16 issue where Ms. Davis had been arrested on a prior CDV
17 charge. That CDV charge, I don't believe she was
18 ultimately convicted on it. If she was, it was
19 subsequently expunged pursuant to the three-year statute.
20 So, I, I don't know exactly when.

21 During the course of the investigation, we became
22 aware that that CDV charge had existed, and Ms. Zmroczek
23 had filed a motion in limine to prevent that being
24 mentioned in court, and I had assured Your Honor that I
25 wouldn't let that happen because I didn't think you could

1 rule on it sort of in the vacuum of pretrial. But I
2 wouldn't let that happen until I gave the court notice and
3 a chance to hear it before it came out of a witness's
4 mouth, and I think that's what Ms. Zmroczek is eliciting
5 from this witness. I'm not sure, but that's why I asked to
6 approach and asked to take this up.

7 THE COURT: All right.

8 MS. ZMROCZEK: Your Honor, yesterday the testimony
9 from Ms. Mansfield and Mr. Derrenbacher already referred to
10 an arrest, and Mr. ---

11 MR. RIDDLE: No.

12 MS. ZMROCZEK: --- Riddle kept saying so you knew that
13 there was a prior assault, a prior CDV. So, at this point
14 it's already in front of the jury, and I understand I'm
15 opening the door.

16 MR. RIDDLE: There was never the word arrest used.

17 THE COURT: That, that, that didn't ever come -- that
18 never came -- they said you were aware of a prior assault.

19 MS. ZMROCZEK: Assault.

20 THE COURT: Right.

21 MR. RIDDLE: And that she was an aggressor, but the
22 word arrest or charge or anything like that never came out.

23 THE COURT: It, it, it, it didn't.

24 MS. ZMROCZEK: And that's true, and it -- may have
25 said assault. It may have said prior assault. I think the

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

431

1 words were assault and incident. I have them written down
2 and I can check. But the fact of the matter is that she
3 testified that she was told, and she was asked about
4 whether she was the first aggressor, and Investigator
5 Derrenbacher spoke of it as well, Your Honor, and so we
6 understand that ---

7 THE COURT: So, where are you going? What do you -- I
8 mean, you want to bring it out?

9 MS. ZMROCZEK: Yes.

10 THE COURT: You want to bring out the prior
11 conviction?

12 MS. ZMROCZEK: It's not a conviction. It was
13 expunged. She was never convicted.

14 THE COURT: It doesn't matter whether it was expunged.
15 What, what happened with charge?

16 MS. ZMROCZEK: It was dismissed.

17 THE COURT: It was never prosecuted?

18 MS. ZMROCZEK: Never prosecuted.

19 THE COURT: What is, what, what is your purpose in
20 going through that?

21 MS. ZMROCZEK: What the purpose in doing that today?

22 THE COURT: Yes, ma'am.

23 MS. ZMROCZEK: Your Honor, what it does is they base
24 their entire investigation on she being a primary aggressor
25 and ---

1 THE COURT: They based their investigation on the fact
2 that she said she shot her husband. I mean, that might be
3 your theory of what they're basing it on, but that, that
4 hasn't come out in this trial.

5 MS. ZMROCZEK: Yesterday, the testimony that I heard
6 yesterday, that she was involved in a prior assault.

7 THE COURT: You heard a lay witness, a lay witness
8 state that she was aware that there was a prior assault
9 involved in their relationship.

10 MS. ZMROCZEK: And police officer Derrenbacher as
11 well. Let me check my notes just to make sure that I'm...

12 (A PAUSE.)

13 MS. ZMROCZEK: History of domestic violence, primary
14 aggressor was Shellie. Those were the notes, those were
15 the notes that I had ---

16 THE COURT: Do what now?

17 MS. ZMROCZEK: --- from Derrenbacher's testimony.

18 THE COURT: Read your notes again.

19 MS. ZMROCZEK: He confirmed a history of domestic
20 violence and that Shellie was the primary aggressor.

21 (A PAUSE.)

22 THE COURT: Did you cross-examine Officer Derrenbacher
23 about that statement? I mean, that, that ---

24 MS. ZMROCZEK: Yes, I did. I said what proof do you
25 have, and he said I gave that information to Investigator

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

433

1 Collins to follow up, and then that's when I said because,
2 because -- that's why I started to say because that's the
3 proof and the evidence is what is important in court. I
4 said what proof did you have, and he said I provided that
5 information to Investigator Collins.

6 THE COURT: Well, let me ask you this. Does the state
7 object to going into that?

8 MR. RIDDLE: I don't, I don't -- I object to going
9 into it with this witness because he doesn't have copies of
10 any of the reports up there.

11 THE COURT: Here's, here's the thing, and y'all are
12 going to have to help me because I don't know what's
13 available.

14 MR. RIDDLE: Okay.

15 THE COURT: If you want to go down that road, we can
16 go down that road, depending on what's available, but it
17 all has to come out. Not, not simply it was never
18 prosecuted and it was expunged. So.

19 MS. ZMROCZEK: I, I agree, Your Honor.

20 THE COURT: And the question is -- well, you know,
21 this is kind of like a prior bad act situation, and I
22 usually have the defense objecting to any of that coming
23 in. I've never had the defense want to bring it in. I
24 don't know. What's your position?

25 MR. RIDDLE: I, I, I don't know, Judge, because I'm,

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

434

1 I'm in what I consider the unique position of -- she filed
2 a motion in limine to keep it out. I told Your Honor that
3 I would raise it and address it with you and ---

4 THE COURT: Well ---

5 MR. RIDDLE: --- but I don't think this is the
6 appropriate witness to go into it with. She's got the
7 reports; she's got the names of the officers that took the
8 reports.

9 THE COURT: Well, I want to know where she's going.
10 Maybe we need to ---

11 MR. RIDDLE: And I ---

12 THE COURT: --- to give her some leeway.

13 MR. RIDDLE: And it's, and it's -- whatever she -- I'm
14 sorry.

15 THE COURT: Ms. Zmroczek, do, do you intend to go over
16 with this witness the details of that prior assault and how
17 that came back and the disposition and all that because
18 that, I think, would be beyond his ---

19 MS. ZMROCZEK: I completely agree. No. No, I don't.

20 THE COURT: Well, I'm going to give her some leeway.
21 If something starts to go awry and you feel you need to
22 object, I'll, I'll entertain any, any objections because at
23 this point I don't know where she's going. You did have
24 the testimony of Officer Derrenbacher who said he was aware
25 of the prior aggressor -- the, the prior assault with her

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

435

1 being the aggressor, and he turned that information over to
2 Detective Collins. So, I think, I think she should be
3 allowed to, to go down that road if she chooses to. How
4 far down that road she should go I guess with this witness
5 would remain to be seen. It, it may be, you know...

6 MS. ZMROCZEK: I don't intend to -- I mean, I don't --
7 I know he doesn't have the report, and I don't intend to --
8 I believe -- I completely agree with the solicitor. Those
9 aren't his facts to tell.

10 MR. RIDDLE: Then I believe it would be hearsay.

11 THE COURT: It's part of his investigation. You know,
12 you know that's not hearsay. It's part of his
13 investigation that he received this information. Really
14 that's about all he can talk about, I would think, because
15 he has no personal information. I mean, he has no personal
16 knowledge of those things. That's just something that was
17 turned over to him. He can talk about it.

18 MS. ZMROCZEK: And if I need to withdraw my motion in
19 limine formally on the record, I do that.

20 THE COURT: Well, I mean, you're, you're opening that
21 door and going down that path. I just don't know where
22 we're going with that.

23 MR. RIDDLE: Well, I, I, I'd like to be able to hand
24 Mr. Collins a copy of the reports and all ---

25 MS. ZMROCZEK: Well, then I'll ask ---

1 THE COURT: Well, not if she's doing --- folks,
2 listen up.

3 MR. RIDDLE: Yes, sir.

4 THE COURT: Everybody's terrified about what the other
5 person's about to do. You have control because I'm going
6 to entertain objections.

7 MR. RIDDLE: Yes, sir.

8 THE COURT: Why don't you see where she's going? It
9 may be that she's going to swoop in and tap this and move
10 on, and you think she's going to come in and dig a trench,
11 and that may not be what's going on here.

12 MR. RIDDLE: And that's, that's probably a fair
13 assessment, Judge.

14 THE COURT: So, why don't we see where it's going and
15 then -- you know, I'm going to give both sides whatever
16 leeway you are entitled to go into it if it's appropriate
17 or to not go into it if it's appropriate, okay? But I will
18 -- you know, do, you know, do, do keep your attention on
19 the examination and if you need to object, I will entertain
20 any objections that you may have, okay?

21 MR. RIDDLE: All right.

22 THE COURT: All right, let's bring the jury back in,
23 please.

24 (THE JURY ENTERS AT 10:05 A.M.)

25 THE COURT: All right, thank you for your patience,

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

437

1 ladies and gentlemen.

2 Ms. Zmroczek, you may continue with the examination.

3 MS. ZMROCZEK: Thank you.

4 BY MS. ZMROCZEK:

5 Q. Investigator Collins, the question was you follow --
6 you did -- did you -- you did follow up on information that
7 was provided to you by other officers in the case,
8 including Office Derrenbacher, correct?

9 A. Yes.

10 Q. And you did seek out information regarding any acts of
11 criminal domestic violence, correct?

12 A. I did check with the city of Columbia and Richland
13 County to see if there were any incident reports involving
14 Shellie Davis in a domestic violence situation.

15 Q. Okay. Investigator Collins, your job involves a lot
16 more than strapping on a gun and, and driving around in a
17 police car, correct?

18 A. Yes.

19 Q. You have on-the-job training on how to prepare and
20 investigate cases?

21 A. Yes.

22 Q. You receive training on how to write reports and
23 gather information?

24 A. Correct.

25 Q. And the police reports contain information that was

1 told to you either directly by witnesses or that you relied
2 on from your officers, correct?

3 A. Essentially, yes.

4 Q. What do you mean essentially?

5 A. That's pretty much what -- I mean, it's what I see,
6 what witnesses tell me. So, there is my personal opinion
7 or what I observe in addition to those other things. I do
8 stuff as well, but yes, essentially that is what comprises
9 a police report.

10 Q. And an investigation, correct?

11 A. Yes.

12 Q. And in those reports, you and/or other officers put
13 the information that is important in prosecuting the case,
14 right?

15 A. Yes.

16 Q. Do you have those reports in front of you?

17 A. I don't have all of the reports in this, but I've got
18 my supplemental report and -- up here with me, but I'm
19 familiar with most of the other officers' supplemental
20 reports.

21 Q. And your supplemental or your case summary report
22 would put the highlights, for lack of a better term,
23 correct?

24 A. I would say that was a fairly safe characterization,
25 yes.

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

439

1 Q. Office -- or, Investigator Collins, can you tell me in
2 that report or in any report where Arletta Carr reported
3 that Shellie Davis told police officers that if she
4 couldn't have Jermaine, nobody could?

5 A. Eddie Prestigiacomo talked to her. I do not believe
6 that was in the report that Eddie took. That's why reports
7 are not the end-all, be-all of an investigation.

8 Q. That's a pretty important fact in this case, correct?

9 A. I would agree that that's an important statement. The
10 fact that it's not in an incident report I wouldn't say --
11 doesn't mean that it's not still an important fact in the
12 case.

13 Q. And it was told to you?

14 A. That it was told -- no, it was told to Eddie
15 Prestigiacomo when he interviewed Arletta Carr.

16 Q. And then as -- you, as the lead investigator, did you
17 rely on that in making the arrest of Shellie Davis?

18 A. No. That did not factor into the arrest of Shellie
19 Davis. In the overall big picture of the case involving
20 Shellie Davis, that is an element of it, but that statement
21 alone was not the reason I arrested her. The reason I
22 arrested her is because she told us she shot her husband in
23 the head, and we recovered the same gun in Charlotte, North
24 Carolina. That was the initial underlying probable cause.
25 There was bullets and other things that we had found.

1 Q. And she, she said she shot her husband in the head?

2 A. She shot her husband in the head.

3 Q. But she didn't tell you that. She just said I shot my
4 husband.

5 A. Correct.

6 Q. And that was your, like you said, the basis for your
7 probable cause?

8 A. Well, the basis for the probable cause are the facts
9 that we know at the time that we present to a magistrate to
10 obtain an arrest warrant.

11 Q. Exactly my point, and afterwards what you do is follow
12 up on that information to verify that it's correct or to
13 make sure that there's not other information that you need
14 to give to prosecutors and/or defense attorneys, right?

15 A. Yes. We will do that.

16 Q. And you never gave the prosecutors and you never wrote
17 it down that, that Arletta Carr ever said that, correct?

18 A. I do not recall ever writing that down.

19 Q. Do you have on page 2 of your summary up there?

20 A. Yes.

21 Q. You talked about the reasons that you went ahead and
22 got the arrest. You said it was the accounts of the
23 marriage falling apart?

24 A. Yes.

25 Q. And that she had quit her job that morning?

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

441

1 A. Correct.

2 Q. And that information you said you got from
3 Investigator Chappell?

4 A. That -- I believe that Investigator Chappell got that.
5 The incident -- I was receiving information from a number
6 of officers. I can testify to what I know, but I did not
7 at the time when the investigation was unfolding take
8 detailed notes of who exactly told me what I can testify to
9 what I know, and a -- but if you're telling me that I wrote
10 that I got it from Investigator Chappell, then yes, that's
11 who I believe I got it from.

12 Q. You have your phone records in front of you, correct?

13 A. I believe ---

14 Q. Or her phone records.

15 A. Yeah, got those.

16 Q. And you relied heavily on those throughout this case,
17 correct?

18 A. To locate her, yes.

19 Q. And also to investigate. We've had several witnesses
20 talk about how they said that they had spoken with her, and
21 that she was on her way, right?

22 A. The phone records we didn't rely heavily on at that
23 point. We took those individuals at the face. Subsequent
24 to getting the hard copy of the phone records, we were able
25 to go back and say yes. In fact, this individual or that

1 individual did make a phone call, and we believe that they
2 are being truthful in what they say they talked to her
3 about.

4 Q. But on the day of your -- on the day that you're
5 seeking her out, even without verifying that, you were
6 relying that she was on her way. In fact, you said that
7 was one of the reasons that, that y'all went to Charlotte,
8 because she was fleeing.

9 A. Yeah. I mean, I believe we've verified it as best we
10 could. I mean, I had detectives at one location giving me
11 information that was consistent with what individuals at
12 the location I was at giving me the same information which
13 was consistent with what another detective at another
14 location had got. Those three individuals, I guess it's
15 possible in theory got together and came up with the same
16 story, but ---

17 Q. Not what I ---

18 A. --- that's highly unlikely. So, I believe ---

19 Q. Not what I'm saying at all.

20 A. Yeah, I believe we verified the information that we
21 were getting, consistent information from three completely
22 independent sources. I think that we verified it as best
23 we could.

24 Q. You have the phone records and you, you have the ones
25 where you identified -- I think we called it the populated

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

443

1 list. You identified, you identified who the callers or
2 calls received from were, correct?

3 A. I got -- I have the list in front of me that is the
4 list of phone numbers that Mr. McDonald with Richland
5 County had populated with known numbers, and then I have
6 individuals that I went back and identified from Shellie
7 Davis's phone records on my phone list. If that's what
8 you're referring to as a populated list, then yes, that is
9 what I have.

10 Q. It is, and you spoke -- one of the things you want to
11 do in your follow-up investigation is make sure you speak
12 to all those people, correct?

13 A. Not necessarily.

14 Q. It's not important to speak to the very first person
15 that, that she called at 8:07, right, 8:07 in the morning?

16 A. I believe we do ultimately speak to the majority of
17 the individuals on the list.

18 Q. Who do you have that individual identified as?

19 A. The -- let me make sure from my list.

20 Q. Do you, do you have that individual identified as
21 Tracee Crocker?

22 A. Yes. The individual is identified as Tracee Crocker.

23 Q. And you would agree with me that the first time you
24 spoke with Tracee Crocker was September 17, 2013?

25 A. I'll go with -- I know it was subsequent to the, the

1 arrest and everything and that -- I'll go with you. I
2 believe that you are correct with that date, yes.

3 Q. Three years subsequent to the arrest?

4 A. I believe so, yes.

5 Q. You said that when you were in Charlotte, someone
6 called your cell phone and asked if you knew Shellie Davis.
7 At that point, you knew who Shellie Davis was. In fact,
8 you were looking for her, correct?

9 A. Correct.

10 Q. But you told him no and hung up?

11 A. Yes.

12 Q. That -- but that's who you were looking for, right?

13 A. Correct.

14 Q. And then you received another call, and you said
15 individuals were trying to get y'all to come somewhere,
16 but, but you wanted to verify that that information was
17 correct before you, before you got there. You didn't want
18 to be lured into something that you weren't aware of,
19 right?

20 A. That's not exactly what I said.

21 Q. Okay. Tell me how you said it.

22 A. What I said was we received a phone call from
23 Detective Derrenbacher back in Lexington County who was
24 telling us that there was allegedly an incident involving
25 Shellie Davis in an adjoining county.

S. COLLINS - CROSS-EXAMINATION BY MS. ZMROCZEK

445

1 Q. Okay.

2 A. They weren't trying to get us to go anywhere. They
3 were giving us information.

4 Q. But before you went there, I believe you testified
5 that you called Union County to make sure that they weren't
6 trying to throw you off the trail.

7 A. Yes. That's essentially why we called, correct.

8 Q. And you find Shellie Davis and you understand that
9 she's been -- she shot herself in the head, correct?

10 A. Yes.

11 Q. And you talked to her in the ICU, correct?

12 A. Yeah. We talked to her in the hospital. ICU, that's
13 fine. Use that word.

14 Q. And then you start to gather information?

15 A. That is correct.

16 Q. And you were receiving not only evidence such as the
17 purple bag and the car. I think you testified that Ms.
18 Derrick, the crime scene investigator, was issuing search
19 warrants. Well, Ms. -- or there was another one at the
20 Algrave house, at Ms. Davis's house. That, that
21 information was being provided to you as what was in the
22 search warrant, too, correct?

23 A. We -- they executed the search warrants, some, but
24 they are not linear like you're describing. These search
25 warrants came at different junctures.

1 Q. Certainly. Eventually were you told what was
2 recovered?

3 A. I believe I was ultimately given information on
4 everything that was recovered, yes.

5 Q. Because as the lead investigator, you would need that
6 information?

7 A. Yeah. I would want to put it together, like you said,
8 to provide to prosecutors and defense attorneys ---

9 Q. And to rely ---

10 A. --- ultimately.

11 Q. And to rely -- I'm sorry. I didn't mean to interrupt
12 you.

13 A. No. That's fine.

14 Q. And to rely on that to help -- making sure that you
15 have a complete case and a complete understanding of what
16 happened, right?

17 A. Yeah. I believe we have a complete understanding of
18 what happened, correct.

19 Q. You understand and you even note it in your report
20 that investigators collected thirty-nine pages of journals
21 from Shellie Davis's house, correct?

22 A. I don't recall the number, but I know they recovered
23 journals from Shellie Davis's house. That is correct.

24 Q. And you read through those?

25 A. No, I did not.

S. COLLINS - CROSS-EXAMINATION / REDIRECT EXAMINATION 447

1 Q. In fact, I've asked you several times over the course
2 of this case if you've read them, and you haven't read
3 them, right?

4 A. No, I have not.

5 Q. Are you -- as lead investigator, are you responsible
6 for sending items to be tested at SLED?

7 A. Yes. That would be something that I would do, but
8 again I've been -- in addition -- forensics evidence is
9 something more suited for Crime Scene, but I, I guess to
10 answer your question, ultimately I would be aware of it.
11 But if a Crime Scene officer believes there may be some
12 kind of, like, a gunshot residue, they don't come to me and
13 ask me if I want that. Obviously we want that tested and
14 able to do that, but it is -- ultimately I will be notified
15 of anything that went to SLED I guess is a complicated way
16 to answer an easy question.

17 Q. And you were at the scene, correct?

18 A. Correct.

19 Q. And you saw that there was blood on the comforter, and
20 you saw that was blood on the bed, right?

21 A. No. I never saw any blood on the comforter. I do
22 recall seeing a slight bit of blood going down -- I believe
23 it was the side of the bed, but I never -- the bed was made
24 when I was in the room.

25 Q. But you received reports that Shelby Derrick, your

S. COLLINS - CROSS-EXAMINATION / REDIRECT EXAMINATION 448

1 crime scene investigator, had cut swabs because there had
2 been blood on the sheets and the comforter?

3 A. Yes. I was aware that there was blood or the --
4 believed presence of blood on the bed and the comforter,
5 correct.

6 Q. Forensic information is the kind of information that
7 helps solve cases and, and understand what happens in
8 cases, correct?

9 A. Correct.

10 Q. When was that, when was that blood tested?

11 A. I believe it was tested when you requested that it be
12 tested. I don't have the exact date.

13 Q. Just, just a few months ago?

14 A. Correct.

15 MS. ZMROCZEK: Beg the court's indulgence.

16 (A PAUSE.)

17 MS. ZMROCZEK: Your Honor, those are all the questions
18 I have.

19 THE COURT: Anything on redirect? Anything on
20 redirect?

21 MR. RIDDLE: I'm sorry, Your Honor. I apologize.
22 Briefly.

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION BY MR. RIDDLE:

25 Q. When you got that phone call in Charlotte.

S. COLLINS - REDIRECT EXAMINATION BY MR. RIDDLE

449

1 A. Yes.

2 Q. From the defendant's phone.

3 A. Correct.

4 Q. The male voice.

5 A. Yes.

6 Q. And you told him no.

7 A. Yes.

8 Q. Why did you tell him no?

9 A. Because the phone call was completely unexpected. It
10 had been several hours since I had made any attempt to
11 contact Ms. Davis's phone. I was actively engaged in other
12 business. My phone rang and it completely caught me off
13 guard. You know, obviously hindsight being 20/20, I wish I
14 would have engaged in a conversation. I simply didn't and
15 simply answered the question because I was caught off
16 guard. It was not what I was expecting at all.

17 Q. Did you know who you were talking to?

18 A. No, I had no idea.

19 Q. Okay. Did you know whether he may be trying to assist
20 Shellie Davis?

21 A. I had no idea. I mean, like I said, complete --
22 hindsight, looking back at the situation with 20/20
23 hindsight, I can answer those questions, but in the moment,
24 I had no expectation that my phone was ever going to ring
25 with anybody asking me if I knew Shellie Davis, a male

S. COLLINS - REDIRECT EXAMINATION / RECROSS-EXAMINATION 450

1 voice, because other than Charley Rice, I had not spoken to
2 any male suspects, nor -- not suspect. Any individual,
3 male individuals dealing with the case whatsoever.

4 Q. All right. The phone records.

5 A. Yes, sir.

6 Q. Did you have hard copies of these at the time you're
7 doing your investigation?

8 A. No, sir, I did not.

9 Q. Okay. Those don't come in until later?

10 A. Yes, they come in later.

11 Q. All right, and the last thing is at the time you're
12 doing your initial investigation and leading up to the
13 arrest in this case, did you have any piece of information
14 whatsoever that Jermaine Davis had ever laid a hand on
15 Shellie Davis?

16 A. No. There was absolutely no information that had been
17 provided to us whatsoever to indicate that Jermaine Davis
18 had ever been aggressive or done anything that would cause
19 us to believe there may be more than what we thought at
20 that point was going on in the investigation.

21 Q. You had the opposite information, though?

22 A. Exactly, the opposite information.

23 MR. RIDDLE: Thank you. That's all I have.

24 RECROSS-EXAMINATION BY MS. ZMROCZEK:

25 Q. You subsequently learned that there was information

S. COLLINS - RECROSS-EXAMINATION BY MS. ZMROCZEK

451

1 that he had laid hands on her, correct?

2 A. No. I've still never heard or been told any
3 information whatsoever the Jermaine Davis was ever violent
4 towards Shellie Davis. Nobody has ever told me that in --
5 any, any witness.

6 Q. So, you're not aware of the coworkers that spoke with
7 Lexington County and said that they saw bruises?

8 MR. RIDDLE: Objection. I, I got to take this up with
9 the court.

10 THE COURT: All right.

11 (OFF-THE-RECORD BENCH CONFERENCE.)

12 THE COURT: I will sustain the objection. That
13 question is stricken from the record. Ladies and
14 gentlemen, you are not to consider that question at all.

15 BY MS. ZMROCZEK:

16 Q. And just one more question, Investigator Collins. You
17 do have the phone records in front of you, right?

18 A. Correct.

19 Q. Can you look at September 22nd, the day of this
20 incident, at 1:34 p.m.?

21 A. I believe I'm in the ballpark.

22 Q. Okay. Does it -- does, does not -- does it indicate
23 -- doesn't it indicate that at 1:34 p.m. Shellie Davis
24 called Jermaine Davis's phone?

25 A. Correct. There is a phone call that would indicate

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

452

1 that that did take place.

2 Q. From her phone to his phone?

3 A. Correct.

4 MS. ZMROCZEK: I have no further questions.

5 THE COURT: Anything further of this witness?

6 MR. RIDDLE: No, sir.

7 THE COURT: Thank you very much, sir. You may step
8 down.

9 (THE WITNESS EXITS THE STAND.)

10 THE COURT: All right, you may call your next witness.

11 MR. RIDDLE: State calls Chris McTeague to the stand.

12 CHRISTOPHER K. MCTEAGUE, BEING
13 DULY SWORN, TESTIFIES AS FOLLOWS:

14 CLERK OF COURT: Once you're seated, state your full
15 name, spelling your last for the record, please.

16 WITNESS: My name is Christopher Kent McTeague,
17 M-c-t-e-a-g-u-e.

18 DIRECT EXAMINATION BY MR. RIDDLE:

19 Q. Sir, where are you employed?

20 A. I'm a crime scene investigator with the Union County
21 Sheriff's Office in North Carolina.

22 Q. All right, and is Union County near Charlotte?

23 A. Union County is an adjoining county with Mecklenburg
24 County, which is where Charlotte is, and we are immediately
25 to the east.

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

453

1 Q. All right, and how long have you been the Union
2 sheriff's department?

3 A. I was hired by Sheriff Cathey in Union in March of
4 2007. So, a little over seven years.

5 Q. All right, and what is your job with the sheriff's
6 department, sir?

7 A. I am a crime scene investigator.

8 Q. And were you employed in that capacity back on
9 September 22, 2010?

10 A. Yes, I was.

11 Q. All right, and did you get called out to a call in the
12 Chris Marks subdivision or on Chris Marks Drive that
13 evening?

14 A. Yes, I did.

15 Q. All right, and approximately what time were you called
16 and what time did you arrive?

17 A. I'm going to refer to my notes.

18 Q. Perfectly fine.

19 A. I received a call from -- I believe my cell phone
20 because it was after hours at 2137 or 9:37 p.m. in the
21 evening, and I arrived at Chris Mark Drive or in the Chris
22 Mark subdivision at 2141 less than ten minutes later. It's
23 very close to my home.

24 Q. Okay, and were there are some other officers from your
25 department on scene at that time?

1 A. Yes. Deputies from the sheriff's office were already
2 on scene when I arrived.

3 Q. All right, and what was your job there?

4 A. My job as a crime scene investigator is to identify,
5 document, preserve, and collect evidence of a crime, put it
6 into evidence, and then testify in court.

7 Q. Okay, and did you do that in this particular case?

8 A. Yes, I did.

9 Q. All right, and let's talk about some of the things
10 that you did and the process that you went through, okay?
11 First of all, you said, I believe, identify, document,
12 preserve, and collect?

13 A. That's correct.

14 Q. All right. What's the first step you go through in,
15 in your protocol as you come to a crime scene?

16 A. Using the best practices from the International
17 Association for Identification, which is the oldest
18 forensics association in existence and where I have my
19 crime scene certification through, normally we approach a
20 scene by talking to deputies already on scene. They'll be
21 the best sources of evidence or information of where I
22 should start looking for evidence. The next step is
23 normally to photograph the scene. It depends on the
24 severity of the crime. We'll treat a single break in
25 differently than property -- or property crime different

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

455

1 than a personal injury crime such as this. So, we
2 photograph the scene, identify specific items of evidence
3 that might need to be collected, document them further,
4 both photographically and through my notes, and then
5 collect the evidence.

6 Q. And in this particular case, did you have, for lack of
7 a better way to put it, multiple small scenes close
8 together?

9 A. That's correct.

10 Q. Okay, and you found different things in different
11 places but all in the same general vicinity?

12 A. It was all located on Chris Mark Drive just separated
13 by little bit of a block or two.

14 Q. A block?

15 A. It's an underdeveloped area of the, the subdivision,
16 so it's mostly woods and trees. However, we had -- one of
17 the scenes where part of the evidence was located, you had
18 to cross another side street to get down to the end of the
19 road where the other evidence was located.

20 Q. Okay. Tell us as you, as you go through, you
21 documented these areas and they were taped off as you
22 arrived on scene?

23 A. Deputies on scene had already identified some of the
24 evidence already on scene and had put up the yellow banner
25 guard tape to indicate not only the areas where it was

1 located but to keep unauthorized personnel out of those
2 locations.

3 Q. All right, and you mentioned that there was multiple
4 areas. Which area did you deal with first?

5 A. The first area was halfway down to Chris Mark Drive
6 located next to what looked like green, metal utility
7 boxes.

8 Q. Okay, and what was near there?

9 A. Deputy Helms and Deputy Walden were on the side of the
10 roadway next to the two metal utility boxes. There was a
11 yellow banner guard tape. The yellow sheriff's line tape
12 was in a circle on the ground, and inside I observed what
13 appeared to be suspected blood.

14 Q. Let me show you what's been marked State's 51 for ID,
15 ask you if you recognize what it is.

16 A. Yes, sir, I recognize it.

17 Q. Okay, and did you take that photograph?

18 A. Yes, sir, I did.

19 MR. RIDDLE: Your Honor, I'd offer into evidence.

20 MR. DOWTIN: No objection, Your Honor.

21 THE COURT: All right, without objection that State's
22 -- what number?

23 MR. RIDDLE: 51. I'm sorry.

24 THE COURT: State's 51.

25 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

457

1 NUMBER 51.)

2 MR. DOWTIN: All right, Your Honor, I believe Dayton
3 -- we've already agreed to all the photos he's going to
4 show, and so I won't object ---

5 MR. RIDDLE: I can go ahead and mark them all.

6 THE COURT: Yes, if you would just put in the record
7 the numbers that you're going to be using here.

8 MR. RIDDLE: Be glad to. I'll do them all right this
9 minute during -- it's State's 50, State's 52, 53, 54, and
10 55.

11 THE COURT: All right, then those items are in
12 evidence without objection, and you may use them as you see
13 fit.

14 MR. RIDDLE: All right.

15 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
16 STATE'S EXHIBITS NUMBER 50, 52, 53, 54, 55.)

17 BY MR. RIDDLE:

18 Q. Mr. McTeague, State's Number 51 that you took, what
19 does this area depict?

20 A. That's a photograph I took of Chris Mark Drive towards
21 the utility boxes that I mentioned earlier. It also shows
22 the yellow banner guard tape that's on a circle that was
23 around the suspected blood.

24 Q. Okay, and that was how far from the other areas that
25 you looked at roughly?

1 A. Other evidence was located inside the wood line nearby
2 that ---

3 Q. Okay.

4 A. --- location, and then more evidence was found on down
5 where I said, like a block or two away.

6 Q. Okay. What's the second area that you went to at the
7 Chris Mark Drive location after you documented the
8 suspected blood on the ground?

9 A. I walked in to the wood line where I believe Deputy
10 Walden had identified that there was a weapon lying in the,
11 in the woods.

12 Q. Okay, and did you document that as well?

13 A. Both photographically and through my notes, yes.

14 Q. All right. Let me show you what's marked as State's
15 Exhibit Number 52. How about step down for me, please?
16 Tell the jury what State's 52 is.

17 A. This is a photograph that I took probably after I was
18 a couple of feet into the wood line around towards the
19 weapon that was found in the woods.

20 Q. All right, and how does the State's 52 relate to
21 State's 53?

22 A. State's 52 is what we would call a more wide-angle
23 shot to try to show the evidence in relation to things
24 around it. State's 53 is more of a close-up shot which
25 shows more specifically what I was photographing.

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

459

1 Q. It's the same area and the same weapon, just two
2 different perspectives?

3 A. Two different perspectives possibly taken a little bit
4 closer. Take a few more steps, using the zoom on my Nikon
5 digital single-lens reflex.

6 Q. All right, and did you -- show that to the jury.

7 A. Sure.

8 Q. That's the faraway shot, and I've got the closer in
9 shot of that?

10 A. Yes, sir.

11 Q. All right, step with me, please, sir. And this is the
12 weapon that you found and recovered?

13 A. Yes, it is.

14 Q. All right, now let me hold that one. Take 54 and 55
15 and explain to the jury what those are, please, sir.

16 A. These are two photographs that I took of the weapon
17 once I had actually manipulated. I had picked it up to
18 look at it, and I photographed both sides of it in an
19 attempt to be able to see what was written on the weapon
20 right there on scene before I ever moved it and placed it
21 into evidence or placed it even in my vehicle.

22 Q. All right, and show those to the jury, please, sir,
23 and that's just the left and the right side of the gun as
24 you recovered it?

25 A. That's correct.

1 Q. All right. That's good.

2 Now, you mentioned that you had collected from down
3 the street a shirt?

4 A. There was a shirt located on the street or on the same
5 north side of the road on Chris Mark Drive, further on down
6 the road from where these other items were located, yes.

7 Q. And that shirt had been removed by the EMTs. Is that
8 correct?

9 A. I have no knowledge of how the shirt got there. It
10 was simply on the side of the road when I arrived.

11 Q. Okay. All right. The last thing you collected, did
12 you collect that from one of the officers who had taken
13 possession of an item?

14 A. One of the deputies on scene had advised me that there
15 was a purse located on the scene near the shirt and that he
16 had secured it in the trunk of his patrol vehicle prior to
17 my arrival.

18 Q. All right, and did you take possession of that?

19 A. I asked him to remove it from his trunk. I
20 photographed it, and it was collected by myself, yes.

21 Q. And that's, that's the purse that you collected?

22 A. Yes, sir. I had him place it inside his car so I
23 could shoot down inside of it so I could see the contents
24 of the purse, and yes, it was collected.

25 Q. In the light?

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

461

1 A. Yes, sir.

2 Q. And that's the purse that you collected on scene up in
3 Union County that night?

4 A. Yes, sir, it is.

5 Q. All right. What did you do with these items, Mr.
6 McTeague? You can have a seat now.

7 A. Thank you. I believe your question was what did I do
8 with these items, sir?

9 Q. Yes, sir.

10 A. With the exception of one item out of the purse, all
11 those items were collected by myself and driven back to the
12 Union County Sheriff's Office and placed into the Crime
13 Scene section's temporary storage lockers overnight.
14 Again, we work normally business hours. This was obviously
15 after business hours. 11:00 at night I believe is the time
16 I cleared. So, it was placed in temporary storage, which
17 is secured with a padlock which only I had the key to at
18 the time, and then I returned back home. And then the next
19 day I came in and packaged up all the evidence.

20 Q. All right, and did you subsequently release that
21 evidence to the Lexington Sheriff's Department?

22 A. The following day, I met with Detective Chandler from
23 the Lexington County, South Carolina, sheriff's department
24 and was requested by my lieutenant -- I'm sorry. Yeah, he
25 was still a lieutenant. I'm sorry, he's a Captain Luke

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

462

1 now, but at the time he was my direct lieutenant. He had
2 requested that I turn over all the evidence regarding this
3 case to the South Carolina deputies.

4 Q. And Detective Collins was with her?

5 A. There were several people there. Unfortunately
6 because we're a border county, I deal with South Carolina
7 law enforcement often, so this was not completely unique
8 situation for me to be dealing with.

9 Q. I'm with you. Is this one of y'all's forms, Detective
10 -- or, excuse me, Mr. McTeague?

11 A. Yes, it is.

12 Q. Okay, and is that countersigned by both Detective
13 Chandler and Detective Collins?

14 A. I recognize the name Chandler. I really can't make
15 out -- oh, I see it up here. Yes, Chris Chandler and
16 Stephen -- or Steven Collins.

17 Q. Okay, and that's one of -- that's y'all's?

18 A. That is a standard Union County Sheriff's Office
19 property form, yes.

20 Q. All right. The gun, as it was collected, did you make
21 note of the position of the safety on that gun?

22 A. Yes, sir, I did.

23 Q. And how was it collected by you? What position was it
24 in?

25 A. Once I manipulated the weapon, pick -- picking it up

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

463

1 off the ground, I noted that the safety selector lever was
2 in a fire position.

3 Q. Okay, and did you notice anything about the slide as
4 you collected it?

5 A. My initial -- I initially looked at the weapon, and it
6 appeared that the slide was locked back in the --
7 semiautomatic pistols, often times the slide will lock back
8 on the last round. But when I manipulated the, the weapon,
9 I was able to look at it. The slide lock was not engaged
10 although the slide was partially to the rear.

11 Q. Okay, and as part of your job, do you -- you have to
12 make the weapon safe?

13 A. That's correct.

14 Q. And unload it?

15 A. We have to make it safe for transport and storage in
16 evidence, yes, sir.

17 Q. Right, and, and as part of that process, you actually
18 would unload the weapon?

19 A. We remove the ammunition components from the weapon.

20 Q. Right.

21 A. For transport, yes.

22 Q. Okay, and did you do that in this particular case?

23 A. Yes, sir, I did.

24 Q. All right, and when you did that, you removed the
25 magazine first?

1 A. Standard best practices and safety says you keep the
2 weapon pointed in safe direction at all times, and then
3 step number two is to remove the, the magazine so if you
4 have an accidental discharge, you only have one accidental
5 discharge rather than several with a semiautomatic pistol
6 like this. So, the first step is, yes, to press the
7 magazine release and drop the magazine out of the weapon.

8 Q. All right, and when you did that, did you package
9 those components separately?

10 A. I packaged them separately based on it was highly
11 unusual the way they came out of the weapon because there,
12 there was still rounds that were in the weapon when the
13 magazine was removed.

14 Q. Okay.

15 A. And since they fell out separate, I felt it necessary
16 to package those separately.

17 Q. All right. Let me show you this item and ask if you
18 recognize what it is. It's been removed from the packaging
19 so that it could be secured with a gun lock.

20 A. Okay. The item you just handed me here, this is a
21 standard sticker that I put on the outside of my, my pieces
22 of evidence in Union County bearing the case number for the
23 Union County Sheriff's Office collected by myself and my
24 badge number, the date I seized it, and a description.

25 Q. All right.

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

465

1 A. So, this is one of mine, yes.

2 Q. Okay, and did you notate in your notes the serial
3 number of the weapon?

4 A. I did.

5 Q. And can I get you to look at that weapon and that
6 serial number and compare it to your notes?

7 (A PAUSE.)

8 A. Yes, sir.

9 Q. Do they match?

10 A. Yes. This is the weapon that I collected that night.

11 Q. All right.

12 MR. RIDDLE: And, Your Honor, we're referring to
13 State's Exhibit Number 61. I'd offer that into evidence at
14 this point.

15 THE COURT: Objection to State's 61?

16 MR. DOWTIN: No objection, Your Honor.

17 THE COURT: All right, it's in evidence without
18 objection.

19 (BERSA .380 MARKED INTO EVIDENCE AS STATE'S EXHIBIT
20 NUMBER 61.)

21 BY MR. RIDDLE:

22 Q. Let me show you State's 58 for identification, ask if
23 you recognize what this is?

24 A. Yes, sir, I recognize this.

25 Q. What is that?

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

466

1 A. This shows the packaging. Again, my standard sticker
2 that I put on the outside of evidence, and it appears that
3 the magazine, the Bersa .380 magazine with a live round
4 which is a PMC .380 auto, had been removed and, and sealed
5 by someone after my original.

6 Q. When, when you actually removed that magazine from the
7 gun, the live round was still in the magazine?

8 A. Normally I try not to remove the, the rounds from the
9 magazine to not add any more toolmarks, so yes, I would
10 leave the rounds in the magazine. That's correct.

11 Q. All right. They've subsequently been taken out?

12 A. Usually by somebody else, yes.

13 Q. All right. Thank you.

14 MR. RIDDLE: Your Honor, I'd offer State's 58 into
15 evidence.

16 MR. DOWTIN: No objections.

17 THE COURT: Without objection.

18 (MAGAZINE WITH LIVE AMMUNITION MARKED INTO EVIDENCE AS
19 STATE'S EXHIBIT NUMBER 58.)

20 BY MR. RIDDLE:

21 Q. And State's 59, you recognize that?

22 A. Yes, I do recognize it. This is another one of the
23 evidence collection packages that I would have used to
24 collect the two live rounds that came out of the Bersa
25 pistol. They've also subsequently been removed from my

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

467

1 packaging and placed into plastic.

2 Q. All right.

3 MR. RIDDLE: I'd offer these into evidence as well,
4 Your Honor, State's 59.

5 THE COURT: Objection?

6 MR. DOWTIN: No objection, Your Honor.

7 THE COURT: State's 59 without objection.

8 (TWO LIVE ROUNDS MARKED INTO EVIDENCE AS STATE'S
9 EXHIBIT NUMBER 59.)

10 BY MR. RIDDLE:

11 Q. Now, Detective -- excuse me, Mr. McTeague, let me show
12 you this item and ask if you recognize what it is.

13 (A PAUSE.)

14 A. I do recognize the purse as being the purse I had that
15 night and don't recognize the subsequent packaging.

16 Q. All right. Does that appear to be the purse?

17 A. Yes, sir, it does.

18 Q. Okay, and you collected that that night?

19 A. It was collected -- it was secured by one of the
20 deputies in the trunk of his car. I got it from the trunk
21 of his car, yes.

22 Q. Okay. I'm sorry. I've got these bags right in front
23 of the microphone.

24 Detective McTeague, did you, did you search or
25 inventory this purse, or did you just secure it?

C. MCTEAGUE - DIRECT EXAMINATION BY MR. RIDDLE

468

1 A. At the time, because it was late at night, normal
2 procedure is just to seize and place it into temporary
3 storage, and then the actual inventory of the purse would
4 have been done subsequently. It wasn't done in this case
5 because we turned all the evidence directly over to South
6 Carolina law enforcement.

7 Q. Okay. So, you never inventoried the purse?

8 A. Not, not other than a general look through to identify
9 if there had been anything specifically like another
10 weapon, anything dangerous, but no, I didn't do an
11 inventory of the, of the purse at the time.

12 Q. Okay, and this is the purse you collected that night?

13 A. Yes, sir.

14 MR. RIDDLE: Your Honor, I'd offer State's 68 into
15 evidence.

16 MR. DOWTIN: No objection, Your Honor.

17 THE COURT: Without objection, State's 68.

18 (PURSE AND CONTENTS MARKED INTO EVIDENCE AS STATE'S
19 EXHIBIT NUMBER 68.)

20 BY MR. RIDDLE:

21 Q. Detective McTeague, after you had done all that, did
22 that end your involvement on that particular day, the 22nd
23 of September?

24 A. Once I'd collected all these items of evidence, yes.
25 I returned all these items of evidence back to the Union

C. MCTEAGUE - DIRECT EXAMINATION / CROSS-EXAMINATION 469

1 County Sheriff's Office and secured them in the crime lab
2 and then, then went home for the evening.

3 Q. All right, and it was dark when y'all were out there
4 that night?

5 A. Extremely dark in that location, yes.

6 Q. All right. Did you subsequently go back to that area?

7 A. After turning the evidence over to the South Carolina
8 law enforcement, I was requested to return back out to the
9 area where the weapon had been found, and with my partner
10 at the time, a crime scene investigator named Charlie
11 Ingram, we searched the woods and the wooded area along the
12 side of the road between the area where the weapon was
13 found and where the purse and the shirt was found with
14 metal detectors in hopes to find the spent .380 cartridge
15 casing since we had not found a spent round.

16 Q. Right. Were you able to find anything?

17 A. No. Both of us searched out there for several hours
18 with metal detectors and were unable to locate the spent
19 cartridge casing.

20 Q. All right. Is that unusual?

21 A. I, I hate to say that's usual, but it's not, not
22 without precedent. It's happened to me in the past before,
23 especially in a heavily wooded section, to not be able to
24 find something as small as a spent cartridge casing,
25 especially with the wooded area being full of trash that

C. MCTEAGUE - DIRECT EXAMINATION / CROSS-EXAMINATION 470

1 people like to throw out of their cars as they drive by.

2 So, we get getting a lot of false positives and were unable
3 to, to locate anything.

4 Q. All right.

5 MR. RIDDLE: Beg the court's indulgence for one
6 second.

7 THE COURT: Yes, sir.

8 MR. RIDDLE: Thank you, Mr. McTeague. Please answer
9 any of defense's questions.

10 MR. DOWTIN: Your Honor, may we approach?

11 THE COURT: Yes, sir.

12 (OFF-THE-RECORD BENCH CONFERENCE.)

13 THE COURT: Ladies and gentlemen, they've gone to get
14 a piece of evidence that, that was left in the back.
15 They've gone to get that. So, rather than send you out and
16 bring you right back in, you're just going to remain at
17 ease for a moment and have uncomfortable silence while we
18 do that.

19 (A PAUSE.)

20 CROSS-EXAMINATION BY MR. DOWTIN:

21 Q. I believe you said it's McTeague? McTeague?

22 A. McTeague, McTeague, either is fine.

23 Q. Okay. Sorry. I just want to be clear with that.

24 Officer McTeague, you arrived on the scene because you
25 were notified a woman had shot herself in the head,

C. MCTEAGUE - CROSS-EXAMINATION BY MR. DOWTIN

471

1 correct?

2 A. I received a phone call. I don't know if they told me
3 that it was a woman had shot herself or it was just a
4 shooting investigation, or they just asked me to respond,
5 but it's not uncommon to receive phone calls when I'm on
6 call ---

7 Q. Okay.

8 A. --- to respond to crime scenes.

9 Q. All right, and when you fire a pistol, the safety has
10 been off for it to fire, correct, in most cases?

11 A. If the weapon's functioning correctly, yes, it needs
12 to be in the fire position, correct.

13 Q. And you also said it's common for a gun to jam when
14 it's -- when you're -- when it fires and it's trying to
15 pump another cartridge into the chamber, sometimes a jam
16 can happen. It's not uncommon?

17 A. In my experience in not only firing firearms but
18 fifteen years I've been in law enforcement, in Crime Scene
19 specifically, I've see many weapons jam in the
20 semiautomatic configuration.

21 Q. I'm going to show you what's been marked as, I'm going
22 to show you what's been marked as Defendant's Exhibit
23 Number 1 and see if you recognize it.

24 (A PAUSE.)

25 Q. Do you recognize this?

C. MCTEAGUE - CROSS-EXAMINATION BY MR. DOWTIN

472

1 A. I recognize the packaging. That's my label, along
2 with my seal. It hasn't been opened up further, and that
3 appears to be the shirt, yes, the shirt that I collected
4 the same night, along with the weapon and the other items.

5 Q. So, you recovered this and turned it over to the
6 appropriate authorities?

7 A. I recovered this. It was placed in the crime lab
8 overnight. I packaged it, and I turned it over to the
9 South Carolina law-enforcement officers when they came up,
10 correct.

11 Q. Okay.

12 MR. DOWTIN: Your Honor, at this time I'd like to move
13 into evidence defense counsel's exhibit number 1.

14 THE COURT: Without objection?

15 MR. RIDDLE: No objection.

16 THE COURT: All right, Defense 1 is in evidence
17 without objection.

18 If you can stick it -- yeah, just stick it back and
19 then put it in the plastic bag so we can put a sticker on
20 it.

21 (BLUE SHIRT WITH BLOOD MARKED INTO EVIDENCE AS

22 DEFENDANT'S EXHIBIT NUMBER 1.) November 4, 2018

23 BY MR. DOWTIN:

24 Q. And earlier you said something that really stuck out
25 to me and I thought it was very well worded. You said that

C. MCTEAGUE - CROSS-EXAMINATION BY MR. DOWTIN

473

1 you have training in identifying, documenting, collecting,
2 testing, and preserving evidence to testify in court,
3 correct?

4 A. I said everything except test.

5 Q. Okay. I apologize, and that's important for making
6 sure that a case is fully presented to a jury, correct?

7 A. I, I would think so, yes.

8 MR. DOWTIN: I have no further questions, Your Honor.
9 Thank you.

10 THE COURT: Anything further?

11 MR. RIDDLE: No. I would like to thank Officer
12 McTeague and ask that he be excused.

13 THE COURT: Any objection?

14 MR. DOWTIN: No objection, Your Honor.

15 THE COURT: You may be released. Thank you.

16 WITNESS: Am I released?

17 THE COURT: You are. You are released. Thank you
18 very much.

19 (THE WITNESS EXITS THE STAND.)

20 THE COURT: We're going to take a short break here
21 while we change over the files in the court reporter's
22 machine. So, ladies and gentlemen, retire back to your
23 jury room. Have no conversation about the case. If you
24 need anything, just let the bailiffs know, and we'll start
25 back in just a little bit.

1 (THE JURY EXITS AT 10:57 A.M.)

2 THE COURT: All right, we'll take five, ten minutes
3 and start back.

4 (OFF THE RECORD.)

5 THE COURT: All right, we ready? All right, Shannon,
6 go ahead.

7 MS. SHANNON DAVIS: Thank you, Your Honor. The state
8 and defense over the break have met, and we have agreed to
9 some exhibits going ahead and being entered as a
10 stipulation.

11 THE COURT: All right.

12 MS. SHANNON DAVIS: The first is State's Number 57,
13 which is the shell casing.

14 THE COURT: Okay.

15 MS. SHANNON DAVIS: State's Number 76, which is the
16 defendant's phone, cell phone.

17 THE COURT: Okay.

18 MS. SHANNON DAVIS: State's ---

19 THE COURT: State's 76? I'm sorry.

20 MS. SHANNON DAVIS: 76, Your Honor.

21 THE COURT: Okay.

22 MS. SHANNON DAVIS: State's Number 69, which is
23 victim's cell phone; State's 64, which is a white envelope
24 with contents.

25 THE COURT: Okay.

1 MS. SHANNON DAVIS: State's 63, which is the gun box
2 and contents; State's 66, which are two sheets; State's 67,
3 which is the bedspread; State's 10 through 15, which are
4 photographs; State's 17 and 18, which are photographs;
5 State's 20 through 25, which are photographs; and State's
6 39 through 45, which are photographs.

7 THE COURT: All right, Ms. Zmroczek.

8 MS. ZMROCZEK: Thank you, Your Honor, and for
9 defendant's exhibits -- and these are all photographs.

10 THE COURT: Okay.

11 MS. ZMROCZEK: It's 13, 14, 15. Oh, and 16. Sorry,
12 and then 18, 21, 23, 24, and then 27 through 37, and 40.

13 THE COURT: All right, and those are also entered
14 in ---

15 MS. ZMROCZEK: Oh, excuse me. 40 are -- 40 is the
16 victim's entire content list -- or contact list from his
17 phone.

18 THE COURT: Okay.

19 MS. ZMROCZEK: And, Your Honor, and I spoke with them
20 and they've agreed because Judge Newman's cell phone, Steve
21 Benjamin's cell phone, and Danny Frazier's cell phones were
22 in here, and I've redacted those.

23 THE COURT: All right. All right.

24 MS. SHANNON DAVIS: She's redacted those phone
25 numbers.

1 MS. ZMROCZEK: Just the numbers, not the names.

2 THE COURT: Right. All right, and so those are, those
3 are all in evidence without objection, okay.

4 MS. ZMROCZEK: Thank you.

5 THE COURT: So, ladies, when you get to a witness and
6 you are going to use those items, you know, obviously
7 they're in evidence. You don't have to lay a foundation.
8 Just use them as you choose to use them.

9 MS. SHANNON DAVIS: Thank you, Your Honor.

10 MS. ZMROCZEK: Thank you.

11 THE COURT: All right, let's bring the jury in,
12 please.

13 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
14 STATE'S EXHIBITS 10, 11, 12, 13, 14, 15, 17, 18, 20, 21,
15 22, 23, 24, 25, 39, 40, 41, 42, 43, 44, 45.)

16 (SHELL CASINGS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
17 NUMBER 57.)

18 (GUN BOX WITH PAPERWORK MARKED INTO EVIDENCE AS
19 STATE'S EXHIBIT NUMBER 63.)

20 (ENVELOPE WITH RINGS/MONEY MARKED INTO EVIDENCE AS
21 STATE'S EXHIBIT NUMBER 64.)

22 (TWO BEDSHEETS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
23 NUMBER 66.)

24 (BEDSPREAD MARKED INTO EVIDENCE AS STATE'S EXHIBIT
25 NUMBER 67.)

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 477

1 (VICTIM'S CELL PHONE MARKED INTO EVIDENCE AS STATE'S
2 EXHIBIT NUMBER 69.)

3 (DEFENDANT'S CELL PHONE MARKED INTO EVIDENCE AS
4 STATE'S EXHIBIT NUMBER 76.)

5 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
6 DEFENDANT'S EXHIBITS 13, 14, 15, 16, 18, 21, 23, 24, 27,
7 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40.)

8 (THE JURY ENTERS AT 11:25 A.M.)

9 THE COURT: All right, ladies and gentlemen, we will
10 resume now with the state's case.

11 You may call your next witness.

12 MS. SHANNON DAVIS: Thank you, Your Honor. The state
13 calls shall Shelby Derrick.

14 THE COURT: Ms. Derrick, if you'd please come around
15 to be sworn.

16 SHELBY DERRICK, BEING DULY SWORN,
17 TESTIFIES AS FOLLOWS:

18 CLERK OF COURT: Once you're seated, state your full
19 name, spelling your last on the record, please.

20 WITNESS: Shelby Derrick, D-e-r-r-i-c-k.

21 DIRECT EXAMINATION BY MS. SHANNON DAVIS:

22 Q. Shelby, where are you employed?

23 A. Employed in the Lexington County Sheriff's Department.

24 Q. And what is your position there?

25 A. Crime scene investigator.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 478

1 Q. How long have you been with Lexington County as a
2 crime scene investigator?

3 A. As a crime scene, investigator almost six years now.

4 Q. What is your other experience in law enforcement?

5 A. I started at the sheriff's department in March of
6 2006. I was a road patrol officer and then promoted to
7 crime scene investigator.

8 Q. Okay. Can you explain to the jury the duties of a
9 crime scene investigator?

10 A. My duty as a crime scene investigator is to gather
11 information involving any type of crime: documenting,
12 preserving, collecting, packaging and turning in evidence.

13 Q. Were you working as a crime scene investigator
14 September 22nd 2010?

15 A. Yes, ma'am.

16 Q. Did you respond to a scene involving the decedent,
17 Jermaine Davis?

18 A. Yes, I did.

19 Q. Okay, and why did you respond to that scene?

20 A. I received a phone call from Lieutenant Scottie Frier
21 of the Major Crime Unit and asked me to respond to the
22 crime scene involving a death.

23 Q. Did you have any information about the death at the
24 time?

25 A. Not at the time that I received the phone call, no,

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS

479

1 ma'am.

2 Q. Okay, and where did you respond?

3 A. Quail Hollow Apartments, Feather Run Trail.

4 Q. And is that in Lexington County?

5 A. Yes, ma'am, West Columbia, Lexington County.

6 Q. Do you recall when you arrived on scene?

7 A. Sorry. I was notified at 1304, which would be 1:04
8 p.m. in the afternoon, and I arrived on scene at 1318,
9 which is what 1:18 p.m.

10 Q. Okay, and when you arrived on scene, what did you do?

11 A. When I arrived on scene, I gathered information from
12 the officers that were on scene and met with Investigator
13 Collins, who was previously there.

14 Q. And is that typical for you to meet with the lead
15 detective on the case to be briefed on what you have at the
16 scene?

17 A. Yes, ma'am.

18 Q. And you did that with Detective Collins?

19 A. Yes, ma'am.

20 Q. Okay, and where, where did you speak with Detective
21 Collins?

22 A. When I arrived on scene, Detective Collins was already
23 upstairs in the apartment in the crime scene, and I stepped
24 in and spoke with him in the living room area of the, of
25 the apartment.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 480

1 Q. And do you have a copy of the crime scene log, sign-in
2 log?

3 A. Yes, ma'am.

4 Q. And the first crime -- on the crime scene log, the
5 first time you signed in is 1324, which is 1:24 p.m., and
6 signed out at 1330 p.m.?

7 A. Yes, ma'am.

8 Q. Would that have been when you went inside to speak
9 with Detective Collins in the apartment and stepped back
10 out?

11 A. Yes, ma'am.

12 Q. Okay. What did you do after you spoke with Detective
13 Collins?

14 A. After I spoke with Detective Collins, I got a, a brief
15 description on what we had so far, and then we stepped out
16 together, and we waited briefly on the coroner's officer
17 and my assistant to arrive at the scene.

18 Q. Okay. Who is your assistant?

19 A. I'm sorry. Crime scene investigator, David Day.

20 Q. Okay, and did the coroner's office arrive?

21 A. Yes, ma'am.

22 Q. And what did you do once the coroner's office had
23 arrived on the scene?

24 A. Once the coroner's office arrived and my other crime
25 scene investigator, myself, the coroner's office,

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 481

1 Investigator Day, and Investigator Collins, we all stepped
2 back into crime scene to investigate the actual body of
3 the, the victim.

4 Q. Okay, and so did you go -- you went into the
5 apartment. Did you go into the actual bedroom of the
6 victim?

7 A. At, at that time, we actually went into the bedroom,
8 yes, ma'am.

9 Q. Okay, and what did you do when you entered the
10 bedroom?

11 A. We viewed the victim's body, and we actually rolled
12 the victim over to see where -- this source of blood that
13 was present at the scene.

14 Q. And were you able to determine the source of the
15 blood?

16 A. Yes, ma'am. He had a small circular hole in the base
17 of his neck right here, which was consistent with a shot, a
18 gunshot wound.

19 Q. Okay, and once you discovered that it was a gunshot
20 wound, what did you do at that time?

21 A. At that time we all exited the, the apartment, leaving
22 it secured by an officer, and obtained a search warrant.

23 Q. And did you all leave the crime scene to wait for the
24 search warrant?

25 A. Yes, ma'am. We stepped out of the apartment and

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 482

1 waited in the parking lot for the crime scene -- or the
2 search warrant, I'm sorry.

3 Q. So on the crime scene log, that would have been the
4 second time that you signed out?

5 A. Yes, ma'am. We all exited at 1355, which would be
6 1:55 p.m.

7 Q. And is anyone allowed into the crime scene after --
8 while you're waiting for the search warrant?

9 A. Not while we were waiting for the search warrant. We
10 closed it off and secured it until the search warrant
11 arrived.

12 Q. Okay, and did a search warrant later arrive at the
13 scene?

14 A. Yes, ma'am.

15 Q. Okay. What did you do after that?

16 A. Once the search warrant arrived, myself and the other
17 crime scene Investigator Day entered the residence and
18 processed the scene.

19 Q. When you say processed the scene, can you explain to
20 the jury what that means?

21 A. Yes, ma'am. Processing the scene is a general term
22 that we use. Processing would be collecting any
23 information, taking notes, photographing the scene. Just
24 discovering what could possibly be evidence, labeling the
25 evidence, collecting the evidence, photographing the

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 483

1 evidence, and securing it.

2 Q. Okay, and let's walk the jury through the processing
3 of the scene in this case.

4 A. Okay. In this case, I entered the scene under the
5 search warrant at 1453, which would be 2:53 p.m. I do a
6 general walk through as I photograph, starting from the
7 outside to the inside all rooms and angles of the room.
8 And then my main focus of the actual apartment would be
9 where the, the victim is located, which would be his
10 bedroom, and then I photographed that bedroom and, and the
11 victim, and any pieces of items that I see in the, in the
12 actual room and apartment.

13 Q. Okay. So, you start from the outside of the
14 apartment, photograph that to document the scene as is, and
15 then you photograph your way inside?

16 A. Yes, ma'am.

17 Q. Into the bedroom of Jermaine Davis?

18 A. Yes, ma'am.

19 Q. And do you take photographs to document the scene as
20 it is at that time?

21 A. As it is that time, yes, ma'am. I take my photographs
22 first and then label my evidence.

23 Q. Does anyone touch anything before you take this, these
24 photographs?

25 A. No, ma'am.

1 Q. So, the scene as it was when you arrived?

2 A. Yes, ma'am.

3 Q. Okay, and you took pictures of the apartment, of the
4 victim's bedroom. What else did you take pictures of?

5 A. I took pictures of the apartment, the victim's
6 bedroom, the victim himself, and several items within the
7 bedroom.

8 Q. Okay, and when you walked into the bedroom of Jermaine
9 Davis, can you describe what you saw?

10 A. Yes, ma'am. When, when you walk into the room, to the
11 right was dressers and furniture. Directly in front of you
12 was a, a, a bed, and to the left side facing the bed to the
13 left side was the victim laying on his back, and that was
14 pretty much all the furniture in the room.

15 Q. Okay. Can you tell me how the victim was positioned?

16 A. The victim was positioned whereas his feet would be
17 into the closet area, on his back, with his head partially
18 actually up underneath the bed frame.

19 Q. Okay, and you mentioned that there was a bed involved.
20 Was the bed made when you entered the scene?

21 A. The bed was made, yes, ma'am.

22 Q. Okay. Did you -- you took photos of the victim?

23 A. I did.

24 Q. At that time, did you have to move any of the bedding
25 in order to take those photographs?

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 485

1 A. Yes, ma'am. Because his head was partially under the
2 bed frame, we actually scooted the bed and lifted the
3 bedspread.

4 Q. Okay. Were you able to find any physical evidence at
5 the scene in this case?

6 A. Yes, ma'am. In the bedroom to the right side of the
7 bed in the corner of the room was a shell, spent shell
8 casing that I actually collected. Between the dresser area
9 was a cell phone that actually was on the floor. It was on
10 the dresser to start with, and due to the vibrations, the
11 phone ringing, it actually fell to the floor. So, I think
12 in my pictures, the first one is in -- on the dresser. The
13 second one is on the floor. So, I actually collected it
14 from the floor.

15 Q. So, the cell phone was still ringing while you were on
16 scene?

17 A. Yes, ma'am. It was powered on and still ringing.

18 Q. Okay. Did you collect any other physical evidence
19 from the bedroom?

20 A. From the actual bedroom?

21 Q. Yes.

22 A. I don't believe -- I'm sorry, the sheets and bedding.

23 Q. Okay, and any other evidence collected from the
24 apartment itself?

25 A. Yes, ma'am. Hold on. Sorry. Let me refer to my

1 notes.

2 Q. Sure.

3 A. From the actual apartment I collected the shell
4 casing, the Blackberry cell phone, the bedspread, and two
5 sheets from the actual bedroom where the victim was
6 located. From the hall bathroom I collected a paper towel
7 and washcloth.

8 Q. Okay. Did you do any gunshot residue testing?

9 A. Yes, ma'am, on the victim after my photographs were
10 taken. Usually during a, a shot or gunshot incident we
11 take gunshot residue, and so I did, I did conduct a gunshot
12 residue test on the victim.

13 Q. Okay, and can you tell the jury the procedure for
14 that?

15 A. Yes, ma'am. It's a kit. I do have kit. Do you want
16 it?

17 Q. You can show them how you ---

18 A. Okay.

19 Q. --- how you take a GSR test? That would be great.

20 A. It's just a plain envelope and it has -- I call them
21 sticky stubs, but that's not really the technical term. I
22 don't know if there is a technical term, but it's a sticky
23 pad, and you just stick it on the hand of the victim or
24 suspect or person you're collecting it from, and they're
25 all labeled. So, this would be the left palm, which would

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 487

1 be the left palm of the hand, and I would stick all over,
2 and it collects gunshot residue powder.

3 Q. Okay, and you took a sample from the victim in this
4 case?

5 A. Yes, ma'am.

6 Q. Was any other gunshot residue test taken?

7 A. At that time, you collect the, the stick -- the sticky
8 stubs -- sorry, and you also collect swabs in the same
9 manner and you use the sticky part. You take -- there's
10 two cotton swabs. Well, there's several cotton swabs, but
11 you take one or two and drop a -- I believe it's acid, yes.
12 Plop, drop couple drops of acid on the swab to moisten the
13 swab, and then you rub the swab in the same area that you
14 collected with the sticky, and then they're also labeled
15 left palm, right back, right palm, and that would be the
16 back of the palm of the hand, depending on the label, and
17 then that -- would stick them in there as well.

18 Q. And you would collect those as evidence?

19 A. Yes, ma'am.

20 Q. So, it's a two-part test for the gunshot residue?

21 A. Yes, ma'am.

22 Q. And you conducted that test on the decedent?

23 A. I did.

24 Q. And did any -- was there any other gunshot residue
25 test taken?

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 488

1 A. Yes, ma'am. While, while I was doing this, my copart,
2 Investigator Day, was also collecting GSR from the roommate
3 of the victim.

4 Q. Charley Rice?

5 A. Charley Rice.

6 Q. Okay, and did Investigator Day give you that?

7 A. He did.

8 Q. What he collected?

9 A. After he collected the kit, he turned the kit over to
10 my custody.

11 Q. Okay. Did you fingerprint the victim?

12 A. After collecting GSR, I did collect ink fingerprints
13 of the victim.

14 Q. Okay.

15 A. On scene.

16 Q. Okay, and you mentioned that you collected the
17 victim's a cell phone that was ringing?

18 A. Yes, ma'am.

19 Q. Did you take any photographs of that phone?

20 A. Yes, ma'am. I took photographs to show that it, it
21 was actually still ringing, and then I powered the phone
22 off and collected it.

23 Q. Okay. When you were powering the phone off, did you
24 make any phone calls on that phone?

25 A. I believe I actually did hit the send button, and it,

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS

489

1 it did actually call a number I think for, like, two
2 seconds, and then I immediately tried to stop it.

3 Q. Do you know who it is that you called?

4 A. Actually I think, believe it was the defendant.

5 Q. Okay, and that would have been a two-second call?

6 A. Yes, ma'am.

7 Q. And that was just done by accident while you were
8 trying to power it off?

9 A. Yes, ma'am.

10 Q. Okay. Now, let's talk about the bedding. Why did you
11 collect the sheets and the bedspread?

12 A. I collected the, the bedspread and the sheets. There
13 was blood present on the bedspread on the corner -- well,
14 on the side. Not really the corner of the bedspread where
15 the victim's head had been laying. So as general
16 procedural, we collected the bedsheets.

17 Q. Okay.

18 A. As well as the bedspread.

19 Q. Okay, and at a later time, did you take swabs from the
20 sheets and the bedspread?

21 A. Yes, ma'am. There was brownish-red stains on the
22 sheets that are consistent with blood and, therefore, I did
23 swab them.

24 Q. Okay, and can you show the jury how you take those
25 swabs?

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 490

1 A. Yes, ma'am. It's kind of similar to the swabs in the
2 GSR kit. It's two cotton swabs in a sterile pack, and I
3 remove the two cotton swabs and I -- there's a sterile,
4 distilled water container. I take two or three drops and
5 moisten the tip of the cotton swab and then soak up the
6 stain or, or take a sample of the stain with the moistened
7 cotton swab and then allow it to dry, and then I package
8 it.

9 Q. Do you recall how many swabs you took from the sheets
10 and the bedspread in this case?

11 A. I believe I took ten total, two of each location.

12 Q. And is it your job to test these swabs?

13 A. No, ma'am. I do not test the swabs; I just collect
14 them.

15 Q. Okay. Those are sent to someone else for testing?

16 A. Yes, ma'am.

17 Q. Okay. I'm going to show you what's been entered as
18 State's 57. Do you recognize this?

19 A. Yes, ma'am.

20 Q. Okay, and how do you recognize that?

21 A. This would be the shell casing that I found in the
22 bedroom.

23 Q. Okay, and State's 69?

24 A. This would be the Blackberry cell phone that was also
25 collected from the bedroom.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 491

1 Q. And that would be the victim's cell phone that was
2 ringing?

3 A. Yes, ma'am.

4 Q. Show you State's Number 10. Do you recognize this?

5 A. Yes, ma'am.

6 Q. And what is that?

7 A. That is the entrance way to the stairwell of the
8 apartment.

9 Q. So, this would have been the photograph you took off
10 the outside of the crime scene?

11 A. Yes, ma'am, before I entered the stairwell.

12 Q. Okay, and State's Number 11, is that you photographing
13 your way in as you stated?

14 A. Yes, ma'am. That's the, the front door of the
15 apartment.

16 Q. So, this is where you're standing at the very front
17 door, what you would see as you entered the apartment?

18 A. Yes, ma'am.

19 Q. Okay, and State's Number 12, what does this depict?

20 A. Typically in any type of situation when we're entering
21 a residence, we show the locks or doorknobs to show if
22 there was forced entry or not, and that shows no damage to
23 the actual entry of the doorway.

24 Q. So in your experience, would that indicate no forced
25 entry?

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS

492

1 A. Yes, ma'am.

2 Q. State's Number 13.

3 A. That would be the living room, which is also where I
4 stepped in and spoke with Detective Collins.

5 Q. Okay, and this would have been part of you
6 photographing your way in?

7 A. Yes, ma'am.

8 Q. State's Number 14.

9 A. This would be I'm standing actually in the bedroom
10 door facing into the bedroom.

11 Q. So, State's Number 14 would be the sight you would
12 have seen when you walked into the victim's bedroom?

13 A. Yes, ma'am.

14 Q. And that is without anyone touching it other than the
15 coroner rolling the victim?

16 A. Yes, when we, when we rolled the victim to find out
17 what the blood source was coming from, the injury.

18 Q. State's 15.

19 A. That would be the top of the dresser that's on the
20 right side when you enter the room.

21 Q. And was that where the phone was originally when it
22 started ringing?

23 A. The, the phone was on this dresser. I believe this a
24 baseball style cap with the phone case.

25 Q. Okay, and it rang enough to fall off of this dresser?

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS

493

1 A. Yes, ma'am.

2 Q. And you collected it from the floor?

3 A. Uh-huh.

4 Q. This is State's Number 25. Is this the photograph
5 that you took of the phone?

6 A. It is. It's a screenshot of the actual photograph to
7 show that it was ringing before I powered it off.

8 Q. And it shows multiple missed calls?

9 A. Yes, ma'am.

10 Q. Okay, State's 17, what is this?

11 A. That would be the corner of the bed, the bedspread,
12 the sheets, and the victim would have been located right
13 here. That's where we pulled back the bedspread to view
14 the victim's face.

15 Q. And the bed was originally made when you entered the
16 scene?

17 A. Yes, ma'am. When we originally entered, the bedspread
18 was pulled down and, and made.

19 Q. Is this the location of where you would have taken a
20 swab from the bedspread?

21 A. I believe that was the bloodstain on the bedspread
22 that I, I did eventually take blood swabs of.

23 Q. Okay. State's Number 18.

24 A. This would be -- I, I pulled back the bedspread, and
25 this would be where the pillows are. The victim's here.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 494

1 This would be the sheets. This would be more the center of
2 the bed, and that would be the layer of sheets underneath
3 the, the bedspread.

4 Q. State's 21, what is this showing?

5 A. This is actually the bed and right side of the bed in
6 the right corner. The shell casing is located right there.

7 Q. Were you able to see the shell casing when you first
8 entered the room?

9 A. Not when we first entered the room. We had to
10 actually move the bed slightly to the left.

11 Q. In order to see?

12 A. In order to see and, and retrieve the shell casing,
13 yes, ma'am.

14 Q. Okay, State's 22 and 23, are these that same shell
15 casing?

16 A. Yes, ma'am. That -- the first one was a further off
17 shot. This is a midrange style shot, and this would be a
18 very close up shot of the actual shell casing.

19 Q. And is it typical for crime scene investigators to
20 take multiple angles and close ups and far away to show
21 positioning?

22 A. Yes, ma'am.

23 Q. Okay, and Number 24.

24 A. This is actually the same shell casing with -- after I
25 have placed my marker to label it item number 1.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 495

1 Q. And is that what you do after you take your initial
2 pictures of the evidence that you're collecting?

3 A. Yes, ma'am.

4 Q. And would the number coincide with the number, the
5 item number that you have in your report?

6 A. I do, yeah. That's -- I, I keep them organized that
7 way so when I list my report, I know which item went with
8 what.

9 Q. Shelby, you said that you took GSR tests from the
10 defendant's hands.

11 A. Not ---

12 Q. I mean, from the victim's hands. I apologize.

13 A. Yes, ma'am, the victim's hands.

14 Q. Okay, and were -- was there any blood on Jermaine's
15 hands?

16 A. There was blood spatter present on the victim's hands.

17 Q. Did you take any DNA swabs from his hands?

18 A. The only swabs I collected were of the GSR of the
19 hands.

20 Q. Why didn't you take any DNA?

21 A. I -- honestly, consistent with my training, I did not
22 see a need to actually take a swab of that blood spatter
23 pattern.

24 Q. Now I'm going to show you State's Number 20. Is this
25 Jermaine's hands at the time?

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 496

1 A. Yes, ma'am. That would be his right hand.

2 Q. Okay, and is it -- would you have taken the GSR from
3 this hand as well?

4 A. Yes, ma'am.

5 Q. Okay, and you didn't believe that blood in his hand
6 was, was important for DNA? Why? What does this look like
7 to you in your training and experience?

8 A. In, in my training and experience, that pattern would
9 be consistent with aspirated pattern, and that would be
10 coming from a mouth or coughing. It has oxygen bubbles
11 and, therefore, consistent with my training it would --
12 believed to be, be from him coughing and, therefore, I did
13 not swab it for DNA.

14 Q. And you would expect for someone who has been shot to
15 have aspirated blood ---

16 A. Yes, ma'am.

17 Q. --- on him? So, there would have been no need to have
18 any DNA testing of this blood?

19 A. No, ma'am.

20 Q. Shelby, did you search the entire bedroom?

21 A. I did.

22 Q. Did you find any weapons in the bedroom?

23 A. No, ma'am. There were no weapons present.

24 Q. Any weapons in his closet?

25 A. No, ma'am.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS 497

1 Q. What time did you leave the apartment scene?

2 A. I signed out of the crime scene at 1735, which would
3 be 5:30 p.m.

4 Q. After you left the apartment, was there -- do you do
5 anything else on the scene at Feather Run?

6 A. On the scene in the apartment complex in the parking
7 lot, we located the victim Jermaine's vehicle in the
8 parking lot.

9 Q. And did you process that scene as -- the car as well?

10 A. We did. We photographed the exterior of the vehicle,
11 the interior of the vehicle, and processed it for latent
12 fingerprints, and I believe we did take DNA swabs from the
13 steering wheel.

14 Q. Okay.

15 A. I'm not sure.

16 Q. Do you recall what time you ---

17 A. Yes.

18 Q. --- left the Feather Run Trail scene?

19 A. I departed from the scene at 2130, which would be
20 9:30.

21 Q. 9:30 p.m.?

22 A. P.m., yes, ma'am.

23 Q. And did everyone leave when you left, all the
24 law-enforcement officers?

25 A. I do believe so.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS

498

1 Q. Okay.

2 A. Yes, ma'am.

3 Q. While you were on the scene, did Shellie Davis ever
4 show?

5 A. No, ma'am.

6 Q. And all of the evidence that was collected from
7 Feather Run, what did you do with it?

8 A. All the evidence that was collected from the apartment
9 and from the vehicle were secured in my crime scene vehicle
10 and transported to the Lexington County Sheriff's
11 Department. Once I get to the sheriff's department, then I
12 secured them in our crime scene secure crime lab for
13 further processing, which would be, of course, if I needed
14 a fingerprint and anything else further or photographed
15 further.

16 Q. Okay. At that time, did you do a phone dump on the
17 victim's phone?

18 A. I did.

19 Q. And can you explain the process for that?

20 A. A cell phone dump is actually -- we have a, a
21 computer-type program system called a Cellebrite, and we
22 actually can go into the Cellebrite, use the make and model
23 of the cell phone, hook the cell phone up the actual system
24 using a USB type cable, choose the program, and copy data
25 information from the cell phone to a, a USB style drive.

S. DERRICK - DIRECT EXAMINATION BY MS. SHANNON DAVIS

499

1 Q. Okay, and you did that in this case?

2 A. Yes, ma'am.

3 Q. Okay. What type of information were you able to
4 collect from Jermaine's phone?

5 A. Depending on the make and model of the phone, it
6 allows you to choose what evidence you want to pull, such
7 as contacts, phone, phone records, phone book record, text
8 messages, photographs, video information if there's video
9 present on the phone.

10 Q. On Jermaine's phone, were you able to recover only
11 texts, photographs in his contact list?

12 A. Yes, ma'am, I do believe so.

13 Q. Were you able to get his call log?

14 A. The call logs were not supported for that make and
15 model.

16 Q. Okay. At a later time, did you take photographs of
17 the victim's call log on his phone?

18 A. I did.

19 Q. And that's not part of what you did with the
20 Cellebrite? That wasn't ---

21 A. That, that was not the Cellebrite. I actually
22 physically turned the phone on and went through and
23 photographed the call logs because it was not supported by
24 the system.

25 Q. And all the evidence that was collected, you said you

1 initially took it to the crime scene lab?

2 A. Yes, ma'am.

3 Q. And why did you take it there instead of evidence?

4 A. I took it there because while -- well, it was 9, 9,
5 10:00 in the afternoon -- or at night and I secured it for
6 further processing and then logged it in at a later date.

7 Q. So, all of it was eventually taken to the evidence
8 property room?

9 A. Yes, ma'am. I, I, I eventually packaged all my, my
10 items and turned them in to the evidence property room.

11 A. I'm showing you State's Number 2. Is this the
12 apartment that you processed that day?

13 A. Yes, ma'am.

14 Q. And which bedroom was the victim found in?

15 A. That would be the front door, and this be the first
16 bedroom on the right, and that would be where the victim
17 was located.

18 Q. So, this was the room where you focused your
19 processing of the scene?

20 A. Yes, ma'am.

21 Q. And all the pictures that we just went through would
22 have come from this bedroom?

23 A. Yes, ma'am.

24 Q. I'm showing you State's 9. Could you tell the jury
25 what this is?