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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lexington County

Honorable David P. Caraker, Jr, Circuit Court Judge

CHARLES A. MOREHOUSE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002161

APPENDIX

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #22 (AUDIO INTERVIEW CD).**

1 A. Yes, sir.

2 Q. Prior to leaving, did you have any further
3 interactions with Chuck?

4 A. Not before I left that time, no, sir.

5 Q. And did you end up coming back to your house?

6 A. Yes, sir.

7 Q. And how long after was that?

8 A. Thirty minutes to an hour at most.

9 Q. Who was there at that time?

10 A. I remember seeing Wiley walking around. As far as I
11 know, the same people were there, but I didn't really, you
12 know, pay much mind to them.

13 Q. Okay. Well, I want to back up. Before you left your
14 house then after that conversation took place, did you
15 have any further conversation with Wiley Sisk or Chuck
16 Morehouse?

17 A. Not that I remember.

18 Q. Was anything requested of you?

19 **MR. HILLIARD:** Objection.

20 **THE COURT:** To what?

21 **MR. HILLIARD:** He said did he remember any other
22 conversation and the witness said not that I remember.
23 After that he's leading the witness into saying something
24 other than that.

25 **THE COURT:** I think that's a proper follow-up

1 question. I understand your objection. I'm gonna overrule
2 it. You can rephrase your question, Mr. Bell.

3 BY MR. BELL:

4 Q. Did anybody in the house that night of all those
5 people you mentioned, did anybody ask for anything from
6 you?

7 A. They asked me for -- if I knew a place to go to teach
8 a lesson.

9 Q. And did anybody in the house that night ask you about
10 a firearm?

11 **MR. HILLIARD:** Objection. That's certainly leading.

12 **THE COURT:** I'll sustain that.

13 BY MR. BELL:

14 Q. Were you holding any of Chuck Morehouse's firearms at
15 your house that night like you testified to earlier?

16 A. Yes, sir.

17 Q. What firearm was at your house that night?

18 A. I had the 40 caliber.

19 Q. And how long had that 40 caliber been at your house?

20 A. For a few days.

21 Q. And who originally brought it there?

22 A. Chuck.

23 Q. Did that 40 caliber stay at your house that night?

24 A. No, sir. He asked me to switch guns with him.

25 Q. And when did that occur?

1 A. Right before I left to go to Christine's.

2 Q. And that's before the first time you left your house
3 or the second time you mentioned?

4 A. The first time.

5 Q. I want you to tell us about that. How exactly did
6 that interaction occur?

7 A. I was walking out to get in the truck and Chuck and
8 Wiley were outside by his car, he asked me to switch
9 firearms because he said the 40 was quieter.

10 Q. After he said the 40 was quieter, did you go retrieve
11 that 40?

12 A. Yes, sir.

13 Q. And what did you do with it?

14 A. I give it to Charlie.

15 Q. Do you remember what it looked like?

16 A. It was nickel-plated, I think.

17 Q. Is that kind of a silver color?

18 A. Yes, sir.

19 Q. Was it all nickel?

20 A. I can't remember.

21 Q. What happened to the firearm that he gave you?

22 A. I put it back under the couch.

23 Q. Was Wiley Sisk with Chuck Morehouse when that gun was
24 requested?

25 A. Yes, sir.

1 Q. Did there appear to be any argument between the two at
2 that time?

3 A. No, sir. Nothing was said.

4 Q. Did you ever see Wiley Sisk with a gun that day or
5 night?

6 A. No, sir.

7 Q. As far as you knew, who had the firearm when they left
8 the house?

9 A. Chuck.

10 Q. And you testified that you left your house for about
11 thirty or so minutes?

12 A. Yes, sir.

13 Q. And about what time would that have been when you
14 returned?

15 A. Between 11, 11:30, something like that.

16 Q. Would that be sometime before midnight?

17 A. Yes, sir.

18 Q. And at that time you testified the same people were at
19 your house as far as you knew?

20 A. As far as I knew.

21 Q. Did you see Wiley Sisk?

22 A. Yes, sir.

23 Q. How was he acting when you saw him that night?

24 A. Scared, walking around kind of lost, mumbling to
25 himself.

1 Q. Without saying what anybody said, did you give them
2 anything?

3 A. I pulled him into my closet for some clothes.

4 Q. Did you see Chuck at the house?

5 A. I don't remember seeing him, but -- I mean, I'm sure
6 he was there, but I didn't see him because I just went
7 straight to my room.

8 Q. Did you end up going to that hotel that you testified
9 about?

10 A. Yes, sir. I got my bags and my girlfriend's bags and
11 I left.

12 Q. How long did you stay there at that hotel?

13 A. I stayed at the hotel one night at that hotel.

14 Q. Did you return to your home?

15 A. Yes, sir, I did.

16 Q. Was that the following morning?

17 A. Yes, ma'am -- yes, sir.

18 Q. And who did you see at your house at that time?

19 A. At that time Erica was there. A friend of mine,
20 Billie, brought me there, me and my girlfriend Terri, and
21 I went outside and took some things out of my truck -- out
22 of my car.

23 Q. Did anybody else show up while you were there that
24 morning?

25 A. Yeah, Bubba. I don't know his last name, I really

1 don't know him, his last name, and Wiley and a girl.

2 Q. When you were listening to that conversation as y'all
3 were doing dope in that room with the colorful fan, who
4 seemed to be taking charge of the conversation?

5 A. Charlie.

6 **MR. HILLIARD:** Objection. How would he know that?

7 **THE COURT:** I'm gonna allow the question. He was
8 there present in the conversation. Rephrase it, but it
9 seems common sense.

10 **MR. HILLIARD:** Thank you.

11 BY MR. BELL:

12 Q. Chris, who was the one primarily talking that night in
13 that room?

14 A. Charlie.

15 Q. Did Wiley give any input at all in that conversation
16 without saying what anybody said?

17 A. Not that I remember.

18 Q. In the days following, did you speak to law
19 enforcement?

20 A. Yes, sir.

21 Q. And do you recall how soon after this conversation
22 that law enforcement interview was?

23 A. It was not the next day, but the day after.

24 Q. Would that be roughly August 6th?

25 A. Yes, sir.

1 Q. Did you provide a statement to them?

2 A. Yes, sir.

3 Q. Now, Chris, you do have pending charges currently; is
4 that correct?

5 A. Yes, sir.

6 Q. And is that burglary second?

7 A. Yes, sir.

8 Q. Did that charge exist at the time that you gave the
9 statement?

10 A. No, sir.

11 Q. When did you pick that charge up?

12 A. I was arrested for it on the 22nd of November of this
13 year -- or 2016.

14 Q. So would that be more than a year after your statement
15 to law enforcement?

16 A. Yes, sir.

17 **MR. BELL:** I beg the Court's indulgence.

18 BY MR. BELL:

19 Q. When you were at your house that night, do you
20 remember seeing any fire pits or bonfires or anything like
21 that?

22 A. As I was leaving the second time, I seen Erica burning
23 something the yard.

24 Q. Now is that something that necessarily stood out to
25 you?

1 A. Not really. I burn a lot of trash and stuff.

2 **MR. BELL:** Mark these for ID, please.

3 (State's Exhibit Numbers 29, 30 and 31 were marked for
4 identification.)

5 BY MR. BELL:

6 Q. I'm handing you a few pictures. Do you recognize
7 those pictures?

8 A. Yes, sir. That's my house.

9 Q. Just glance through them.

10 A. Yes, sir.

11 Q. Do those pictures fairly and accurately represent your
12 house as it looked back on August 3, 2015?

13 A. Yes, sir.

14 **MR. BELL:** Your Honor, the State would seek to
15 introduce State's 29, 30 and 31.

16 **MR. HILLIARD:** I don't have any objection, Your Honor.

17 **THE COURT:** All right. 29, 30 and 31 will be admitted
18 without objection. Photographs of [REDACTED] Mack Circle?

19 **MR. BELL:** Yes, Your Honor.

20 (State's Exhibit Numbers 29, 30 and 31, photographs,
21 were admitted into evidence.)

22 BY MR. BELL:

23 Q. Referring to 29, is that your house, Snoop?

24 A. Yes, sir.

25 Q. And the 30, what are we looking at here?

1 A. My back porch.

2 Q. And that's of the same -- that's the back of the same
3 house we just looked at?

4 A. Yes, sir.

5 Q. Okay. And in 31, what are we looking at here?

6 A. The back of my house and where we had burned stuff.
7 There should be a few burn piles out there.

8 Q. Chris, I'm gonna hand you a laser pointer, press this
9 button here, and if you would indicate on that photograph
10 where that burn pile is that you're talking about.

11 A. Right here.

12 Q. And that's where you saw somebody that night when you
13 got back?

14 A. Yes, sir.

15 Q. As Wiley and Chuck were leaving your house that night
16 and you saw them out by the car together, was Wiley acting
17 aggressive towards Chuck at all?

18 A. No, sir.

19 Q. Was Wiley acting frantic towards Chuck?

20 A. No, sir.

21 Q. Was Chuck acting at all afraid of Wiley?

22 A. No, sir.

23 Q. Did Chuck appear nervous?

24 A. No, sir.

25 Q. You testified earlier about a comment about teaching

1 him a lesson. Between Wiley and Chuck, which one said that
2 to you?

3 A. Charlie.

4 Q. And, again, what exactly did he say?

5 A. Getting the game right and he needed to teach someone
6 a lesson.

7 Q. There's been some testimony about Chuck and Charlie.
8 Do you know if Charles Morehouse goes by both of those
9 names or just one or the other?

10 A. Yeah, both of them.

11 Q. Have you ever heard anybody refer to him by anything
12 else?

13 A. Yes, I've heard him called Boss.

14 Q. Boss?

15 A. Yes, sir.

16 Q. Had you ever heard -- did you ever hear that title
17 that night?

18 A. Yeah, that's what Wiley called him.

19 Q. When you had seen Chuck with the ice, how did he
20 usually transport it around?

21 A. In a little black box.

22 Q. And did he have that --

23 **MR. HILLIARD:** I didn't hear that. I apologize.

24 **THE COURT:** A little black box.

25 **MR. HILLIARD:** Thank you.

1 BY MR. BELL:

2 Q. And did he have that with him the night of August 3rd
3 when you had that -- or saw that conversation there?

4 A. Yes, sir.

5 Q. Do you know what happened to that box that night?

6 A. No, sir.

7 Q. Did you have it?

8 A. No, sir.

9 Q. After handing the 40 to Chuck that night, did you ever
10 get that 40 back?

11 A. No, sir.

12 Q. Did you ever see that 40 again?

13 A. No, sir.

14 **MR. BELL:** Thank you, sir.

15 **MR. HILLIARD:** Thank you, Judge.

16 **THE COURT:** Yes, ma'am -- I mean, yes, sir.

17 CROSS-EXAMINATION

18 BY MR. HILLIARD:

19 Q. Is it okay if I call you "Snoop" also?

20 A. Sure.

21 Q. Thank you. The -- the people that were staying at
22 your house that you talked about, those are all people that
23 smoke meth together; is that right?

24 A. Yes, sir.

25 Q. And they -- that was sort of a place where people went

1 to smoke meth?

2 A. Not so much. It was a place where if people didn't
3 have a place to go I'd let them stay.

4 Q. You'd let them stay there, but you were all smoking
5 meth?

6 A. Yeah, everybody did drugs.

7 Q. And they were smoking all the meth you could get; is
8 that right?

9 A. I mean, they would smoke it.

10 Q. And your comments to the prosecutor were to the effect
11 that -- that Charlie didn't seem to be nervous or upset or
12 concerned about anything that night; isn't that true?

13 A. Yes, sir.

14 Q. And you said something about that he wanted to know a
15 place where he could go to teach somebody a lesson?

16 A. Yes, sir.

17 Q. And you didn't know any place like that?

18 A. I didn't care to.

19 Q. All right, sir. And you were holding -- your
20 testimony is that you were -- you had a 40 caliber silver
21 handgun; is that right?

22 A. Yes, sir.

23 Q. And when Charlie came he had a 45 caliber handgun?

24 A. Yes, sir.

25 Q. And you guys swapped handguns?

1 A. Yes, sir.

2 Q. And your testimony is that the reason that you swapped
3 those handguns is because the 40 is quieter than the 45?

4 A. That's what he stated.

5 Q. Who it is that's your girlfriend?

6 A. Terri Boltin.

7 Q. Did you ever shoot those guns?

8 A. No, sir.

9 Q. Do you know that a 40 is not quieter than a 45?

10 A. Not really. I've never shot a 40 caliber.

11 Q. Have you ever shot a 45?

12 A. I have shot a 45.

13 Q. When you were there, isn't it true that Wiley put the
14 gun up to your head at one point in time?

15 A. No, sir.

16 Q. That's not true?

17 A. No, sir.

18 Q. And you say that Wiley was the one who seemed nervous,
19 upset and concerned; is that right?

20 A. No.

21 Q. You didn't say that?

22 A. No, sir, not -- not the first time. When I come back,
23 Wiley acted weird, yeah.

24 Q. I'm sorry. Say again.

25 A. The second time I come back, Wiley was acting strange.

1 He was walking around mumbling to himself.

2 Q. So Wiley was walking around mumbling to himself at
3 that point in time?

4 A. Yes, sir.

5 Q. Perhaps I asked the question incorrectly, but Wiley
6 has put a gun to your head in the past?

7 A. He has.

8 Q. Just not that night?

9 A. No, sir.

10 Q. And so at some point in time in the past Wiley had put
11 a gun to your head?

12 A. Yes, sir, at one point he did.

13 **MR. HILLIARD:** Excuse me just one second, Judge.

14 **THE COURT:** Sure.

15 (Pause in proceedings.)

16 BY MR. HILLIARD:

17 Q. When you guys were in the bedroom -- and you were
18 snorting the ice and not smoking it, right?

19 A. Yes, sir.

20 Q. And when you guys were in the bedroom, you -- I think
21 you said that -- were you talking?

22 A. All I said was I didn't want any part of anything to
23 do with what they was talking about.

24 Q. All right, sir. And so you were snorting the ice and
25 they were snorting the ice?

- 1 A. We did one line.
- 2 Q. One line?
- 3 A. (Nods head.)
- 4 Q. And how much ice is in one line?
- 5 A. Maybe like one-tenth of a gram say.
- 6 Q. A tenth of a gram?
- 7 A. Yes, sir.
- 8 Q. How much ice had you been snorting that day?
- 9 A. I mean, I had done some dope prior, yes, sir, I had,
- 10 but I can't tell you exactly how much.
- 11 Q. Were you smoking the ice or do you always snort it?
- 12 A. No, sir, I smoked it and snorted it.
- 13 Q. When was the last time you did any drugs?
- 14 A. Me?
- 15 Q. Yes, sir.
- 16 A. New Year's Eve.
- 17 Q. 2017 New Year's Eve?
- 18 A. No, 2016, this year that just went by. Well, that
- 19 would be 2017, yeah.
- 20 Q. No, sir, you're right. New Year's Eve is -- I
- 21 apologize. I'm confused. 2016 New Year's Eve?
- 22 A. Yes, sir.
- 23 Q. And that was the last time?
- 24 A. Yes, sir, that's the last time I did drugs.
- 25 Q. And that was -- and how did you manage to put it down?

1 A. Well, I'm going to court for my son on the 1st of
2 February.

3 Q. Sir?

4 A. I'm going to court for my son on the 1st of February.

5 Q. But did you go to any programs or do any detox or
6 anything like that?

7 A. No, sir.

8 Q. Just put it down?

9 A. It only been eleven days, yeah.

10 **MR. HILLIARD:** That's all I have. Thank you, sir.

11 **THE COURT:** Anything else, Mr. Bell?

12 **MR. BELL:** Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. BELL:

15 Q. You stated everybody was smoking ice at your house
16 that night or getting high. Where was all that ice coming
17 from?

18 A. Charlie.

19 Q. So Chuck brought all the ice everybody was smoking?

20 A. Yes, sir.

21 Q. Was Chuck using it, too?

22 A. I seen him snort a line.

23 Q. That was back in the room during the conversation?

24 A. Yes, sir.

25 Q. On cross you stated that he said the 40 was quieter.

1 Who was "he"?

2 A. Charlie.

3 Q. Chuck?

4 A. Chuck.

5 Q. After you heard that conversation, how were you
6 feeling about what they were talking about?

7 A. I just wanted to get away from it.

8 Q. And did you end up leaving your house after that
9 conversation?

10 A. Yes, sir.

11 Q. And where did you stay?

12 A. I went to the hotel that's over there behind the
13 Waffle House. I can't remember the name of it. It's
14 behind the Waffle House on 378.

15 Q. So to clarify, [REDACTED] Mack Circle where that room is,
16 that was your house, right?

17 A. Yes, sir.

18 Q. And you left your own house to go stay at a hotel
19 after that conversation?

20 A. Yes, sir. Me and my girlfriend were trying to get
21 some alone time, too.

22 Q. You stated the second time you saw Wiley he was acting
23 weird. Did you see Wiley threatening or saying or --
24 excuse me, threatening or making threatening gestures about
25 Chuck Morehouse?

1 A. No, sir.

2 Q. Did anything that he did at that point in time make
3 you think he was afraid of Chuck Morehouse?

4 **MR. HILLIARD:** Objection.

5 **THE COURT:** I'll sustain that.

6 **MR. HILLIARD:** Thank you.

7 BY MR. BELL:

8 Q. Mr. Hilliard ask you about Wiley Sisk holding a gun or
9 pointing a gun at you in the past. Do you remember that?

10 A. Yes, sir.

11 Q. And when Wiley Sisk showed up at your house with
12 Chuck the night of August 3rd prior to this conversation,
13 were you happy about Wiley being there?

14 A. No, sir. I had prior told Chuck I didn't want Wiley
15 to be around me.

16 Q. And when you told Chuck that you didn't want Wiley
17 at your house, what was Chuck's response to that?

18 A. He asked me to please do what I had to because he
19 needed him.

20 Q. He needed him?

21 A. Yeah.

22 Q. When you handed the 40 off to Chuck, did you see
23 Chuck pass it to anybody else?

24 A. No, sir.

25 Q. Did you see what he did with it?

1 A. I didn't pay much attention really.

2 Q. The last time you saw that 40 it was in Chuck's
3 hands?

4 A. Yes, sir.

5 **MR. BELL:** Thank you, sir.

6 **RECROSS EXAMINATION**

7 **BY MR. HILLIARD:**

8 Q. Just one. I think I heard you say, and I just wanted
9 to clarify, that you and your girlfriend went to the hotel
10 because you wanted some alone time because there were a
11 bunch of people at your house?

12 A. Yes, sir. There was always a bunch of people at my
13 house. I didn't stay there much.

14 Q. You didn't stay there much?

15 A. Not really.

16 Q. So you went to the hotel so you and your girlfriend
17 could be alone?

18 A. That and to get away from the situation.

19 **MR. HILLIARD:** All right. Thank you.

20 **THE COURT:** All right. You can step down.

21 **THE WITNESS:** Thank you, sir.

22 (Witness excused.)

23 **THE COURT:** All right, folks. Do y'all want to go
24 to lunch now or work about another forty-five minutes and
25 go to lunch closer to one? Either way. If you want to

1 go lunch, we'll break now. If you want to work a little
2 more, we'll take a few minutes break and keep things
3 running. Y'all's choice.

4 **THE FOREPERSON:** Yes, sir.

5 **THE COURT:** All right. Would it be easier to go
6 ahead and call one more witness before lunch and we'll do
7 about thirty minutes or forty minutes work?

8 **MS. MAYES:** Yes, sir, Your Honor.

9 **THE COURT:** All right. Let's take a short break.
10 Y'all step in the jury room and I'll have you back in
11 here and we'll do another witness and take a lunch break.

12 (Whereupon, the jury retires to the jury room at
13 11:57 AM.)

14 (Recess taken.)

15 **THE COURT:** Are you ready, Ms. Mayes?

16 **MS. MAYES:** Yes, sir.

17 **THE COURT:** All right. Bring in the jury.

18 (Whereupon, the jury returns to the courtroom at
19 12:07 PM.)

20 **THE COURT:** All right. Ms. Mayes, call your next
21 witness.

22 **MS. MAYES:** The State calls Brittany Moody.

23 (Whereupon, Brittany Moody was duly sworn by the Clerk
24 of Court.)

25 **THE CLERK:** Once you've had a seat state your full

1 name, spelling your last, please.

2 **THE WITNESS:** Brittany Moody, M-O-O-D-Y.

3 BRITTANY MOODY,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. MAYES:

7 Q. Good day, Ms. Moody. I want to start by asking you a
8 few questions about yourself. You are in a jumpsuit?

9 A. Yes, ma'am.

10 Q. Are you currently at the detention center?

11 A. Yes, ma'am.

12 Q. And do you currently have a pending charge of forgery?

13 A. Yes, ma'am.

14 Q. And when did you get that forgery charge?

15 A. Around November 2nd of this year -- or last year.

16 Q. All right. So as recently as a few months ago?

17 A. Yes, ma'am.

18 Q. Now I want to take you back to the timeframe of

19 August of 2015. Did you have any pending charges then?

20 A. No, ma'am.

21 Q. In August of 2015, what, if any, drugs were you using?

22 A. Methamphetamines, marijuana.

23 Q. Okay. And when you say methamphetamines, is there a
24 particular type of methamphetamine that you used?

25 A. Meth and ice.

1 Q. And gonna ask you whether or not you're familiar with
2 a residence located at [REDACTED] Mack Circle?

3 A. Yes, ma'am.

4 Q. Whose residence was that?

5 A. Chris Williams, also known as Snoop.

6 Q. Okay. I'll ask you to take a look at this board.

7 A. Uh-huh.

8 Q. You're referring to Snoop, Chris Williams?

9 A. Yes, ma'am.

10 Q. And that's you there, Brittany Moody?

11 A. Yes, ma'am.

12 Q. Can you tell us, Ms. Moody, whether or not you were
13 at the residence of Christopher Williams on the night of
14 August 3, 2015?

15 A. Yes, ma'am.

16 Q. What were you doing there?

17 A. I stayed there occasionally. I was living there on
18 and off and I -- getting high with the rest of them, yes,
19 ma'am.

20 Q. And when you say getting high, what particular type of
21 drug was being used at that location?

22 A. It was methamphetamines or ice.

23 Q. And is that also true for the night of August 3, 2015?

24 A. Yes, ma'am.

25 Q. Who else do you recall being at the residence that

1 night?

2 A. It was Chuck Morehouse, Wiley Sisk showed up, Erica
3 Waters, Dean. That's all I can remember.

4 Q. All right. Erica Waters is another female, correct?

5 A. Yes, ma'am.

6 Q. You mentioned Chuck Morehouse. Do you see him in this
7 courtroom?

8 A. Yes, ma'am.

9 Q. Where is he seated?

10 A. Right there.

11 Q. You mentioned Wiley Sisk?

12 A. Uh-huh.

13 Q. You said you were staying there off and on. What room
14 would you normally stay in?

15 A. Snoop's. The one with the colored fan.

16 Q. And did that include staying sometimes overnight?

17 A. Yes, ma'am.

18 Q. Pretty much, Ms. Moody, all of the times that you were
19 staying there at that residence off and on, were drugs
20 being used?

21 A. Yes, ma'am.

22 Q. Does that include ice?

23 A. Yes, ma'am.

24 Q. Who supplied the ice?

25 A. Chuck or Snoop, one -- one of those two.

1 Q. Either Chuck or Snoop?

2 A. Yes, ma'am.

3 Q. And when you say Chuck, you're referring to who?

4 A. Morehouse.

5 Q. On the night of August 3, 2015, what, if anything, do
6 you recall?

7 A. Chuck and Wiley left and they came back later on and
8 we all got high; Erica, me, Chuck, Wiley.

9 Q. All right. I'm gonna ask you about that in a little
10 more detail. What did you see them -- when you say they
11 left, what kind of vehicle did they leave in?

12 A. Chuck's vehicle, the burgundy Impala, I do believe.

13 Q. I'll show a photograph and ask you whether or not you
14 recognize it?

15 A. Yes, ma'am.

16 Q. How so?

17 A. That's the vehicle that Morehouse and Wiley showed up
18 in and left in.

19 Q. Okay. I'm gonna scoot this a little bit closer to
20 you.

21 A. Okay.

22 **MS. MAYES:** Your Honor, this would be State's exhibit
23 for evidence.

24 **THE COURT:** Is that gonna be 32?

25 **THE COURT REPORTER:** Yes.

1 **MR. HILLIARD:** No objection.

2 **THE COURT:** 32's admitted without objection, the photo
3 of the Impala.

4 (State's Exhibit Number 32, a photograph, was marked
5 and admitted into evidence.)

6 BY MS. MAYES:

7 Q. Ms. Moody, who drove that vehicle?

8 A. Chuck Morehouse.

9 Q. Now you mention that first they left and then they
10 came back?

11 A. Yes, ma'am.

12 Q. When they came back, did they come back together?

13 A. Yes, ma'am.

14 Q. And you mentioned that after they came back y'all got
15 high?

16 A. Yes, ma'am.

17 Q. When you say y'all got high, what type of drug were
18 you using after they came back?

19 A. Ice.

20 Q. About what time of the night would this be?

21 A. It was later than ten, but it just got -- it was dark.

22 Q. Could this be after midnight?

23 A. Yes, ma'am.

24 Q. Ms. Moody, the first time that they were all there
25 together, and by that I mean Chuck and Wiley, what

1 happened? What was going on? What was taking place at
2 the house?

3 A. They were talking in Snoop's bedroom.

4 Q. All right. So the first time, can you give me a
5 synopsis of who you recall being in Snoop's bedroom?

6 A. Chuck, Wiley and Snoop.

7 Q. Chuck, Wiley, and when you say Wiley, you're referring
8 to who?

9 A. Sisk.

10 Q. All right. So at that point they're all talking in
11 the bedroom and what do you remember about this bedroom?
12 Can you describe the bedroom, Snoop's bedroom?

13 A. It has a colored fan, it has a shelf above the
14 windowsill, his bed's real high, with a couch in there as
15 well.

16 Q. All right. After Chuck, Wiley and Snoop had a
17 conversation in Snoop's bedroom, who left the residence?

18 A. Snoop left and went to a motel with Terri.

19 Q. All right. So Snoop left. Now did he leave with
20 Chuck and Wiley or did he leave separately?

21 A. He left separately.

22 Q. All right. So Snoop left separately and did Snoop
23 ever come back?

24 A. No, ma'am.

25 Q. And you say he went to a motel?

- 1 A. Yes, ma'am. Billie took him and Terri to a motel.
- 2 Q. All right. Who else left the residence?
- 3 A. Chuck and Wiley, and they left together.
- 4 Q. All right. Chuck and Wiley left together?
- 5 A. Yes, ma'am.
- 6 Q. And you previously mentioned seeing the Impala. Can
- 7 you clarify what type of vehicle they left in?
- 8 A. A burgundy Impala.
- 9 Q. Now approximately how long would you say they were
- 10 gone?
- 11 A. An hour or two, maybe two hours.
- 12 Q. Did you ever see them return?
- 13 A. Yes, ma'am.
- 14 Q. Can you tell us whether or not they returned together?
- 15 A. Yes, ma'am, they did.
- 16 Q. So I'm gonna write here a second time and this is
- 17 gonna be Chuck and Wiley. What, if anything, did you see
- 18 when they returned?
- 19 A. Wiley came into the house and handed a bat to Erica
- 20 Waters.
- 21 Q. Who did you see with the bat?
- 22 A. Wiley Sisk.
- 23 Q. Can you describe the bat?
- 24 A. It was an aluminum bat.
- 25 Q. An aluminum bat?

1 A. Yes, ma'am.

2 Q. What else occurred?

3 A. I seen Chuck go to the first bedroom -- bathroom and
4 clean up with Ajax, Comet, and Wiley went to the back
5 bedroom and changed his clothes after I provided basketball
6 shorts and T-shirt.

7 Q. All right. Now you say Chuck went to the first
8 bathroom?

9 A. Yes, ma'am.

10 Q. Did you see that yourself?

11 A. Yes, ma'am.

12 Q. Describe exactly what you saw Chuck doing in the
13 bathroom.

14 A. He got the Comet and he washed his hands and arms and
15 he rinsed them off.

16 Q. You saw him washing his arms as well as his hands?

17 A. Yes, ma'am.

18 Q. Can you show us what you mean by that?

19 A. Like this (demonstrating).

20 Q. What else did you observe?

21 A. Like I said, Wiley went to the back bedroom, he
22 changed clothes. I gave him some basketball shorts and a
23 T-shirt.

24 Q. And what happened to the clothes that Wiley was
25 wearing before you gave him new clothes to put on?

1 A. They were took outside to be burned.

2 Q. Did you see a fire outside the residence?

3 A. Yes, ma'am.

4 Q. I'm gonna show you what is already marked -- I'm
5 sorry. These are not marked. I'll show you something and
6 ask you whether or not you recognize it?

7 A. Yes, ma'am.

8 Q. Okay. How do you recognize that photograph?

9 A. That's where the clothes were burned.

10 Q. All right.

11 **MS. MAYES:** Your Honor, this would be, I believe,
12 State's 33 for evidence.

13 **MR. HILLIARD:** I don't have an objection.

14 **THE COURT:** 33 is admitted without objection.

15 (State's Exhibit Number 33, a photograph, was marked
16 and admitted into evidence.)

17 BY MS. MAYES:

18 Q. What are we looking at here in this photograph,
19 Ms. Moody?

20 A. The front of Snoop's house.

21 Q. Where do you recall seeing a fire?

22 A. In the back.

23 Q. We previously identified State's 33. What are you
24 referring to there?

25 A. Yes, the burn pile of the clothes.

1 Q. And do you recognize this location? What is State's
2 Exhibit 28?

3 A. That's Snoop's bedroom.

4 Q. Now at the point that you saw Chuck and Wiley return
5 together, did you ever see any type of force or coercion
6 between them?

7 A. No, ma'am.

8 Q. Did either one of them appear to be threatened by the
9 other?

10 A. No, ma'am.

11 Q. Did either one of them appear to be in fear of the
12 other?

13 A. No, ma'am.

14 Q. How were they acting towards one another or
15 interacting with each other?

16 A. They were fine.

17 Q. After they returned, Chuck washed his hands in the
18 bathroom, clothes were burned in the backyard, what happens
19 next?

20 A. They -- we went -- like I said, we all went in the
21 house and got high.

22 Q. All right.

23 A. We were snorting and me and Wiley were injecting --
24 injecting the ice and they were snorting and smoking ice
25 there where Erica was staying in the bedroom and after that

1 we sat around and talked and it was stated to watch the
2 news and then Chuck left a few hours later and Wiley stayed
3 there with me in the bedroom, in Snoop's bedroom.

4 Q. All right. So who was it who made a statement about
5 watching the news?

6 A. Chuck Morehouse.

7 Q. What was his attitude or demeanor when he said that?

8 A. Just to keep an eye out basically. It was like just
9 to keep a watchful eye on the news if any news came about.

10 Q. And you say Chuck left?

11 A. Yes, ma'am.

12 Q. When Chuck left, did he leave alone or with someone?

13 A. Alone.

14 Q. Did he state why he was leaving?

15 A. He was going to handle the gun.

16 Q. All right. What do you recall, if anything, him
17 saying about the gun at any point that night?

18 A. That he was going to take it to Chip.

19 Q. All right. And you heard him say that?

20 A. Yes, ma'am.

21 Q. And how long would you say he was gone after he left
22 to take the gun to Chip?

23 A. Not long. Maybe thirty minutes.

24 Q. And what else do you recall?

25 A. He returned back to the house and we got high and he

1 said the gun had been taken care of.

2 Q. The gun was taken care of?

3 A. Yes, ma'am.

4 Q. Who was he saying that to?

5 A. He just made the statement to Erica and Wiley when he
6 went in the bedroom and we all were talking.

7 Q. All right. Did you ever hear anyone tell Chuck that
8 he had to get rid of the gun?

9 A. No, ma'am.

10 Q. Based on your observations and your interaction with
11 Mr. Morehouse that night, whose decision was it to take the
12 gun somewhere?

13 A. Chuck Morehouse.

14 **MR. HILLIARD:** Objection.

15 **THE COURT:** Basis?

16 **MR. HILLIARD:** How could she know whose decision it
17 was?

18 **THE COURT:** She can tell what she saw. I'll sustain
19 the objection as to whose decision it was.

20 **MR. HILLIARD:** Thank you.

21 BY MS. MAYES:

22 Q. Did you ever see or observe anyone else instructing
23 Mr. Morehouse what to do?

24 A. No, ma'am.

25 Q. And who had the vehicle that night?

1 A. Morehouse.

2 Q. Now after he returns and says the gun is taken care
3 of, how long did he stay at that point?

4 A. Maybe an hour. It was -- it was late at night, early
5 morning.

6 Q. All right. So would it be fair to say that's the
7 third time he's arrived back at Snoop's?

8 A. Yes, ma'am.

9 Q. And after he arrived back that third time, did you
10 have the opportunity to observe his interactions with other
11 people in the house?

12 A. Yes, ma'am.

13 Q. Including his interactions with Wiley Sisk?

14 A. Yes, ma'am.

15 Q. Did he ever appear to be under any type of threats or
16 coercion by Mr. Sisk?

17 A. No, ma'am.

18 Q. Or by anyone else in the house?

19 A. No, ma'am.

20 Q. How was he -- what was his general demeanor or mood
21 after he's back at the house this final time?

22 A. It was as nonchalant, just casual. He made sure
23 everything was taken care of and then he was ready to go
24 home to his kids.

25 Q. Okay. When you say he made sure everything was taken

1 care of, what did you call him?

2 A. Charlie. That's what we knew him as.

3 Q. All right. Are you familiar with the name "Boss"?

4 A. Uh-huh. Yes, ma'am. I heard it from Sisk.

5 Q. All right. When you say you heard it from Sisk, in
6 reference to who?

7 A. Wiley.

8 Q. Who was called Boss?

9 A. Morehouse.

10 Q. So I want to ask you a little bit more about that.
11 You actually know Mr. Sisk?

12 A. Yes, ma'am.

13 Q. Had you met Mr. Sisk prior to this occasion on
14 August 3rd?

15 A. Yes, ma'am.

16 Q. Had -- how would you describe your relationship in the
17 past and approximately how long you had known him?

18 A. We dated maybe three years prior to this and we had
19 been good friends for a long time, for years.

20 Q. Okay. With all of that in mind, did you have an
21 understanding and did you have personal knowledge as to
22 the relationship between Mr. Sisk and Mr. Morehouse?

23 A. Yes, ma'am.

24 Q. What was Mr. Sisk's role or job?

25 A. He was the muscleman.

1 Q. When you say muscleman, you're referring to what?

2 A. As somebody who takes care of -- who beats up people
3 for the boss man or drug dealer because that's what he was
4 involved in.

5 Q. Did you give a statement to law enforcement in this
6 case?

7 A. Yes, ma'am.

8 Q. And how close in time was your statement to the actual
9 murder?

10 A. Within three weeks.

11 Q. Did you implicate Mr. Sisk as well as Mr. Morehouse?

12 A. Yes, ma'am.

13 Q. So the fact that you had a previous relationship with
14 him, did that stop you from telling the police what you
15 knew?

16 A. No, ma'am.

17 Q. Did you testify against Mr. Sisk?

18 A. Yes, ma'am.

19 **MS. MAYES:** I beg the Court's indulgence.

20 BY MS. MAYES:

21 Q. I want to go back to the very first time that night
22 they arrived together. That's the time you talked about
23 with the conversation between Chuck, Wiley and Snoop in
24 Snoop's bedroom?

25 A. Yes, ma'am.

1 Q. What, if anything, did you hear Mr. Morehouse say?

2 A. I heard him state that he got too close to the family.

3 Q. All right. Do you know who Mr. Morehouse was talking
4 about when he said he got too close to the family?

5 A. Rico is the only name I knew of.

6 Q. So let me ask you this. Had you ever been at Snoop's
7 house before when Mr. Morehouse was there?

8 A. Two days prior.

9 Q. Was there any type of observation you made by
10 Mr. Morehouse regarding snitches?

11 A. Uh-huh. Yes, ma'am.

12 Q. How so?

13 **MR. HILLIARD:** Objection as to relevance.

14 **THE COURT:** Y'all come up.

15 (Proceedings held at the bench; not reported.)

16 BY MS. MAYES:

17 Q. Based on your observations, can you tell us whether
18 or not Mr. -- whether Mr. Morehouse had a concern about
19 snitches?

20 A. Yes, ma'am.

21 Q. And you observed that yourself?

22 A. Yes, ma'am.

23 Q. Did you actually see the gun that night?

24 A. No, ma'am.

25 Q. And when they returned -- you talked about a bat. Did

1 you ever see Mr. Morehouse with the bat?

2 A. No, ma'am.

3 Q. It was always Wiley?

4 A. Yes, ma'am.

5 Q. And when Mr. Morehouse left as he stated to get rid
6 of the gun, did anyone else go with him?

7 A. No, ma'am.

8 Q. And when he returned, based on his own statements to
9 you, what was your understanding of what had happened with
10 the gun?

11 A. It was taken care of.

12 Q. Have you ever gone -- or are you familiar with the
13 name Brit-Brit?

14 A. Yes, ma'am.

15 Q. Okay. Who's nickname is that?

16 A. Mine.

17 Q. So if someone refers to Brit-Brit, that would be you?

18 A. Yes, ma'am.

19 **MS. MAYES:** Nothing further, Your Honor.

20 **THE COURT:** Mr. Hilliard.

21 **MR. HILLIARD:** Thank you, Judge.

22 CROSS-EXAMINATION

23 BY MR. HILLIARD:

24 Q. You had known -- at the point in time that you're
25 testifying here, you had known Wiley Sisk for about four

1 years; isn't that true?

2 A. Yes, ma'am.

3 Q. And y'all had been boyfriend and girlfriend and
4 whatnot?

5 A. Yes, sir.

6 Q. And you had -- you didn't know Charlie at that point
7 in time; isn't that true?

8 A. No, sir. Yes, sir, that's true.

9 Q. And so you had -- this was the first time that you had
10 seen Charlie or the second time?

11 A. It was the second time. I've seen him one other time
12 in bypassing with another friend, but I didn't know him.

13 Q. You'd never interacted with Charlie before that night
14 really?

15 A. No, sir.

16 Q. But you had been with Wiley for four years?

17 A. Yes, sir.

18 Q. You knew that -- or you knew that Charlie believed
19 Chad Andrews to be an informant? Didn't you know that?

20 A. Yes, sir.

21 Q. And you had known that Charlie believed that Chad
22 Andrews had been an informant for some period of time?

23 A. Yes, sir.

24 Q. You were -- or everybody in the house had been -- or
25 let me ask a better question maybe. So you were injecting

1 the ice, intravenously injecting the ice; is that right?

2 A. Yes, sir.

3 Q. You and Wiley?

4 A. Yes, sir.

5 Q. And you're saying that Wiley was not upset or nervous
6 or concerned that night?

7 A. Not until after they got back.

8 Q. Okay. So -- so when they left, Wiley was not upset,
9 nervous or concerned; is that right?

10 A. That's correct.

11 Q. And when they got back Wiley was nervous, upset and
12 concerned?

13 A. After everybody left, yes, sir.

14 Q. And when -- and Charlie had not been nervous and upset
15 and concerned at any point in time?

16 A. No, sir.

17 Q. It was Wiley's clothes -- clothes that were burned --
18 that were burned, correct?

19 A. Yes, sir.

20 **MR. HILLIARD:** Excuse me just a second.

21 (Pause in proceedings.)

22 BY MR. HILLIARD:

23 Q. You know that -- that Wiley had only known Charlie for
24 fourteen days prior to this event; isn't that true?

25 A. No, sir.

1 Q. You don't know that?

2 A. No, sir, I didn't.

3 Q. When you say Boss, that's just kind of the way that --
4 that Wiley talked; isn't that true?

5 A. That Wiley referred to him as, yes, sir.

6 **MR. HILLIARD:** That's all I have. Thank you, ma'am.

7 REDIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. Just to clarify, what you testified to about Wiley
10 being the muscleman for the Defendant, do you have personal
11 knowledge of that?

12 A. Yes, ma'am.

13 Q. And when you talk about Wiley appearing upset, I
14 believe Mr. Hilliard was asking you about after they came
15 back, what exactly did you observe?

16 A. He was paranoid, he was nervous that everybody left
17 and he thought everybody was trying to set him up.

18 Q. He thought people were trying to set him up?

19 A. Yes, ma'am.

20 Q. Does that include the Defendant, Mr. Morehouse?

21 A. Yes, ma'am.

22 **MS. MAYES:** Nothing further.

23 **THE COURT:** Okay. You can step down.

24 (Witness excused.)

25 **THE COURT:** Alright. I think this would be a good

1 time for a lunch break, all right? It's twenty minutes
2 until one. I'll give you an hour and fifteen and we'll
3 start back at 2:00 sharp. Does that sound okay?

4 All right. Please step in the jury room. Don't talk
5 about the case. I'll see you after lunch.

6 (Whereupon, the jury was excused for lunch at
7 12:37 PM.)

8 **MS. MAYES:** Your Honor, may we approach concerning
9 scheduling?

10 **THE COURT:** Sure.

11 (Proceedings held at the bench; not reported.)

12 **BAILIFF:** All come to order. Court's back in session.

13 **THE COURT:** Be seated.

14 **MR. HILLIARD:** May we approach the bench, Judge?

15 **THE COURT:** Absolutely.

16 (Proceedings held at the bench; not reported.)

17 **MR. HILLIARD:** Thank you for that indulgence.

18 **THE COURT:** Are you okay?

19 **MR. HILLIARD:** We're good.

20 **THE COURT:** Are we ready for the jury?

21 **MR. HILLIARD:** Yes, sir.

22 **THE COURT:** Ms. Mayes?

23 **MS. MAYES:** Yes, Your Honor.

24 **THE COURT:** All right. Bring in the jury.

25 (Whereupon, the jury returns to the courtroom at

1 2:01 PM.)

2 **THE COURT:** Are you Mr. Marcle?

3 **JUROR:** (Nods head.)

4 **THE COURT:** Any objection to him being in foreperson?

5 All right. Mr. Marcle, you're my foreperson. You don't
6 get paid extra, but do you get to sit there.

7 All right. Call your next witness.

8 **MS. MAYES:** The State calls Erica Waters.

9 (Whereupon, Erica Waters was duly sworn by the Clerk
10 of Court.)

11 **THE CLERK:** Once you're seated state your full name,
12 spelling your last, please.

13 **THE WITNESS:** Erica Jean Waters, W-A-T-E-R-S.

14 ERICA JEAN WATERS,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Good afternoon, Ms. Waters.

19 A. Hello.

20 Q. You're currently at the detention center; is that
21 correct?

22 A. Yes.

23 Q. You currently have a pending charge of possession of
24 meth, correct?

25 A. Yes.

1 Q. When did that charge come about?

2 A. May 17, 2016.

3 Q. 2016?

4 A. Yes.

5 Q. Within this past year?

6 A. Yes.

7 Q. Was that charge pending against you back in August of
8 2015?

9 A. No.

10 Q. Did you have any pending charges in August of 2015?

11 A. No.

12 Q. I'm gonna scoot this microphone just a little bit
13 closer to you.

14 A. Okay.

15 Q. Ms. Waters, your pending charge is possession of meth.
16 Have you used meth before?

17 A. Yes.

18 Q. How frequently would you say you were using meth back
19 in the timeframe of 2015?

20 A. Just about every day.

21 Q. What type of meth did you prefer?

22 A. Ice.

23 Q. And when you say ice, you're referring to the crystal
24 form of meth?

25 A. Yes.

1 Q. Can you tell us whether or not you've ever been at a
2 location at [REDACTED] Mack Circle?

3 A. Yes.

4 Q. Whose residence is that?

5 A. Chris Williams.

6 Q. And does Chris Williams have a nickname?

7 A. Yes.

8 Q. What is that?

9 A. Snoop.

10 Q. All right. So looking here at this aid, this photo
11 aid, there's Snoop?

12 A. Yes.

13 Q. Is this you?

14 A. Yes.

15 Q. I want to take you back to August 3rd of 2015. Were
16 you at Snoop's on that occasion?

17 A. Yes.

18 Q. How long had you been staying at Snoop's house or for
19 what reason were you there?

20 A. I was living there at the time. I'm not exactly sure
21 how long it had been.

22 Q. Okay. And when you say living there, does that mean
23 you had clothing there?

24 A. Yes.

25 Q. You had personal items there?

1 A. Yes.

2 Q. Who else was frequently at Snoop's house specifically
3 in the timeframe of August of 2015?

4 A. Me, Snoop, Chuck.

5 Q. And when you say Chuck, you're referring to who?

6 A. Charles Morehouse.

7 Q. So had you met Charles Morehouse prior to August of
8 2015?

9 A. Yes.

10 Q. Where did you first meet him at?

11 A. At Snoop's house.

12 Q. How frequently would you say that Chuck was at Snoop's
13 house?

14 A. Almost every day.

15 Q. Now in that period of August 2015, specifically early
16 August 2015, you've testified that you were using ice.
17 Were you using ice on the date of August 3rd?

18 A. Yes.

19 Q. Who supplied that ice?

20 A. Chuck.

21 Q. Do you see Chuck in this courtroom?

22 A. Yes.

23 Q. Where is he seated?

24 A. Right over there.

25 Q. What do you recall Chuck having the drugs in? How did

1 he normally possess them?

2 A. In a black lockbox, aluminum lockbox.

3 Q. Had you seen him with that black lockbox on one
4 occasion or more than one occasion?

5 A. More than one.

6 Q. Did you ever see him with any firearms?

7 A. Yes.

8 Q. What type of firearms do you recall seeing
9 Mr. Morehouse with?

10 A. He had pistols and a revolver.

11 Q. And when you say pistols, was it one pistol or more
12 than one pistol?

13 A. More than one.

14 Q. Where did he normally carry a firearm?

15 A. On him or in his vehicle.

16 Q. Have you been in his vehicle before?

17 A. Yes.

18 Q. Where had he taken you before in his vehicle?

19 A. He had picked me up at -- from a hotel that I had
20 gotten a room at to ride back and I rode with him to
21 Shooters Choice.

22 Q. What is that?

23 A. It is a gun place.

24 Q. All right. Where in the vehicle did he normally keep
25 the gun?

1 A. In his glove box.

2 Q. And when you saw it on his person, where did he
3 normally keep it?

4 A. On his waist.

5 Q. When you say on his waist --

6 A. In his waistband of his pants.

7 Q. Based on that trip with him to Shooters Choice, can
8 you tell us whether or not he was familiar with firearms
9 and ammunition?

10 A. Yes.

11 Q. On the night of August 3, 2015, were you at Snoop's
12 house?

13 A. Yes.

14 Q. Who else do you recall being there?

15 A. My friend Timothy and I were outside. There was Snoop
16 and Terri, Wiley.

17 Q. Let me stop you right there. You said Terri. Who was
18 Terri in relation to Snoop?

19 A. His girlfriend.

20 **MS. MAYES:** I beg the Court's indulgence.

21 BY MS. MAYES:

22 Q. So Terri is the girlfriend of Snoop?

23 A. Yes.

24 Q. You mentioned Wiley. Who is Wiley?

25 A. Wiley Sisk.

1 Q. All right. Who else?

2 A. Snoop, Chuck, and Brittany Moody.

3 Q. All right. And, again, when you say Chuck, you're
4 referring to who?

5 A. Charles Morehouse.

6 Q. And you say Brittany Moody?

7 A. Yes.

8 Q. Now did Snoop stay there the entire night?

9 A. No.

10 Q. Do you know where Snoop went?

11 A. I -- I believe him and Terri went to a hotel.

12 Q. Did you ever see him and Terri return after they went
13 to the hotel?

14 A. They came to get clothes and left and stayed gone the
15 rest of the night.

16 Q. All right. And when you say the rest of the night,
17 does that include into the early morning hours?

18 A. Yes.

19 Q. So let's go -- let's go through what you recall on the
20 night of August 3rd of 2015.

21 A. I had called my friend Timothy over and me and him
22 were sitting in his truck in the yard and Snoop and Terri
23 pulled up and -- with Billie in Billie's truck and Wiley
24 and Chuck pulled up in Chuck's car and Snoop and Terri went
25 inside and got some clothes. They were in there for a few

1 minutes and Wiley and Chuck got out and went inside, too,
2 and Snoop and Terri left and then Chuck left also. Before
3 he left I asked him where he was going and he said that he
4 was -- he had to go get alibis.

5 Q. All right. So let me stop you right there. Are we
6 talking about daytime or nighttime at this point?

7 A. It was nighttime.

8 Q. Do you know what approximate time this would be? Was
9 it before midnight or after midnight if you know for sure?

10 A. I'm not for sure.

11 Q. Could it have been around midnight?

12 A. Yes.

13 Q. So it could have been into the early morning hours of
14 August 4th?

15 A. Yes.

16 Q. Who actually did you see return with Mr. Morehouse?

17 A. Wiley.

18 Q. And when you say you saw them return, do you know what
19 kind of vehicle they were in?

20 A. They were in Chuck's vehicle.

21 Q. Was anyone else in that vehicle other than Wiley and
22 Chuck?

23 A. No.

24 Q. And what is the vehicle that you're referring to?

25 A. It's like a burgundy Impala.

1 Q. Are you familiar with that vehicle?

2 A. Yes.

3 Q. I'll show you State's Exhibit 32.

4 A. That's it.

5 Q. Is that the same vehicle that you had previously
6 ridden in with Mr. Morehouse?

7 A. Yes.

8 Q. All right. So Wiley and Chuck returned in the Impala.
9 What happened next after you saw them return?

10 A. Like I said, Chuck had left. He said he was going to
11 get alibis.

12 Q. When Chuck left, was he with anyone or by himself?

13 A. He was by himself.

14 Q. And you actually approached to ask him why he was
15 leaving?

16 A. Yes.

17 Q. And his statement was that he had to get alibis?

18 A. Yes.

19 Q. Do you know how long he was inside before he left to
20 get alibis as he put it?

21 A. I'm not exactly sure, but it wasn't very long.

22 Q. All right. Now where were you at when he went inside
23 -- after they first return and he goes inside before he
24 comes back out and says he had to get alibis, where were
25 you at?

1 A. I was outside in my friend's truck.

2 Q. So you were outside that entire time he had gone in
3 the house the first time?

4 A. Yes.

5 Q. So were you able to witness anything inside the house
6 that first time?

7 A. No.

8 Q. And you say when he said he left to get alibis he was
9 alone?

10 A. Yes.

11 Q. What happened next?

12 A. Wiley was trying to light something on fire in the
13 yard and I told him that if he needed something to get it
14 lit with there was Coleman's camp fuel in the house that
15 he could use and he went inside and got it and then he
16 came out and proceeded to strip off the rest of his
17 clothes and shoes and lit them on fire.

18 Q. Okay. And were you a witness or did you assist him
19 in obtaining that camp fuel?

20 A. He went in and got it by himself.

21 Q. Had you discussed that with him?

22 A. I told him where it was and he came back out of the
23 house with it.

24 Q. Let me show you a photograph and ask you whether or
25 not you recognize what's in it?

1 A. The Coleman camp fuel.

2 Q. All right. What color is the bottle?

3 A. Red.

4 Q. Is that the same camp fuel that you're referring to?

5 A. Yes.

6 **MS. MAYES:** Your Honor, this would be, I believe,
7 State's 34 for evidence.

8 **MR. HILLIARD:** I don't have an objection to this.

9 **THE COURT:** 34's in without objection.

10 (State's Exhibit Number 34, a photograph, is marked
11 and admitted into evidence.)

12 BY MS. MAYES:

13 Q. Looking here at this photo, Ms. Waters, what is this
14 bottle?

15 A. That's the bottle of camp fuel that he used.

16 Q. All right. Do you recognize the interior of this
17 location?

18 A. Yes, it's the fireplace in Snoop's house.

19 Q. All right. That's the house you testified you were
20 staying at at the time?

21 A. Yes.

22 Q. And looking at State's Exhibit 31, what are we looking
23 at here?

24 A. The backyard of Snoop's house.

25 Q. So what happened after the camp fuel was obtained?

1 A. He proceeded in burning his clothes and shoes.

2 Q. You're referring to Mr. Sisk?

3 A. Yes. And then we went inside the house after that.
4 My friend had left, we went inside, and then me, him and
5 Brittany were hanging out, and then Chuck had returned
6 sometime later.

7 Q. All right. So we'll go back here. This is gonna be
8 the first time you see the two of them together, which we
9 don't know if it's exactly before midnight or after, but
10 sometime around midnight?

11 A. Yes.

12 Q. And then you say Chuck returned later?

13 A. Yes.

14 Q. This was after you saw him leave saying he was going
15 to get alibis?

16 A. Yes.

17 Q. Was he with anyone or by himself?

18 A. By himself.

19 Q. And then what occurred?

20 A. We were hanging out and we were getting high and
21 he asked Wiley what he did with the bat and Wiley said
22 that he had forgotten about it and Chuck told him to do
23 something with it and then Wiley got the bat and took it
24 into Snoop's old bedroom and washed -- he was washing it
25 off in the shower and then he -- he hid the bat underneath

1 the sink in the bathroom.

2 Q. All right. So when Chuck returns he's the one who
3 says to Wiley do something with the bat?

4 A. Yes.

5 Q. Did Wiley follow those instructions?

6 A. Yes.

7 Q. What exactly did you see Wiley doing with the bat?

8 A. He had it in the shower with water running over it
9 and he was, you know, kind of wiping it with his hands
10 underneath the water.

11 Q. All right. Now based upon your observations of the
12 interactions that night between Mr. Morehouse and Mr. Sisk,
13 did Mr. Morehouse appear to be afraid of Wiley Sisk?

14 A. No.

15 Q. Did he appear to be acting under threats or coercion
16 by Wiley Sisk?

17 A. No.

18 Q. Who did you observe giving instructions that night?

19 A. Chuck.

20 Q. What did you call Chuck?

21 A. Chuck.

22 Q. Did anybody call him anything else?

23 A. Wiley called him Boss.

24 Q. I'm gonna show you what is State's Exhibit 33. What
25 are we looking at here?

1 A. That is where Wiley had burned his clothes and shoes.

2 Q. Let me show you two additional photographs and ask
3 you whether or not you can recognize them?

4 A. Yes.

5 Q. How do you recognize those photos?

6 A. One is the shower that he was washing the bat out in
7 and the other one is the bathroom that the shower is in.

8 Q. All right. And I'm gonna pull this a little bit
9 closer to you and we're gonna need you to speak up a little
10 bit more, okay?

11 A. Okay.

12 Q. So you're able to recognize both of these photographs?

13 A. Yes.

14 Q. Is this a fair and accurate representation of that
15 bathroom as you recall it on the night of August 3rd?

16 A. Yes.

17 **MS. MAYES:** Your Honor, this would be State's Exhibit,
18 I believe, 35 and 36 for evidence.

19 **MR. HILLIARD:** No objection.

20 **THE COURT:** 35 and 36 are admitted without objection.

21 (State's Exhibit Numbers 35 and 36, photographs, were
22 marked and admitted into evidence.)

23 BY MS. MAYES:

24 Q. Ms. Waters, what are we looking at in this photograph?

25 A. The bathroom in Snoop's old bedroom.

1 Q. I'm gonna hand you this and ask you where you were
2 standing and where the shower is in location to that?

3 A. Okay. The shower is right behind this wall. There's
4 a door right here and the shower is right behind this.
5 And I was standing in the bathroom right about here and
6 Wiley was right about here in front of the shower.

7 Q. All right. I'm gonna show you what is State's
8 Exhibit 36.

9 A. That's the shower that he was rinsing the bat off in.

10 Q. And you can see him from that previous angle as you
11 indicated if you're standing at the entrance of that
12 bathroom?

13 A. Yes.

14 Q. And what happened to that bat to your knowledge?

15 A. He hid it underneath the sink in that bathroom. I
16 don't know what happened to it after that.

17 Q. All right. So the last time you saw the bat was on
18 the night of August 3rd into the early morning hours of
19 August 4th?

20 A. Yes.

21 Q. And, again, the person who instructed Wiley to do
22 something with the bat was who?

23 A. Chuck.

24 Q. What else do you recall Chuck Morehouse saying that
25 night after he returned?

1 A. Before he left, he told us to watch the news because
2 -- that there would be something crazy or something that
3 would stand out on it and that if -- if or when we saw it
4 to let him know.

5 Q. Did he give you any details about what it was you were
6 supposed to see on the news?

7 A. No, he didn't.

8 Q. What was his attitude or demeanor as he told you to
9 watch the news?

10 A. Kind of like he wanted us to see what it was.

11 Q. Did he seem afraid?

12 A. No.

13 Q. Did he seem under coercion by any other person?

14 A. No.

15 Q. After he returned back, can you tell us whether or not
16 he also used -- continued to use drugs that night?

17 A. He did.

18 Q. And at any point in time did Mr. Morehouse appear to
19 be reluctant to be there with all of you at Snoop's house?

20 A. Yes.

21 Q. How so?

22 A. I mean, he acted -- he acted fine when he was there.
23 I mean, he was like partying with us and everything.

24 Q. When you say partying with you, did he seem normal?

25 A. Yes.

1 Q. Now at some point in time, did -- can you tell us
2 whether or not there was a conversation with Mr. Morehouse
3 about a phone?

4 A. He was -- well, he had -- I don't remember why he had
5 Wiley's phone, but he did, and he ended up going through
6 it and he started freaking out because he told me that he
7 had told Wiley to take his name and number and messages
8 out of his phone and when he was using Wiley's phone they
9 were still in there.

10 Q. Okay. So would this -- can you tell us where that
11 event would be in the timeline that we've talked about?
12 Would that be when he came back the first time or when he
13 came back that second time and said watch the news?

14 A. The second time and it was before he said watch the
15 news.

16 Q. All right. Now did he -- does he normally have a
17 phone on him?

18 A. Yes.

19 Q. But on this particular night, did Chuck have his
20 phone?

21 A. No, he said he had gotten rid of it earlier that
22 night.

23 Q. All right. Did he tell you he had gotten rid of it
24 or what he had done with it?

25 A. No.

1 Q. And, in fact, while he was missing his phone or had
2 gotten rid of his phone, did he ask you to make any calls
3 on his behalf?

4 A. He gave me his wife's number and asked me to call her
5 as he was leaving Snoop's and let her know that he was on
6 the way home and to be ready and waiting for him to be
7 there -- to get there.

8 Q. All right. And when you -- you say he gave you his
9 wife's number. Did you have a name for the wife?

10 A. Crystal.

11 Q. And did you follow his instructions to call his wife?

12 A. Yes, I did.

13 Q. Why did you follow his instructions that night?

14 A. I don't know. He asked me to, so I did.

15 Q. About what time of the morning would that have been?

16 A. It was right -- right at daylight, around there.

17 Q. All right. So at this point it's getting close to
18 daylight?

19 A. Yes.

20 Q. And you made that call to his wife Crystal at his
21 request?

22 A. Yes.

23 Q. Did you ever see him with possession of his own phone
24 again?

25 A. I did not see him after he left the house.

1 Q. All right. And so when you say he had Wiley's phone,
2 do you know where Wiley was at that point in time?

3 A. Wiley had went into Snoop's bedroom with Brittany.

4 Q. All right. So Wiley and Brittany were alone in
5 Snoop's bedroom?

6 A. Yes.

7 Q. And you were in another part of the home with
8 Mr. Morehouse?

9 A. I was in Cook's bedroom with Chuck.

10 Q. Is Cook's bedroom where you normally stay?

11 A. Yes.

12 Q. Who is Cook in relation to Snoop?

13 A. His mother.

14 Q. Does she have a bedroom?

15 A. She -- it was her bedroom, but she didn't stay there
16 at the time. She stayed next door with Snoop's son.

17 Q. And that's the bedroom you were using during that
18 timeframe of August 2015?

19 A. Yes.

20 Q. And Mr. Morehouse stated that he had told Wiley to get
21 rid of all his information in the phone?

22 A. Yes.

23 Q. What did you see him doing in response to finding
24 Wiley's phone and finding out that certain information was
25 still there?

1 A. He -- he got like paranoid and was wondering why it
2 was still in there and he was mad that it was still in
3 there and he ended up -- he got uncomfortable about it, so
4 he ended up leaving shortly after that.

5 Q. All right. Did you see him attempting to do anything
6 with the phone?

7 A. He was trying to delete the stuff out of it.

8 Q. Okay. So he's got the phone of Wiley Sisk --

9 A. Yes.

10 Q. -- and he's attempting to delete information from the
11 phone of Wiley Sisk?

12 A. Yes.

13 Q. Do you know whether or not Wiley Sisk had text
14 messaging capability with his phone? Was Wiley Sisk
15 somebody that was a contact of yours?

16 A. Yes.

17 Q. Was Mr. Morehouse also a contact of yours during that
18 timeframe?

19 A. Yes.

20 Q. So you had the ability yourself to text message both
21 of them if and when you ever needed to?

22 A. Yes.

23 Q. Did both of them have the ability to use text
24 messaging?

25 A. Yes.

1 Q. You say that Mr. Morehouse seemed to be getting
2 paranoid. What, if anything, did he ask you to do in
3 addition to making that call to his wife Crystal?

4 A. He asked me to watch the news and when he left he
5 also left his black box with me and asked me to give it to
6 Snoop as soon as I saw him.

7 Q. And when you say black box, you're referring to what?

8 A. The box that he kept his drugs in.

9 Q. All right. His ice?

10 A. Yes.

11 Q. And you'd seen him with that black box before that
12 night?

13 A. Yes.

14 Q. As well as that night?

15 A. Yes.

16 Q. Why do you think it was that Mr. Morehouse -- or did
17 he express to you why it was he wanted you to take custody
18 of his black box of ice before he left to go back to his
19 own home with his wife?

20 A. I'm not sure. He didn't say, but I feel like at this
21 point --

22 **MR. HILLIARD:** Objection.

23 **THE COURT:** She doesn't know. I'll sustain the
24 objection.

25 **MR. HILLIARD:** Thank you.

1 **THE WITNESS:** I felt like --

2 BY MS. MAYES:

3 Q. Okay. Let me ask you this.

4 A. I mean --

5 **THE COURT:** Rephrase your question, Ms. Mayes. You
6 can't answer the question about what you feel like.

7 You've got to -- what you saw, heard or did, so.

8 **THE WITNESS:** Oh, okay.

9 **THE COURT:** Hang on. Let her ask the next question.

10 BY MS. MAYES:

11 Q. Who brought the matter up to you? Who brought up the
12 subject?

13 A. Of leaving the box with me?

14 Q. Uh-huh.

15 A. Chuck.

16 Q. Okay. So it was his request?

17 A. Yes.

18 Q. Did you follow that request?

19 A. Yes.

20 Q. And where was that black box when you last saw it?

21 A. At Snoop's house in Cook's room.

22 Q. Okay. So when he left out -- can you tell us
23 approximately when he would have left out that morning?

24 And I'm talking about after he'd gone through Wiley's

25 phone, after he had said to watch the news and after he'd

1 instructed Wiley to do something with the bat.

2 A. The news was just coming on, so I think it was like
3 around six.

4 Q. Okay. And when he leaves out of there, does he have
5 that black box with him?

6 A. Yes, he left it with me.

7 Q. And you say when you last saw it, it was at Snoop's
8 house?

9 A. Yes.

10 Q. So we're talking about the early morning hours of
11 August 4th?

12 A. Yes.

13 Q. Ms. Waters, based on everything that you observed
14 that night and your knowledge of Mr. Sisk in this timeframe
15 of August of 2015, what was his attitude about snitches?

16 A. That he hated them.

17 Q. You had heard him discuss that before?

18 A. Yes.

19 **MS. MAYES:** I beg the Court's indulgence.

20 BY MS. MAYES:

21 Q. So in the early morning hours of August 4th when he
22 leaves out of there, ultimately did anybody come looking
23 for the box of drugs?

24 A. Wiley.

25 Q. All right. And where was Mr. Morehouse at that time?

1 A. He had already been arrested.

2 Q. All right. He was arrested. Do you know whether or
3 not he was arrested on that same day, August 4th, that he
4 left out of there and left the drugs with you?

5 A. He was.

6 Q. At that point in time, did you have the box of drugs
7 to give Mr. Sisk?

8 A. No.

9 Q. Who did Mr. Sisk say he was getting the drugs for?

10 **MR. HILLIARD:** Objection.

11 **THE COURT:** Sustained.

12 **MS. MAYES:** Nothing more -- further.

13 **THE COURT:** Your witness, Mr. Hilliard.

14 **MR. HILLIARD:** Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. HILLIARD:

17 Q. Describe the relationship, please, of you and Wiley
18 Sisk.

19 A. Me and Wiley dated years back for a brief time and we
20 were friends after that. I hadn't seen him years prior to
21 that night though.

22 Q. It had been years since you had seen him --

23 A. Yes.

24 Q. -- up until that night?

25 A. Yes.

1 Q. And your testimony to the prosecutor was that -- that
2 Wiley called Charlie Boss?

3 A. He did.

4 Q. And I think you said that Wiley seemed to be doing
5 what Charlie wanted, that Charlie was instructing him; is
6 that right?

7 A. Yes.

8 Q. However, you also say that -- that Charlie had
9 instructed Wiley to -- to delete the messages off the
10 phone, right?

11 A. That's what he said.

12 Q. And -- but that had not been done?

13 A. No.

14 Q. So at least on that occasion Wiley was not doing what
15 Charlie had asked him to do, right?

16 A. Correct.

17 Q. And when -- the first time you saw the bat was when
18 Wiley brought it into the house; is that correct?

19 A. Yes.

20 Q. And Wiley handed you the bat?

21 A. No.

22 Q. No?

23 A. No.

24 Q. What did Wiley do with the bat when he first got to
25 the house?

1 A. Wiley, the first -- I don't know. When I saw the bat
2 is when he had taken it in the bathroom to rinse it off.

3 Q. Well, you saw it when he brought it in the house.

4 A. Right. That's when he took it into the bathroom to
5 rinse it off.

6 Q. So he brought it straight in the house and took it in
7 the bathroom to rinse it off?

8 A. I don't believe it was in the house prior to that.

9 Q. All right. Well, help me understand. Did he go out
10 of the house to get the bat and come into the house with
11 the bat?

12 A. Yes.

13 Q. So when he first got there, he didn't have the bat
14 with him?

15 A. I didn't see it.

16 Q. How long have you been in jail?

17 A. I've been in jail eighty-seven days today.

18 Q. You were helping Wiley with burning his clothes by
19 telling him that he could go in the house and get some
20 lighter fluid-type stuff; is that right?

21 A. I did tell him where it was, but I did not know what
22 he was using it for at the time that I had told him he
23 could use it.

24 Q. Well, you knew he was setting his clothes on fire.

25 A. I didn't know what he was setting on fire when I told

1 him that he could use it. I didn't learn until after he
2 was burning his clothes that that's what was doing with it.

3 Q. He didn't -- well, he had on different clothes; isn't
4 that true?

5 A. When he came out of the house, he was in boxers. I
6 mean, I didn't know that that's what he was doing.

7 Q. He didn't have his clothes with him to burn?

8 A. He had already had something in the pile and when he
9 came back out with the camp fuel he had taken off, I think,
10 maybe a hat and his shoes and put them in the pile and lit
11 them.

12 Q. He burned up his shoes as well?

13 A. Yes.

14 Q. And a hat?

15 A. Uh-huh.

16 Q. Any other articles of clothing other than pants and a
17 shirt?

18 A. Not that I know of.

19 Q. At that point in time you didn't think anything
20 terrible had happened, did you?

21 A. No.

22 Q. You just thought they were acting sort of strange?

23 A. Yes. Well, I mean, they didn't really act too -- too
24 strange. Wiley -- Wiley didn't act strange. He -- I mean,
25 he acted normal.

1 Q. He was acting normal?

2 A. His demeanor.

3 Q. And how about burning up his clothes and washing off
4 the baseball bat in the shower? Is that normal?

5 A. No.

6 Q. And the bat -- the bat ended up the last time you know
7 under the sink; is that right?

8 A. Yes.

9 Q. How long did you continue to live in that house?

10 A. I hadn't gone back to that house after that day.

11 Q. At all?

12 A. No.

13 Q. How about the box? You were -- what you said is that
14 you were supposed to give the box to Snoop, right?

15 A. Uh-huh.

16 Q. But you didn't give the box to Snoop?

17 A. No, not -- I didn't hand it to him personally, no.

18 Q. You left the house and don't know what happened to it?

19 A. Right.

20 Q. You believed that the box contained drugs; is that
21 right?

22 A. There were drugs in it when he left it with me.

23 Q. Did you look in it?

24 A. I did.

25 Q. How much drugs were in there?

1 A. A lot. I'm not sure how much exactly.

2 Q. Was there any money in the box?

3 A. No.

4 Q. No money, just drugs?

5 A. Right.

6 Q. But a lot of drugs?

7 A. Yes.

8 Q. And you just left a big -- now you were a drug addict

9 at that time, right?

10 A. Yes, but that's -- it wasn't my choice of drug and it

11 wasn't mine, it did not belong to me.

12 Q. Okay. So your -- your testimony is that as a drug

13 addict that you would not use drugs that did not belong to

14 you?

15 A. Chuck left drugs for me and Brittany to use before he

16 had left that morning. I had no reason to use any of the

17 drugs in that box.

18 Q. What about when you run out?

19 A. I still had them.

20 Q. You never ran out of drugs?

21 A. Not while that was in my possession.

22 Q. You didn't keep any of it?

23 A. No.

24 Q. And you didn't give it to anybody, you just left it in

25 a room?

1 A. Yes.

2 Q. In a room filled with drug addicts -- or I'm sorry.

3 That's a wrong question. I apologize. I'll rephrase.

4 You left it in a room in a house filled with drug addicts?

5 A. There was not anybody there when I left besides Snoop.

6 Q. How many drug addicts ordinarily spent the night in

7 that house?

8 A. A few.

9 **MR. HILLIARD:** That's all I have. Thank you, ma'am.

10 REDIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. About the bat that Mr. Hilliard was asking you about,

13 when did it first come to your attention as being

14 significant I guess I should say?

15 A. When Chuck came back and we were all sitting in the

16 same room. I didn't know that it was there until then.

17 Q. All right. And who is the first person who brought

18 the bat up?

19 A. Chuck.

20 Q. Is that what brought your attention to it?

21 A. Yes.

22 Q. Mr. Hilliard was asking you about the drugs in the

23 box. Did you look in that box?

24 A. I did.

25 Q. How much drugs are we talking about?

1 A. I'm not sure exactly how much it was, but more -- more
2 than a couple of ounces.

3 Q. All right. More than a couple of ounces. Would that
4 be more than somebody would do for personal use in one
5 sitting?

6 A. A lot more.

7 Q. All right. And he was asking you about the drugs that
8 Mr. Morehouse had left for you and Brittany. What about
9 Wiley?

10 A. Wiley had his own drugs that he had -- had gotten
11 from Chuck.

12 Q. So he had given and provided drugs to you and
13 Brittany and Wiley that night, correct?

14 A. Yes.

15 Q. And Mr. Hilliard was asking you about your
16 acquaintanceship with Mr. Sisk going years back before
17 this event in 2015. Did you also have a friendship with
18 Mr. Morehouse at the time of this event in August of 2015?

19 A. We -- we got to know each other. I really -- I
20 didn't know him that well, but we spoke when we saw each
21 other and, like I said, he had picked me up and gave me a
22 ride back to the house and I rode with him to Shooters
23 Choice.

24 Q. So you had spent time with him socially?

25 A. Yes.

1 Q. Were you dating Mr. Sisk at that timeframe?

2 A. No.

3 Q. Ms. Waters, did you implicate Wiley Sisk to police?

4 A. No.

5 Q. Let me ask you about that. What do you mean by that?

6 Did the police come to you and ask you what you knew when
7 this event first occurred?

8 A. They asked me what took place that night at the house.

9 Q. All right. And did you give a statement?

10 A. I did.

11 Q. What was the date of that statement?

12 A. August 8th.

13 Q. All right. So that's within days of the murder,
14 correct?

15 A. Yes.

16 Q. Did you tell them what you've testified to today
17 regarding --

18 **MR. HILLIARD:** Objection.

19 **THE COURT:** What's the basis?

20 **MR. HILLIARD:** It's a prior inconsistent statement.
21 She's calling for a prior inconsistent statement.

22 **MS. MAYES:** I believe it's in response to
23 cross-examination regarding the relationship with
24 Mr. Sisk.

25 **THE COURT:** Come on up here.

1 **MR. HILLIARD:** Yes, sir.

2 (Proceedings held at the bench; not reported.)

3 **MR. HILLIARD:** Thank you, Judge.

4 BY MS. MAYES:

5 Q. Do you know what the term "implicate" means?

6 A. Like to turn him in or something.

7 Q. Okay. All right. So you said -- you stated that you
8 gave a statement to law enforcement. Do you remember that?

9 A. Yes.

10 Q. Would it refresh your memory to see the date of that
11 statement?

12 A. Yes.

13 Q. All right.

14 A. It's August 7th.

15 Q. All right. August 7, 2015. So that's within four
16 days of the murder, correct?

17 A. Yes.

18 Q. Now have you testified against Wiley Sisk?

19 A. Yes.

20 Q. That includes the testimony you've given today?

21 A. Yes.

22 Q. And did you give information to police in your
23 statement?

24 A. Yes.

25 Q. Did that include the information you've given today

1 regarding Mr. Sisk?

2 **MR. HILLIARD:** Objection. That's the objection.

3 **THE COURT:** All right. Maybe I'm missing something.

4 Let me see the statement.

5 **THE WITNESS:** (Handing.)

6 **THE COURT:** All right. Come up and tell me what it
7 is.

8 (Proceedings held at the bench; not reported.)

9 **MR. HILLIARD:** Thank you.

10 BY MS. MAYES:

11 Q. All right. Have you ever told the police about the
12 bat?

13 A. In my statement.

14 Q. All right. And were you still at Snoop's house
15 August 7th of 2015 when the search warrant was executed?

16 A. No.

17 Q. All right. Had you told the police about burning the
18 clothes?

19 A. Yes.

20 Q. And that included what you knew about Mr. Sisk and
21 Mr. Morehouse?

22 A. I don't understand what you mean.

23 Q. Okay. Did your statement include information about
24 Mr. Morehouse?

25 A. Yes.

1 Q. And Mr. Sisk?

2 A. Yes.

3 **MS. MAYES:** Nothing further.

4 **MR. HILLIARD:** Nothing else, Judge.

5 **THE COURT:** Okay. You can step down.

6 (Witness excused.)

7 **MR. BELL:** The State calls Charles Belk to the stand.

8 **MR. HILLIARD:** Just -- just a second.

9 **THE COURT:** Do we need a break?

10 **MR. HILLIARD:** Yes, sir.

11 **THE COURT:** All right. We need a short break. Y'all
12 step in the jury room.

13 (Whereupon, the jury retires to the jury room at
14 2:48 PM.)

15 **BAILIFF:** All come to order. Court's back in session.

16 **THE COURT:** Y'all be seated.

17 All right. Are y'all ready?

18 **MR. HILLIARD:** Defense is ready, yes, sir.

19 **MS. MAYES:** Yes, sir.

20 May we approach, Your Honor?

21 **THE COURT:** Sure. Come on up.

22 (Proceedings held at the bench; not reported.)

23 **THE COURT:** Thank you, Judge.

24 (Whereupon, the jury returns to the courtroom at
25 3:00 PM.)

1 **THE COURT:** All right. Call your witness, Ms. Mayes
2 -- or Mr. Bell.

3 **MR. BELL:** Thank you, Your Honor. The State calls
4 Charles Belk to the stand.

5 (Whereupon, Charles Belk was duly sworn by the Clerk
6 of Court.)

7 **THE CLERK:** Have a seat right up here. Once you have
8 a seat state your full name, spelling your last, please.

9 **THE WITNESS:** Charles Herman Belk, the Third.
10 B-E-L-K.

11 CHARLES HERMAN BELK, III,
12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BELL:

15 Q. Charles, do you also go by Chip?

16 A. Yes, sir.

17 Q. May I call you Chip?

18 A. Yes, sir.

19 Q. Again, I'm sure we've all noticed that you have a
20 jumpsuit on. Do you have pending charges against you?

21 A. Yes, sir.

22 Q. And when did those charges become active on you?

23 A. Most recently was September, but January of last year.

24 Q. And was that charge that you're referring from last
25 year in reference to a case against Charles Morehouse?

1 A. That was December, yes, sir.

2 Q. And that was an accessory for receiving a firearm?

3 A. Yes, sir.

4 Q. We'll talk about that a little bit further in a bit.

5 How old are you?

6 A. I'm thirty-two years old.

7 Q. And where do you live?

8 A. [REDACTED] Bobsled Drive, West Columbia, 29170.

9 Q. Prior to being incarcerated, how long had you lived
10 there?

11 A. I grew up on the road.

12 Q. How long had you been at that address though?

13 A. That address, I've been back at that address probably
14 about ten years.

15 Q. And have you used drugs in the past?

16 A. Yes, sir.

17 Q. What sort of drugs?

18 A. Marijuana and ice.

19 Q. You testified already that you do know Charles
20 Morehouse. What do you call Charles Morehouse?

21 A. Chuck.

22 Q. And how long -- as of August of 2015, how long had you
23 known Chuck?

24 A. Maybe a week or two.

25 Q. August 3rd, leading into the 4th of 2015, do you

1 recall seeing Chuck?

2 A. It was like that night. I had just bonded -- just got
3 out on a bench warrant. The judge lifted a bench warrant
4 on me around about midnight that night.

5 Q. And after you got out, where did you go that night to
6 go to sleep? What address?

7 A. [REDACTED] Bobsled.

8 Q. And ultimately did you see Chuck that night?

9 A. Yes, sir.

10 Q. What were you doing when you saw him?

11 A. I was asleep.

12 Q. And what woke you up?

13 A. Knocking at the door.

14 Q. Did you get up and go answer the door?

15 A. Yes, sir.

16 Q. And was it Chuck at the door?

17 A. Yes, sir.

18 Q. Was anybody with him?

19 A. No, sir.

20 Q. Were you able to see how he got to your house?

21 A. No, sir. There was vehicle in the driveway.

22 Q. Do you remember what it looked like?

23 A. It was just a dark sedan.

24 Q. Did he come into your house?

25 A. Yes, sir.

1 Q. Was it usual for Chuck to show up at your house in the
2 early morning hours?

3 A. No, sir.

4 Q. Had that ever happened before?

5 A. No, sir.

6 Q. What was his demeanor when he was at your door?

7 A. Just shake -- shaken up, frantic.

8 Q. Did he mention being afraid of anybody?

9 A. No, sir.

10 Q. Why did you come to your house that night?

11 A. He come because he didn't know what to do with a
12 firearm he had.

13 Q. Did he show you that firearm?

14 A. Yes, sir.

15 Q. Where did he pull it from?

16 A. I don't really know exactly where he pulled it from,
17 but he handed it to me.

18 Q. And did you have a chance to see the firearm?

19 A. Yes, sir.

20 Q. Do you recall what color it was?

21 A. It was black and silver.

22 Q. And was it a revolver? Do you know if it was a
23 revolver or a different kind of firearm?

24 A. No, sir, it was a semiautomatic.

25 Q. Did you take any more of a detailed look at the

1 firearm than what you just testified about?

2 A. No, sir. It was a black action with a -- with a
3 silver slide.

4 Q. After handing the firearm to you, did he do anything
5 else with the firearm?

6 A. He took it back, took the magazine out, took the
7 remaining rounds out of it and then handed it back to me.

8 Q. So he initially handed it to you; is that right?

9 A. Yes, sir.

10 Q. But he then asked for it back?

11 A. Yes, sir.

12 Q. Did he say why he was getting it back from you?

13 A. No, sir.

14 Q. Did he say anything -- anything to you when he took it
15 back?

16 A. I had originally -- you know, I'd just got out and I
17 said, you know, my kids and everything like that, and then
18 he went -- he said he hated putting it on me and then took
19 it back.

20 Q. When you say putting it on you, what do you mean?

21 A. Like giving me the -- giving me the gun because I was
22 restricted at the time due to my pending CDV case and bond
23 restrictions and things like that.

24 Q. Okay. So he initially handed that gun to you and then
25 asked for it back?

1 A. Yes, sir. And I told him --

2 Q. And what did he do when he asked for it back?

3 A. Took the magazine out of it -- out of it and emptied
4 the rounds out of the magazine.

5 Q. Did he then give the gun and the magazine back to you?

6 A. Yes, sir.

7 Q. What did he do with those bullets that he ejected from
8 the magazine?

9 A. I'm not real clear.

10 Q. Did he leave them with you?

11 A. No, sir.

12 Q. Did he leave them anywhere in your house?

13 A. No, sir.

14 Q. Do you recall what color the bullets were that he
15 ejected from the magazine?

16 A. It was -- they had a brass casing on them and copper
17 jackets -- copper coating on the bullets.

18 Q. And that brass coating you referred to, is that sort
19 of a gold or yellowish tint?

20 A. Yes, sir.

21 Q. Do you remember how many bullets he ejected out of the
22 magazine?

23 A. Approximately four or five.

24 Q. Did the firearm appear that it could have held a lot
25 more than that?

1 A. Yes, sir.

2 Q. Why did you agree to take the firearm?

3 A. Because I had already touched it at that point and I
4 was in fear of what it might have been used for.

5 Q. Did he offer you anything in exchange for taking the
6 firearm?

7 A. No, sir.

8 Q. Is there anything he said he could help you with?

9 **MR. HILLIARD:** Objection.

10 **THE COURT:** Rephrase that. I'll sustain it.

11 **MR. HILLIARD:** Thank you, Judge.

12 BY MR. BELL:

13 Q. Have you ever seen Charles with ice before -- or
14 Chuck?

15 A. No, sir.

16 Q. Had you ever seen him with money?

17 A. Yes, sir, but not -- I mean, just a couple hundred
18 dollars maybe.

19 Q. And, again, how long have you known Chuck?

20 A. I'd only met him twice about two weeks prior to that.

21 Q. Did you get rid of that gun?

22 A. Yes, sir.

23 Q. Did you ever see that gun again after you got rid of
24 it?

25 A. No, sir.

1 Q. Leading up to the incident where he came to your
2 house, had -- leading up to the incident where he came to
3 your house that night, had he ever reached out and made any
4 contact with you?

5 A. No, sir.

6 Q. Were you inviting him to your house that night?

7 A. No, sir.

8 Q. Were you expecting him for any reason?

9 A. No, sir.

10 **MR. BELL:** I beg the Court's indulgence.

11 **THE COURT:** Yes, sir.

12 (State's Exhibit Number 37 and 38 were marked for
13 identification.)

14 BY MR. BELL:

15 Q. I'm showing you what's been marked as State's 37 and
16 38. Specifically 37, do you recognize the phone number on
17 the picture?

18 A. Yes, sir.

19 Q. Whose phone number is that?

20 A. One of them I don't recognize, but the other one is
21 my company phone at the time.

22 Q. And is that same phone number present in State's
23 Number 38 for ID?

24 A. Yes, sir.

25 Q. What was the phone number that you're referring to?

1 A. [REDACTED]-1403.

2 Q. Did you give Chuck your phone number?

3 A. Not that I can remember.

4 Q. Do you know who Christopher Williams is?

5 A. Yes, sir.

6 Q. Does he also go by another nickname?

7 A. Yes, sir.

8 Q. What's that nickname?

9 A. Snoop.

10 Q. Do you know him better than you know Chuck?

11 A. Yes, sir.

12 Q. And are you aware whether or not Snoop and Chuck knew
13 each other?

14 A. That is the only time I'd met Chuck prior to that one
15 night was with Snoop.

16 **MR. BELL:** Thank you, sir.

17 **MR. HILLIARD:** Excuse me just one second, Judge. I
18 don't have much.

19 **THE COURT:** Uh-huh.

20 **MR. HILLIARD:** Thank you, sir. I don't have any
21 questions.

22 **THE COURT:** (Witness excused.)

23 **MS. MAYES:** The State calls Detective Joseph Andaloro.

24 (Whereupon, Joseph Andaloro was duly sworn by the
25 Clerk of Court.)

1 **THE CLERK:** Once you're seated state your full name,
2 spelling your last, please.

3 **THE WITNESS:** Joseph Andalaro, J-O-S-E-P-H
4 A-N-D-A-L-O-R-O.

5 JOSEPH ANDALORO,
6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. All right. And, Detective Andalaro, where are you
10 employed and in what capacity?

11 A. Lexington County Sheriff's Department and as a major
12 crimes detective.

13 Q. All right. And how long have you been a member of
14 the Major Crimes Unit?

15 A. About a year and a half.

16 Q. Can you tell us whether or not you were working
17 as a detective during the course of the homicide
18 investigation in August of 2015 regarding the Defendant
19 Charles Morehouse?

20 A. I was.

21 Q. How did you first become involved in the case?

22 A. I was first made aware of the case by Sergeant Laintz.
23 He asked me to respond to the 2400 block of Old Orangeburg
24 Road in reference to the shooting incident.

25 Q. That would be the crime scene?

1 A. That's correct.

2 Q. So you were at the crime scene yourself?

3 A. Yes, ma'am.

4 Q. Can you tell us whether or not information was
5 obtained at the crime scene that -- that developed Charles
6 Morehouse as a potential suspect in this case?

7 A. I believe it did.

8 Q. Okay. What did you do next in response to the
9 investigation?

10 A. Next in response to the investigation, we attempted
11 to make contact with the victim's family members, went to
12 various locations trying to locate them.

13 Q. And what occurred after that?

14 A. After that, we were notified that Morehouse was
15 possibly involved with it. I was notified by Sergeant
16 Laintz to respond to a location and to conduct surveillance
17 on Willow Forks Road.

18 Q. All right. And whose residence is Willow Forks Road?
19 And, if you could, give us the actual street address.

20 A. Yes, ma'am. [REDACTED] Willow Forks Road, and I believe
21 it's the residence of Charles Morehouse.

22 Q. All right. And what do you mean by conducting
23 surveillance? Take us through what's involved with that.

24 A. Yes, ma'am. I was with Detective Booth. We actually
25 went to Firbough Court, which is a cul de sac right after

1 ████ Willow Forks Road, and the surveillance was basically
2 visual surveillance, sitting inside the vehicle watching
3 that residence, having eyes on the residence.

4 Q. All right. And are you able to see at that point
5 persons coming and going into the driveway?

6 A. Yes, ma'am, I was.

7 Q. Do you know which officers initially began that
8 surveillance at the exterior of █████ Willow Forks? Was it
9 you or another officer?

10 A. I believe we were the first -- first on the scene.

11 Q. All right. What, if anything, did you observe --
12 or let me take you back. I'm gonna show's you State's
13 Exhibit 32 and ask you whether or not you recognize what's
14 shown in that photograph?

15 A. Yes, ma'am, I do. That's the driveway at that
16 residence.

17 Q. Now as you're watching the residence and you have a
18 suspect who is Charles Morehouse, what, if anything, is
19 done to determine any type of vehicles associated with the
20 suspect, the general physical description of the suspect?
21 What are you looking for?

22 A. I'm looking for any vehicles that could possibly be
23 associated with him and obviously physical identifiers of
24 a person that would match his description getting out of a
25 vehicle at that location.

1 Q. All right. Tell us exactly what you observed and the
2 approximate time that you observed it while conducting
3 surveillance at that residence in the early morning hours
4 of August 4th.

5 A. Yes, ma'am. As far as the exact time, I'm not sure,
6 but sometime in the early morning hours between 4 and 6 AM
7 I observed a burgundy or purple color Chevy Impala pull
8 into the driveway at [REDACTED] Willow Forks Road and I saw a male
9 get out of the driver's side of the vehicle and then enter
10 into the residence at [REDACTED].

11 Q. All right. And so this could be as late as 6 AM?

12 A. That's correct.

13 Q. And were any other occupants in the vehicle other than
14 the male that you say was driving the vehicle?

15 A. No, ma'am.

16 Q. Now at that point in time, did you have the general
17 physical description of the Defendant in this case, Charles
18 Morehouse?

19 A. I did.

20 Q. And what, if anything, can you tell us about the
21 individual coming out of the driver's side of that vehicle
22 and then going into the residence?

23 A. It appeared to be a male matching the general height,
24 weight and physical identifiers that went out of that resi
25 -- went out of the vehicle into the residence.

1 Q. All right. Can you tell us whether or not the person
2 you observed is consistent with the Defendant in this case,
3 Charles Morehouse?

4 A. It is.

5 Q. Okay. I'm gonna also show you two additional
6 photographs --

7 A. Yes, ma'am.

8 Q. -- and ask you whether or not you recognize them?

9 A. Yes, ma'am. One's the front door at [REDACTED] Willow Forks
10 Road and the other one is a larger view or a panned out
11 view of the driveway.

12 **MS. MAYES:** This would be for evidence, Your Honor.
13 State's, I believe, at this point 36 and 37.

14 **THE COURT REPORTER:** No.

15 **THE COURT:** There were two others before that.

16 **THE COURT REPORTER:** 39 and 40.

17 **MS. MAYES:** 39 and 40.

18 **MR. HILLIARD:** I don't have any objection.

19 **THE COURT:** So 39 and 40 without objection.

20 **MR. HILLIARD:** Yes, sir.

21 **THE COURT:** All right.

22 (State's Exhibit Numbers 39 and 40, photographs, were
23 marked and admitted in to evidence.)

24 BY MS. MAYES:

25 Q. Okay. So Detective Andaloro, as you're conducting

1 surveillance on this residence, you observed one individual
2 getting out of this vehicle, which you've identified as the
3 Chevy Impala?

4 A. That is correct.

5 Q. And were there other vehicles also in the driveway
6 at that time?

7 A. Yes, ma'am, there were.

8 Q. And is this, in fact, the residence at [REDACTED] Willow
9 Forks?

10 A. It is.

11 Q. Upon receiving or observing this event, what, if
12 anything, did you do next?

13 A. As far as after I recognized that vehicle, I was
14 notified by Sergeant Laintz that the SWAT team was gonna
15 help execute a search warrant at that location and I stood
16 by until they were ready to execute the search warrant.

17 Q. All right. And when you say you stood by, did that
18 include continued surveillance?

19 A. Yes, ma'am, it did.

20 Q. Keeping eyes right there on that driveway whether any
21 additional vehicles were coming or going?

22 A. That's correct.

23 Q. Did you ever see that individual come back out of the
24 house after that event?

25 A. I did not.

1 Q. Did you ever see that Impala leave that driveway after
2 you observed it arrive back in the early morning hours?

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

4 Q. And ultimately was the search warrant executed at the
5 residence of Charles Morehouse that morning?

6 A. Yes, ma'am, it was.

7 Q. And I want to take you forward. Have you also had
8 the opportunity to participate in a search warrant
9 conducted at any other locations in regards to this
10 homicide investigation?

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

12 Q. What is the physical address of the other location in
13 which a search warrant was conducted?

14 A. [REDACTED] Mack Circle.

15 Q. All right. [REDACTED] Mack Circle. Are you familiar with
16 an individual by the name of Christopher Williams, also
17 known as Snoop?

18 A. Yes, ma'am, I am.

19 Q. Would that be his residence?

20 A. It would be. Him and his mom were staying there.

21 Q. What was the date of that search warrant?

22 A. The date of that search warrant was August 6, 2015.

23 Q. All right. August 6, 2015. So at that point in time
24 on August 6th, we're talking three days after the murder,
25 correct?

1 A. Yes, ma'am, that's correct.

2 Q. At that point in time, had law enforcement received
3 the written statement of Erica Waters?

4 A. No, ma'am, I believe we had not at that time.

5 Q. All right. Do you have the date in which Erica
6 Waters' statement was provided?

7 A. If I could refer to my notes one moment.

8 Q. Okay.

9 A. I believe that was the date after we executed the
10 search warrant on August 7, 2015.

11 Q. Okay. So on August 7th the statement of Erica Waters
12 was obtained, so when that search warrant was executed on
13 August 6th, the day before that, did you know at that point
14 in time to be on the lookout for any type of bat?

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

16 Q. At that time had law enforcement received any
17 information about the possible involvement of a bat in
18 the homicide?

19 A. No, ma'am, to the best of my knowledge we did not.

20 Q. What were the items that you and other members of
21 law enforcement were looking for at [REDACTED] Mack Circle, the
22 residence of Snoop?

23 A. Yes, ma'am. Firearms, ammunition, anything that
24 could be in connection with what we found on-scene at the
25 2400 block of Old Orangeburg.

1 Q. Okay. Were any guns retrieved from that residence?

2 A. I'm not sure.

3 Q. Do you have a copy of that search warrant with you?

4 A. I do not.

5 Q. Did you participate in that search?

6 A. Yes, ma'am.

7 Q. As well as the return on the search warrant?

8 A. At [REDACTED] Mack Circle?

9 Q. Yes.

10 A. No. I'm sorry. At [REDACTED] Mack Circle, no, we did not
11 recover any firearms there. I apologize.

12 Q. Okay. I'm gonna ask you to refer to that document.
13 Are you actually named on the return for the search
14 warrant?

15 A. Yes, ma'am.

16 Q. All right. So you were present for the execution of
17 that search warrant?

18 A. Yes, ma'am, at [REDACTED] Mack Circle. I wasn't present at
19 the execution at Willow Forks. I apologize.

20 Q. Okay. And just to clarify, [REDACTED] Willow Forks is
21 residence of Mr. Morehouse?

22 A. Correct.

23 Q. That's the home that you were conducting surveillance
24 on?

25 A. Correct.

1 Q. But once SWAT -- once the SWAT team arrived, did you
2 actually go inside for that search warrant?

3 A. I did not.

4 Q. You had other responsibilities?

5 A. I actually left the scene once it was secure.

6 Q. And then several days later for the execution of the
7 search warrant at Snoop's house, you were present?

8 A. That's correct.

9 Q. Can you tell us whether or not photographs were taken
10 of the interior of the residence at Snoop's house, as well
11 as the exterior of the residence?

12 A. Yes, ma'am, I believe they were taken both of the
13 interior and exterior of the residence at [REDACTED] Mack Circle.

14 Q. All right. And are you familiar with whether or not
15 there was a burn pile at that residence?

16 A. Yes, ma'am, there was.

17 Q. All right. Was that documented as well by law
18 enforcement during the execution of that search warrant?

19 A. Yes, ma'am.

20 Q. Do you know, Detective Andalaro, whether or not any
21 cleaning products, such as Ajax or Comet, were also
22 observed in the residence?

23 A. I believe there were some cleaning products in the
24 bathroom at the residence.

25 Q. I'm gonna show you a photograph and ask you whether

1 or not you recognize it?

2 A. I do.

3 Q. What residence is that?

4 A. That would be [REDACTED] Mack Circle.

5 Q. Can you tell us whether or not that's a fair and
6 accurate presentation of what was observed at [REDACTED] Mack
7 Circle during the execution of that search warrant on
8 August 6th?

9 A. Yes, ma'am, to the best of my recollection.

10 **MS. MAYES:** Your Honor, this would be 41 for
11 evidence.

12 **MR. HILLIARD:** No objection.

13 **THE COURT:** Without objection 41's admitted.

14 (State's Exhibit Number 41, a photograph, was marked
15 and admitted into evidence.)

16 BY MS. MAYES:

17 Q. What is this item located here?

18 A. I believe that's an Ajax or Comet bottle.

19 Q. Were any drugs found in that residence?

20 A. No, ma'am.

21 Q. You may refer to the return on the search warrant.

22 A. No, ma'am.

23 Q. Do you know whether any drug paraphernalia was found
24 at or near the residence?

25 A. I believe there may have been some spent or used

1 needles near one of the burn piles.

2 Q. All right. By spent or used needles, are you
3 referring to potentially a needle used for ingestion of
4 drugs?

5 A. Correct.

6 Q. Such as a hypodermic needle?

7 A. Yes, ma'am.

8 Q. Can you tell us whether or not there were any
9 remnants of clothing in the burn pile?

10 A. Yes, ma'am, there was.

11 Q. How so?

12 A. There was -- I remember -- I recall a zipper and then
13 some metal pieces that looked like rivets off of clothing,
14 like a jacket or jeans.

15 Q. You say rivets, but buttons?

16 A. Buttons, yes, ma'am.

17 Q. You recall a zipper and buttons being located within
18 that burn pile debris as well?

19 A. That's correct.

20 Q. Do you know whether or not law enforcement had made
21 contact with Snoop, Christopher Williams, prior to the
22 execution of that search warrant on August 6th of 2015?

23 A. Yes, ma'am, we did.

24 Q. What was the date law enforcement initially had
25 contact with Christopher Williams?

1 A. We went out there on August 5, 2015, the day prior.

2 Q. And when you say we went out there, that was members
3 of law enforcement?

4 A. Yes, ma'am. Lexington County Sheriff's Department.

5 Q. But you had actually made an appearance at that
6 residence the day before the search warrant?

7 A. Correct.

8 Q. And then when the search warrant was executed, no
9 drugs were found?

10 A. That's correct.

11 Q. Now I want to move you forward and ask you whether
12 or not you also had an opportunity pursuant to this
13 investigation to retrieve any type of evidence from an
14 establishment known as the Whiskey Tavern?

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

16 Q. What is the Whiskey Tavern?

17 A. The Whiskey Tavern is a private club, bar, I guess
18 you could say.

19 Q. And in what area of this county or another county is
20 it located?

21 A. It's off Zimalcrest just off of Bush River Road in
22 Columbia, in Richland County.

23 Q. And for what purpose did you go to that location?

24 A. I went to that location -- I was informed during the
25 process of the investigation that Charles Morehouse had

1 possibly gone there and spoken with someone, so I was sent
2 there to retrieve video surveillance for a period of time
3 to see if he went to that location.

4 Q. All right. And when you say that he had went there
5 or gone there, you're referring to before or after the
6 murder?

7 A. I believe he went there -- supposedly he went there
8 after the murder, so it would be after the murder.

9 Q. Okay. You were at the crime scene in this particular
10 case, correct?

11 A. Correct.

12 Q. All right. So were you able to actually speak with
13 anyone at Whiskey Tavern in regards to accessing their
14 equipment, including surveillance equipment?

15 A. I did.

16 Q. And as a result, what, if any, process did you follow
17 in order to retrieve their surveillance video and what
18 date are we talking about?

19 A. Yes, ma'am. On August 7th, I went to the Whiskey
20 Tavern, which was located at 316 Zimalcrest Drive and I
21 made contact with Keith Leisure and Thomas Page who were
22 working at the club. I provided them with a blue and white
23 32 gigabyte flash drive to download the video surveillance
24 and I requested video surveillance from 11:00, or 2300
25 hours, on August 3, 2015, to 6:00, or 0600 hours, on

1 August 4, 2015.

2 Q. So you were requesting the early morning hours of
3 August 4th, correct?

4 A. That's correct.

5 Q. And did you have an opportunity to actually retrieve
6 physically that surveillance video?

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

8 Q. It was provided to you?

9 A. Yes, ma'am.

10 Q. I'm gonna show you this item and ask you whether or
11 not you recognize it?

12 A. Yes, ma'am. That's the thumb drive I used to obtain
13 the video surveillance from the Whiskey Tavern.

14 Q. All right. And do you have the date that you actually
15 retrieved it from those individuals?

16 A. The date on the back is August 8, 2015.

17 Q. All right. Have you had an opportunity to -- to
18 review the video surveillance to determine whether or not
19 it accurately reflects the timeframe that you requested,
20 which would be the early morning hours of August 4th?

21 A. Yes, ma'am, I have.

22 Q. I'm gonna show you some items and ask you whether or
23 not you recognize them?

24 A. Yes, ma'am. Those are still shots from the video
25 surveillance provided at the time.

1 Q. Okay. I need you to speak up a little bit.

2 A. I'm sorry. Those are still shots from the video
3 surveillance.

4 Q. We have five of them here. Can you tell us whether
5 or not a date and time is reflected on the screen shots?

6 A. Yes, ma'am. This one has a date on it.

7 Q. All right. And did you also have the opportunity to
8 examine what you -- what you received from the server, I
9 guess is the way to put it, directly from the server onto
10 this flash drive to determine whether the date and time
11 are accurate?

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

13 Q. Was there ever any indication that the date and time
14 was not accurate?

15 A. No, ma'am.

16 Q. The date and time appear to be accurate?

17 A. Yes, ma'am, they do.

18 Q. And those screen shots are a fair and accurate
19 representation of what you observed?

20 A. Yes, ma'am, that's correct.

21 Q. And that item was taken into evidence by the
22 Lexington County Sheriff's Department?

23 A. Yes, ma'am.

24 **MS. MAYES:** Your Honor, at this time we'd offer those
25 five screen shots as additional evidence in this case, and

1 I believe that would be 42 through 47.

2 **MR. HILLIARD:** They've not yet been marked
3 individually. We have an objection as to one, but not as
4 the others, if we can approach?

5 **THE COURT:** Okay.

6 (Proceedings held at the bench; not reported.)

7 **MS. MAYES:** 46 is ID.

8 (State's Exhibit Numbers 42 through 47 were marked
9 for identification.)

10 BY MS. MAYES:

11 Q. So 47, 43 and 44, 45, these are all screen shots from
12 that video that was retrieved from the Whiskey Tavern?

13 A. Yes, ma'am.

14 Q. And 46, I believe you've identified that as well?

15 A. Yes, ma'am.

16 Q. From the same video retrieved?

17 A. Yes, ma'am.

18 **THE COURT:** All right. Just so we're clear, 43, 44,
19 45 and 47 are without objection and 46 is ID?

20 **MS. MAYES:** Yes, sir.

21 **THE COURT REPORTER:** And 42, the flash drive is?

22 **THE COURT:** Without objection the flash drive?

23 **MR. HILLIARD:** Without objection, yes, sir.

24 **THE COURT:** Okay.

25 (State's Exhibit Number 42, a flash drive, was

1 admitted into evidence.)

2 (State's Exhibit Number 43, 44, 45 and 47,
3 photographs, were admitted into evidence.)

4 BY MS. MAYES:

5 Q. Detective Andalaro, what is depicted up here in the
6 right-hand corner?

7 A. A date and timestamp.

8 Q. All right. And can you tell us whether or not
9 Mr. Morehouse is observed in this videotape on more than
10 one occasion on the night of -- or in the early morning
11 hours of August 4, 2015?

12 A. Yes.

13 Q. Is he observed communicating with other individuals
14 at that establishment?

15 A. Yes, ma'am, he is.

16 **MS. MAYES:** Nothing further at this time.

17 **MR. HILLIARD:** Thank you, sir. I don't have any
18 questions. I have no objection to him being excused.

19 **THE COURT:** All right. You may step down.

20 **THE WITNESS:** Thank you.

21 (Witness excused.)

22 **THE COURT:** You may call --

23 **MR. HILLIARD:** Before we get to that, Judge, excuse
24 me just one second. Can we come up?

25 **THE COURT:** Yes, sir.

1 (Proceedings held at the bench; not reported.)

2 **THE COURT:** All right. We need to take a short break.
3 Step in the jury room and we'll get you right back out
4 here.

5 (Whereupon, the jury retires to the jury room at
6 3:37 PM.)

7 **BAILIFF:** Come to order. Court's back in session.

8 **THE COURT:** Be seated. Are y'all ready?

9 **MR. HILLIARD:** Yes, sir, Judge.

10 **THE COURT:** Bring in the jury and then call your
11 witnesses.

12 (Whereupon the jury returns to the courtroom at
13 3:44 PM.)

14 **THE COURT:** All right. Call your witness, Mr. Bell.

15 **MR. BELL:** The State call Kelin Martinez.

16 (Whereupon, Kelin Martinez was duly sworn by the
17 Clerk of Court.)

18 **THE CLERK:** Once you're stated, state your full name,
19 spelling your last on the record, please.

20 **THE WITNESS:** My name is Kelin Martinez and my last
21 name is M-A-R-T-I-N-E-Z.

22 KELIN MARTINEZ,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. BELL:

- 1 Q. Kelin, how old are you?
- 2 A. Twenty-nine.
- 3 Q. Where do you live?
- 4 A. In West Columbia.
- 5 Q. And who do you live with?
- 6 A. My mom and my sister.
- 7 Q. What's your mom's name?
- 8 A. Debra Wood.
- 9 Q. And back in August of 2015, where were you living?
- 10 A. On Oakland Avenue in Columbia.
- 11 Q. And who were you living with at that address?
- 12 A. My mom.
- 13 Q. And that's Debra Wood?
- 14 A. Yes.
- 15 Q. Now do you know who Charles Morehouse is?
- 16 A. Yes. I knew him as Chuck.
- 17 Q. You knew him as Chuck?
- 18 A. (Nods head.)
- 19 Q. And on the night of August 3, 2015, or in the early
- 20 hours of August 4th, did you see Chuck?
- 21 A. Yes. I'd say it was between -- it was after one,
- 22 before 3:00 in the morning, somewhere around one or two.
- 23 I was asleep. I was almost eight months pregnant. I was
- 24 in the bed asleep. I got woke up from the noise and I
- 25 walked out --

- 1 Q. All right. We'll get there.
- 2 A. I'm sorry.
- 3 Q. So the night of August 3rd, you were at your mother's
- 4 house?
- 5 A. (Nods head.)
- 6 Q. And did you go to sleep that night?
- 7 A. (Nods head.)
- 8 Q. Prior to going to sleep, who all was at the house?
- 9 A. My mom, Michael and my nephew, Austin.
- 10 Q. And does Austin have a nickname?
- 11 A. Some people call him Little Tank.
- 12 Q. Tank, Junior?
- 13 A. I've never heard of it referred to as that.
- 14 Q. Okay. What's his last name?
- 15 A. Lynch.
- 16 Q. And what was Austin doing before you went to sleep?
- 17 A. He was asleep on the coach.
- 18 Q. Was your momma still up?
- 19 A. Yes.
- 20 Q. After going to sleep that night, did you wake up?
- 21 A. Yes, sir.
- 22 Q. And about what time was that?
- 23 A. Between one and two.
- 24 Q. What woke you up?
- 25 A. Noise in the living room, talking and laughing.

- 1 Q. You said you heard laughing?
- 2 A. Yes.
- 3 Q. Did you hear female or male voices?
- 4 A. My mom along with males.
- 5 Q. And what did you do when you heard that commotion?
- 6 A. I woke up and went in there and asked them to quiet
- 7 down.
- 8 Q. When you went out there, who all was in the room?
- 9 A. Chuck, my mom, Mike and Austin.
- 10 Q. And was Austin awake or asleep?
- 11 A. He was asleep.
- 12 Q. Was he in the same spot you saw him before you went
- 13 to sleep?
- 14 A. Yes, sir.
- 15 Q. Where was Chuck in the room?
- 16 A. He was sitting in a white chair kind of cornered by
- 17 the front door like kind of catty-cornered.
- 18 Q. And what he doing when you saw him?
- 19 A. He was just sitting there. He kind of had his head in
- 20 his hands and he was just kind of real fidgety.
- 21 Q. Anybody else show up with Chuck that night?
- 22 A. No, sir, not that I seen.
- 23 Q. Did he leave with anybody else?
- 24 A. No, sir.
- 25 Q. Did he talk about being afraid of anybody?

1 A. Not at that time.

2 Q. And when you say at that time, what do you mean?

3 A. It really wasn't being afraid of anyone. It was just
4 more like a paranoid behavior.

5 Q. Did he ever tell you that he was afraid of somebody?

6 A. Not afraid of a person, no, just --

7 Q. Did he ever say he was afraid of Wiley Sisk?

8 **MR. HILLIARD:** Objection. Leading.

9 **THE COURT:** Sustained. Rephrase it.

10 BY MR. BELL:

11 Q. So you said he said he was never afraid of a person.
12 Is that what you testified to?

13 A. Yes, sir.

14 Q. Had you ever seen Chuck with a gun before?

15 A. Yes, sir.

16 Q. Was that a common or uncommon occurrence?

17 A. Common.

18 Q. That night when Chuck was sitting in that chair at
19 your momma's house, did he say anything to you?

20 A. Yes, sir. After I asked them to quiet down and I
21 went to go back to sleep, as I was walking out the room he
22 stressed the importance of I had not seen him that night.

23 Q. And what did you take that to mean?

24 A. I didn't really take it as nothing due to the -- the
25 -- the paranoid behavior. I just kind of brushed it off

1 and went back to sleep.

2 Q. Did you see him using a cell phone at all at your
3 mom's house?

4 A. He used my mom's phone.

5 Q. Why was he using your mom's phone?

6 A. I believe it was to call his wife and his phone had
7 been stolen or lost.

8 Q. He said his phone was stolen or lost?

9 A. Yes.

10 Q. And, again, what time of night or morning would this
11 have been?

12 A. It was between -- after one, before three. Somewhere
13 around one, two-ish.

14 Q. AM?

15 A. Yes, sir.

16 Q. You mentioned that Austin Lynch was your nephew. Are
17 you aware of whether or not he had any sort of relationship
18 with Chuck?

19 A. He did.

20 Q. And did they appear to be friendly?

21 A. Yes.

22 Q. Did they hang out?

23 A. Yes.

24 Q. Had you ever met an individual named James David
25 Porter? You may know him as Rico.

1 A. Yes, I knew him as Rico.

2 Q. Who did you meet Rico through?

3 A. Austin.

4 Q. And were he and Austin acquaintances?

5 A. Yes, they were good friends as well.

6 Q. Did they ever ride around together?

7 A. All the time.

8 Q. And who would drive?

9 A. Rico.

10 Q. Why?

11 A. Austin doesn't have a license.

12 Q. Leading up to the time where Chuck showed up at your
13 momma's house in the middle of the night, had you been to
14 a birthday party for a gentleman named Hollywood?

15 A. Yes, that was at Mojo's.

16 Q. And what is Mojo's?

17 A. It's a little bar off of Knox Abbott.

18 **MR. HILLIARD:** I'm gonna object as to relevance.

19 **MR. BELL:** We can approach, Your Honor.

20 **THE COURT:** Okay. Come on up here.

21 (Proceedings held at the bench; not reported.)

22 **THE COURT:** All right. I've got to put something on
23 the record. Y'all step in the jury room and I'll have you
24 right back out here. Sorry about that.

25 (Whereupon, the jury retires to the jury room at

1 3:57 PM.)

2 **THE COURT:** All right. Let's proffer that testimony
3 so I can understand the relevance.

4 **MR. BELL:** Yes, sir.

5 **MR. HILLIARD:** Yes, sir. Thank you, Judge.

6 EXAMINATION (In-Camera)

7 BY MR. BELL:

8 Q. Kelin, in the weeks leading up to when Chuck showed
9 up at your house, did you go to a birthday party for
10 Hollywood?

11 A. Yes.

12 Q. And where was that birthday party at?

13 A. At Mojo's Lounge.

14 Q. And did you see Chuck Morehouse at that birthday
15 party?

16 A. Yes.

17 Q. Who did you see him speaking to at the birthday party?

18 A. Hollywood.

19 Q. And did you have an opportunity to overhear what Chuck
20 was saying to Hollywood?

21 A. Just pieces of it, parts of the conversation.

22 Q. And tell us what you did hear.

23 A. Just talking about how -- that Rico was supposedly a
24 snitch, that other people, everybody else around him, had
25 went down except him.

1 Q. And that is Chuck saying that to Hollywood?

2 A. They were talking back and forth between each other.

3 Q. And what is your understanding as to who Hollywood is?

4 A. He's either the president or the vice president of the
5 Rebels.

6 Q. And did you observe Chuck to be fearful or anything of
7 that nature in front of Hollywood?

8 A. No.

9 Q. Do you know an individual that goes by Tank or Gator?

10 A. I know him as Tank.

11 Q. And would you be able to recognize him if you did see
12 a photo of him?

13 A. Yes.

14 Q. And do you know where he was working back in August
15 of 2015?

16 A. At first -- I'm not sure when he left. He was working
17 at Mojo's. I'm not sure when he left and went to the
18 Whiskey Tavern, but it was one of the two places.

19 Q. And in what role was he working at Whiskey Tavern?

20 A. I believe he was a bouncer.

21 **MR. BELL:** Your Honor, that would be essentially be
22 the extent of that testimony. We're establishing the
23 statement that she heard Chuck say, as well as the identity
24 of an individual identified I think in State's 46 for ID,
25 both being relevant because there's mention of -- obviously

1 we've heard snitch a thousand times like Your Honor said,
2 but there's also testimony about the Defendant being afraid
3 of the Rebels, there's testimony about him going to search
4 out Gator that night, which these photos would corroborate,
5 and she needs to be able to identify the individual in the
6 photo.

7 **THE COURT:** All right. Let's start with the
8 identification of the bouncer in the photograph. What's
9 your objection to that?

10 **MR. HILLIARD:** Relevance. It shows there's a -- my
11 recollection of the testimony, and maybe I'm wrong, but it
12 would be that she saw him at the club or joint, whatever
13 you want to call it.

14 **THE COURT:** I thought it was Whiskey Tavern.

15 **MR. HILLIARD:** That is where the picture's from.

16 **THE COURT:** And she can identify that the gentleman
17 in the picture of the Defendant as, whatever his name is,
18 Gator, he's a bouncer.

19 **MR. HILLIARD:** Yes, sir.

20 **THE COURT:** Any objection to that photograph if she
21 identifies Gator in that photo?

22 **MR. HILLIARD:** Excuse me just a moment. Let me look
23 at them again one more time.

24 **THE COURT:** The picture's, I think, in the doorway.

25 **MR. HILLIARD:** Yes, sir. I remember that. I don't

1 know what Gator looks like, so I'm --

2 **THE COURT:** That makes two of us.

3 **MR. HILLIARD:** Yes, sir.

4 **MR. BELL:** To be clear, Your Honor --

5 **MR. HILLIARD:** Or Tank one, two or three, so I need
6 to focus on it.

7 **MR. BELL:** To be clear, Your Honor, Ms. Martinez is
8 gonna identify him as being Tank, but she is able to
9 identify the individual in the picture.

10 **THE COURT:** All right. Tank, Little Tank?

11 **MR. BELL:** Yes, sir.

12 **MR. HILLIARD:** Excuse me, one second. In my -- is it
13 Gator or is it Tank?

14 **MR. BELL:** That gentleman goes by both of those
15 nicknames.

16 **THE COURT:** And Little Tank also.

17 **MR. HILLIARD:** But this is Gator --

18 **THE COURT:** Gator, Little Tank and Tank.

19 **MR. BELL:** Austin Lynch goes by Little Tank, Your
20 Honor. This is a different individual.

21 **MR. HILLIARD:** There's part of my confusion.

22 **THE COURT:** And Little Tank and Tank Junior is Austin
23 Lynch, this young lady's nephew, correct?

24 **MR. BELL:** Little Tank is Ms. Martinez's nephew. Your
25 Honor, in the audio as well --

1 **THE COURT:** Tank, Junior is Little Tank.

2 **MR. HILLIARD:** Yes, sir, but is this Gator or is it
3 Tank?

4 **MR. BELL:** It's both, Your Honor. By the Defendant's
5 own audio statement, he identifies Gator as John Craig.

6 **THE COURT:** Okay.

7 **MR. HILLIARD:** So this is the witness's cousin that
8 she's gonna identify?

9 **THE COURT:** No, no. Austin Lynch is her nephew,
10 Little Tank, Tank, Junior. That is someone else.

11 **MR. BELL:** Who also goes by Tank, Your Honor,
12 according to --

13 **THE COURT:** She called him Gator.

14 **MR. HILLIARD:** I have no objection to whoever she says
15 in Number 46.

16 **THE COURT:** All right. So 46 can be identified by her
17 and admitted without objection?

18 **MR. HILLIARD:** Yes, sir.

19 **THE COURT:** Now the next thing, the conversation
20 testimony at Mojo's two weeks prior at the birthday party
21 between the director of the Rebels and the Defendant,
22 what's your objection to that?

23 **MR. HILLIARD:** It is remote in time, two weeks before
24 this happens, and it is not probative of the issues that
25 we have here today.

1 **THE COURT:** Okay. What's your pitch, Mr. Bell?

2 **MR. BELL:** Your Honor, our conspiracy indictment
3 in this case covers a month period, July 3rd through
4 August 4th. Certainly that period is within there.
5 Additionally, Your Honor, defense has argued through
6 multiple witnesses that the informant was Chad Andrews
7 and that Mr. Morehouse knew that and that he didn't think
8 Rico was the informant, he thought Chad Andrews was. I
9 think this statement by Ms. Martinez is very probative to
10 dispute that.

11 **THE COURT:** What's your response?

12 **MR. HILLIARD:** Well, I guess the best response I have
13 is if you side with me I'm great; if you don't, I'll have
14 to challenge her on her reliability.

15 **THE COURT:** All right. And in furtherance of the
16 conspiracy and the other testimony which is conflicted
17 regarding the other gentleman, Belk was it?

18 **MR. HILLIARD:** Chad Anderson {sic}. Everybody --
19 Chad Anderson is an -- Chad Anderson was an informant.
20 That's what their expert said.

21 **THE COURT:** Well, once they're disclosed they're not
22 confidential, I guess.

23 **MR. HILLIARD:** Yes, sir. He got arrested for
24 burglary. I think that was in his --

25 **THE COURT:** Okay. I'm gonna allow the testimony

1 under the furtherance of conspiracy as well as answering a
2 question of fact that's been gone into; the question of
3 fact as to whether a confidential informant slash snitch
4 existed for the purpose of that question. Under 403 I
5 think that's probative or a question of fact that's not
6 unduly prejudicial because it's already been talked about.

7 **MR. BELL:** Thank you, Your Honor.

8 **THE COURT:** All right. What else? I thought
9 there was three issues. There was the overhearing the
10 conversation, the photograph. Is there another one about
11 her testimony? I thought there were three issues you had.

12 **MR. HILLIARD:** I think it was just two.

13 **THE COURT:** Just the conversation and photo?

14 **MR. HILLIARD:** Yeah.

15 **THE COURT:** Okay. So the photo will be admitted
16 providing she identifies the gentlemen and that -- the
17 conversation overhearing will be admitted subject to your
18 objection.

19 **MR. HILLIARD:** Thank you, Your Honor.

20 **THE COURT:** Are we all on the same page now?

21 **MR. BELL:** Yes, Your Honor.

22 **THE COURT:** All right. Do we need any breaks?

23 All right. Go ahead.

24 (Recess taken.)

25 **MR. BELL:** Your Honor, when appropriate I have one

1 more issue before we bring the jury back.

2 **THE COURT:** Okay.

3 **MR. BELL:** Your Honor, I do intend to elicit
4 testimony regarding information that Ms. Martinez put in
5 her statement when she talked to law enforcement about
6 receiving text messages from Chuck indicating that Rico
7 thought everything was fine, but he was gonna teach him a
8 lesson, something along those lines. That's all included
9 in the statement that was turned over to defense and this
10 would be in the weeks preceding the murder. And just
11 because it's a similar situation, I don't want to need to
12 send the jury back out, Your Honor.

13 **THE COURT:** All right. Do you know what he's talking
14 about?

15 **MR. HILLIARD:** Yes, sir.

16 **THE COURT:** Okay. Do you object to that?

17 **MR. HILLIARD:** Yes, sir.

18 **THE COURT:** What's your basis?

19 **MR. HILLIARD:** That's hearsay, again, Judge. It's
20 -- she's gonna testify that she got a text from a number
21 identified by her as the Defendant to the effect that Rico
22 thinks everything's okay, but it's not, he's got to teach
23 him a lesson.

24 **MR. BELL:** Your Honor, I certainly don't believe
25 it's hearsay. It is gonna be a number that the witness

1 is going to say that is associated with Chuck and that's
2 the number that she would use to communicate with Chuck.
3 The defense wants to argue to the jury credibility that
4 someone may -- someone else may have been using his
5 phone, I think that's fair, but it's not hearsay.

6 **THE COURT:** I don't think I've heard testimony from
7 this witness about her relationship, friendship,
8 association with the Defendant. I thought it was her
9 mother that was talking to him that night when she was
10 woken up.

11 **MR. HILLIARD:** Yes.

12 **MR. BELL:** And I can -- I can lay more foundation to
13 that, but she was familiar with Chuck.

14 **THE COURT:** Do you want to proffer that?

15 **MR. HILLIARD:** Yes, sir.

16 **THE COURT:** I think we should before we bring the
17 jury back in.

18 EXAMINATION (In-Camera)

19 BY MR. BELL:

20 Q. Ms. Martinez, did you know Chuck Morehouse?

21 A. Yes, sir.

22 Q. And did you know him prior to the night that he showed
23 up at your house in the middle of the night?

24 A. Yes, sir.

25 Q. And how long had you known him?

1 A. A few months. Not -- not long.

2 Q. And did he also know your mother, Debra Wood?

3 A. Yes.

4 Q. And do you know if your mother knew him longer than
5 you did?

6 A. We met him about -- I believe the same night. About
7 the same time.

8 Q. And during that -- how many months did you say?

9 A. Maybe two or three at the most. Not long at all.

10 Q. Was Chuck someone that you would see occasionally?

11 A. Yeah, after we met him he came around more and more.

12 Q. And during that period of time, were you ever given
13 a phone number by Chuck that he said was his number?

14 A. I had his number in my old phone.

15 Q. And had you ever communicated with him through that
16 number?

17 A. Yes.

18 Q. And in the attempts you made to communicate, did you
19 ever make a phone call to that number?

20 A. I don't recall if we talked over the phone or if it
21 was only texting. I know we had texted before.

22 Q. And in the texted conversations you had with him
23 giving the number he gave you, did he answer your questions
24 enough that convinced you that you were talking to Charles
25 Morehouse?

1 A. Yes. My mother had the same number.

2 Q. And you established that your nephew also had an
3 on-going relationship with Charles Morehouse?

4 A. Yes.

5 **MR. BELL:** Your Honor, I think that would cover their
6 relationship.

7 **THE COURT:** I want to hear what you're trying to get
8 from her. I'm with you now.

9 **MR. BELL:** I apologize. Certainly, Your Honor.

10 BY MR. BELL:

11 Q. In the time leading up or the weeks leading up to
12 when Chuck showed up at y'all's house in the middle of the
13 night, had you received any odd text messages from Chuck?

14 A. One, but it wasn't meant for me.

15 Q. And what do you mean by that?

16 A. It was sent -- I guess once he realized who he had
17 texted, he was like sorry, wrong number. I guess he didn't
18 mean to send it to my number.

19 Q. And what was the content of that text message or text
20 messages?

21 A. Pretty much that Rico had thought everything was
22 okay, it was cool, and that he was gonna learn his lesson.

23 Q. Any other text messages?

24 A. Not that -- not pertaining to this.

25 Q. And the phone number associated with those text

1 messages was the one that had been provided to you that
2 you believed to be Chuck's?

3 A. Yes, the same one my momma talked to him on every
4 day.

5 **MR. BELL:** Your Honor, that would be the extent of
6 the testimony.

7 **THE COURT:** That -- that unintended text message
8 causes me great concern. I don't like that. What do you
9 got to say about that?

10 **MR. HILLIARD:** I don't like it either, Judge.

11 **THE COURT:** Well, I know, but do you got a legal
12 basis other than not liking it?

13 **MR. HILLIARD:** She hasn't said when it happened. Can
14 I ask her when did that happen?

15 **THE COURT:** You sure can.

16 EXAMINATION (In-Camera)

17 BY MR. HILLIARD:

18 Q. When did that happen?

19 A. It was a couple of days -- like maybe three, four days
20 prior to Rico getting murdered.

21 Q. And two or three days before Rico got murdered you got
22 an unintended text message?

23 A. Yes. Well, when I -- I got the text message, I was
24 like -- I sent a bunch of question marks, like, huh, and
25 then it was like sorry, wrong number, he didn't realize who

1 he'd sent it to.

2 Q. And what did you do after that?

3 A. Nothing.

4 Q. Did he ever say anything to you about it?

5 A. Not talking face to face, no.

6 Q. Did he ever text you anything back about it?

7 A. Not about that.

8 Q. He just never said anything about it at all?

9 A. No, it was an accident, he didn't mean to send it to
10 my phone, so after that he didn't text me any more.

11 Q. And what was it again? Rico thinks everything is
12 okay?

13 A. Whoever he was texting -- whoever the next -- the
14 message was meant for, it was in the lines of, you know,
15 he had talked to Rico, Rico thought everything was fine,
16 but he was gonna be taught a lesson, he was gonna learn
17 his lesson.

18 **MR. BELL:** Your Honor, we're looking at the clock and
19 in the interest of time we'll concede that we won't get
20 into the testimony and continue to voir dire. That's fine.

21 **THE COURT:** That one -- the unintended version part
22 really causes me concern because she wasn't having a
23 conversation with him or a text exchange with him.

24 All right. In the interest of making a ruling, I'm
25 gonna sustain his objection as to that. Since you've

1 withdrawn it, that will be okay, too.

2 **MR. HILLIARD:** Thank you, Judge.

3 **MR. BELL:** I'm fine with that, Judge.

4 **THE COURT:** All right. Are y'all ready?

5 **MR. BELL:** Yes, sir.

6 **THE COURT:** Bring in the jury.

7 (Whereupon, the jury returns to the courtroom at
8 4:14 PM.)

9 **THE COURT:** All right, Mr. Bell.

10 **MR. BELL:** Thank you. Your Honor.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. BELL:

13 Q. Ms. Martinez, before the break we were talking about
14 a birthday party you attended. In the weeks leading up to
15 Rico's death, do you remember going to a birthday party
16 for a gentleman named Hollywood?

17 A. Yes.

18 Q. And what was that?

19 A. At Mojo's Lounge off of Knox Abbott Drive.

20 Q. And what is your understanding as to who Hollywood is?

21 A. He was either the president or the vice president of
22 the motorcycle gang.

23 Q. Do you know which one?

24 A. I believe it was the Rebels.

25 Q. And at that birthday party, did you see Chuck

1 Morehouse?

2 A. I did.

3 Q. And who was he speaking to?

4 A. Hollywood.

5 Q. Did you have an opportunity to hear what he was saying
6 to Hollywood?

7 A. Yeah, pieces of it.

8 Q. What was he telling Hollywood that night?

9 A. About Rico pretty much being a snitch; that everyone
10 else around him had went down except him.

11 Q. When you say when everyone else around him goes down
12 but him, who was the everyone else around him? Who was the
13 "him" referring to?

14 A. Rico.

15 Q. So everyone else around Rico goes down but Rico?

16 A. Uh-huh.

17 Q. And did he appear to have any fear of Hollywood?

18 A. I never seen him fearful of anyone.

19 Q. Never seen who fearful of anyone?

20 A. Chuck. I never seen him act scared of anyone.

21 **MR. BELL:** Permission to approach, Your Honor?

22 **THE COURT:** Yes, sir.

23 BY MR. BELL:

24 Q. Ms. Martinez, I'm handing you what's been marked
25 for ID as State's 46. Would you take a look at that

1 photograph?

2 A. Yes.

3 Q. Do you recognize the male there?

4 A. That is Tank.

5 Q. Okay. And do you know that his name is John Craig?

6 A. Now I do.

7 Q. Have you ever heard Tank also called Gator?

8 A. I had, a few people, but I was introduced to him as
9 Tank and that's what I always called him.

10 **MR. BELL:** Your Honor, at this time the State would
11 seek to enter State's 46.

12 **MR. HILLIARD:** No objection.

13 **THE COURT:** No objection to 46.

14 (State's Exhibit Number 46, a photograph, was admitted
15 into evidence.)

16 BY MR. BELL:

17 Q. Tank or Gator, is he a small or a big fellow?

18 A. He's a big guy.

19 Q. And what is your understanding as to what kind of job
20 Tank had back in August of 2015?

21 A. I know he was bartending at Mojo's and then he left
22 Mojo's and went to be the bouncer at the Whiskey Tavern.

23 **MR. BELL:** Permission to publish, Your Honor?

24 **THE COURT:** No problem. Go ahead.

25 BY MR. BELL:

1 Q. Referring to State's 46, is this the individual that
2 you just ID'd as Tank or Gator?

3 A. It is.

4 Q. And he worked as security at Whiskey Tavern?

5 A. Yes.

6 Q. Leading up to Rico's murder, did Chuck ever say
7 anything about believing that he had indictments or charges
8 coming on him?

9 A. He was always real paranoid like. He always felt
10 like -- he felt like the Feds were watching him or, you
11 know, he was gonna get charged. And I'd even heard my
12 nephew on several occasions --

13 Q. Okay. Just remember we can't say what anyone else
14 says, okay?

15 A. Okay. Oh, yes, he was always real paranoid and
16 worried.

17 Q. And did he actually specifically say he thought he had
18 indictments or charges coming?

19 A. He was being watched.

20 Q. That he was being watched?

21 A. Uh-huh.

22 Q. And who did you believe he was saying he was being
23 watched by?

24 **MR. HILLIARD:** Objection.

25 A. The Feds.

1 **THE COURT:** All right.

2 **MR. HILLIARD:** Well, never mind. I like that. Go
3 ahead.

4 **THE COURT:** Objection withdrawn.

5 BY MR. BELL:

6 Q. Were you at your momma's most of the day on August 3rd
7 before you went to sleep that night?

8 A. Yes.

9 Q. Was Austin there all day?

10 A. I believe he got there the night -- he came in the
11 night before that, like late that night.

12 Q. And you're talking about the night before you woke up,
13 so August 3rd?

14 A. Yes.

15 Q. And do you know who dropped him back off at the house?

16 A. No, I had -- he was home when I got there already.

17 Q. And after he got home, what did he do?

18 A. He passed out. He crashed.

19 Q. And are you referring -- he passed out on that couch
20 you testified to earlier?

21 A. Yes.

22 Q. And was that -- was he in the same location when you
23 woke up and Chuck was in the house?

24 A. Yes.

25 Q. And that's Austin Lynch?

1 A. Yes.

2 Q. He goes by, I think you said, Little Tank?

3 A. Yes, sir.

4 Q. So after Austin came home on August 3rd, he was asleep
5 the rest of the night?

6 A. He slept that night and the whole next day.

7 **MR. BELL:** Thank you, ma'am.

8 **THE COURT:** Mr. Hilliard.

9 **MR. HILLIARD:** Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. HILLIARD:

12 Q. And how many times have you actually been in the
13 presence of Charlie? How many times have you been around
14 him?

15 A. Several times.

16 Q. Several times?

17 A. Yes, sir. Over the course of a few months, it was
18 regularly.

19 Q. Over the course of a few months -- well, when you say
20 regularly, a few months would be how many months?

21 A. From the time I met him maybe two, three months at
22 the most. He started to get to where he was coming around
23 most every day.

24 Q. And you think he was paranoid of the Feds?

25 A. He was always real jittery and paranoid, like scared,

1 I guess, or worried. I don't know if that's the right
2 word.

3 Q. Are you on any kind of drugs today?

4 A. No, sir, I don't do anything.

5 Q. All right. And you say that Hollywood is either the
6 president or the vice president of a motorcycle gang?

7 A. That is correct.

8 Q. That's a criminal outlaw motorcycle gang?

9 A. That's correct.

10 Q. And the -- you were at Hollywood's party?

11 A. Yes. My mom was dating one of his friends.

12 Q. And when you say one of his friends and you're
13 talking about the president or the vice president of an
14 outlaw motorcycle gang, is it safe for me to assume that
15 your mother's boyfriend might be a member of an outlaw
16 motorcycle gang?

17 A. Her ex-boyfriend. Yes, he was.

18 Q. Okay. So that at that time he was her boyfriend?

19 A. Yes.

20 Q. And you had been invited -- this was a -- a -- pretty
21 much sort of a closed party; is that right?

22 A. Yeah.

23 Q. And it was frequented by mostly outlaw motorcycle gang
24 members?

25 A. And their families, I guess, wives or whoever.

1 Q. All right. And your -- your testimony is -- but you
2 don't know what the name of the motorcycle gang is?

3 A. It's the Rebels. I stated that to him.

4 Q. All right. You said you believed it was the Rebels,
5 but you are concrete and certain at this point it is the
6 Rebels, right?

7 A. It is.

8 Q. It is the Rebels. And at the outlaw motorcycle gang
9 party, you were -- you were in the presence of the
10 president or vice president; is that right?

11 A. That's correct.

12 Q. And Charlie Morehouse, right?

13 A. That's correct.

14 Q. While they were discussing the serious business of
15 murdering an informant?

16 A. No, sir, they weren't talking about murdering him.
17 They were talking about him being an informant at the
18 time.

19 Q. Okay. So you were in the presence of the vice
20 president of an outlaw -- president or vice president of
21 an outlaw motorcycle gang and a person that's been
22 described as a drug kingpin, you were in the presence of
23 those two individuals while they were discussing the
24 serious business of who is a drug informant?

25 A. I was at the bar. I wasn't standing there talking

1 with them. I was next to them at the same bar they were
2 sitting at.

3 Q. Okay. So they were -- they were not paying any
4 attention to the fact that their conversation was being
5 overheard by somebody such as yourself?

6 A. I guess not.

7 Q. Somebody who could come into court and testify about
8 it?

9 A. I guess not. I mean, everybody was drunk.

10 Q. And the testimony that you gave is that the reason
11 that Charlie gave to the president or vice president of the
12 outlaw motorcycle gang, the reason Charlie said that he
13 felt like Rico was an informant was because everybody
14 connected around Rico had gone down except for Rico?

15 A. Correct.

16 Q. Your best friend or, I'm sorry, your cousin; is that
17 right --

18 A. My nephew.

19 Q. Your nephew. I'm sorry. I get that wrong every time.
20 Your nephew was dealing drugs with Rico, right?

21 A. Rico and Chuck.

22 Q. Okay. Rico and your nephew, right --

23 A. Yes, sir.

24 Q. -- were dealing drugs?

25 A. Yes, sir.

1 Q. But your nephew hadn't ever been arrested.

2 A. I believe he -- he did have prior charges.

3 Q. Well, now prior charges, he wasn't charged at that
4 point?

5 A. No, not at that, but he had been in trouble before.

6 Q. Well, he had been in trouble before, but he hadn't
7 gone down from being around Rico?

8 A. Oh, no, sir.

9 Q. And Chuck hadn't gone down from being around Rico?

10 A. No, sir.

11 Q. In fact, nobody had gone down from being around Rico.

12 **MR. BELL:** Objection. Speculation.

13 **THE COURT:** If she knows.

14 BY MR. HILLIARD:

15 Q. Right?

16 A. Not that I know of. I mean, I don't -- I don't know
17 nobody else they knew. I'm just telling you what I heard.

18 Q. What you heard?

19 A. I don't know none of Rico's other friends.

20 Q. How about your cousin?

21 A. Excuse me?

22 Q. How about your cousin?

23 A. That is my nephew.

24 Q. Your nephew. I'm -- I've got it written down here
25 wrong. I apologize. Your nephew, what's his name?

1 A. Austin Lynch.

2 Q. Austin Lynch. How about Austin Lynch, do you know any
3 of his friends?

4 A. I mean, he never really brought anything around but
5 girls other than Rico and Chuck.

6 Q. So the only person he brings around -- the people that
7 he brought around your momma's house was Rico and Chuck?

8 A. Yes.

9 Q. And Rico and Austin Lynch were really good friends?

10 A. They were really close.

11 Q. How did you come into contact -- or when did your
12 momma break up with the outlaw biker?

13 A. It wasn't long after the -- Rico's murder. We moved
14 out of that house maybe less than a month after that and
15 she cut ties with him.

16 Q. And how did you get up with the police so that they
17 knew that you had this information?

18 A. They came to my mom's house. I don't know how they
19 got her information. They questioned everybody that was
20 in the house.

21 Q. And that's how they came up on you?

22 A. Yes.

23 **MR. HILLIARD:** Thank you, ma'am.

24 REDIRECT EXAMINATION

25 BY MR. BELL:

1 Q. You told Mr. Hilliard that you were just saying what
2 you had heard. In reference to the statements about Rico
3 being a snitch, who did you hear that from?

4 A. Chuck and Hollywood were talking about it.

5 Q. And did you hear Chuck say that?

6 A. Both of them were talking back and forth.

7 Q. Do you have any doubt that you heard Chuck say that?

8 A. I don't have any doubt.

9 Q. There was questioning about your mom's affiliation
10 with the Rebels. Do you remember that?

11 A. Yes.

12 Q. And there was questions about you hanging out with the
13 same individuals?

14 A. Yes. I never hung out with them. I was there to eat.
15 I was eight months pregnant.

16 Q. Did you see Chuck hanging out with them that night?

17 A. Yes.

18 Q. And did Chuck also hang out with your mom?

19 A. Yes.

20 Q. Do you remember testifying earlier about Rico's role
21 with Austin?

22 A. Yes, I do.

23 Q. And what did you say it was that Rico did for Austin?

24 A. Rico drove Austin around.

25 Q. And that was because why?

1 A. To move drugs for Chuck.

2 Q. Did Austin have a driver's license?

3 **MR. HILLIARD:** Objection.

4 A. No, he didn't.

5 **THE COURT:** She's already testified to that. That's
6 been asked and answered.

7 BY MR. BELL:

8 Q. Mr. Hilliard asked you how often you'd seen Chuck.
9 How often did you say that was?

10 A. It was -- like I said, after it -- it came to where
11 he was at the house almost every day. It was regularly.

12 Q. I'm showing you state's 43, 47 and 44. Do you
13 recognize the individual in the white T-shirt in these
14 photos? Feel free to look through them.

15 A. That is Chuck right here. Do you want me to show it?

16 Q. Just look over them real quick. We're almost
17 finished.

18 A. That is Chuck, that is Chuck and Tank, and that is
19 Chuck right there.

20 Q. So in all three of these pictures you can see Chuck at
21 whatever establishment this is?

22 A. Uh-huh. That looks like Mojo's. And that looks like
23 the Whiskey Tavern right there.

24 Q. And in this final one, State's 43 -- excuse me --
25 State's 44, can you identify that individual in the white

1 T-shirt?

2 A. That's Chuck.

3 Q. Any doubt in your mind?

4 A. No, sir.

5 **MR. BELL:** Thank you, Ms. Martinez.

6 **MR. HILLIARD:** One question.

7 RECROSS EXAMINATION

8 BY MR. HILLIARD:

9 Q. I just wanted to be sure I'm correct because I may be
10 mistaken, but the birthday party that you're talking about
11 was two weeks before the murder; is that right?

12 A. I can't tell you the exact date. It was right before
13 the murder. They have the dates of it. That was over a
14 year ago. I can't tell you the exact date of the party,
15 but it was right before the murder.

16 Q. When you say right -- didn't you testify that it was
17 two weeks ahead of time?

18 A. I mean, yes, it was before Rico died. I can't give
19 you an exact date of that birthday party.

20 Q. And you don't remember testifying it was two weeks
21 before, right? Today you said that two weeks before.

22 A. From the date that they gave me of the birthday party,
23 it was within a couple of Rico's birth -- death. I don't
24 know what date the birthday party was. I only went to eat,
25 then I left.

1 Q. From the date they gave you of the birthday party?

2 A. No, from the date -- I don't know what date the
3 birthday party was, okay?

4 Q. Who gave you the date of the birthday party?

5 A. From whatever date they're saying it was. I don't
6 know the date of the birthday party. I know I went there
7 to eat and I left. I don't know what you're trying to get
8 out of me.

9 Q. I'm trying to understand who "they" is that told you
10 when the birthday party is. Who is the "they"?

11 A. Well, I don't know. From the date the detective
12 said. I don't -- I don't know. I'm confused with all
13 these dates. I know what I seen, I know what I heard and
14 I can't -- I don't know what else you're trying to get.

15 Q. From the date -- that's it. From the date that the
16 detective gave you of the birthday party, right?

17 A. It wasn't long before Rico died.

18 Q. But the detective gave you the date?

19 A. They didn't give me a date. They're just naming
20 dates. I don't know what date it was. I can't even tell
21 you what day Rico died. I can't tell you what date it
22 was I woke up and seen him at my house, but I know he was
23 there.

24 **MR. HILLIARD:** That's all I have.

25 **THE COURT:** Okay. You can step down. You're free

1 to go.

2 (Witness excused.)

3 **MS. MAYES:** May we approach?

4 **THE COURT:** You may.

5 (Proceedings held at the bench; not reported.)

6 **MS. MAYES:** The State calls Keith Sprinkle.

7 (Whereupon, Keith Sprinkle was duly sworn by the
8 Clerk of Court.)

9 **THE CLERK:** Once you're seated state your full name,
10 spelling your last, please.

11 **THE WITNESS:** My name is Keith Sprinkle,
12 S-P-R-I-N-K-L-E.

13 KEITH SPRINKLE,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MAYES:

17 Q. Detective Sprinkle, can you give us some information
18 about yourself?

19 A. Yes, ma'am.

20 Q. Where are you currently employed and in what capacity?

21 A. I'm currently employed by the Lexington County
22 Sheriff's Department and I am a crime scene technician.

23 Q. Tell us a little bit about being an CSI officer,
24 including a general overview of the job responsibilities
25 of a CSI detective within the sheriff's department.

1 A. Okay. As a CSI, we respond out to -- we're
2 responsible for responding out to major crimes and property
3 crimes throughout the county. We go and process scenes
4 thoroughly for evidence using a variety of scientific
5 techniques. We also respond out to the autopsies involving
6 the death investigations that we go to and also conduct lab
7 requests for the County.

8 Q. All right. I need you to move the microphone a little
9 bit closer to you.

10 A. Sure.

11 Q. And, in general, can you tell us whether or not a
12 homicide investigation or a murder investigation within
13 Lexington County normally involves the CSI division?

14 A. Yes, it does.

15 Q. Tell us a little bit about your educational background
16 and training that led you to become a CSI officer.

17 A. Going to -- starting off with college, I have a degree
18 -- a bachelor's degree in criminal justice from the
19 University of South Carolina here in Columbia. I've been
20 in law enforcement for a little over seven years. Of those
21 seven years, six years have been here at the sheriff's
22 department. I've been in crime scene investigation for
23 almost -- just shy of three years. During that time I have
24 been to 165 physical crime scenes where I've gained
25 experience, but as far as education I have taken eleven CSI

1 or forensic-related classes, training classes, that total
2 over 369 hours of training.

3 Q. All right. Can you tell us whether or not that
4 includes training in the area of blood trail or blood
5 spatter?

6 A. It does.

7 Q. Can you tell us whether or not that also includes
8 training in the collection of evidence from a crime scene?

9 A. It does.

10 Q. Can you tell us whether or not you have previously
11 testified as an expert in the field of crime scene
12 investigation for this state?

13 A. I have.

14 **MS. MAYES:** Your Honor, at this time the State would
15 offer Detective Sprinkle as an expert in crime scene
16 investigation.

17 **THE COURT:** Any voir dire?

18 **MR. HILLIARD:** I guess -- may we approach?

19 **THE COURT:** Yeah.

20 (Proceedings held at the bench; not reported.)

21 BY MS. MAYES:

22 Q. Now, Detective Sprinkle, can you tell us whether or
23 not you've had the occasion in the past, even prior to
24 this homicide case, to have specific training as to what
25 should or should not be documented at certain scenes?

1 A. Yes, sir, I have.

2 Q. As well as collect it as evidence?

3 A. Correct. Yes.

4 Q. As well as overall processing of a crime scene?

5 A. Yes.

6 Q. And does that go on to include vehicles that are
7 searched pursuant to a search warrant and things of that
8 nature?

9 A. Yes.

10 Q. Are you also trained in obtaining latent prints?

11 A. I am.

12 Q. What brought you to the scene of Old Orangeburg Road,
13 specifically the dirt portion of Old Orangeburg Road, in
14 the early morning hours of August 4, 2015?

15 A. On August 4, 2015, at approximately 12:24 AM, I
16 received a phone call from a Lexington County Sheriff's
17 Department investigator to respond to the 2400 block of
18 Old Orangeburg Road to assist another CSI for this case
19 since it had been deemed a homicide or a suspicious death
20 investigation at that time.

21 Q. All right. So take us through what happens when you
22 first arrive at the scene. How do you go about assessing
23 the body positioning and any other evidence that may
24 potentially need to be retrieved?

25 A. Okay. The first thing that we do whenever we respond

1 to a crime scene once we have the search warrant is --
2 if it needs to be obtained or whatnot. Once we are ready
3 to process the scene, the scene is secured, it's taped
4 off physically by crime scene tape so that nothing can
5 -- no one can enter or exit a crime scene without law
6 enforcement knowing so and so the scene is actually
7 secured. Once we start processing the scene everything
8 is documented by photographs. So we take extensive
9 photographs of everything that we can in the scene before
10 even identifying or marking or collecting any kind of
11 evidence, so that's the first step.

12 Q. All right. Can you tell us, in general, whether or
13 not shell casings were observed at this scene following
14 your arrival?

15 A. Yes, we did observe and end up collecting three shell
16 casings from the scene.

17 Q. What can you tell us in general about your
18 observations of the body and any other items at the scene
19 upon your arrival?

20 A. Upon my arrival, I observed it's a -- a dirt road.
21 That part of Old Orangeburg Road is a dirt road and where
22 I entered the scene facing you have a large mound of dirt,
23 an embankment, on one side of the road and a short mound
24 of dirt embankment on the other side the road. Along that
25 high embankment, which was approximately six feet tall,

1 that high part embankment, that's where the deceased victim
2 was found up against that berm, and there was loose sand
3 all down the sides of the road and that's where the victim
4 was found.

5 Q. All right. I'm gonna show you some photographs and
6 ask you whether or not you recognize them?

7 A. Okay. Yes, I do. I recognize all these photographs.

8 Q. And I'm gonna show you two additional photographs.

9 A. Yes.

10 Q. Is this photograph a fair and accurate representation
11 of the scene as well?

12 A. It is.

13 Q. All right. Does it show both sides of the embankment
14 that you mentioned?

15 A. It does.

16 **MS. MAYES:** This would be an additional photograph
17 for evidence, Your Honor.

18 **THE COURT:** Did you see all the others?

19 **MR. HILLIARD:** All the others are in evidence, I
20 think.

21 **THE COURT:** Oh, really? Okay.

22 **MR. HILLIARD:** This one is cumulative, Judge.

23 **MS. MAYES:** May we approach?

24 **THE COURT:** Uh-huh.

25 (Proceedings held at the bench; not reported.)

1 **MR. HILLIARD:** No objection, Judge.

2 **THE COURT:** What number is that?

3 **THE COURT REPORTER:** 48.

4 **THE COURT:** All right. 48's in evidence.

5 (State's Exhibit Number 48, a photograph, was marked
6 and admitted into evidence.)

7 BY MS. MAYES:

8 Q. Can you tell us whether or not the items that you
9 mentioned being at the scene were collected by yourself
10 and other CSI officers to be taken as evidence?

11 A. Yes, it was myself and the lead CSI,
12 which was CSI Shelby Derrick.

13 Q. All right. I'm gonna show you what is State's
14 Exhibit 7. What were the items located here, Number 2 and
15 Number 4?

16 A. Number 2 and Number 4 are 40 caliber shell casings,
17 spent shell casings.

18 Q. All right. And are you also trained in recognizing
19 calibers of spent shell casings?

20 A. Yes.

21 Q. And just to clarify for the jury, when you talk about
22 a casing what are you talking about?

23 A. It is -- you have the bullet -- like you have a
24 bullet. Imagine a bullet in my hand. The top part, which
25 is the metal part that actually exits the chamber down the

1 barrel of a gun, that's the projectile. Then you have the
2 casing, which houses the gunpowder. That's your shell
3 casing, that's what I'm referring to, that's ejected from
4 the gun and falls somewhere nearby where the firearm was
5 discharged. That's a shell casing.

6 Q. All right. So these are not the actual bullets or
7 projectiles, these are the casings that originally --
8 Number 2 and Number 4 are the casings that originally held
9 the bullets, correct?

10 A. Correct.

11 Q. And what is Item Number 1?

12 A. Item Number 1 is going to be a cigarette butt.

13 Q. And here, I believe, is a better view. Can you tell
14 us whether or not that also was collected as evidence?

15 A. Yes, that was collected as evidence as well.

16 Q. All right. And then not visible in the other
17 photographs, but visible here in Photograph Number 17, you
18 have a placard labeled Number 3. What is that placard?

19 A. Placard Number 3 is referencing another spent 40 cal
20 -- 40 caliber shell casing.

21 Q. What are we looking at here in Number 16?

22 A. That right there is the spent 40 caliber shell casing
23 in the dirt -- or on top of the dirt.

24 Q. That is the very casing that is later labeled here as
25 Number 3?

1 A. Correct.

2 Q. All right. Moving along, what, if anything, did you
3 observe about the roadway near the victim's body?

4 A. The roadway near the victim's body you have -- like
5 I said, the whole -- that area of the road is dirt. The
6 center area is pretty packed. As you got toward the --
7 the sides the road where the embankment is, you can tell
8 how thick and -- how thick that sand is. It's very loose.
9 So this is more of the center the roadway, very packed.
10 As you get around here and beyond it's very, very, very
11 dense -- or not very dense, it's very thick, very loose
12 sand.

13 Q. And, Detective Sprinkle, what are we looking at here
14 and why was that documented by photography?

15 A. In this photograph, this is a wet spot of unknown
16 substance, but it was wet in the roadway and that was
17 documented on-scene.

18 Q. All right. And I believe this may be a better look
19 at it in relation to the roadway, State's Exhibit 4. Can
20 you tell us whether or not it appeared to be fresh?

21 A. Yes, it was wet. It had not rained that day or
22 anything like that. The rest of the ground was dry, but
23 we had that one wet spot and we documented it for the
24 fact that we didn't know if it was -- it could have been
25 consistent with a vehicle sitting there or whatnot so we

1 -- dripping AC or something, so we documented that as well
2 on the scene.

3 Q. All right. Now what can you tell us about the
4 condition of the sand or can you compare the sand in the
5 middle of that roadway near where that wet spot is versus
6 the sand that is closest to the embankment where the body
7 is?

8 A. Yes. Like I said before, the center of the road the
9 sand very packed, very, very loose, and very thick. On
10 the outside near where the body is located, this is very,
11 very loose.

12 Q. And so this area directly around the body, can you
13 tell us whether or not the sand in that area is conducive
14 to obtaining quality shoe prints and footprints or things
15 of that nature?

16 A. Yes, you would be more apt to find shoe impressions on
17 this surface versus this. This is -- even while I was out
18 there and walking that area, canvassing the area, this --
19 this area near the embankment the sand is so -- so thick it
20 just kind of falls onto itself, it doesn't really -- it's
21 not really conducive to shoe impressions.

22 Q. All right.

23 A. Or at least detailed shoe impressions definitely.

24 **MS. MAYES:** I beg the Court's indulgence.

25 **THE COURT:** Yes, ma'am.

1 **MS. MAYES:** May we approach?

2 **THE COURT:** You may.

3 (Proceedings held at the bench; not reported.)

4 BY MS. MAYES:

5 Q. Now what, if any, need is there to document the
6 position in which the body is found and anything that may
7 be relevant in relation to that?

8 A. Absolutely. We document -- like I said, as we
9 document the scene, we take extensive photographs,
10 especially where the body is, how it's found before it's
11 disturbed or moved or manipulated as we extract the body,
12 and also continue looking for any further evidence. So
13 we photographed that -- that body prior to any moving of
14 anything.

15 Q. All right. And from the time you were there, did
16 yourself or any other CSI officer at the scene manipulate
17 the body prior to these photographs being taken?

18 A. No.

19 Q. What, if anything -- you mentioned previously that
20 you do have specific training in blood spatter, blood
21 trail. Why, if at all, is that important in a homicide
22 investigation?

23 A. Well, we -- we see if there's any movement. In this
24 case where we're looking for any kind of blood spatter or,
25 in this case lack thereof, looking all the way down on the

1 road and the embankment -- on the embankment, there was no
2 blood spatter observed. All of the blood that we actually
3 found or observed was under the body in this area,
4 everything was pooled directly underneath the body, so that
5 would lead that everything happened right there. We did
6 not see any blood trail or any sign of movement with blood.

7 Q. All right. Now you also examine the body at any
8 homicide scene for signs of an additional crime such as a
9 robbery or things like that?

10 A. Yes.

11 Q. Was there any indication in this case that Mr. Porter
12 had been robbed?

13 A. No, we found that he had his -- he had money and he
14 had his keys -- the keys to his vehicle was there on the
15 scene, so his -- he had possessions there on-scene,
16 personal effects.

17 Q. Right. I'm gonna show you 23, 24 and 25, which are
18 already in evidence.

19 A. Yes, I recall these photographs.

20 Q. And when you say money, was the -- was there money in
21 his pocket?

22 A. Yes, ma'am.

23 Q. Was that photographed and documented by yourself as
24 well?

25 A. It -- I was present. It was photographed and

1 documented by CSI Shelby Derrick.

2 Q. Okay. Can you tell us whether or not that's a fair
3 and accurate representation of what was observed?

4 A. It is.

5 **MS. MAYES:** Your Honor, 24, 25 and 23 are already in
6 evidence. At this time we would offer the additional
7 photograph.

8 **MR. HILLIARD:** No objection.

9 **THE COURT:** That would be 49 in evidence without
10 objection.

11 (State's Exhibit Number 49, a photograph, was marked
12 and admitted into evidence.)

13 BY MS. MAYES:

14 Q. What, if anything, was significant about the pockets
15 themselves? Do you look at the front pockets?

16 A. Yes, we looked at all pockets in the pants.

17 Q. Was that any indication that the pockets had been
18 pulled out?

19 A. No, the pants pockets were not pulled out. No, no
20 indication that anyone had been pulling anything out of
21 the pockets.

22 Q. And how much money was in his possession, if you have
23 a note regarding that?

24 A. It was \$220. It was two one hundred dollar bills and
25 a twenty dollar bill.

1 Q. And this phone, which is shown in State's Exhibit 25,
2 was it intact or was there damage to the phone?

3 A. There was damage to the -- to the front of the phone.

4 Q. Can you tell us whether or not law enforcement had
5 the opportunity to power that phone up for the purpose of
6 retrieving information from it?

7 A. Yes, it was on-scene.

8 Q. All right. And was that information shared with other
9 individuals such as Sergeant Laintz and other investigators
10 such as Detective Rawl?

11 A. To my knowledge, yes.

12 Q. All right. And this phone was also on his person?

13 A. Yes, it was. It was found in his front right pocket.

14 Q. Now what, if any, injuries were noted to Mr. Porter by
15 your observations there at the scene, Detective Sprinkle?

16 A. He had multiple gunshot wounds to his body, throughout
17 his body. Specifically, one thing is on his right hand,
18 through and through from his -- his hand to down his arm as
19 well, several gunshot wounds through and through.

20 Q. Were those documented by yourself?

21 A. Yes, myself and CSI Shelby Derrick.

22 Q. I'll show you two photographs and ask you whether or
23 not you recognize them?

24 A. Yes. Yes.

25 Q. Are those photographs a fair and accurate

1 representation of the injuries you recall observing there
2 at the scene?

3 A. Yes.

4 Q. Why, if at all, is it important to individually
5 document those photographs to the hand and also to the arm
6 on the opposite side of the body?

7 A. Because these specific wounds to that arm are -- would
8 be consistent with defensive wounds. That's what -- that's
9 why we would take those photographs specifically. I mean,
10 we document all the gunshot wounds, but specifically on
11 those that's why we took those photographs as documenting
12 any kind of defensive wounds possibly.

13 Q. How many defensive wounds were documented?

14 A. Four.

15 **MR. HILLIARD:** Objection.

16 **THE COURT:** I'll sustain that. I think that would be
17 a more appropriate question for the pathologist.

18 **MR. HILLIARD:** Yes, sir.

19 BY MS. MAYES:

20 Q. How many wounds to the left hand were documented?

21 A. To the left hand? Do you mind if I refer back?

22 Q. Uh-huh.

23 A. Okay. To the left hand, just that one in the palm.

24 Q. And how many to the right arm, specifically the
25 forearm?

1 A. To the forearm we had one on the wrist -- two on the
2 wrist and then one -- one a little bit further down, a
3 through and through.

4 Q. How many would that be together?

5 A. A total of four.

6 **MS. MAYES:** Your Honor, this would -- at this time I
7 believe 50, 51, 52 and 53 for evidence.

8 **MR. HILLIARD:** No objection.

9 **THE COURT:** 50, 51, 52 and 53 will be admitted without
10 objection, four photographs.

11 **MS. MAYES:** This will be all at this time.

12 **THE COURT REPORTER:** So 50 through 52?

13 **MS. MAYES:** 50, 51 and 52.

14 **THE COURT:** So no 53?

15 **MS. MAYES:** Not at this time, Your Honor.

16 **THE COURT:** I thought there were four photographs.
17 If it's just three, that's fine.

18 (State's Exhibit Numbers 50, 51 and 52, photographs,
19 were marked and admitted into evidence.)

20 BY MS. MAYES:

21 Q. Following Mr. Porter's death and recovery at the
22 scene, what's the next step in terms of actually examining
23 the body for forensic purposes?

24 A. I'm sorry, do you mean after -- after the scene?

25 Q. Correct.

1 A. It is at the autopsy.

2 Q. Okay. In looking here at 50, which would be the
3 right arm, can you show us the three gunshot wounds you're
4 referring to?

5 A. That one here, here and there.

6 Q. State's 51.

7 A. That one there, there, and I believe that's it right
8 there.

9 Q. And State's 52 to the left hand?

10 A. Right there in the center.

11 Q. And was Mr. Porter sent for an autopsy?

12 A. Yes, he was.

13 Q. And one more matter regarding the evidence at the
14 scene. I'm gonna ask you -- I believe we've looked at
15 several photographs of the embankment that is next to the
16 body. Can you tell us whether or not the embankment
17 extends across to the opposite side the road as well?

18 A. There is an embankment on both sides of the road. One
19 side is higher than the other, significantly higher than
20 the other.

21 Q. All right. I'm gonna show you State's Exhibit 48 and
22 have you clarify that.

23 A. Okay. This side of the road you have an embankment
24 that is approximately six feet tall. It is significantly
25 higher compared to this side. On this side of the roadway,

1 there is a much shorter embankment that you can easily
2 walk over.

3 Q. All right. Is it -- you said easily walk over. Is
4 it short enough for someone to scale?

5 A. Yes.

6 Q. And what is on the other sides of both embankments,
7 both -- if we could see behind this embankment on the left
8 and then behind this embankment on the right, what is that
9 general area in those locations?

10 A. It's all wood line, so everything back there is just
11 trees, woods.

12 Q. Any houses or businesses in that immediate location?

13 A. Not in that immediate location.

14 Q. It's woods?

15 A. Yes.

16 Q. What is that item that we're looking at right there in
17 the corner of State's Exhibit 48?

18 A. Of which corner?

19 Q. In the right corner of State's Exhibit 48.

20 A. This right here is a -- a mattress, a bed mattress,
21 that we found on the side the road right there across the
22 -- from the scene -- or right across from the body.

23 Q. Trash?

24 A. Yes, trash.

25 Q. Any reason to believe it's related to this

1 investigation?

2 A. No.

3 **MS. MAYES:** Your Honor, may we approach?

4 **THE COURT:** You may.

5 (Proceedings held at the bench; not reported.)

6 **THE COURT:** All right. Ms. Mayes is telling me this
7 is a good stopping point. We're about to change subject
8 matter. We're not through with the witness and so we're
9 gonna start back in the morning. Does 9:15 suit y'all
10 again? We'll see y'all back here at 9:15.

11 (Whereupon, the jury was excused for the evening at
12 5:05 PM.)

13 **THE COURT:** All right. We'll stand at ease until in
14 the morning at 9:15.

15 (Whereupon, the proceedings were concluded for
16 January 11, 2017, at 5:06 PM.)

17 **BAILIFF:** All rise. Court's now in session. The
18 Honorable Judge Eugene Griffith presiding.

19 **THE COURT:** Y'all be seated. All right. Are you
20 ready?

21 **MS. MAYES:** Yes, sir. In looking over the court
22 reporter's notes and her items, we found that Number 14 is
23 a shell casing. It's a shell casing up on the embankment.
24 I thought it was in evidence. The court reporter brings it
25 to our attention that it's not, so we probably need to go

1 into -- we can get that in through Detective Sprinkle and
2 resolve that.

3 **THE COURT:** Have you seen that?

4 **MR. HILLIARD:** Well, I'm certain I've seen, but if
5 I could look at it again for a second I might just
6 stipulate. This is 14?

7 **MR. BELL:** Yes, sir.

8 **MR. HILLIARD:** We'll stipulate it into evidence,
9 Judge.

10 **THE COURT:** Okay. 14's in evidence.

11 (State's Exhibit Number 14, a photograph, was
12 admitted into evidence.)

13 (Whereupon, Mark Sprinkle re-takes the witness stand.)

14 (Whereupon, the jury enter the courtroom at 10:18 AM.)

15 **THE COURT:** All right. Are we ready to begin --
16 continue on with Detective Sprinkle, Ms. Mayes?

17 **MS. MAYES:** Yes, sir, Your Honor.

18 CONTINUED DIRECT EXAMINATION

19 BY MS. MAYES:

20 Q. Now, Detective Sprinkle, let me show you what is
21 State's Exhibit 14 in evidence.

22 A. Yes.

23 Q. Okay. Again, this particular shell casing was located
24 where?

25 A. That was on the berm, that dirt mound behind the

1 victim.

2 Q. All right. So three shell casings are recovered from
3 the scene, correct?

4 A. Correct.

5 Q. Now what can you tell us, if anything, about the
6 conditions at the scene which prevented recovering
7 additional shell casings? For example, if the gun is
8 fired six to ten times, the victim received six to ten
9 gunshot wounds, what can you tell us about the condition
10 that may explain where the additional casings may be?

11 A. Well, I mean, there's multiple reasons that the other
12 shell casings might not be on the scene that we found, but
13 as far as the conditions of the scene that you're
14 describing, the sand, like I -- like I described before,
15 that sand on that -- near that berm on the side the road
16 is very -- is very -- is very thick and very soft, so it's
17 very possible that a -- it is possible that a shell casing
18 could have been sunk into the sand, been trampled over or
19 whatnot, and could be under the sand. That's -- that's a
20 possibility.

21 Q. All right. Is it also possible that suspects may
22 remove casings from a scene?

23 A. Absolutely.

24 Q. Now I want to show you what is State's 32 already in
25 evidence and ask you whether or not you recognize that

1 item?

2 A. I recognize that vehicle, yes, ma'am.

3 Q. Can you tell us, Detective Sprinkle, whether or not
4 this vehicle after it was located at the residence of the
5 Defendant at [REDACTED] Willow Forks Road, whether or not that
6 vehicle was ultimately processed by CSI?

7 A. Yes, I processed that vehicle at the sheriff's
8 department.

9 Q. All right. So take us -- take us through the chain,
10 I guess you would put it, the chain of custody and any
11 measures that are taken to secure evidence once a vehicle
12 such as this is located at the Defendant's residence?

13 A. That vehicle I -- I was presented a search warrant for
14 that vehicle by a detective after that vehicle had been
15 transported from that location to the sheriff's department
16 and it was secured in the evidence bay where we actually
17 can keep and secure a vehicle. That vehicle, once it was
18 in the evidence bay, I obtained -- I received a search
19 warrant for that vehicle in which I executed that search
20 warrant on --

21 **MR. HILLIARD:** Excuse me just a second. That's
22 subject to our objection and the judge's ruling. I just
23 want to make sure the record's clear.

24 **THE COURT:** Why don't y'all come on up. I want to
25 talk to the lawyers real quick.

1 (Proceedings held at the bench; not reported.)

2 BY MS. MAYES:

3 Q. Detective Sprinkle, let me backtrack a moment. Where
4 is this photo actually taken? And this would be the Chevy
5 Impala.

6 A. I was not at that scene. I did not take that
7 photograph, nor was I present, so I -- to my -- to my
8 knowledge, that vehicle was collected from Mr. Morehouse's
9 residence.

10 Q. All right. And do you know pursuant to this
11 investigation whether or not a search warrant was obtained
12 for the residence that includes the exterior and any
13 vehicles on the premise of [REDACTED] Willow Forks?

14 A. Yes, ma'am, to my knowledge a search warrant was
15 obtained.

16 Q. All right. And was that search warrant executed by
17 members of the Lexington County Sheriff's Department?

18 A. Yes.

19 Q. And subject to that search warrant in which this
20 vehicle is located at [REDACTED] Willow Forks, was it impounded
21 by the sheriff's department?

22 A. Yes, ma'am.

23 Q. And by impounded, I mean it's -- take us through what
24 happens. It's actually taken into custody at this location
25 and then it's transported where?

1 A. Yes, ma'am. Typically whenever we collect a vehicle
2 from a scene with the search warrant we actually get it
3 towed and we follow it and secure it to headquarters, which
4 is at the sheriff's department in a secure facility.

5 Q. And is that where you actually conducted your search?

6 A. That's where I conducted my search, yes.

7 Q. And what was the date of your search?

8 A. That was August 4, 2015, at 1:25 PM.

9 Q. All right. So that's the same date the search warrant
10 was executed at the residence of [REDACTED] Willow Forks, correct?

11 A. To my knowledge, yes, ma'am.

12 Q. I'm gonna show you some photographs and ask you
13 whether or not you recognize them and, if so, how?

14 A. These photographs I recognize. I took these
15 photographs.

16 Q. I'm just gonna ask you to look at these as a group
17 and tell us whether or not they are a fair and accurate
18 representation of items seized from the vehicle.

19 A. I took all these photographs and they are a fair
20 and accurate representation of the vehicle at the time
21 I searched the vehicle.

22 Q. Can you tell us, Detective Sprinkle, whether or not
23 any drugs or narcotics or illegal substances were found
24 in the vehicle?

25 A. Yes, there were.

1 Q. And can you tell us whether or not those were
2 retrieved by you to be maintained as evidence in this
3 case?

4 A. Yes, it was.

5 Q. Can you tell us whether or not there were handwritten
6 items and identification cards found in the vehicle?

7 A. Yes, there were.

8 **MS. MAYES:** Your Honor, at this time I believe we
9 have eight photographs for evidence.

10 **MR. HILLIARD:** Subject to our previous, but no
11 further, Your Honor.

12 **THE COURT:** Okay. They will be admitted subject to
13 objections in pre-trial.

14 **THE COURT REPORTER:** 53 through 60.

15 **THE COURT:** 53 through 60 are all admitted subject to
16 objection.

17 (State's Exhibit Numbers 53 through 60, photographs,
18 were marked and admitted into evidence.)

19 BY MS. MAYES:

20 Q. All right. I'll start, Detective Sprinkle, by asking
21 you whether or not it's routine to collect any items which
22 may lead to the identification of the owner of the vehicle
23 or the driver of the vehicle?

24 A. Yes, it is.

25 Q. I'll show you State's Exhibit 60 and ask you where

1 this identification was located?

2 A. That identification card was found located in the
3 glove compartment of the vehicle.

4 Q. Is this that item?

5 A. Yes, it is. That's the ID card that was located in
6 that location.

7 Q. Now you mentioned that illegal substances were also
8 located in the vehicle. I'm gonna ask you what we are
9 looking at in this photograph and I'm gonna show you --
10 I'll give you the chance to show us with this.

11 **MR. HILLIARD:** We're gonna object to his
12 identification of anything that might be considered an
13 illegal substance unless he can be qualified as a person
14 who can determine what substances were legal and illegal.

15 **MS. MAYES:** I can clarify that, Your Honor.

16 **THE COURT:** Okay.

17 BY MS. MAYES:

18 Q. Are you trained in seizing drugs or suspected drugs
19 as part of being a CSI officer?

20 A. Yes, ma'am.

21 Q. During the course of your search and inspection of
22 this vehicle, did you observe any substances that you
23 suspected to potentially be drugs or narcotics?

24 A. Yes, I suspected one item in the -- in that vehicle
25 to be and I suspected it to be possible ice.

1 Q. All right. And when you say "ice", you're familiar
2 with what that substance looks like and how it appears
3 physically?

4 A. Yes, ma'am.

5 Q. All right. Tell us what we're looking at here.

6 A. Okay. This item in the center that was identified as
7 Evidence ID Number 4, the Number 4 placard right below it,
8 that's what that is referencing to and that was a clear
9 little baggy containing that crystal substance.

10 Q. All right. What are we looking at to the right and
11 what is marked Item Number 1?

12 A. To the right of this, this sheet of paper, that is a
13 piece of paper that was found in the center console of the
14 vehicle and it has just handwriting notes on it, a list of
15 names it appeared to be.

16 Q. All right. When there are numerical amounts -- or do
17 you also -- can you tell us whether or not you're also
18 trained to recover items which may be related to the
19 distribution of illegal substances?

20 A. Yes, ma'am.

21 Q. All right. And this is going to be a close-up of
22 Item Number 4?

23 A. Yes, ma'am.

24 Q. Now were you also aware having been at the scene that
25 there was a cigarette recovered near the body?

1 A. Yes, there was.

2 Q. What, if anything, was significant about the coloring
3 or making of that particular brand of cigarette?

4 A. What was significant of that cigarette on-scene that
5 I observed was it had an orange filter with the white
6 specks in which in this vehicle the same type of cigarette
7 was found with the filter. Here you've got Marlboros with
8 the orange filter with the white specks on them.

9 Q. Can you tell us whether or not based on your
10 observations that appears to be consistent with the
11 cigarette found at the scene?

12 A. It is consistent with the cigarette on-scene, yes,
13 ma'am.

14 Q. All right. And then what are we looking at in
15 Item 58?

16 A. Item 58 is a pack of Marlboro cigarettes. It was a
17 pack that was located at -- give me one second, please.
18 That was found on the rear right floorboard area. That's
19 a pack of Marlboro cigarettes.

20 Q. All right. And looking there at the carton as it is
21 barely visible, what type of filters are on that brand?

22 A. That brand has the orange filters as well with the
23 white specks.

24 Q. All right. What are we looking at here, State's
25 Exhibit 55?

1 A. That is referenced Number 1, that piece of paper,
2 prior to me marking it and collecting it. That is that
3 piece of paper with the handwritten notes of names.

4 Q. Ultimately Item Number 1?

5 A. Yes, ma'am.

6 Q. Containing the names Junior, 275; Stump, 395; Joe,
7 280, and Snoop, 625, plus one-quarter ounce?

8 A. Yes, that's how it reads. Yes, ma'am.

9 Q. Now did you also have the opportunity to inspect the
10 vehicle for anything consistent with having been at or
11 near the crime scene, which was the dirt portion of Old
12 Orangeburg Road?

13 A. Yes, ma'am.

14 Q. What, if anything, do you recall -- what, if anything,
15 do you recall about the appearance of the vehicle based --
16 the interior and the exterior in that regard?

17 A. The exterior of that vehicle, it was very dirty, it
18 was dusty, and in the interior of the vehicle you had loose
19 sand, dirt, on the floorboard of both the front and --
20 front passenger and driver seat floorboard.

21 Q. All right. Now you having been at the crime scene
22 yourself, can you tell us whether or not -- the surface of
23 that dirt portion of Old Orangeburg Road, can you tell us
24 whether or not that's conducive to leaving dust behind on
25 a vehicle?

1 A. It's possible, yes. If you drive down the dirt road,
2 it's very possible. It's a long dirt road, so it would be
3 consistent with getting a vehicle dirty.

4 Q. I'm gonna show you several photographs and ask you
5 whether or not you recognize them. As well as these.

6 A. Yes, ma'am, I recognize all these photographs. I took
7 these photographs.

8 Q. All right. And what are we looking at in those last
9 two photographs?

10 A. The last two photographs is the -- these are the last
11 two photographs. It's the front driver seat photograph of
12 that showing the -- the floorboard and the seat and this
13 photograph is the front passenger floorboard.

14 **MS. MAYES:** These will be seven additional for
15 evidence, Your Honor.

16 **MR. HILLIARD:** We will object to these on the basis
17 of relevance. Other than that they're cumulative.

18 (Proceedings held at the bench; not reported.)

19 **THE COURT:** All right. Let's put this on the record.
20 Y'all step in the jury room real quick and I'll get you
21 right back in here.

22 (Whereupon, the jury retires to the jury room at
23 10:42 AM.)

24 (State's Exhibit Numbers 61 through 67 were marked
25 for identification.)

1 **THE COURT:** All right. Tell me your objection on
2 these. They've now been marked for identification.

3 **MR. HILLIARD:** Thank you, Judge.

4 **THE COURT:** Uh-huh.

5 **MR. HILLIARD:** Number 61 for identification is a
6 photograph of the trunk of the vehicle.

7 **THE COURT:** All right. What's the relevance of that,
8 Ms. Mayes?

9 **MS. MAYES:** Yes, sir, Your Honor. There is extensive
10 dust around the -- around the lower portion of the vehicle.
11 If we need to withdraw this one, we can.

12 **THE COURT:** It is certainly a very disheveled trunk
13 area according to her. All right. Go on to the next one.

14 **MR. HILLIARD:** That one is withdrawn?

15 **THE COURT:** No, no. I'm gonna rule on them. I want
16 to hear all of your stuff and then I'm gonna decide what
17 we're gonna get by with.

18 **MS. MAYES:** And, Your Honor, I was just gonna add
19 on --

20 **THE COURT:** If she's wants to withdraw it, that's one
21 thing, but I'm not gonna make her withdraw it.

22 **MR. HILLIARD:** No, sir. I thought she said that.
23 Maybe --

24 **MS. MAYES:** I can withdraw that one, but as for the
25 additional photographs, the extensive area of dust around

1 the vehicle is relevant to corroborate that the Defendant
2 was at the crime scene. That corroborates his audio
3 statement in that regard. There has been some argument
4 and I suspect there will continue to be argument that his
5 admissions in that audio statement are the result of some
6 type of promise or expectation or hope of leniency for his
7 wife. That has been an argument to potentially discredit
8 his admissions in that audio statement, so putting him at
9 the scene, putting him outside the vehicle and then
10 potentially back in the vehicle where we have -- we have
11 some photographs showing the interior of that vehicle which
12 are consistent with that crime scene, that's all relevant
13 and probative.

14 **MR. HILLIARD:** Thank you, Judge. You can go outside
15 and look at my car and it looks exactly like this. This
16 is -- he's not said that there's anything -- there's no
17 analysis of the dirt, there's no -- I mean, it's a dirty
18 car. 66 is a picture of the interior of a car with dirt
19 on the floor. There's nothing to connect that dirt to the
20 crime scene other than it's dirt and it's on the -- and,
21 again, anecdotally, and as an officer of the court, I'll
22 tell you my car looks just like that, dirt on the floor.
23 Number 67, the same thing. It's just dirt on the floor.
24 There's nothing -- everybody's talked about sugar sand and
25 that sand could have come from the beach, it could have

1 come from anywhere. There's no analysis, there's no --
2 there's nothing about this sand that makes it unique to
3 the crime scene. He'll say it's consistent, but that's
4 not probative of anything and if you look at it there's
5 not that much sand in the -- in the car. As to the dirty
6 car, I'll go back to my car. I mean, there's dust on the
7 car. There's nothing to indicate that the dust on the car
8 came that night, came --

9 **MS. MAYES:** It's circumstantial evidence, Your Honor,
10 and it's -- it's one link in the chain. That is the very
11 definition of circumstantial evidence. We believe the
12 condition of this car is consistent with the conditions at
13 the crime scene.

14 **THE COURT:** I've seen them.

15 **MR. HILLIARD:** All right, sir.

16 **THE COURT:** I know what they are. That's the second
17 time I've seen them.

18 **MR. HILLIARD:** Okay. All right, sir.

19 **THE COURT:** I'm familiar with them. I think I'm gonna
20 allow them all in because that's the condition of the car
21 when it was taken into custody by the sheriff's department
22 on the morning of the 4th. Is that right, the morning of
23 4th?

24 **MS. MAYES:** Yes, sir, Your Honor.

25 **MR. HILLIARD:** Yes, sir.

1 **THE COURT:** I don't think he can testify any further
2 than the car is dirty and dusty. I mean, that's --
3 because the car was dirty and dusty. There was no
4 analysis done on the sand that this was the exact sand
5 and he's not been qualified as an expert to do that.
6 You're not planning on eliciting testimony any further
7 than that are you, Ms. Mayes?

8 **MS. MAYES:** No, sir, Your Honor. It would be the
9 extent of what he's testified to and then publishing the
10 photographs.

11 **THE COURT:** Okay.

12 **MS. MAYES:** Your Honor, there is a baseball glove in
13 the trunk of the vehicle. We believe that may be relevant
14 as well; a baseball glove and no bat. That's as to
15 State's Exhibit 61.

16 **MR. HILLIARD:** And do you want to hear from me on
17 that?

18 **THE COURT:** Yeah, let's hear from you on that.

19 **MR. HILLIARD:** So it's the State's position that
20 every time you have a baseball glove you have a bat?

21 **MS. MAYES:** No, that's not the State's position, but
22 it is what it is. That is what was found in the trunk.

23 **MR. HILLIARD:** Was it -- is it marked? Is there a
24 picture of the baseball glove?

25 **THE COURT:** I don't know.

1 **MR. HILLIARD:** Well --

2 **THE COURT:** I don't remember that fact from the first
3 trial. I thought the picture of the car would show it was
4 disheveled and sandy and dusty and dirty.

5 **MS. MAYES:** It would, Your Honor.

6 **THE COURT:** Okay. I'm not gonna -- I'm not gonna
7 let the picture of the trunk come in. That's really
8 stretching the -- the realm of probative evidence of a
9 baseball glove without a bat. The bat -- the bat's been
10 described and discussed and it can be. To say there's a
11 glove in the trunk without a bat, I don't know. I just
12 -- I don't --

13 **MS. MAYES:** 61's withdrawn.

14 **THE COURT:** Okay. That's not relevant.

15 **MR. HILLIARD:** Thank you, Your Honor.

16 **THE COURT:** All right. Everything else will be
17 admitted subject to your objection to relevance.

18 **MR. HILLIARD:** Thank you, Your Honor.

19 (State's Exhibit Numbers 62 through 67, photographs,
20 were admitted into evidence.)

21 **THE COURT:** Do we need a break or anything?

22 **MS. MAYES:** We're fine if you are.

23 **MR. HILLIARD:** Do you mind if we take a few minutes
24 as long as they're out?

25 **MS. MAYES:** Judge, regarding scheduling, we do expect

1 Dr. Ross to be available this afternoon.

2 (Pause in proceedings.)

3 **MR. HILLIARD:** We're ready to go, Judge.

4 **THE COURT:** Okay. Bring in the jury, please.

5 (Whereupon, the jury returns to the courtroom at
6 10:54 AM.)

7 BY MS. MAYES:

8 Q. And then you also have before you, Detective Sprinkle,
9 Items Number 37 and 38. Do recognize these items -- or
10 those two photographs?

11 A. Yes, I do.

12 Q. And what is that item?

13 A. It is a piece of paper with a handwritten -- it's
14 with handwriting and it has -- appears to be a phone
15 number.

16 Q. All right. Was that also retrieved during your
17 search of the vehicle?

18 A. That was -- it was -- it was photographed. I cannot
19 recall if it was -- if it was actually collected or not.

20 Q. These are the photographs conducted during your
21 search of the vehicle?

22 A. Yes, they are.

23 **MS. MAYES:** These would be State's Exhibit 37 and 38
24 previously marked for identification and identified by a
25 previous witness.

1 **MR. HILLIARD:** I don't have any objection, Judge.

2 **THE COURT:** 37 and 38 in without objection?

3 **MR. HILLIARD:** Yes, sir.

4 (State's Exhibit Numbers 37 and 38, photographs, were
5 admitted into evidence.)

6 BY MS. MAYES:

7 Q. I'm gonna start here with Item Number 62 and if you
8 can tell us what we're looking at here?

9 A. This is a photograph that I took of the back left area
10 of the vehicle, so that's the far away tire right -- right
11 there's gonna be the front driver's side tire and this is
12 the back left tire.

13 Q. And State's Exhibit 63?

14 A. This is the back -- this is the back right tire of the
15 vehicle. This is the back right quarter panel.

16 Q. And State's Exhibit 65?

17 A. That's the trunk -- the hood.

18 Q. All right. And just to clarify, once this vehicle is
19 seized and impounded is it cleaned or washed by officers in
20 any way prior to the search?

21 A. No, not at all. It's kept in the same condition as it
22 was found at the scene.

23 Q. I'm gonna show you State's Exhibit 66. What, if
24 anything, is depicted in the floorboard area of the
25 vehicle?

1 A. In the floorboard of the driver's seat, that right
2 there is loose sand.

3 Q. And State's Exhibit 67?

4 A. You have some soda bottles and sand as well.

5 Q. And what area of the vehicle is that?

6 A. That is the front passenger floorboard.

7 **MS. MAYES:** Thank you, Detective Sprinkle. Nothing
8 further at this time.

9 CROSS-EXAMINATION

10 BY MR. HILLIARD:

11 Q. You've previously testified if you drive down a dirt
12 road your car will get dirty; is that right?

13 A. It is very likely that if you drive down a dirt road
14 your vehicle could get dirty, yes.

15 Q. Yes, sir. And you were talking about the -- that
16 would pretty much include any dirt road, right?

17 A. Yes.

18 Q. You were talking about the sand earlier and saying
19 that the -- maybe you couldn't find the casings because
20 there was sand, loose sand; is that right?

21 A. That's a possibility, yes.

22 Q. So does that mean that -- let's say I'm -- I'm
23 shooting a gun and the -- the brass casings fly out of
24 the gun. It's a semiautomatic, I'm shooting it and brass
25 casings are flying out, right?

1 A. Yes, sir.

2 Q. Okay. And they land on the sand, right?

3 A. Yes, sir.

4 Q. You're not saying that they would burrow themselves
5 into the sand?

6 A. No, sir, I'm not saying that it burrows themselves
7 like that. I'm saying the sand is so loose and so soft
8 that they could easily be trampled over and buried.

9 Q. Trampled over and buried. So if somebody goes walking
10 through there they could step on them and bury them, right?

11 A. That's a possibility.

12 Q. Right. But, I mean, they're not just gonna -- they're
13 not gonna fly out of the gun and bury themselves in the
14 sand?

15 A. I'm not -- I can't say whether it could or could not,
16 but it's a possibility. I have seen projectiles -- well,
17 not projectiles, but shell casings, semi-buried in not near
18 as loose sand as that.

19 Q. Semi-buried?

20 A. Yes, sir.

21 Q. Well, this is a crime scene?

22 A. Yes, sir.

23 Q. And you're a crime scene guy?

24 A. Uh-huh.

25 Q. Right?

1 A. Yes, sir.

2 Q. And you went to the crime scene for the purpose of
3 finding evidence?

4 A. Yes, sir.

5 Q. And evidence would be shell casings?

6 A. Correct.

7 Q. So is it fair for me to assume that you did a thorough
8 and exhaustive search to the best of your ability to find
9 shell casings?

10 A. Yes, sir, I did.

11 Q. And so what you're telling the jury as I understand it
12 today is perhaps -- perhaps those shell casings somehow got
13 down into the sand and you weren't able to find them?

14 A. That's a possibility, yes.

15 Q. All right. And did you go back with a metal detector?

16 A. Yes, I did. Twice.

17 Q. Twice?

18 A. Yes, sir.

19 Q. So you metal-detected out there and you couldn't find
20 them with a metal detector?

21 A. No, sir, I could not.

22 Q. Did you sift through the sand looking for shell
23 casings?

24 A. In some areas with the metal detector, yes.

25 Q. And so your testimony under oath here today to the

1 jury is perhaps somehow the shell casings were buried in
2 the sand and you just couldn't find them?

3 A. I'm saying that it is potential that the shell casings
4 could have been under the sand to where I was unable to
5 find them, yes.

6 Q. You don't think that's likely though, do you?

7 A. It's a -- it's a potential.

8 Q. Potential. A possibility?

9 A. Yes, sir.

10 Q. When -- when you were out there and doing the metal
11 detecting, were you also looking for -- for bullets, for
12 projectiles, for the deadly part of the bullet?

13 A. Yes, sir.

14 Q. And you looked under where the body was?

15 A. Yes, sir.

16 Q. And you found no projectiles under where the body
17 was?

18 A. No.

19 Q. Nothing?

20 A. I could not.

21 Q. Did y'all -- while you were out there, did you --
22 not you, necessarily you, but while you were out there,
23 did the -- did y'all disrobe the deceased on the scene?

24 A. Yes. Yes, we did.

25 Q. The -- you found brass knuckles under the deceased;

1 is that correct?

2 A. Brass knuckles were located directly -- it was in the
3 sand directly underneath the victim's back right pocket
4 area on the ground -- in the ground.

5 Q. They weren't in his pocket?

6 A. No, sir.

7 Q. They were in the ground?

8 A. Yes, sir.

9 Q. And you collected those?

10 A. I did not. CSI Shelby Derrick did.

11 Q. But they were collected, the brass knuckles?

12 A. Yes, sir.

13 Q. They were not in his pocket?

14 A. No, sir.

15 Q. They -- they weren't buried so far in the sand that
16 you couldn't find them?

17 A. It was covered. You could see the brass knuckles,
18 yes, sir.

19 Q. The part -- the part of the road where -- the part
20 of the road where the deceased lay when you got there was
21 not -- was not the sandy part; is that true?

22 A. Excuse me, can you repeat that?

23 Q. Yes, sir. Part of the road was hard-packed, right?

24 A. Yes, the center -- center part of the road was hard
25 packed, but the -- you could say the driving part of the

1 road, yes.

2 Q. All right. And then where the -- where the deceased
3 lay, was that hard packed or was that the sand that we're
4 talking about?

5 A. No, that's that very, very, very loose sand that --
6 that we were describing.

7 Q. All right, sir. And so the -- did you see any
8 evidence when you were looking for the -- for the
9 projectiles, for the bullet part of this, did you see any
10 evidence that any bullets had gone into that sand?

11 A. You can't -- can't tell. Like I said, that sand, it
12 falls on top of itself. It's -- whenever I say it's very,
13 very loose, imagine the sand on a beach. If you discharge
14 a firearm into sand like that, especially underneath the
15 victim where there had been movement, no, I did not see
16 any holes in that sand, no.

17 Q. You're saying -- you're saying if I take a gun and
18 shoot a hole in the beach that you can't tell where I shot
19 a hole in the beach? Is that what you're saying?

20 A. Yes, there's a potential where the sand could fall
21 on top of itself, yes. Sand that loose and that thick,
22 yes.

23 Q. All right.

24 **MR. HILLIARD:** Excuse me just one second, Judge.

25 (Pause in proceedings.)

1 **MR. HILLIARD:** Thank you, sir. I don't have any
2 other questions.

3 | REDIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. I'm gonna show you this photograph and ask you whether
6 or not you recognize it?

7 | A. I do.

8 Q. The brass knuckles that Mr. Hilliard was asking about,
9 do you see them depicted in this photograph?

10 | A. Yes, it's right there.

11 Q. Is that a fair and accurate representation of how
12 you recall the victim being positioned and that item in
13 relation to the victim positioned?

14 | A. Yes.

15 **MS. MAYES:** This would be an additional photo for
16 evidence, Your Honor.

17 **MR. HILLIARD:** I don't have any objection to this
18 photograph.

19 **THE COURT:** That will be 68. 68 in evidence.

20 (State's Exhibit Number 68, a photograph, was marked
21 and admitted into evidence.)

22 BY MS. MAYES:

23 Q. All right. I'm gonna show you what is now marked as
24 State's Exhibit 68. And, again, Detective Sprinkle, at
25 this point have you or any other CSI officer manipulated

1 or moved the body in any way?

2 A. No.

3 Q. Is this how you found the victim and the items located
4 around the victim?

5 A. Yes.

6 Q. What are we looking at right here?

7 A. That right here is -- that is the brass knuckles that
8 were mentioned and that's partially buried in the sand.

9 Q. All right. And what are we looking at right here?

10 A. That is the back right pocket of the victim.

11 Q. That is the back right pocket that you referred to?

12 A. Yes, ma'am.

13 Q. And then Mr. Hilliard was asking you about shell
14 casings and I believe he used the term "fly", about shell
15 casings flying?

16 A. Yes, ma'am.

17 Q. What can you tell us in that regard regarding shell
18 casings and whether or not they always fall in the
19 immediate vicinity of a firearm?

20 A. No, they do not.

21 Q. And I believe Mr. Hilliard was asking you about
22 the actual projectiles, which would be bullets. Can you
23 tell us whether or not bullets, projectiles, travel with
24 force?

25 A. Yes, they do.

1 **MS. MAYES:** Nothing further.

2 **THE COURT:** All right.

3 RE CROSS EXAMINATION

4 BY MR. HILLIARD:

5 Q. Do you have any -- did you take any better pictures of
6 the brass knuckles?

7 A. I did not take the photographs on that scene, sir.
8 That was -- that would have been CSI Shelby Derrick.

9 Q. Are there any better pictures of the brass knuckles?

10 A. To my knowledge, yes.

11 Q. So that the State's 68, that's the photo that you
12 talked about being a photo of the brass knuckles; is that
13 right?

14 A. Yes, sir.

15 Q. And she said that -- or you said that that's the
16 pocket, right?

17 A. Yes, sir.

18 Q. And that's the brass knuckles?

19 A. Correct.

20 Q. The brass knuckles were not in the pocket?

21 A. No, sir.

22 Q. The brass knuckles are there in the sand, not in the
23 pocket?

24 A. Correct.

25 Q. Where the fellow fell on the brass knuckles?

1 A. I can't say if he fell on the brass knuckles or if
2 they came out of his pocket. All I can say is the brass
3 knuckles were directly, and I mean directly, underneath
4 the back right pocket mostly buried in the sand.

5 Q. Okay. Buried in the sand?

6 A. It was under the sand. Like I said, that sand was
7 very loose, yes. It was buried under the sand.

8 Q. Well, does it make sense to you that if he fell on
9 the brass knuckles that that would have buried them in the
10 sand?

11 A. Yes. That would be consistent with that, yes.

12 **MR. HILLIARD:** All right. Thank you.

13 **THE COURT:** All right. You may step down.

14 **MR. HILLIARD:** No objection to this witness being
15 excused.

16 (Witness excused.)

17 **MR. BELL:** The State calls CSI Heather Clary to the
18 stand.

19 (Whereupon, Heather Clary was duly sworn by the Clerk
20 of Court.)

21 **THE CLERK:** Please be seated. State your full name
22 and spell your last name.

23 **THE WITNESS:** Heather Clary, C-L-A-R-Y.

24 HEATHER CLARY,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. BELL:

3 Q. Heather, who are you employed by?

4 A. Lexington County Sheriff's Department.

5 Q. How long have you been there?

6 A. I've been with the department five years.

7 Q. And what is your title or job there?

8 A. Crime scene investigator.

9 Q. Now we previously heard testimony from CSI Keith
10 Sprinkle. Are your duties essentially the same as Keith
11 Sprinkle's?

12 A. Yes.

13 Q. And back in August of 2015, did you have reason to
14 respond to [REDACTED] Willow Forks Road?

15 A. Yes.

16 Q. And why were you responding to that address?

17 A. I was told that we had a homicide investigation and
18 that a search warrant was to be executed on this residence
19 for evidence.

20 Q. And do you know whose residence that was?

21 A. I was informed that it was Charles Morehouse's.

22 Q. And what time of day did you receive the alert to aid
23 with the execution of that search warrant?

24 A. I received the call at 8:45 AM.

25 Q. And did you respond at that time?

1 A. Yes.

2 Q. What time did you arrive on the scene?

3 A. I arrived on-scene at 9:00.

4 Q. And was the search warrant in hand?

5 A. Yes.

6 Q. And did you ultimately aid with the execution of that
7 search warrant?

8 A. Yes.

9 Q. Now talk to us a little bit about how you go about
10 the execution of a search warrant. What's the first thing
11 you do when you arrive on-scene?

12 A. The first thing we do is make sure that we have a
13 search warrant or otherwise legal right to be there and
14 once we finish with that we photograph the exterior of
15 the residence thoroughly and then we proceed inside the
16 residence and photograph the inside very thoroughly.

17 Q. And on this occasion, did you take pictures of the
18 house at [REDACTED] Willow Forks Road?

19 A. Yes.

20 Q. Were there any vehicles located at the exterior of the
21 house?

22 A. Yes, there were several vehicles on-scene.

23 Q. After photographing the exterior, what do you do
24 next?

25 A. Then we locate any items of evidence, we place a

1 placard by them, rephotograph them and then collect them.

2 Q. And while going through the interior of the house,
3 did you take additional photos?

4 A. Yes.

5 Q. And did you take photos that you deemed relevant?

6 A. Yes.

7 Q. How many photos did you take?

8 A. I'm not sure. I'd have to look at all my photos and
9 count them.

10 Q. Do you take a few pictures or do you take a lot of
11 pictures?

12 A. A lot.

13 Q. Do you always know what is relevant at the time
14 you're executing a search warrant?

15 A. No.

16 Q. Let's talk about some of the items that you did
17 photograph and document. When you were going through
18 the house and you went through the laundry room, did
19 you find anything there that you deemed relevant for
20 photography?

21 A. Yes.

22 Q. And what did you find?

23 A. There were several items of clothing in a washing
24 machine.

25 Q. Why is that relevant?

1 A. I was told that --

2 **MR. HILLIARD:** Objection to the hearsay.

3 **THE COURT:** I'll sustain as to hearsay.

4 BY MR. BELL:

5 Q. In your capacity executing a search warrant in a
6 homicide investigation, why did you collect clothes from
7 a dryer -- or washer?

8 A. It could possible that the suspect left the clothing
9 used in the homicide behind.

10 **MR. BELL:** Permission to approach the witness, Your
11 Honor?

12 **THE COURT:** Sure.

13 BY MR. BELL:

14 Q. I'm handing you four photos. Do you recognize the
15 contents of those photographs?

16 A. Yes.

17 Q. And are they fair and accurate as to what you saw on
18 August 3rd executing that search warrant?

19 A. Yes.

20 (State's Exhibit Numbers 69 through 72 were marked for
21 identification.)

22 **MR. BELL:** Your Honor, at this time the State would
23 seek to move 69, 70, 71 and 72 into evidence.

24 **MR. HILLIARD:** No objection.

25 **THE COURT:** 69 through 72 admitted without objection.

1 **MR. BELL:** Thank you, Your Honor.

2 (State's Exhibit Numbers 69 through 72, photographs,
3 were admitted into evidence.)

4 **MR. BELL:** Permission to publish, Your Honor?

5 **THE COURT:** Sure.

6 BY MR. BELL:

7 Q. Heather, State's 69, is this the laundry room that
8 you're referring to?

9 A. Yes.

10 Q. And in 70, tell us what we're looking at.

11 A. That would be a photo of the dryer.

12 Q. And were you able to tell if the clothing had been
13 freshly run at that point?

14 A. I'm not sure about the dryer.

15 Q. I'm gonna hand you State's 70. Take a look at that.

16 A. My apologies.

17 Q. What did you observe about that photograph?

18 A. There is condensation on the glass.

19 Q. And you're referring to that unit there?

20 A. Yes.

21 Q. Referring to State's 71, what are these?

22 A. That is the clothing that was removed from the washing
23 machine.

24 Q. And are the pair of jeans that we see there included
25 in what you removed from the washing machine?

1 A. Yes.

2 Q. And could you tell if they had been freshly run
3 through the washer?

4 A. Yes, they were wet when I pulled them out of the
5 washing machine.

6 Q. And do you have a specific protocol you have to adhere
7 to when dealing with potentially wet evidence?

8 A. Yes.

9 Q. Tell us about that.

10 A. Any time an item is wet, whether is it water, blood or
11 whatever the case is, it must be thoroughly dried before
12 being packaged.

13 Q. Why is that?

14 A. To prevent molding.

15 Q. And did you specifically package the items like you
16 should have with regard to it being wet?

17 A. Yes. I allowed them to dry and then they were wrapped
18 in paper and placed in a box.

19 Q. After seizing those items, did you eventually go into
20 the bedroom of Charlie Morehouse?

21 A. Yes.

22 Q. And did you find any items there that you believed to
23 be relevant to the investigation?

24 A. Yes.

25 Q. Did you photograph those items?

1 A. Yes.

2 Q. Did you find any substances that you suspected to be
3 narcotics?

4 A. Yes.

5 Q. Did you find any money?

6 A. Yes.

7 **MR. BELL:** I beg the Court's indulgence.

8 (State's Exhibit Numbers 73 through 83 were marked for
9 identification.)

10 BY MR. BELL:

11 Q. Heather, I'm gonna go ahead and hand you a bunch of
12 photographs and I want you to look through and see if you
13 can recognize them. If you'd look through those and tell
14 me whether they are photographs you took and if they fairly
15 and accurately reflect the contents of those pictures.

16 A. Yes.

17 Q. And two final pictures for you, Ms. Clary. Do you
18 also recognize those two photographs?

19 A. Yes.

20 Q. And are they fair and accurate?

21 A. Yes.

22 **MR. HILLIARD:** May we have a sidebar on 75?

23 **THE COURT:** Uh-huh.

24 (Proceedings held at the bench; not reported.)

25 **MR. HILLIARD:** I don't have any objection, Judge.

1 **THE COURT:** All right.

2 **MR. BELL:** For the record, Your Honor, that was
3 State's 73 through 83, I believe, in evidence.

4 **THE COURT:** They're all admitted without objection.

5 **MR. HILLIARD:** Subject to our other objection, but
6 without further.

7 **THE COURT:** Subject to the pre-trial.

8 **MR. HILLIARD:** Yes, sir.

9 (State's Exhibit Numbers 73 through 83, photographs,
10 were admitted into evidence.)

11 BY MR. BELL:

12 Q. Ms. Clary, referring State's 75, what are we looking
13 at here?

14 A. This is a box containing a bobblehead figure inside
15 which there was a substance believed to be drugs found.

16 Q. In what bedroom was this located?

17 A. The suspect's bedroom.

18 Q. And in 76, what is this?

19 A. That is the substance believed to be drugs inside the
20 box from the previous photo.

21 Q. Now when it comes to packaging an item such as that,
22 how do you go about packaging it for preservation of
23 evidence?

24 A. If it is to be tested, it's placed in a BEST kit.

25 Q. What is a BEST kit?

1 A. It's a tamper-evident packaging bag.

2 Q. What does tamper-evident mean?

3 A. It means that if you attempt to open it or alter it
4 in any way it is very evident that that has happened.

5 Q. And did you package this item in a BEST kit?

6 A. Yes.

7 Q. And did you seal that BEST kit?

8 A. Yes.

9 Q. Did you sign or initial it?

10 A. Yes.

11 Q. And does a BEST kit have a unique identifier so that
12 no other BEST kit would be confused with that item?

13 A. Yes, it is called a BEST kit control number.

14 Q. State's 81, where did you locate the purple bag?

15 A. It was found in a drawer underneath the bed.

16 Q. And though it may be obvious, what was the content of
17 that bag?

18 A. Cash money.

19 Q. And in 82, what are we looking at here?

20 A. That is the photo I took after removing the money from
21 the bag.

22 Q. Did you break that -- the contents of that bag down
23 further?

24 A. Yes.

25 Q. And is that's what portrayed here in State's 83?

1 A. Yes.

2 Q. And did you document the amount in that particular
3 bag?

4 A. Yes.

5 Q. And do you have that amount in front of you?

6 A. \$1,403.

7 Q. In 79, where did you locate this wallet?

8 A. It was found on the headboard of the bed.

9 Q. And did you break the currency in that wallet down as
10 well?

11 A. Yes.

12 Q. And in State's 80, is that the contents of the wallet?

13 A. Yes.

14 Q. And did you come up with a value for what was in that
15 wallet?

16 A. \$636.

17 Q. Did you find any other cash in the room?

18 A. Yes.

19 Q. Where was that located?

20 A. There was a hundred dollars cash in a wire basket on
21 the headboard of the bed.

22 Q. Was this photo taken in the same bedroom?

23 A. Yes.

24 Q. And in State's 78, is this the same picture but with
25 that money spread out?

1 A. Yes.

2 Q. What was the total amount of all of that cash put
3 together; are you aware?

4 A. I can do the math in my head, but I'm not aware off
5 the top of my head.

6 Q. Can you ball park it for us?

7 A. Roughly 2,000.

8 Q. State's 73, what are we looking at here?

9 A. This is a cigarette pack that was found on the
10 headboard of the bed.

11 Q. And do you know specifically what kind of cigarettes
12 those were?

13 A. Marlboro red.

14 Q. State's 74, what are we looking at here and where was
15 it located?

16 A. This was a bag of peach colored pills found between
17 the mattress and the box spring of the bed.

18 Q. And that was under the mattress in the same bedroom
19 as the other items you testified to?

20 A. Yes.

21 Q. And did you package these two pills in the same manner
22 as you testified to related to that white crystal substance
23 earlier?

24 A. Yes.

25 Q. And you put that in a BEST kit?

1 A. Yes.

2 Q. And you also sealed that BEST kit?

3 A. Yes.

4 Q. I want to briefly refer back to 71. You were
5 testifying about the clothing that you seized earlier and
6 they're all kind of piled together here, but do you have
7 documented in your notes exactly what kind of clothing
8 items were seized that night or during that search warrant?

9 A. Yes. There were two pairs of blue jeans, one blue
10 Dickies shirt, two white Hanes T-shirts and one red DC
11 Comics T-shirt.

12 Q. Now when you collect evidence such as what you've
13 seen in these photos and that you've testified about, how
14 do you go about transporting it and depositing it into
15 evidence?

16 A. I put them in my vehicle and then I respond directly
17 to the sheriff's department where they are placed in a
18 secure crime lab until they can be turned over to our
19 evidence custodians.

20 Q. Does anybody else have access to your vehicle?

21 A. No.

22 Q. At any point while you had those items in the vehicle,
23 did you leave your vehicle unattended?

24 A. No.

25 Q. After leaving the search warrant with those items,

1 where did you go next?

2 A. Straight to the Lexington County Sheriff's Department
3 headquarters.

4 Q. And what did you do with the items that you seized
5 when you got there?

6 A. I placed them directly into our crime lab.

7 Q. Tell us more about that process.

8 A. It's a secure lab that has additional lockers and such
9 inside that we can secure evidence in a way that nobody
10 else can tamper with it.

11 **MR. BELL:** I beg the Court's indulgence.

12 Your Honor, can we approach?

13 **THE COURT:** Uh-huh.

14 (Proceedings held at the bench; not reported.)

15 **THE COURT:** Just so you know, these things were used
16 in the first trial and they have other markings on them.
17 They've got two markings because they were used as exhibits
18 in a different trial, the first trial, and we've marked
19 them in this trial, so Ms. Johnson will keep up with her
20 markings.

21 (State's Exhibit Numbers 84 and 85 were marked for
22 identification.)

23 BY MR. BELL:

24 Q. Ms. Clary, I'm handing you 84 and 85. Will you
25 identify those items for us. Do you recognize that item?

1 A. Yes.

2 Q. What is that one?

3 A. It is the substance believed to be drugs collected
4 from the bobblehead.

5 Q. And what is it contained in?

6 A. It's contained in a BEST kit.

7 Q. And does that BEST kit have one of those unique
8 identifiers you testified to?

9 A. Yes.

10 Q. What is that identifier?

11 A. It's C022380 for the control number.

12 Q. Now if you will move on to the other item.

13 A. Yes, I recognize this item as well.

14 Q. And what is that item?

15 A. This is the peach pill found underneath the mattress.

16 **MR. HILLIARD:** May we approach, Judge?

17 **THE COURT:** Sure.

18 (Proceedings held at the bench; not reported.)

19 **MR. HILLIARD:** Thank you, Your Honor. Judge, while
20 we're on the break or stopped for a second, if we could
21 take us a brief break?

22 **THE COURT:** All right. We'll we take a short break
23 and have you back in here in a few minutes. Do not discuss
24 the case.

25 (Whereupon, the jury retires to the jury room at

1 11:35 PM.)

2 (Recess taken.)

3 **BAILIFF:** All rise. Court's in session.

4 **THE COURT:** Are we ready for the jury?

5 **MR. HILLIARD:** Yes, sir.

6 **THE COURT:** All right. Bring them in.

7 (Whereupon, the jury returns to the courtroom at

8 11:43 AM.)

9 **MR. BELL:** Thank you, Judge.

10 **THE COURT:** Uh-huh.

11 (State's Exhibit Number 86, clothing items, was marked
12 for identification.)

13 BY MR. BELL:

14 Q. Ms. Clary, you testified about clothes that you had
15 seized. Referring to State's 86 for ID, without unsealing
16 that box are you able to tell what the contents are by the
17 exterior?

18 A. Yes.

19 Q. And how do you have that labeled?

20 A. I have it labeled with the case number, the item
21 number and then the items that are contained within.

22 Q. And what is the case number associated with that box?

23 A. 15014711.

24 Q. And is that a case number that is referenced to
25 Charles Morehouse?

1 A. Yes.

2 Q. And what are the actual itemized contents of that
3 box.

4 A. There are two pairs of blue jeans, a blue Dickies
5 shirt, two white Hanes T-shirts, a red DC Comics T-Shirt,
6 a pair of gray shorts and a pair of white socks.

7 Q. And those are the items you referenced were received
8 wet from the washing machine?

9 A. Yes.

10 Q. About what time of morning would you have seized
11 those items?

12 A. It would have been around lunchtime. We finished up
13 just after lunch.

14 Q. Referring to State's 40, is this the residence that
15 you executed the search warrant at?

16 A. Yes.

17 Q. And do you recognize this vehicle in State's 32?

18 A. Yes.

19 Q. And whose vehicle was that?

20 A. Charles Morehouse.

21 Q. And in your report did you make any observations
22 about that vehicle?

23 A. Yes, it appeared dusty.

24 Q. Did you have any further interaction with that
25 vehicle at the time?

1 A. No.

2 Q. Do you know what happened to that vehicle?

3 A. It was towed to our headquarters pending a search
4 warrant.

5 Q. Did you ultimately search the vehicle at that time?

6 A. No.

7 Q. Are you aware of who did?

8 A. No.

9 Q. At any point in time, did you ever transfer any
10 evidence over to Richland County Sheriff's Department?

11 A. Yes.

12 Q. What evidence was that?

13 A. I took an ashtray, a burnt cigarette butt, three
14 40 cal Smith & Wesson shell casings, a silver mens razor,
15 a blue and white toothbrush, swabs A through K, and two
16 projectiles from the autopsy.

17 Q. And you transported those from where to where?

18 A. From Lexington County Sheriff's Department to Richland
19 County Sheriff's Department.

20 Q. And those items were also in your sole care, custody
21 and control during that transit?

22 A. Yes.

23 Q. Did you ever receive any items back from the Richland
24 County Sheriff's Department?

25 A. Yes.

1 Q. And did you log those items back into the Lexington
2 County Sheriff's Department evidence room?

3 A. Yes.

4 **MR. BELL:** Thank you, Ms. Clary.

5 CROSS-EXAMINATION

6 BY MR. HILLIARD:

7 Q. May I have your box?

8 A. (Handing.)

9 Q. Thank you. The -- this box that you brought to court,
10 was this -- is this the entire contents from the washing
11 machine?

12 A. No.

13 Q. Okay. What -- what else was in the washing machine?

14 A. There were also items of female clothing. I don't
15 recall the specifics.

16 Q. How much items of female clothing?

17 A. Enough for a load of washing.

18 Q. So there was a load of clothes in the washing machine?

19 A. Yes.

20 Q. And there was a load of clothes in the dryer?

21 A. Yes.

22 Q. And although you didn't recollect initially about
23 whether the dryer had recently been run or not, you saw the
24 condensation and that sort of leads you to believe that it
25 was being run, right?

1 A. Yes.

2 Q. Did you get anything out of the dryer?

3 A. No.

4 Q. So when you came upon the scene of the laundry room to
5 collect evidence, you found that somebody was washing and
6 drying clothes?

7 A. Yes.

8 Q. A full load in the dryer?

9 A. Yes.

10 Q. A full load in the washer?

11 A. Yes.

12 Q. And what you decided to collect was selected items
13 from the washer?

14 A. Yes.

15 Q. Let me show you State's Exhibit Number 82 that you've
16 identified and talked about. Maybe that's upside down.
17 Those are rolled coins; is that right?

18 A. Yes.

19 Q. So what you found was a bag of money, including a
20 significant number of rolled coins?

21 A. Yes.

22 Q. State's Exhibit Number 75 is the bobblehead box?

23 A. Yes.

24 Q. The -- the drugs -- did you -- were you actually the
25 person who went to the box and looked in the box to see the

1 drugs in there?

2 A. No.

3 Q. Do you know that that box was not located and looked
4 at until Charles Morehouse was being interviewed and told
5 the detectives that the drugs were in the box? Do you know
6 that?

7 A. I was not aware of that.

8 Q. All right. So is there any better -- this is the box
9 that the bobblehead was in?

10 A. Yes.

11 Q. Were the drugs in the box or in the bobblehead?

12 A. They were in the bottom of the box in the plastic of
13 the bobblehead.

14 Q. I'm not -- don't understand what that -- do you have
15 better picture? You have a picture of the drugs, right?

16 A. Yes.

17 Q. And you have the picture of the box?

18 A. Yes.

19 Q. Do you have any better picture of how the drugs were
20 in the box?

21 A. I don't recall off the top of my head.

22 Q. Okay. So say it one more time for me, please, ma'am,
23 and maybe I can understand it. The drugs were in the?

24 A. They were in the bottom of the box. Around the --
25 inside the box around the bobblehead, there is a plastic,

1 kind of like a holder that holds the bobblehead in place.

2 It was in the bottom of the box inside that plastic.

3 Q. So in -- the bobble -- a bobblehead is a thing that
4 it's got a head on the top of it and then you pull it up
5 and put candy in it, right?

6 A. No.

7 Q. That's not what a bobblehead is?

8 A. No.

9 Q. Oh, okay. I'm thinking of a Pez dispenser. I'm
10 sorry. I'm just confused. Okay. Now it makes sense. I'm
11 sorry.

12 **MR. HILLIARD:** Thank you, ma'am. I have no other
13 questions.

14 REDIRECT EXAMINATION

15 BY MR. BELL:

16 Q. All right. Ms. Clary, just to clarify, did you have
17 an opportunity to review the search warrant prior to
18 executing it?

19 A. Yes.

20 Q. And what was your understanding as to whether it was
21 a female or male suspect you were at that house for?

22 A. I understood that it was a male suspect that we were
23 looking for.

24 Q. Are you aware of whether it was a child or an adult
25 male?

1 A. Adult.

2 Q. And is that why you seized the adult male's clothes?

3 A. Yes.

4 **MR. BELL:** Thank you, Ms. Clary.

5 **MR. HILLIARD:** Nothing else. And no objection to this
6 witness being excused, Your Honor.

7 **THE COURT:** You're excused now.

8 (Witness excused.)

9 **MS. MAYES:** The State calls Candy Kyzer.

10 (Whereupon, Candy Kyzer was duly sworn by the Clerk
11 of Court.)

12 **THE CLERK:** Once you're seated, state your full name,
13 spelling your last, please.

14 **THE WITNESS:** Candy Kyzer, K-Y-Z-E-R?

15 CANDY KYZER,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. All right. And, Ms. Kyzer, tell us a little bit about
20 yourself. Where are you employed and what are your job
21 responsibilities?

22 A. I work at the Lexington County Sheriff's Department.
23 I'm one of three evidence custodians. What we do is we
24 get in evidence from the deputies or investigators relating
25 to cases. We sign them in and then package, box them up,

1 and store them until they're ready for testing or court
2 purposes.

3 Q. All right. Now where is evidence maintained at the
4 sheriff's department?

5 A. We have our office, which is a secured area with
6 alarms and everything, and then we also have a warehouse
7 that is also alarmed.

8 Q. And when you say your office, you're referring to an
9 evidence room?

10 A. Yes.

11 Q. Now does everybody at the sheriff's department have
12 access to that room?

13 A. No.

14 Q. Who are the people who have access?

15 A. It's just us three.

16 Q. All right. And can you tell us whether or not -- when
17 you say packaged whether or not that includes packaging
18 that is tamperproof?

19 A. That's correct.

20 Q. How so?

21 A. Usually -- the deputies, we have to have them seal the
22 package either with the crime scene tape or some kind of
23 tape, they have to initial it and date it. If we notice
24 that it's been tampered with, we will not accept it.

25 Q. All right. I want to talk about some of the evidence

1 in this case. Did you receive a packaging from Detective
2 Keith Sprinkle regarding suspected drugs from a Chevy
3 Impala?

4 A. I did.

5 Q. All right. And can you tell us whether or not that
6 packaging arrived to you without any evidence of tampering?

7 A. It was.

8 Q. Next I want to ask you about three shell casings which
9 were submitted to you from the crime scene.

10 A. Yes.

11 Q. And also a cigarette from the crime scene.

12 A. Yes, ma'am.

13 Q. Were those items also submitted to you with no
14 evidence of tampering?

15 A. That's correct.

16 Q. And properly packaged?

17 A. Yes, ma'am.

18 Q. Next I want to ask you about two projectiles from
19 the autopsy of James David Porter conducted by Dr. Janice
20 Ross.

21 A. Yes, ma'am.

22 Q. Those were also submitted to you?

23 A. Yes.

24 Q. Were they properly packaged?

25 A. Yes.

1 Q. Was there any evidence of tampering?

2 A. No, ma'am.

3 Q. I also want to ask you about a buccal swabs submitted
4 to you from the Defendant in this case, Charles Morehouse.

5 A. Yes, ma'am.

6 Q. All right. What is -- can you just give us a general
7 description of what is meant by the term "buccal swab"?

8 A. It is a swab where they go inside the person's mouth
9 and take swabs of the cheek area.

10 Q. All right. And what type of testing is that done for
11 comparison analysis in? Can you tell us whether or not
12 that's done for purposes of DNA analysis?

13 A. Yes, it is for purposes of DNA.

14 Q. Is there a specific type of kit or collection kit
15 associated with buccal swabs?

16 A. It is a kit. The crime scene investigators complete
17 those and then turn them in.

18 Q. Was that also submitted to you in this case?

19 A. Yes, it was.

20 Q. Was it properly packaged and sealed?

21 A. Yes.

22 Q. Was there any evidence of tampering?

23 A. No, ma'am.

24 Q. All of these items that we've mentioned, can you tell
25 us whether or not they were maintained as evidence by the

1 sheriff's department prior to submission to a crime lab for
2 testing?

3 A. They were.

4 Q. Now once they're submitted to a crime lab for testing,
5 whose responsibility is it to actually unseal the evidence
6 for purposes of testing?

7 A. Whenever we take it to either SLED or Richland County,
8 whoever it gets to go to, they have to un-package it and
9 then test it.

10 **MS. MAYES:** I beg the Court's indulgence. May we
11 approach?

12 **THE COURT:** Uh-huh.

13 (Proceedings held at the bench; not reported.)

14 BY MS. MAYES:

15 Q. And ultimately, Ms. Kyzer, can you tell us whether or
16 not these items were submitted on to certain crime labs for
17 specific testing? And I'm gonna start by asking you about
18 the three shell casings. Can you tell us whether or not
19 they were submitted to both the Richland County Sheriff's
20 Office crime lab and the State Law Enforcement Division?

21 A. They were.

22 Q. All right. And next I want to ask you about the two
23 projectiles from the autopsy. Can you tell us whether or
24 not they were submitted to the State Law Enforcement
25 Division?

1 A. They were.

2 Q. The drugs from the Impala -- or suspected drugs from
3 the Impala, can you tell us whether or not they were
4 submitted to the State Law Enforcement Division?

5 A. They were.

6 Q. And finally the cigarette from the crime scene, as
7 well as the buccal swabs from the Defendant in this case,
8 Charles Morehouse, can you tell us whether or not they
9 were submitted to the Richland County Sheriff's Office
10 crime lab for purposes of DNA analysis?

11 A. Yes, ma'am, it was.

12 **MS. MAYES:** Nothing further at this time, Your Honor,
13 other than offering these items for evidence.

14 **MR. HILLIARD:** Have these been marked for
15 identification already or --

16 **MS. MAYES:** They have not.

17 **MR. HILLIARD:** Well, the buccal swab kit we have no
18 objection to. This is -- I just want to determine that's
19 what was in the bobblehead? Is that -- I don't have any
20 objection to the bobblehead. Is that the bobblehead?

21 **MS. MAYES:** Impala.

22 **MR. HILLIARD:** I have no objection to the Impala. Do
23 you want to call out that number?

24 (State's Exhibit Numbers 87 and 88 were marked for
25 identification.)

1 **MS. MAYES:** We'll start with the buccal swab.

2 **MR. HILLIARD:** I have no -- I have no objection to
3 the shell casings and projectiles.

4 **MS. MAYES:** Mark that, please.

5 (State's Exhibit Number 89 was marked for
6 identification.)

7 **MR. HILLIARD:** I have no objection to the burnt
8 cigarette butt.

9 (State's Exhibit Number 90 was marked for
10 identification.)

11 **MR. HILLIARD:** And the box, are you attempting to move
12 the box into evidence?

13 **MS. MAYES:** Yes, I believe this box of clothing has
14 been previously identified by CSI officer Heather Clary.
15 I can have this witness identify this item as well.

16 **THE COURT:** Any objection?

17 **MR. HILLIARD:** Yes, sir. If we could have --

18 **THE COURT:** Okay.

19 (Proceedings held at the bench; not reported.)

20 **MR. HILLIARD:** Thank you, Judge.

21 **MS. MAYES:** And, Your Honor, we would ask Ms. Kyzer
22 have permission to break the seal on these items pending
23 testimony from additional witnesses regarding analysis.

24 **MR. HILLIARD:** No objection to that, Judge.

25 **THE COURT:** Okay. Fair enough. Everything is

1 admitted. The clothes are not being introduced. They're
2 clean clothes and they're in the box.

3 **MR. HILLIARD:** Yes, sir.

4 **THE COURT:** The other items that have been
5 identified, being the two bags of drugs, cigarette butt,
6 shell casings, projectiles and something else, are all in
7 without objection.

8 **MS. MAYES:** And just to clarify, these two, 85 and 84.

9 **THE COURT:** Have they been introduced?

10 **MS. MAYES:** I thought they were in already.

11 **THE COURT REPORTER:** No, they weren't. They have
12 never been introduced. They were identified.

13 **THE COURT:** Yeah, we marked them separately because
14 we had a bench conference with Mr. Bell as to they were
15 marked in a prior trial to differentiate from this trial.

16 **MS. MAYES:** So 84 would be offered at this time,
17 Your Honor.

18 **THE COURT:** Any objection?

19 **MR. HILLIARD:** I think we've already -- we've already
20 determined we do not have an objection, Your Honor, other
21 than --

22 **THE COURT:** The issue on search?

23 **MR. HILLIARD:** Yes, sir.

24 **THE COURT:** All right. Fair enough. So they're all
25 in.

1 **MS. MAYES:** Correct.

2 (State's Exhibits 84, BEST kit (crystal substance);
3 85, BEST kit (pills); 87, buccal swabs; 88, BEST kit
4 (Impala); 89, shell casings/projectiles, and 90, a
5 cigarette butt, were admitted into evidence.)

6 **THE COURT:** Are you done, Ms. Mayes?

7 **MS. MAYES:** Yes, sir, Your Honor. She is breaking
8 the seal for the next witness.

9 **THE COURT:** Okay. Are you gonna have any questions,
10 Mr. Hilliard?

11 **MR. HILLIARD:** No, sir, Judge. I don't have any
12 questions. In fact, we can let the next witness break the
13 seal, if you'd like.

14 **THE COURT:** All right. So you're good with her?

15 **MS. MAYES:** Yes, sir, Your Honor.

16 (Witness excused.)

17 **MS. MAYES:** The State calls Kristen Morrow Polis.

18 (Whereupon, Kristen Morrow Polis was duly sworn by
19 the Clerk of Court.)

20 **THE CLERK:** Once you're stated, state your full name,
21 spelling your last on the record, please.

22 **THE WITNESS:** My name is Kristen Polis, P-O-L-I-S.

23 KRISTEN POLIS,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MAYES:

2 Q. Good morning, Ms. Polis. Can you give us some
3 information about yourself? Who are you currently employed
4 by?

5 A. The Richland County Sheriff's Department in the crime
6 scene division.

7 Q. And specifically what type of work does your division
8 offer or what kind of services does your division offer to
9 assist other agencies such as nearby sheriff's departments
10 like Lexington?

11 A. In the crime scene division, we basically handle
12 physical evidence, so one of the services that we would
13 provide is that if other agencies needed assistance with
14 processing things they can get those services from us.
15 Specifically in crime scene, we might be requested to
16 process something for fingerprints or collection DNA, do
17 the collection portion, and there are a few other services
18 that we can provide other agencies, but that would be the
19 most common.

20 Q. Can you tell us about your educational background and
21 training that led you to become a CSI officer?

22 A. Yes, I have a bachelor's degree in psychology, a
23 bachelor's in criminal justice and a master's degree in
24 social work. I joined the crime scene division in 2002 and
25 upon joining our unit there's an in-house training program

1 that we have to complete. It's an extensive program that
2 took me twenty months from beginning to end to complete
3 everything. We're trained in each area of evidence
4 processing and have to take written tests and perform
5 practical examinations so that we show we're proficient
6 in every area before we're able to perform these services
7 in investigations. I'm also certified through the
8 International Association for Identification as a crime
9 scene investigator and that's a test that you have to take
10 every five years. You have to be working in this field for
11 a period of time before you're even eligible to try to
12 obtain that certification.

13 Q. All right. And tell us what, if any, training you
14 have specifically in processing evidence.

15 A. I have both internal training as part of our training
16 program in processing evidence for fingerprints and
17 collection of DNA, as well as some external courses that
18 I've taken throughout the ten years that I've been in crime
19 scene.

20 Q. Have you been previously qualified as an expert
21 regarding the extraction of latent prints, as well the
22 collision of DNA?

23 A. I've been qualified as an expert in crime scene
24 investigation approximately sixteen times.

25 **MS. MAYES:** Your Honor, at this time the State would

1 offer Kristen Polis as an expert in the field of CSI
2 evidence processing.

3 **THE COURT:** Voir dire?

4 **MR. HILLIARD:** Sir?

5 **THE COURT:** Do you want some voir dire?

6 **MR. HILLIARD:** No, sir. Wow.

7 **THE COURT:** All right. She's so qualified.

8 BY MS. MAYES:

9 Q. Now, Ms. Polis, I'm want to refer to three items of
10 evidence that was submitted to you for analysis by the
11 Lexington County Sheriff's Department and those are gonna
12 be fired casings recovered from the crime scene of a
13 homicide. I'm gonna show you this item and ask you whether
14 or not you recognize it and, if so, how?

15 A. This is a bag that contains several fired cartridge
16 casings, as well as a cigarette butt and a projectile,
17 according to the labeling. It has two items in here.
18 This bag was in my custody. These items are not something
19 that I did any processing with, these particular two items.

20 Q. Which two items are you referring to there?

21 A. I have a burnt cigarette, which is labeled Item
22 Number 1, and then the second is an envelope, this is our
23 packaging and it's got the initials that I recognize to be
24 Rachel Grant's. She's one of our DNA analysts.

25 Q. All right. So regarding the cigarette, one of your

1 other analysts handled that item, correct?

2 A. That's correct. In the DNA section.

3 Q. All right. Now the three fired shell casings. What,
4 if any, processing did you do concerning those items? And
5 they're in same packaging -- individually packaged, but in
6 the same baggy.

7 A. I processed those for fingerprints using -- the
8 processing was cyanoacrylate fuming and black powder. The
9 cyanoacrylate fuming is what's sometimes referred to as
10 superglue fuming. We have a large chamber that we will put
11 items in and then we can control the heat and the humidity
12 in that chamber, so we will raise the humidity level to
13 whatever we set for it to be and then we'll place a small
14 container of superglue on a warming plate. So the
15 combination of putting those things together with the heat
16 and the humidity will produce fumes from that superglue,
17 so it will protect anything that may be on the outside
18 surface of that evidence. So if there's a fingerprint
19 there, that's very fragile so part of what fuming it with
20 superglue would do would be help to protect anything that
21 might be on there. But superglue will harden just like you
22 would expect from superglue and it's kind of a white,
23 foggy, hazy kind of color, so sometimes just from that
24 process you can see that there's something on the surface.
25 So from there we use powders that are formulated to adhere

1 to the deposits that are left behind when items are
2 touched, so that if there is something that's on that
3 particular item the powder helps us to see what may be
4 there so that we can lift it and use it. So I processed
5 in this case three casings or fired cartridges for
6 fingerprints with negative results, meaning I did not get
7 any useable fingerprints.

8 Q. All right. And I'm gonna ask you to describe each of
9 those casings if you could refer to your paperwork or to
10 your notes exactly how you referenced these three casings
11 in terms of caliber and description.

12 A. They were 40 caliber casings with a headstamp 40 S&W
13 Federal and each one came to me with a number that I
14 believe would have been placed there by Lexington County,
15 so I have referenced each of them by the number they were
16 given, which starts with the letters PR, and then it's a
17 series of numbers for each one.

18 Q. All right. So all three are 40 calibers. You're
19 familiar with Smith & Wesson firearms as well?

20 A. To a degree.

21 Q. Now these three casings you indicated you checked for
22 latent prints?

23 A. Yes, ma'am.

24 Q. What, if anything, may affect your ability to recover
25 a latent print from a fired shell casing?

1 A. For anything, you know, there's a lot of times an
2 assumption that just because you touch something there
3 will be a fingerprint left behind and that's absolutely
4 not true. There are a lot of factors going into if a
5 fingerprint would even be deposited on an item. Some
6 people have ridges that are very worn because of the work
7 they do, they might be in construction, they might be a
8 nurse where they wash their hands many times a day, so that
9 skin may not leave fingerprints behind. Some people sweat
10 a lot more than others and so if you think about it almost
11 like a rubber stamp, when you touch something and there's
12 ink on that rubber stamp it helps you to see what the
13 reproduction is from -- from the stamp. You've got to have
14 something on those fingers when they touch something to
15 leave something behind. So the first thing is there may
16 not be a print there in the first place.

17 If you think about a bullet being fired through a gun
18 and what that process involves, there's an explosion there,
19 there's heat there. Those things may impact a fingerprint
20 being left behind on a casing. These were labeled to have
21 come from the roadway, so for some period of time that's
22 unknown to me they're exposed to elements. Evidence
23 packaging can contribute to the way that things are
24 preserved. So all of that plays a role in whether or not
25 we may get something that's useable.

1 Q. All right. So, Ms. Polis, all three of those fired
2 casings were checked for the possibility of recovery of a
3 latent print and you were unable to obtain a latent print?

4 A. That's correct.

5 Q. Now moving on, I want to ask you whether or not you
6 also had the ability to swab these casings for potential
7 DNA evidence?

8 A. I did.

9 Q. And what is the swabbing procedure and then who does
10 that go to in your crime lab?

11 A. Okay. We -- when you swab something for DNA, we have
12 sterile swabs that are packaged, so they just look like
13 large Q-tips with long sticks on the end. We use distilled
14 water, we moisten the cotton end of that swab and rub it
15 across the surface of the item. So each one of these shell
16 casings were individually swabbed and then they each go
17 into their own packaging. It's a little carton, swab
18 carton, that's labeled with the case number, the item that
19 the swab was collected from, and when all of that is
20 completed I package that and submit it to our evidence and
21 property section and that's all that I do with it and then
22 we have a DNA analyst to come in and do the analysis on the
23 swab.

24 Q. All right. And would that include Rachel Grant as one
25 of your DNA analysts?

1 A. Yes, ma'am.

2 Q. All right. And you'd mentioned previously all of
3 the factors that may affect the ability to recover latent
4 prints such as the firing of the cartridge, the heat and
5 the explosion. Can you tell us whether or not those
6 factors also affect your ability to recover DNA evidence?

7 A. That would be a better question for Rachel Grant.

8 Q. Very well.

9 **MS. MAYES:** Nothing further, Your Honor, at this time.

10 **MR. HILLIARD:** May I ask the witness to remove one of
11 the casings from the bag, Judge?

12 **THE COURT:** Sure.

13 **MR. HILLIARD:** Thank you.

14 **THE WITNESS:** They're not in the bag.

15 **MR. HILLIARD:** Whatever they're in, would you remove
16 one of them?

17 **THE WITNESS:** They're not here. These are the two
18 items that I described, one being the cigarette butt and
19 the other is the packaging from Rachel Grant.

20 **MR. HILLIARD:** May I approach the witness?

21 **THE COURT:** Yes.

22 **MR. HILLIARD:** Thank you. I need to look at all
23 those items because I think I wrote them down the
24 description wrong.

25 CROSS-EXAMINATION

1 BY MR. HILLIARD:

2 Q. Let me hand you part of Number 89, State's Number 89,
3 and those are -- that's a 40 caliber -- or, I guess, take
4 a look at it. Pull it out, please. Yes.

5 A. This is heat-sealed, so I'll cut it.

6 Q. Yes, ma'am. We had previous permission. You weren't
7 here when that happened.

8 What I'm attempting to do, please, ma'am, is to get
9 one to be loose out of the bag.

10 A. This is Number 2, Item Number 2. Their labeling Item
11 Number 2.

12 Q. Thank you. And the item that you've just handed me is
13 part of the three shell case -- or one of the three shell
14 casings that had been described; is that right?

15 A. Yes, sir.

16 Q. And the 40 caliber, the thing that's been described,
17 the 40 Smith & Wesson Federal, that's on the headstamp of
18 the -- of the casing, right?

19 A. Yes, sir.

20 Q. That's how you know that?

21 A. The way that I know that that's the one that I looked
22 at is that my initials are on this packaging.

23 Q. I'm not asking a proper -- I've asked a poor question.
24 The way that you know that it's a 40 Smith & Wesson Federal
25 cartridge is because it says 40 Smith & Wesson Federal

1 right on the bottom of it.

2 A. I read what's on the headstamp, yes, sir.

3 Q. Exactly. Thank you. And 40 is the caliber?

4 A. Yes.

5 Q. And Smith & Wesson, what that designates or what that
6 means is that this particular bullet or casing and bullet
7 in this design of cartridge was created by Smith & Wesson,
8 right?

9 A. That's my understanding. I'm not a firearms expert
10 at all. That's certainly my understanding.

11 Q. Okay. Well, you do know based on the headstamp that
12 Federal is the manufacturer of this bullet?

13 A. That's my understanding, yes, sir.

14 Q. Okay. And as a crime scene investigator, can you tell
15 me what your thoughts would be if you -- if this were fired
16 from a gun and just dropped on the sand, would it bury
17 itself in the sand?

18 **MS. MAYES:** Objection, Your Honor. That's outside
19 her field of expertise.

20 **THE COURT:** I think she was qualified in the field of
21 crime scene investigation. I made note of that thinking
22 it was -- so she can offer opinions. That's a fair
23 question.

24 **THE WITNESS:** It would certainly eject from the gun
25 and fall to a surface. The condition of it when it's

1 recovered would have to do with what had happened in that
2 area between the time of the shooting and the time it was
3 recovered and I saw nothing of this scene. All I saw were
4 these items packaged up.

5 BY MR. HILLIARD:

6 Q. Well, let's say for a -- hypothetical as an expert,
7 let's say that a person were firing a 40 caliber Smith &
8 Wesson handgun loaded with Federal ammunition and it was
9 ejected from the gun. This is -- this is a casing like
10 that, right?

11 A. Yes.

12 Q. Okay. And it was ejected from the gun and landed on
13 the ground. Absent something -- some other thing operating
14 on it, would you believe based on that hypothetical that it
15 would -- that sand could be so soft that it could burrow
16 itself in the sand?

17 A. I really have a hard time offering an opinion on that
18 because I haven't seen this area, this location, I don't
19 know what happened there in the interim of that being fired
20 and it being collected.

21 Q. Yes, ma'am.

22 A. I don't know what weather conditions were. I don't
23 know -- I don't have any idea what type of soil.

24 Q. Well, let me ask a different question. Can you
25 imagine a type of soil where this cartridge from being --

1 a type of soil where this cartridge having been ejected
2 would -- and without regard -- I understand -- well, let
3 me ask a better question. I understand what you're saying
4 about the time period, but that initial contact, dry sand,
5 can you imagine a type of dry sand where a cartridge casing
6 would burrow itself into the sand?

7 A. I can't imagine it burrowing itself. If you had a
8 weapon that was fired and a person running away in soft
9 sand, it may have kicked up on their shoe and covered a
10 portion of it. I think there's so many hypothetical
11 scenarios and I don't have a lot of information about this
12 particular scene. All I have are the casings.

13 Q. Very well. Thank you, ma'am. Would you put that back
14 in that bag, please. Thank you.

15 **MR. HILLIARD:** Let me see if I have any other
16 questions. That's all I have. Thank you, ma'am.

17 REDIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Ms. Polis, just to clarify, you're with the Richland
20 County Sheriff's Department crime lab?

21 A. Yes, ma'am.

22 Q. Did you have any involvement in the actual homicide
23 investigation other than your role as an analyst?

24 A. No, ma'am.

25 Q. And based upon your crime scene experience, do

1 suspects in a homicide case always leave all evidence
2 behind at a crime scene?

3 A. I am sure there have been instances where they have
4 retrieved casings from a scene.

5 **MS. MAYES:** Nothing further.

6 **THE COURT:** All right. You may step down.

7 **MR. HILLIARD:** No objection to this witness being
8 excused, Your Honor. Thank you, ma'am.

9 (Witness excused.)

10 **MS. MAYES:** The State calls Rachel Grant.

11 **MR. HILLIARD:** Judge, if we may?

12 **THE COURT:** All right. Do y'all need a break? Do
13 y'all want to sit there or head out?

14 (Proceedings held at the bench; not reported.)

15 (Whereupon, Rachel Grant was duly sworn by the Clerk
16 of Court.)

17 **THE CLERK:** Once you're seated state your full name,
18 spelling your last, please.

19 **THE WITNESS:** Rachel Wylie Grant, G-R-A-N-T.

20 RACHEL GRANT,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MAYES:

24 Q. Good afternoon, Ms. Grant. Can you give us some
25 information about yourself? Where are you employed?

1 A. I'm employed at the Richland County Sheriff's
2 Department.

3 Q. All right. And specifically what do you do at the
4 Richland County Sheriff's Department?

5 A. I am the DNA technical leader and also the CODIS
6 administrator for the DNA lab.

7 Q. All right. And when you refer to DNA, I'm gonna ask
8 you whether or not you have been previously qualified as
9 an expert in the field of DNA analysis in a court of this
10 state?

11 A. I have.

12 Q. How many such times?

13 A. Sixteen.

14 Q. And can you tell us whether or not you have specific
15 educational training in the field of DNA analysis?

16 **MR. HILLIARD:** We'll stipulate her expertise as a
17 DNA analyst.

18 **THE COURT:** Okay. You can streamline your
19 qualification questions.

20 **MS. MAYES:** No objection, Your Honor, to having her
21 qualified at this time.

22 **THE COURT:** All right. She can offer testimony
23 in the area of DNA analytics based on her training and
24 experience. Go ahead.

25 BY MS. MAYES:

1 Q. Can you tell us whether or not that also includes
2 statistical calculations associated with DNA analysis?

3 A. That is correct.

4 Q. I want to start by asking you whether or not you
5 received certain evidence in this case for potential DNA
6 analysis and that would include the three casings that were
7 first seen by Kristen Polis, who just testified moments
8 ago, that those casings were swabbed for potential DNA?

9 A. Yes.

10 Q. And would have gone to you?

11 A. Yes. Yes, I received Items 20, 21 and 22, which were
12 swabs from a 40 caliber Smith & Wesson.

13 Q. All right. From the swabs that you received from
14 Ms. Polis, who swabbed the casings, can you tell us whether
15 or not you were able to develop a DNA profile?

16 A. On those particular items I was not. The -- one of
17 the steps in our analysis is called a quantitation and that
18 will tell us how much DNA is present and in this particular
19 case those three items were negative, meaning no human DNA
20 present.

21 Q. All right. Can you tell us, Ms. Grant, how, if at
22 all, the process of firing a weapon and casings being left
23 behind, such as heat, explosion, things of that nature,
24 how may that affect your ability to recover DNA?

25 A. Well, I am not a firearm examiner, so the mechanics

1 of how a firearm goes off I'm not familiar with; however,
2 I can tell you that other things like heat, moisture,
3 bacteria can affect whether or not DNA can be recovered.

4 Q. All right. And so in this particular case from the
5 fired casings, you were not able to develop a full DNA
6 profile?

7 A. In those particular samples, no DNA was extracted,
8 meaning there was nothing there.

9 Q. All right. Now let's move along to the next item
10 that was submitted and that's going to be the cigarette
11 from the crime scene, as well as known buccal swabs or
12 DNA standards from the Defendant in this case, Charles
13 Morehouse. I'll show you two envelopes and ask you, if
14 you could, to break the seal on this item. We do have a
15 pair of scissors there.

16 A. I do recognize this item because it has my initials
17 here from where I processed it.

18 Q. And now I'm gonna show you this item, which comes from
19 a previously marked bag which is State's Exhibit 90, and
20 this is going to be a cigarette from the crime scene. Can
21 you tell us whether or not you recognize that item?

22 A. I do. My initials are right here on the seal.

23 Q. The buccal swabs, which are the known standards from
24 the Defendant in this case, Charles Morehouse, how do you
25 go about breaking them down to develop DNA for the purpose

1 of comparing a profile?

2 A. So we treat evidence and standards or buccal swabs
3 the same way. There's several different analyses in the
4 lab. The first analysis is called an extraction. That
5 allows us to extract any DNA from that particular sample.
6 Then we would do what's called a quantitation, which is
7 what I kind of explained before. It tells us how much
8 DNA is present, if any. And then from there we move on
9 to what's called an amplification which allows us to take
10 copies of the DNA molecule that we want to look at for
11 analysis and at that point those copies are then separated
12 on a genetic analyzer and that will basically give us our
13 data output for comparison. So when we compare items of
14 evidence to standards, they're run completely separate
15 from -- they're run in a similar way but separately and
16 then at that point we can basically interpret the data and
17 make conclusions.

18 Q. All right. So you were able to develop a full DNA
19 profile from those buccal swabs for Charles Morehouse?

20 A. That's correct.

21 Q. Now next I want to ask you about the burnt cigarette,
22 this item having come from the crime scene and been
23 collected from the crime scene. Did you have an
24 opportunity to analyze that item for the purpose of
25 developing a DNA profile?

1 A. I did. So body fluids are an excellent source of
2 DNA, so in this particular item, a cigarette butt, which
3 is in someone's mouth, the source of DNA would be saliva.
4 So in this particular case, I took a cutting from that
5 cigarette and ran that through the DNA process.

6 Q. All right. And so just to clarify, the act of smoking
7 a cigarette leaves DNA behind?

8 A. Yes.

9 Q. How so? Explain to us, if you can, the DNA process
10 behind that or the ability to transfer DNA.

11 A. So, like I said, body fluids are an excellent source
12 of DNA, so they're being -- basically the fluid is the
13 vehicle for how it's being deposited. So blood, semen,
14 saliva are gonna give us really high quality levels of
15 amount of DNA to get profiles; however, right now
16 technology is so sensitive that we can get DNA from touch
17 samples. So, for example, I put my hand here and do that.
18 If you were to take a swab and come behind me and swab
19 that, chances are you're gonna get my DNA profile. Now
20 that's not always the case with touch samples, but it is
21 possible. So, like I said, body fluids are an excellent
22 source of DNA, so on a cigarette butt that's clearly --
23 the cigarette -- butt of the cigarette is what we go over
24 after to get that DNA profile.

25 Q. All right. And that would include DNA transmitted by

1 saliva?

2 A. That would, yes.

3 Q. Now were you able to develop a full DNA profile from
4 the cigarette?

5 A. I was. From Item 1, I developed a mixture, and what
6 that basically means is that there's more than one person
7 on that particular item. And mixtures are very common in
8 the DNA analysis world you would say. That's something we
9 see very common and that's what we're trying to interpret
10 basically.

11 Q. And what is meant by the term "major contributor"?

12 A. So in DNA, we can classify mixtures as distinguishable
13 or indistinguishable, so if a mixture is distinguishable
14 that means I can pull out a very concrete or discernable
15 major or minor contributor. If I have an indistinguishable
16 mixture, that means I have a lot of people present and they
17 -- based on the data, peak heights, the things that I look
18 at as a trained interpreter I can't tell who the major or
19 minor is. In this particular case, Item 1 was a mixture,
20 but it had a major contributor on Item 1.

21 Q. All right. Tell me first though about the minor
22 contributor. How minor was the minor contributor? Were
23 you able to even get a DNA profile?

24 A. In this particular item, the minor contributor was
25 very, very weak so I could not do anything with it to

1 match for statistical purposes, which is not uncommon, but
2 technically it is a mixture because there are indications
3 within that profile that there's more than one person
4 there.

5 Q. All right. And could that include potentially anyone
6 who's handled a cigarette package as minor contributor?

7 A. It's possible.

8 Q. And speaking of the major contributor, what, if
9 anything, does that suggest to you in regards of DNA
10 analysis?

11 A. The person -- since body fluids are an excellent
12 source of DNA, the person who most likely smokes that
13 cigarette is the saliva off of that cigarette.

14 Q. Would that be the major contributor in your opinion?

15 A. I believe so, yes.

16 Q. Let me ask you this. Did you develop a full DNA
17 profile on the major contributor?

18 A. Yes.

19 Q. Were you able to compare that to the known DNA samples
20 from the Defendant in this case, Charles Morehouse?

21 A. I was.

22 Q. Was it a match?

23 A. It was.

24 Q. And when you say it was a match, you're referring to
25 a DNA match?

1 A. That is correct. So in DNA, any time we make a
2 positive association we have to give a statistical weight
3 to it, basically a number, and in this particular sample
4 of all of the loci that we could use for statistics I was
5 able to use in this particular match statement.

6 Q. All right. I'm gonna ask you about that. You
7 testified previously that obtaining a statistical number
8 is part of DNA analysis, is part of your expertise?

9 A. That is -- yes.

10 Q. What can you tell us about the statistical number
11 assigned to this DNA match concerning Caucasian males among
12 the general population?

13 A. So I'm just reading straight from my report. Based on
14 the genetic results obtained, 22 of 22 loci, the frequency
15 of seeing this profile in the Caucasian population is
16 approximately one in 25 octillion.

17 Q. One in 25 octillion?

18 A. Yes.

19 Q. Now you're familiar with the world population,
20 correct?

21 A. Correct.

22 Q. Are there even one octillion people in the entire
23 universe?

24 A. There are not, no.

25 Q. So that's 25 times greater than the population of the

1 entire world?

2 A. I believe it's actually more. There's approximately
3 7.5 billion people in the world, so that would be several
4 times over.

5 Q. And to that degree of certainty you can state that
6 cigarette is a DNA match to the Defendant in this case,
7 Charles Morehouse?

8 A. It is my opinion that is his DNA.

9 **MS. MAYES:** Nothing further.

10 CROSS-EXAMINATION

11 BY MR. HILLIARD:

12 Q. Of course, we don't know about the universe, right?
13 You're just talking about the world?

14 A. Correct.

15 Q. All right. How many millions or billions are in an
16 octillion; do you know?

17 A. An octillion, I believe, has twenty-seven zeros
18 whereas a billion has nine.

19 Q. Wow. Okay. That's far enough. The mixture, when --
20 when the prosecutor was asking you about the mixture, you
21 indicated that that could come from handing the package of
22 cigarettes?

23 A. It's possible.

24 Q. But you don't mean -- I mean, when you say the
25 package of cigarettes, in order for there to be any mixture

1 somebody else had to touch that spot where you took --
2 well, let me ask the question a better way hopefully. When
3 you did the DNA, you take a little bit of the cigarette
4 butt paper?

5 A. Correct.

6 Q. And so everything that you're testifying about came
7 from that little bit of the cigarette butt paper?

8 A. Yes.

9 Q. If the cigarette pack were closed, you couldn't touch
10 that little bit of cigarette butt paper?

11 A. That is correct.

12 Q. So the only way for there to be DNA on that little
13 bit of cigarette butt paper was for someone to have touched
14 that little tiny spot of paper that you analyzed?

15 A. It's possible. DNA can be transferred on items as
16 well and then also, too, not being familiar with the
17 manufacturer policies of those cigarettes, their workers,
18 you know, not knowing if they have certain guidelines or
19 wear gloves, all those are possibilities.

20 Q. You don't really know?

21 A. I don't know.

22 Q. Very good. But you did find a mixture of DNA on the
23 cigarette butt?

24 A. It was a mixture, but there was a major contributor.

25 **MR. HILLIARD:** All right. Thank you, ma'am. That's

1 all I have.

2 **THE COURT:** You may step down.

3 **MS. MAYES:** We would ask that Ms. Grant and Ms. Polis
4 be excused.

5 **MR. HILLIARD:** No objection.

6 **THE COURT:** Certainly.

7 (Witness excused.)

8 **THE COURT:** Is this a good time for lunch break?

9 **MR. HILLIARD:** Yes, sir.

10 **MS. MAYES:** Yes, sir.

11 **THE COURT:** All right. Y'all step in the jury room,
12 get yourself organized, however you do. If you'll be back
13 about 2:00. Please don't discuss the case.

14 (Whereupon, the jury was excused for lunch at
15 12:45 PM.)

16 (Whereupon, a luncheon recess taken.)

17 **BAILIFF:** All rise. Court is back in session. Y'all
18 be seated.

19 **THE COURT:** Are y'all ready for the jury?

20 (Whereupon, the jury returns to the courtroom at
21 2:01 PM.)

22 **THE COURT:** All right. Call your next witness.

23 **MR. BELL:** Thank, Judge. The State calls Agent
24 Lawrence Zivkovich.

25 (Whereupon, Lawrence Zivkovich was duly sworn by the

1 Clerk of Court.)

2 **THE CLERK:** Once you're seated state your full name,
3 spelling your last, please.

4 **THE WITNESS:** Lawrence Zivkovich, Z-I-V-K-O-V-I-C-H.

5 LAWRENCE ZIVKOVICH,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BELL:

9 Q. Agent, who are you employed by?

10 A. I'm employed by the South Carolina Law Enforcement
11 Division, commonly known as SLED.

12 Q. How long have you been with SLED now?

13 A. A little over ten and a half years.

14 Q. And what's your job role there?

15 A. I'm a forensic chemist that concentrates on drug
16 analysis.

17 Q. Tell us a little bit about what that means.

18 A. We take samples from outside agencies and test them
19 to find out if they have a presence of controlled
20 substances.

21 **MR. HILLIARD:** We'll stipulate that he's an expert
22 drug analyst.

23 **THE COURT:** And a forensic chemist?

24 **MR. HILLIARD:** And a forensic chemist, yes, sir.

25 **MR. BELL:** The State would seek to qualify him as

1 such, Your Honor.

2 **THE COURT:** All right. Mr. Zivkovich, you're so
3 qualified as a forensic chemist and drug analyst.

4 BY MR. BELL:

5 Q. Agent, have you testified in court as an expert
6 before?

7 A. Yes, sir.

8 Q. How many times?

9 A. Approximately thirty-seven.

10 **MR. BELL:** Permission to approach this witness?

11 **THE COURT:** Sure.

12 **MR. BELL:** Thank you, Judge.

13 BY MR. BELL:

14 Q. Agent, I'm handing you what's been entered as State's
15 84 and 88. Beginning with 84, would you identify that
16 item?

17 A. Exhibit 84 is a BEST kit that we use for drug
18 submissions at the South Carolina Law Enforcement Division
19 with the lab number L16-09947.

20 Q. And is that a BEST kit that you received for testing?

21 A. It is.

22 Q. How do you know that you tested the items in that bag?

23 A. My initials and date are on both the BEST bag from
24 when I examined the seal being intact when I received it
25 and it's enclosed in a heat-sealed plastic bag with my

1 initials and date on it.

2 Q. When it comes to testing an item like what is
3 contained within that BEST kit, can you walk us through
4 generally that process?

5 A. Yes, sir. An outside agency will bring it to our
6 laboratory, we assign each kit a unique laboratory number
7 and then it's assigned to particular sections inside the
8 forensic building and when we get one that is assigned to
9 the drug analysis section we go down, pick up the evidence
10 from the login technicians. And when we bring it to our
11 bench area, we first check to make sure all the seals are
12 intact and annotate that on the back if they are or if
13 they're not. Then we examine the exhibit to make sure that
14 it contains what the chain of custody said it contains and
15 after that we perform our bench test on it.

16 Q. You mentioned checking seals. In this particular
17 case referring to this item, were the seals intact when
18 you received it?

19 A. Yes, sir. When I received it, I wrote across the top
20 after inspecting it that the seal was intact and I wrote
21 the date 7-15-16 with my initials.

22 Q. Did you ultimately generate a report that detailed
23 your findings as it relates to that particular item?

24 A. I did.

25 Q. And is that a report that you would keep in the

1 ordinary course of your business?

2 A. Yes, sir.

3 Q. And is that something you also typically rely upon
4 for testimony in court?

5 A. Yes, sir.

6 Q. Do you have a copy of that report?

7 A. I do.

8 Q. May I see your report, sir?

9 A. (Handing.)

10 **MR. HILLIARD:** We don't have any objection to this
11 coming into evidence, Your Honor, the SLED drug report.

12 **THE COURT:** All right.

13 (State's Exhibit Number 91, SLED drug report, was
14 marked and admitted into evidence.)

15 BY MR. BELL:

16 Q. I'm now handing you what's been entered as State's 91.
17 Again, what is that item?

18 A. It's the report that was generated after examining
19 the evidence that's sealed in this particular bag.

20 Q. And how do you know that your report that you have
21 in your hand relates to the item that you previously
22 testified to?

23 A. It has the lab number on the top and my signature at
24 the end of the report.

25 Q. Does your report detail what sort of tests you ran on

1 the item?

2 A. Yes, sir.

3 Q. And would you just very briefly tell us about the
4 testing you did.

5 A. When I received the item, I would do a chemical
6 test on the item first of all and that would gave me an
7 indication of what type of substance it my possibly be
8 and then I will do an instrumental analysis or a
9 confirmational test to verify what the substance is.

10 Q. What were your results per that item?

11 A. This item was listed as a crystal substance that I
12 found to be methamphetamine with a net weight of 1.18 plus
13 or minus 0.01 grams.

14 Q. And what was your confidence level for that analysis?

15 A. Plus or minus .01 grams.

16 Q. And do you have a confidence level for the weight?

17 A. Yes, sir.

18 Q. What's that?

19 A. It would have been 1.18 grams plus or minus .01
20 grams.

21 Q. If you read one line further in your report, does it
22 give a percentage?

23 A. Yes, sir. It gives a confidence level of 99.7
24 percent.

25 Q. And what exactly does that mean?

1 A. Well, any time you take a measurement, whether it's
2 a weight, a height, a distance or anything, there's never
3 an exact measurement. You can take the measurement
4 repeated times and they will always vary a slight amount
5 and so the confidence level of 99.7 percent means that
6 out of a thousand times 997 times the weight will fall
7 between 1.17 and 1.19 grams.

8 Q. Now if you would refer to the second manila envelope
9 that was handed up and entered as State's 88 and identify
10 that item.

11 A. Yes, sir. This would be a BEST kit that we use for
12 drug evidence at SLED with a lab number of L16-09943.

13 Q. And is that an item that you received for testing?

14 A. Yes, sir. This one also has my initials and date on
15 both the BEST kit itself and the heat-sealed bag.

16 Q. And did you test the items in that bag similar to the
17 previous exhibit you testified about?

18 A. I did.

19 Q. And did you also generate a report for that test?

20 A. I did.

21 Q. And, again, is that something that you would rely on
22 for your testimony and keep in the ordinary course of your
23 business?

24 A. Yes, sir.

25 (State's Exhibit Number 92 was marked for

1 identification.)

2 **MR. HILLIARD:** No objection.

3 **MR. BELL:** The State would seek to enter 92, Your
4 Honor.

5 **THE COURT:** 92 without objection.

6 (State's Exhibit Number 92, a SLED lab report, was
7 admitted into evidence.)

8 BY MR. BELL:

9 Q. Agent, how do you know that that report marked as
10 State's 92 is related to the item that you just testified
11 about?

12 A. It has the lab number that is on the outside of the
13 kit and it has my signature at the end.

14 Q. And for clarity of record, what's the lab number on
15 your report?

16 A. The lab number is L16-09943.

17 Q. Did you make a conclusion in your report?

18 A. I did.

19 Q. And what were your findings?

20 A. I found that it was a crystal substance that I
21 determined to be methamphetamine with a weight of 0.28
22 plus or minus 0.1 grams.

23 Q. Was your confidence level for this item the same as
24 the previous item you testified to?

25 A. Yes, sir. It was 99.7 percent.

1 Q. When you are running these tests on items such as you
2 have in your hand, do you differentiate between ice or
3 meth?

4 A. No, sir.

5 Q. Does your instrumentation differentiate curing?

6 A. No, sir.

7 Q. Agent, I want apologize for subjecting you to my
8 handwriting, but for clarity referring to the first report
9 that you spoke of, Exhibit 91, I believe --

10 A. Yes, sir.

11 Q. -- what was the type of substance that your report
12 detailed?

13 A. The description of the substance?

14 Q. That's correct.

15 A. I wrote that it was a crystal substance.

16 Q. Is that also known as meth?

17 A. Yes, sir, that would just -- meth is found in many
18 forms, it can be powder or crystal-like, depending on the
19 method used to manufacture it.

20 Q. And what was the weight of that item?

21 A. It was 1.18 plus or minus .01 gram.

22 Q. 1.18 grams?

23 A. Yes, sir.

24 Q. And the second item that you testified to, Exhibit
25 92 --

1 A. Yes, sir.

2 Q. -- was that also described as a crystal substance?

3 A. Yes, sir.

4 Q. And was that also broken down to be described as
5 methamphetamine?

6 A. Yes, sir.

7 Q. And what was the weight of that item?

8 A. It's 0.28 plus or minus .01 grams.

9 Q. Both items were meth?

10 A. That's correct.

11 **MR. BELL:** Please answer any questions defense may
12 have for you.

13 **MR. HILLIARD:** May I approach the witness, Your Honor?

14 **THE COURT:** Oh, yeah.

15 **MR. HILLIARD:** Thank you. May I see those SLED
16 reports again, please?

17 **THE WITNESS:** (Hanging.)

18 **MR. HILLIARD:** Thank you, sir.

19 CROSS-EXAMINATION

20 BY MR. HILLIARD:

21 Q. These are two drug reports for analysis of drugs that
22 turned out to be methamphetamine, right?

23 A. That's correct.

24 Q. Did you do another drug analysis in this case for
25 drugs that turned out to be methamphetamine?

1 **MR. BELL:** Objection. Hearsay.

2 **THE COURT:** How's that hearsay?

3 **MR. BELL:** Your Honor, may we approach?

4 **THE COURT:** Yeah.

5 **MR. HILLIARD:** Thank you, Judge.

6 BY MR. HILLIARD:

7 Q. All right, sir. The question is did you do another
8 analysis in this case of drugs that turned out to be
9 methamphetamine?

10 A. I'm not sure which other ones would be related to
11 this case, but if you have a specific item number I can
12 tell you whether I did that one.

13 Q. All right, sir. Well, let's say that -- let's go to
14 the case number.

15 A. Okay.

16 Q. The case number is 15014711.

17 A. Is that the agency case number, sir?

18 **THE COURT:** Show him the report you're talking about.

19 **MR. HILLIARD:** Yes, sir. I'm sorry.

20 **THE COURT:** He might be more familiar with it.

21 **MR. HILLIARD:** Yes, sir.

22 BY MR. HILLIARD:

23 Q. You can read this better than I can. No question
24 about that.

25 A. So, yes, the -- what we write on there is -- when it

1 says on the report "your case number", that's the case
2 number that the agency that submitted it used.

3 Q. Yes, sir.

4 A. The only thing I go by is the actual lab number that
5 we put on it. We don't make a determination of which ones
6 belong to which case because we can never tell. All we do
7 is we keep -- we treat each one as an individual case and
8 then when it goes to court if they are all part of a single
9 case, then the submitting agency and the solicitors will
10 get together and decide which cases they want us to bring.

11 Q. Cases meaning drugs reports?

12 A. For our drug reports every sample that I do on my
13 bench --

14 Q. Yes, sir.

15 A. -- I treat as an individual case by itself not related
16 to other cases. So I have to -- by our policy I treat that
17 one as an individual case. I don't treat it as this case
18 goes with that case which goes -- I work them all the same
19 and then when I come to court they tell me which cases are
20 involved with that particular case.

21 Q. All right, sir. The report that you have in your
22 hand, those two reports with the exception of the
23 laboratory number and -- the drug analyses are identical;
24 is that true?

25 A. I mean, there's differences in the reports. Which

1 part are you --

2 Q. Let me --

3 A. Okay.

4 Q. All right, sir. Let's say, for example, it is the --
5 the "your case number" -- this is a South Carolina Law
6 Enforcement Division document kept in the ordinary course
7 of business?

8 A. Yes, sir.

9 Q. And you work for the State Law Enforcement Division?

10 A. That's correct.

11 Q. And the "your case number" refers to the case number
12 of the Lexington County Sheriff's Department?

13 A. Yes, sir.

14 Q. The incident date is the incident date of this
15 incident we're talking about?

16 A. Correct.

17 Q. And those are both the same, right?

18 A. Okay.

19 Q. And the subject is Charles Morehouse, Wiley Sisk, the
20 Third, and Charles Belk, the Third?

21 A. Yes, sir.

22 Q. And what I'm asking you is do you have or did you do
23 an analysis on -- a drug analysis on a sample which turned
24 out to be methamphetamine connected to a Lexington County
25 case number that's the same as these two, an incident date

1 the same as these two and the subjects the same as these
2 two? Did you do an analysis on another sample?

3 A. I wouldn't be able to answer that without checking the
4 system that we use, our laboratory information system, then
5 I would search by whichever primary you're talking about
6 and I could bring up the cases that I had done with that
7 particular number.

8 Q. All right, sir.

9 A. So can you -- so when I was told to come, I brought
10 the cases that were relevant -- that I was told was
11 relevant.

12 Q. All right, sir. And what cases did you bring?

13 A. The two that you just recalled.

14 Q. These are the only two cases you brought?

15 A. No, sir.

16 Q. Okay. What other cases did you bring besides these
17 two? And I'd like to see them before you describe them.
18 Let me rephrase my question. How many cases did you bring
19 besides these two?

20 A. Two.

21 Q. May I see those?

22 A. (Handing.)

23 Q. All right, sir. So in answer to my question -- in
24 answer to my question of did you do another drug analysis
25 connected to this situation regarding methamphetamine

1 testing, you said you had to go somewhere and search that
2 out to figure it out, right?

3 A. That's correct.

4 Q. But really you had it in your hand. It's right
5 here.

6 A. Right, but you asked me if I could figure out
7 which ones I had done and the only way I can do that is
8 to search the laboratory system.

9 Q. You couldn't look in your hand and -- I mean, did
10 you not understand my question?

11 A. Well, I understood the question, sir.

12 Q. You knew what I wanted, right? You knew I --

13 A. No, sir.

14 Q. I'm sorry, I over-spoke. Go ahead.

15 A. No, sir, I didn't know exactly which one because we
16 get numbers all the time, you know, that are the same
17 number that aren't necessarily case-related. We don't
18 make the determination of what's case-related.

19 Q. All right, sir. So what you're telling the folks on
20 the jury under oath is that when I asked you about a third
21 methamphetamine analysis, you had a third methamphetamine
22 analysis in your hand and you did not understand what I
23 was asking you?

24 A. You asked me if I could find out which ones I had
25 done and I explained how I could do that.

1 Q. All right. And I'll -- let me ask the question one
2 more time because I would submit to the Court he's not
3 answering my question. Did you know what I wanted when I
4 asked you the question?

5 **THE COURT:** That's not a fair question.

6 **MR. HILLIARD:** Yes, sir. Well, I'll withdraw.

7 **THE COURT:** Obviously he didn't know, so ask him a
8 different way.

9 **MR. HILLIARD:** All right, sir.

10 BY MR. HILLIARD:

11 Q. Well, let me ask this question. Were you trying to
12 avoid my question when you answered it?

13 A. No, sir.

14 Q. All right, sir. This third analysis that you had in
15 your hand has the same case number, incident date and
16 suspects; is that right?

17 A. I'd have to look at it.

18 Q. (Handing.) All right. Let me ask a different
19 question. What caused you to bring this analysis?

20 A. I was requested with an e-mail to bring certain
21 cases.

22 Q. Connected to this case that you're here to testify
23 about today?

24 A. Again, I just bring what I'm told to bring. I have
25 no idea what the connection is. Any time there's multiple

1 suspects, I have no idea if it's one part of the case or
2 another part of the case, so that was my point before is we
3 can't make the determination what is or isn't connected
4 from one case to another case.

5 Q. All right, sir. But going back to my other question
6 for you to look at, the suspects and individuals and
7 incident date and Lexington County case number are exactly
8 the same on this one as they are on the one that you didn't
9 tell me about as the one that's in evidence?

10 A. Yes, sir.

11 Q. Thank you. And the weight, when you -- when you weigh
12 the drugs, the 1.18 grams, do you pour the drugs out of the
13 packaging in order to weigh it?

14 A. Yes, sir.

15 Q. Pardon?

16 A. Yes, sir.

17 Q. So you pour the drugs out of the packaging to weigh it
18 and then you put it back in the packaging?

19 A. Depending on what the packaging is like, we either
20 repackage it or place it back in the original container
21 depending on which is deemed safer to travel in.

22 Q. All right, sir. And then the weight that you have is
23 plus or minus how much?

24 A. In both of those cases, each one is plus or minus .01
25 grams.

1 Q. .01. So this -- if we go to the minus side, this
2 would be 1.17?

3 A. That's correct.

4 Q. And this would be .2 --

5 A. 7.

6 Q. -- 7?

7 A. Yes, sir.

8 Q. All right, sir.

9 **MR. HILLIARD:** Thank you, sir.

10 REDIRECT EXAMINATION

11 BY MR. BELL:

12 Q. If you go to the plus side, do they go up a little
13 bit?

14 A. Yes, sir.

15 **MR. BELL:** Thank you.

16 **THE COURT:** You can step down.

17 **MR. HILLIARD:** No objection to this witness being
18 excused, Your Honor.

19 **THE COURT:** Okay.

20 (Witness excused.)

21 **MR. BELL:** The State calls agent Michelle
22 Eichenmiller.

23 (Whereupon, Michelle Eichenmiller was duly sworn by
24 the Clerk of Court.)

25 **THE CLERK:** Once you're seated state your full name,

1 spelling your last, please.

2 **THE WITNESS:** My name is Michelle Eichenmiller,
3 E-I-C-H-E-N-M-I-L-L-E-R.

4 MICHELLE EICHENMILLER,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BELL:

8 Q. Agent, who are you employed by?

9 A. I work for the South Carolina Law Enforcement
10 Division, commonly known as SLED. I work in the forensic
11 lab in the firearms department.

12 Q. And what exactly do you do there with the firearms
13 department?

14 A. Whenever any crimes happen in the state, we're an
15 assisting agency, so any agency can bring us evidence from
16 a crime. I deal with just firearms or fired ammunition
17 components. A couple of other things like tool mark
18 exams also fall under our department or serial number
19 restorations on firearms.

20 Q. And could you tell us a little bit about some of the
21 training and education that goes into your job duties?

22 A. I have a bachelor's degree in biology. I also have
23 a master of science in forensic science. Unfortunately,
24 to become a firearms examiner, you need to go through an
25 apprenticeship program and that's only offered through the

1 agency you're hired with. So I go -- for about three or
2 fours years I followed the examiners that work there. I
3 do a lot of self-study, reading on my own, I do practicals
4 on my own, and then I also sit in their offices and learn
5 how they do their jobs.

6 **MR. HILLIARD:** We'll stipulate her expertise in --
7 what was it exactly again, firearms examiner?

8 **THE WITNESS:** Yes.

9 **MR. HILLIARD:** Yes.

10 **MR. BELL:** Your Honor, the State would seek to move
11 Agent Eichenmiller as an expert in firearms analysis.

12 **MR. HILLIARD:** We'll stipulate.

13 **THE COURT:** Does that include tool mark
14 identification?

15 **MR. BELL:** We don't intend to in this case, Your
16 Honor.

17 **MR. HILLIARD:** She sounds like a tool mark expert,
18 too, Your Honor.

19 **THE COURT:** She'll be able to testify in the field of
20 firearms examination and tool mark examination.

21 **MR. BELL:** Thank you, Your Honor.

22 BY MR. BELL:

23 Q. Have you testified in court as an expert before?

24 A. I have.

25 Q. How many times?

1 A. Approximately forty-five times.

2 Q. And was that in the related fields that you just
3 testified about?

4 A. Correct.

5 Q. Did you ever receive any cases related to a Charles
6 Morehouse to examine?

7 A. I did.

8 Q. I'm handing you what's been entered as 89. Would you
9 examine the contents of that and tell me if you recognize
10 it.

11 A. Whenever I receive evidence in a case, I'll mark the
12 outer envelope with my name, the case -- my initials, the
13 case number and the item numbers, and then once I get
14 inside I'll also mark the internal packaging, as well as
15 the evidence. So the evidence is inscribed with my
16 initials, the case number and the item number. This is
17 evidence I examined in this case.

18 Q. And would you tell us as far as generic terms what
19 that evidence is?

20 A. I have three fired cartridge cases, they're 40 S&W
21 caliber, and I have two fired bullets.

22 Q. And are those items you received for testing?

23 A. Yes.

24 Q. And when it comes to something like casings, what
25 sort of testing are you running on them?

1 A. In the absence of a firearm, we'll compare the
2 cartridge cases to each other to see how many guns were
3 possibly present at the scene. We use a comparison
4 microscope, which basically looks like a set of binoculars.
5 I'll put one cartridge case on one side and one on the
6 other and then using the stages I can move them around and
7 attempt to look at the characteristics that I need in order
8 to make an identification.

9 Q. In testing those casings, did you generate a report
10 detailing your findings?

11 A. I did.

12 Q. And is that something that you keep in the ordinary
13 course of your business?

14 A. Yes.

15 Q. Do you have a copy with you today?

16 A. I do.

17 **MR. HILLIARD:** No objection, Your Honor.

18 **THE COURT:** It will be marked as 93.

19 (State's Exhibit Number 93, a firearms report, was
20 marked and admitted into evidence.)

21 BY MR. BELL:

22 Q. I'm handing you what's now been entered as State's 93.
23 How do you know that that report is linked to the casings
24 that you just detailed were submitted to you?

25 A. When any evidence ever comes to SLED, it gets its own

1 individual lab number. The lab number that was assigned
2 to this evidence is also on the report.

3 Q. And is there a description related to the casings as
4 to where they were recovered from?

5 A. When someone submits evidence to SLED, they're able
6 to put in a description if they like. In this case, they
7 were three fired cartridge cases described as from the
8 roadway scene.

9 Q. In analyzing the casings, what can you tell us about
10 the makeup or the coloration of the casings themselves?

11 A. The cartridge cases in this case are brass colored and
12 they all have nickle colored primers.

13 Q. And when you say brass, is that a gold or yellowish
14 tint?

15 A. Yes.

16 Q. And tell us about your findings as it relates to those
17 three casings.

18 A. After examining the cartridge cases specifically and
19 microscopically, my opinion is that they were all fired
20 by the same firearm based on the matching individual
21 identifying characteristics that I found in the breech face
22 marks.

23 Q. And to confirm, what kind of cartridges were they?

24 A. They're 40 S&W caliber.

25 Q. And you also mentioned that there were two

1 projectiles. Do you have those in front of you?

2 A. I do.

3 Q. And did you also run tests on those items?

4 A. I did.

5 Q. Are the findings on those items also contained in the
6 same report you were just testifying from?

7 A. They are.

8 Q. What can you tell us about where those projectiles
9 were recovered from?

10 A. On the evidence intake document it said that they were
11 from autopsy.

12 Q. And what were your findings as it relates to those two
13 projectiles?

14 A. I examined these bullets as well under my microscope
15 and found individual identifying characteristics. They're
16 consistent with being 40 S&W caliber and they were fired by
17 the same firearm.

18 Q. And in analyzing those items, were you able to narrow
19 down what kind of -- what brand the firearm may have been?

20 A. Yes. In the absence of a firearm, we can issue
21 what we call a general rifling characteristic list for
22 investigative leads to try to help out to find a gun. In
23 this case, when I put it in our database which contains
24 the rifling specifications the only manufacturer that came
25 back with the rifling specifications that were found on

1 these bullets is Smith & Wesson.

2 Q. May I glance at your report again?

3 A. Uh-huh (handing).

4 Q. On your report, I note a line that says these items
5 may be suitable for identification and I believe there's
6 some language after that. Can you describe to the jury
7 what that language "suitable for ID with firearm" means?

8 A. If a firearm were ever recovered and submitted to the
9 laboratory, the cartridge cases had enough characteristics
10 in my opinion to be able to identify to that firearm
11 providing nothing was done to the firearm to mar those
12 characteristics.

13 Q. And was a firearm ever submitted to you so that you
14 could attempt to match those items to a firearm?

15 A. No, there was not.

16 Q. When it comes to a 40 caliber projectile, would that
17 projectile have enough velocity or power to penetrate a
18 human body?

19 A. It would.

20 Q. Does it also have the possibility to pass all the way
21 through a human body?

22 A. The fired bullets in this case were full metal
23 jackets. Those are designed to go through targets. So,
24 yes, in this case these bullets could have gone through
25 an intervening object.

1 Q. You say they're designed to go through objects. Would
2 that include soft sand?

3 A. Yes.

4 Q. When a semiautomatic firearm is fired, do the casings
5 fall right next to the firearm?

6 A. They're usually ejected with some force behind them.

7 Q. Is it possible that they can eject up to a few feet
8 away from the firearm itself?

9 A. It's possible depending on a variety of situations
10 such as how you hold it or what type ground is underneath
11 it, but, yes, they come out a couple of feet.

12 **MR. BELL:** Thank you.

13 **THE COURT:** Anything, Mr. Hilliard?

14 **MR. HILLIARD:** Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. HILLIARD:

17 Q. And maybe I misheard what you said, but did you say
18 how far the bullet goes is connected to what kind of ground
19 is underneath it?

20 A. The cartridge case. Once it ejects, it could hit
21 something soft and land or it could hit something hard and
22 keep bouncing.

23 Q. I see. So no matter what the material was on the --
24 where it hit, it would hit in the same spot, it would just
25 either roll, bounce or stay where it was?

1 A. Yes.

2 Q. And when you're talking about the cartridge casings,
3 the force -- the force that ejects the cartridge casing
4 goes to the side, right?

5 A. It depends on the firearm's design where the ejection
6 port is on the gun, but the force pushes the cartridge
7 case out as the slide opens.

8 Q. And a semiautomatic pistol -- well, semiautomatic
9 pistols ordinarily eject to the side; is that correct?

10 A. Some eject to the side.

11 Q. Which other direction does the semiautomatic pistol
12 eject?

13 A. Some, depending on where the ejection port is, could
14 be out the top or towards -- or out the side and over your
15 shoulder.

16 Q. Name for me a semiautomatic pistol that objects over
17 a shoulder?

18 A. I can't off the top of my head, but I've had it
19 happen.

20 Q. You've had that happen?

21 A. Uh-huh.

22 Q. Was it a Smith & Wesson?

23 A. I don't remember.

24 Q. Smith & Wesson -- the distinguishing characteristics
25 of the barrel in this case you say is only on Smith &

1 Wesson firearms?

2 A. The rifling specifications that I found on the two
3 bullets in this case once I put them in the database, the
4 only manufacturer that came back is Smith & Wesson.

5 Q. And how many factors do you use to put into the
6 database to determine that?

7 A. We put the caliber, we put the number of rifling
8 impressions. In this case, it was five. We put the
9 direction of twists, which was to the right. We put the
10 type of rifling, which in this case was conventional. I
11 also measure those lands and grooves and I put those
12 specifications in as well.

13 Q. And that only comes back to Smith & Wesson?

14 A. Correct. At this time that's the only known
15 manufacturer.

16 Q. And you say that the -- these bullets were -- the
17 projectiles, the bullets that were recovered, those bullets
18 were full metal jacket?

19 A. Correct.

20 Q. And those are the least expensive of all bullets; is
21 that true?

22 A. I wouldn't say least expensive, but they're less
23 expensive.

24 Q. Well, less expensive than bullets that are designed
25 to expand?

1 A. Correct.

2 Q. And you said that the bullets could penetrate sand?

3 A. Yes.

4 Q. Have you shot sand before with a full metal jacket
5 bullet?

6 A. I have.

7 Q. And how far does a full metal jacket bullet go through
8 sand?

9 A. I haven't measured.

10 Q. Were you able to see where the bullet went in?

11 A. Yes.

12 Q. Well, can you -- when you say you haven't measured,
13 can you give me sort of -- I mean, was it a foot?

14 A. I don't have an estimate on that because we didn't
15 measure.

16 Q. Okay. So what you're telling the folks on the jury as
17 a firearm expert, you can't tell them whether a full metal
18 jacket, 40 caliber, and I didn't say that before, a 40
19 caliber bullet goes a foot into the sand?

20 A. Well, it would also depend on a variety of factors.
21 If you were standing farther away from the sand or closer
22 to the sand it would go further into the sand. If there
23 were some intervening targets, it would slow the bullet
24 down so it wouldn't go quite as far into the sand.

25 Q. All right. Well, as an expert, and let me give you a

1 bit of a -- let me give you a bit of a hypothetical where
2 -- let's say that the person doing the shooting is standing
3 up and the person being shot is on the ground over the sand
4 and the shot goes through the person and into the sand.
5 Can you give us an idea of how far you think that would go?

6 A. Depending on what the bullet hit in the intervening
7 target, it would depend on how slow it went, so it -- that
8 would make a difference into how far it would go into the
9 sand.

10 Q. These -- these 40 caliber bullets that -- that you
11 analyzed -- and the bullets or projectiles are consistent
12 with having been fired from the cartridges, right? I mean,
13 those are about the same thing?

14 A. They're both the same caliber, yes.

15 Q. Right. And so those are not -- well, let me ask a
16 different question. I'm sorry. You would agree with --
17 you've shot firearms a lot connected to your experience;
18 is that true?

19 A. Correct.

20 Q. You would agree with me that there's no significant
21 difference in the loudness of a 40 caliber firearm and a
22 45 caliber firearm?

23 A. I normally shoot with hearing protection on.

24 Q. Right.

25 A. To me there's no difference.

1 Q. You could still hear it even with the hearing
2 protection on?

3 A. Yes.

4 Q. And they sound about the same to you with the hearing
5 protection on?

6 A. Correct.

7 **MR. HILLIARD:** Excuse me just one second. That's all
8 I have. Thank you, ma'am.

9 **THE COURT:** Anything else, Mr. Bell?

10 **MR. BELL:** No, Your Honor.

11 **MR. HILLIARD:** No objection to this witness being
12 excused, Your Honor.

13 (Witness excused.)

14 **MS. MAYES:** The State calls Detective Benjamin Booth.

15 **MR. HILLIARD:** May we approach briefly, Judge?

16 **THE COURT:** Sure.

17 (Proceedings held at the bench; not reported.)

18 **THE COURT:** All right. Before we do this, I've got
19 to make a phone call and I'll have you right back in here,
20 all right?

21 **MR. HILLIARD:** Thank you, Your Honor.

22 (Whereupon, the jury retires to the jury room at
23 2:42 PM.)

24 **BAILIFF:** Come to order. Court's back in session.

25 **THE COURT:** All right. Be seated.

1 All right. Bring in the jury.

2 (Whereupon, the jury returns to the courtroom at
3 2:48 PM.)

4 **MS. MAYES:** The State calls Benjamin Booth.

5 **THE COURT:** All right.

6 (Whereupon, Benjamin Booth was duly sworn by the
7 Clerk of Court.)

8 **THE CLERK:** Once you're seated state your full name,
9 spelling your last, please.

10 **THE WITNESS:** Yes, ma'am. Benjamin Booth, B-O-O-T-H.

11 BENJAMIN BOOTH,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. All right. And, Detective Booth, where are you
16 employed?

17 A. Lexington County Sheriff's Department.

18 Q. Can you tell us, Detective Booth, whether or not you
19 had an opportunity to assist in the homicide investigation
20 which involved surveillance of Charles Morehouse?

21 A. Yes, I did.

22 Q. All right. And, particularly, can you tell us whether
23 or not you're familiar with the vehicle driven by Charles
24 Morehouse, being one burgundy Chevy Impala?

25 A. Yes, ma'am.

1 Q. Do you see it in any of the items before you?

2 A. Yes, ma'am. It's in this photograph.

3 Q. All right. Can you tell us whether or not you had an
4 opportunity to assist Detective Andaloro in the retrieval
5 of certain video surveillance from establishment known as
6 Whiskey Tavern?

7 A. Yes, ma'am, I was.

8 Q. And ultimately did you have an opportunity to view
9 that video?

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

11 Q. Let me show you four screen shots and ask you whether
12 or not you can identify the location in which those items
13 currently in evidence were obtained?

14 A. The first two were just inside the door of the Whiskey
15 Tavern. The second two are just outside of that same door.

16 Q. All right. Now did you have the opportunity to review
17 various camera angles that would include the parking lot
18 camera?

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

20 Q. I need you to speak up just a little bit, Detective
21 Booth, and maybe pull that microphone closer to you.

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

23 Q. And I want to start by asking you whether or not the
24 parking lot camera allows you to see when that Chevy Impala
25 arrives and leaves will the parking lot area?

1 A. Yes, ma'am, it did.

2 Q. All right. Is there anything distinctive about that
3 vehicle that also aids you in making an identification?

4 A. Mr. Morehouse entered and exited the vehicle multiple
5 times.

6 Q. All right. And when you say Mr. Morehouse, are you
7 also familiar with the Defendant in this case, Charles
8 Morehouse, in terms of his physical description and
9 appearance?

10 A. Yes, ma'am, I am.

11 Q. Okay. I want to start by asking you about the video
12 from the early morning hours of August 4, 2015. When have
13 you observed -- or what approximate time have you observed
14 the Chevy Impala first arriving at the parking lot area of
15 the Whiskey Tavern?

16 A. At midnight and forty-three seconds.

17 Q. And can you tell us whether or not he arrives alone?

18 A. He does.

19 Q. Does he exit the vehicle?

20 A. Yes, ma'am.

21 Q. And ultimately when do you see the subject,
22 Mr. Morehouse, and the vehicle once again leave the parking
23 lot area?

24 A. At midnight fifty, fifty-one.

25 Q. Can you tell us whether or not you observed the

1 vehicle actually leave or drive away from the parking lot
2 area?

3 A. Yes, ma'am, it exits the parking lot.

4 Q. All right. Now moving forward, can you tell us
5 whether or not you observed that same Chevy Impala return
6 to the parking lot at any point in time?

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

8 Q. What is the time the Chevy Impala returned?

9 A. 02:40:34.

10 Q. 2:40?

11 A. Yes, ma'am, 2:40:34.

12 Q. All right. And at that point in time when the Chevy
13 Impala returns, do you see a subject exit the vehicle?

14 A. Mr. Morehouse is the only occupant.

15 Q. He is the only occupant?

16 A. Yes, ma'am.

17 Q. And you've identified that person as Mr. Morehouse?

18 A. Yes, ma'am.

19 Q. Does he go inside the Whiskey Tavern or does he leave
20 the parking lot area?

21 A. Which time?

22 Q. All right.

23 A. Several times, yes, ma'am.

24 Q. Okay. So let me clarify. After he exits the parking
25 lot at 12:50, you see the vehicle return at 2:40, correct?

1 A. Yes, ma'am.

2 Q. When the vehicle returns at 2:40, does he get out of
3 the vehicle?

4 A. Yes, ma'am.

5 Q. Okay. Are there any other persons that you can
6 visualize in the vehicle or that exit the vehicle?

7 A. No, ma'am.

8 Q. All right. And what do you observe next?

9 A. I observe Mr. Morehouse exit with what I believe to
10 believe some kind of bag, maybe a food bag, from his
11 vehicle, throws it into trash can and stands by a pillar.
12 He hangs around outside under a pillar for several minutes.
13 There's -- at two points in time there was a shaking
14 motion, as if striking something against an object, one of
15 the pillars. It's not clear enough to depict exactly what
16 that is.

17 Q. All right. Is there another individual outside with
18 him at that point?

19 A. During that timeframe, yes, ma'am.

20 Q. All right. So moving forward can you tell us whether
21 or not the vehicle leaves the parking area again at any
22 point in time?

23 A. Yes, ma'am, it does.

24 Q. What time is that?

25 A. 3:06:33 seconds.

1 Q. And is he alone or with someone when he leaves?

2 A. Alone.

3 Q. All right. Can you tell us whether or not the vehicle
4 actually exits the parking lot?

5 A. It does.

6 Q. Okay. And so just to clarify, looking at these screen
7 shots that all have various times up in the right-hand
8 corner, such as midnight thirty, 2:44, 2:43 and 3:04 AM
9 inside the Whiskey Tavern, those are taken at various
10 points during the night, correct?

11 A. Yes, ma'am.

12 Q. But based on your observation, he was not inside the
13 Whiskey Tavern or in the parking lot area between 12:50 and
14 2:40 AM, correct?

15 A. Correct.

16 Q. And based upon your training and experience where
17 video surveillance is concerned, is it always exact down
18 to the minute or second even if the date is correct?

19 A. No, ma'am, it's not.

20 Q. Can it be several minutes off?

21 **MR. HILLIARD:** Objection.

22 **THE COURT:** I sustain that.

23 **MR. HILLIARD:** Thank you.

24 **MS. MAYES:** Nothing further, Your Honor.

25 **MR. HILLIARD:** Excuse me just a moment.

1 (Pause in proceedings.)

2 **MR. HILLIARD:** I don't have any questions. Thank you.

3 **THE COURT:** You can step down.

4 **MS. MAYES:** We would ask that he be excused, Your
5 Honor.

6 **MR. HILLIARD:** Without objection.

7 **THE COURT:** You may be excused.

8 **THE WITNESS:** Thank you, Judge.

9 (Witness excused.)

10 **MR. BELL:** The State calls Brian Travis to the stand.

11 (Whereupon, Brian Travis was duly sworn by the Clerk
12 of Court.)

13 **THE CLERK:** Once you're seated state your full name,
14 spelling your last, please.

15 **THE WITNESS:** Brian Travis, T-R-A-V-I-S.

16 BRIAN TRAVIS,

17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BELL:

20 Q. Sir, who are you employed by?

21 A. The Lexington County Sheriff's Department.

22 Q. And what is your title there at the sheriff's
23 department?

24 A. I am a detective in the Criminal Intelligence Unit.

25 Q. How long have you been with the sheriff's department

1 at all?

2 A. I'm finishing out my tenth year.

3 Q. And what exactly are your duties when it comes to
4 being a part of the -- I think you called it Criminal
5 Intelligence Unit?

6 A. Yes, sir. I am investigation support. I do cell
7 phone analysis, call detail records, mapping. I do person
8 searches, property searches, line-ups, flyers, bulletins
9 and the like.

10 Q. And tell us about some of the training you've received
11 specific to cellular or cell phone analysis.

12 A. I've gone through basic and advance courses put on by
13 Pen-Link and also courses put on by Geo --

14 Q. What exactly is Pen-Link?

15 A. Pen-Link and GeoTime are the software that I use for
16 call detail record analysis.

17 Q. Please continue.

18 A. I've also gone to training conferences in Toronto and
19 Denver where my focus has been on call detail record
20 analysis.

21 Q. And do you maintain on-going education in those areas?

22 A. Yes, sir, I do.

23 Q. Are you familiar with how to read Sprint cellular
24 records?

25 A. Yes, I am.

1 Q. Are you familiar with how their cell sites or cell
2 towers operate?

3 A. Yes, I am.

4 Q. And are you trained to utilize the records that a
5 company like Sprint might keep in order to create maps to
6 indicate a location?

7 A. Yes, I am.

8 Q. Is the training you've received in those areas
9 considered reliable on a national level?

10 A. Yes, it is.

11 Q. Have you ever testified as an expert before in court?

12 A. Yes, I have.

13 Q. And was it in a field related to cellular analysis?

14 A. Yes, it was.

15 **MR. BELL:** Your Honor, at this time the State would
16 seek to move Detective Brian Travis in as an expert in
17 cellular analysis.

18 **THE COURT:** Any voir dire, Mr. Hilliard?

19 **MR. HILLIARD:** I don't really have any voir dire,
20 Judge. I'm just -- well, maybe I do.

21 VOIR DIRE EXAMINATION

22 BY MR. HILLIARD:

23 Q. What is cellular analysis?

24 A. It's a broad term that covers the analyzing of cell
25 phone records, call detail records, tower information.

1 Q. Okay. Let me -- I know I'm interrupting you, but I
2 don't want you to get far beyond before I can ask some
3 specific questions. Analyzing cellular data, what is that?
4 What is that? What does that mean?

5 A. That would be covering any kind of data that comes
6 from a cell phone, so that could be text messaging, calls,
7 IP records.

8 Q. So you read text messages?

9 A. Occasionally. They're usually not included in call
10 detail records.

11 Q. So that you figure out -- and if this is wrong, just
12 tell me, but you're the person that figures out where the
13 -- where the cell phone was approximately when it pinged
14 off of a tower, that sort of thing?

15 A. Yes, sir.

16 Q. You're that guy?

17 A. Yes, sir.

18 Q. Okay. And then do you do -- when you say IP
19 addresses, you can -- you can do an analysis and determine
20 what cell phone sent what message, is that --

21 A. Yes, sometimes as far as when you're talking about --
22 IP is Internet protocol --

23 Q. Right.

24 A. -- and so you can trace that back to a certain carrier
25 and then occasionally you can have the carrier identify

1 what phone it was that was using the IP.

2 Q. And that's part of what you do as well?

3 A. Correct.

4 **MR. HILLIARD:** We have no objection to him being
5 qualified as an expert, Your Honor.

6 **THE COURT:** Okay. I think cell phone systems and
7 data analysis is probably a better characterization of his
8 field of expertise as I understand what he's presenting to
9 the Court.

10 **MR. BELL:** That's correct, Your Honor.

11 **MR. HILLIARD:** We have no objection, Your Honor.

12 CONTINUED DIRECT EXAMINATION

13 BY MR. BELL:

14 Q. When you request cellular records from Sprint, what
15 format do they provide those records to you in?

16 A. Generally they come back as two Excel files.

17 Q. And what kind of files are they?

18 A. There's one that has the CDR or call detail record and
19 then there's one that has the cell site information.

20 Q. So you said one is a call detail report, CDR. So CDR
21 is short for call detail report?

22 A. Call detail record.

23 Q. Detail record. And what was the second file that you
24 testified about?

25 A. It's a cell site location file. It tells you where

1 the cell sites are.

2 Q. Tell us about the CDR. What sort of information is
3 typically in a Sprint CDR?

4 A. It's gonna tell incoming, outgoing, direction of the
5 call or text message, whether it's a call or text message,
6 the number that was dialed, the number -- the target
7 number, so it could be the incoming or outgoing, if the
8 number was connected as in a transfer call, it will have
9 that, the capture date for start and ending times.

10 Q. Is it fair to say it's a glorified call log?

11 A. Correct.

12 Q. And the tower information list, what exactly are the
13 contents of that file?

14 A. For each market that you request it's gonna have a
15 listing of each of their cell sites, which is gonna be
16 typically three antennas for each location. It will tell
17 you the direction and antenna points, which is called the
18 azimuth, and it will tell you the GPS locations of that
19 tower.

20 Q. When you receive documents from Sprint such as a CDR
21 and a tower information list, what is it that you then do
22 with those files?

23 A. Generally what I'll do is I'll run them through one
24 of my programs which takes the two files and combines them
25 together. In the case of Sprint, it also normalizes text

1 messaging time.

2 Q. And what do you mean by normalizes text message time?

3 A. The way Sprint's records work, calls are in the time
4 zone that they're made in, so for us eastern standard time,
5 but text messages are always shown in central time. So if
6 you don't correct for the adjustment from central time to
7 eastern standard time, it would cause an issue when you're
8 trying to look at the record.

9 Q. If you're reading a CDR and looking at a text message
10 entry, do you add an hour to the time in the CDR?

11 A. Correct.

12 Q. And the software that you were just testifying that
13 you run those records through, it automatically adds that
14 hour to those text messages?

15 A. Correct.

16 Q. What is the overall purpose of running the CDR and the
17 tower list through that software you just mentioned?

18 A. For each entry that has location data, it tells you
19 the tower and sector that it came off of and that's all
20 it gives you is a code and so by running it through the
21 program it takes that code and matches it up to an entry
22 in the tower list. So that way in one line you have all
23 of the call information, as well as the GPS location, and
24 the azimuth for that tower or cell site.

25 Q. Are you also able to use that same software to filter

1 the CDR in different ways?

2 A. Correct.

3 Q. Are you able to search for particular communications
4 between one or more numbers?

5 A. Correct.

6 **MR. BELL:** Permission to approach the witness?

7 **THE COURT:** Sure.

8 BY MR. BELL:

9 Q. Detective, I'm handing you -- I'm handing you a
10 small packet at this time. Can you identify what that
11 packet is?

12 A. This is the return letter from Sprint that came
13 with the call detail records for the cell phone number
14 [REDACTED]-2011.

15 Q. Let's see.

16 A. (Handing.)

17 **MR. BELL:** I beg the Court's indulgence.

18 BY MR. BELL:

19 Q. And if I refer you down to the subscriber details at
20 the bottom of that document, what is the number associated
21 there with that subscriber document?

22 A. [REDACTED]-1191.

23 Q. And did you have an opportunity to run that number and
24 determine who it belonged to?

25 A. Through -- yes.

1 Q. And who did that number belong to?

2 A. I show it to be Charles Morehouse.

3 (State's Exhibit Numbers 94 and 95 were marked for
4 identification.)

5 BY MR. BELL:

6 Q. I'm handing you what has now been marked for ID as
7 94 and also 95 for ID. 94, is that the document you were
8 just testifying to?

9 A. Yes, it is.

10 Q. And is that essentially a subscriber document?

11 A. Correct.

12 Q. And 95, what is that item?

13 A. That's the call records that were returned with that
14 first letter.

15 Q. And what's the number associated with that CDR?

16 A. [REDACTED]-1190.

17 Q. And you received those directly from whom?

18 A. Detective Brannon Marthers.

19 Q. And what company provided these records?

20 A. Sprint.

21 **MR. HILLIARD:** We have no objection to State's
22 Exhibit Number 94, Your Honor, and we had previously
23 stipulated as to the business records aspect of these
24 documents. As to the 225 pages of State's Exhibit
25 Number 95, we object to these as to relevance.

1 **THE COURT:** Those are the call detail records?

2 **MR. BELL:** Yes, Your Honor.

3 **THE COURT:** Do all of those need to come in or can
4 the summary of the report come in?

5 **MR. BELL:** Your Honor, that summary only specifies
6 who the account belonged to. The file in Mr. Hilliard's
7 hand actually details the records themselves which covers
8 the span of the account from July 21st to, I believe,
9 August 4th.

10 **THE COURT:** All right. Y'all come up here.

11 **MR. HILLIARD:** Yes, sir.

12 (Proceedings held at the bench; not reported.)

13 **THE COURT:** You can provide the summary document
14 later, but as to those documents you can decide which
15 pages you want to pull out.

16 **MR. BELL:** Yes, Your Honor.

17 **THE COURT:** But I'll admit them subject to your
18 objection.

19 **MR. HILLIARD:** Yes. Thank you, Judge.

20 (State's Exhibit Numbers 94, Sprint documents, and
21 95, call detail records, were admitted into evidence.)

22 (State's Exhibit Number 96 through 98 was marked for
23 identification.)

24 BY MR. BELL:

25 Q. I'm handing you what's been marked State's 96. What

1 is that?

2 A. That's another Sprint return letter.

3 Q. And what is the number associated with that return
4 letter?

5 A. [REDACTED]-9770.

6 Q. And are you aware of the name of the owner of that
7 number?

8 A. Yes.

9 Q. And what is the name there?

10 A. Wiley Sisk.

11 Q. Referring to State's 97 for ID, do you recognize that
12 document?

13 A. Yes.

14 Q. And what is that?

15 A. It's the call records for that number, [REDACTED]-9770.

16 Q. When you say call records, you're referring to CDR?

17 A. Correct.

18 Q. And State's 98, do you recognize that document?

19 A. Yes.

20 Q. What is it?

21 A. This is the cell site locations for the Columbia
22 market from Sprint.

23 Q. Now would that same stack of documents refer to both
24 Charles Morehouse and Wiley Sisk's phone numbers?

25 A. Yes, it would since they're both on the Sprint

1 network.

2 Q. And does the location of the towers change for
3 different users on different phones?

4 A. No, the towers are fixed at the time that the tower
5 list was made.

6 Q. So, in other words, were they at a physical location
7 that does not change?

8 A. Correct.

9 **MR. BELL:** At this time, Your Honor, the State would
10 seek to enter 96, 97 and 98.

11 **MR. HILLIARD:** I have no other objection as to 97. I
12 have no objection to 96 and if we could approach the bench
13 as to 98.

14 **THE COURT:** Sure.

15 (Proceedings held at the bench; not reported.)

16 **MR. HILLIARD:** I have no objection as to 98, Your
17 Honor.

18 (State's Exhibit Numbers 96 through 98, call detail
19 records, were admitted into evidence.)

20 BY MR. BELL:

21 Q. Now referring to all those documents you just had in
22 front of you, are those the items that you take and then
23 run through the software you mentioned earlier?

24 A. Yes, the cell site location and the call detail
25 records.

1 Q. And did you have an opportunity to run Charles
2 Morehouse and Wiley Sisk's records through your software?

3 A. Yes, I did.

4 Q. And as part of that, were you also asked to create a
5 summary document of their communications?

6 A. Yes.

7 **MR. BELL:** Now briefly before we go into reading them,
8 permission to publish, Your Honor, State's 95?

9 **THE COURT:** 95 subject to objection, but it's in.

10 **MR. HILLIARD:** Yes, sir.

11 BY MR. BELL:

12 Q. It's tough to see up here, but if you could give a
13 very brief description of what the heading for each of
14 these columns is.

15 A. Yes, sir. The first one is the calling number, the
16 second one is gonna be the called number, so it's gonna
17 change depending on whether it was an outgoing or incoming
18 call, and then the dialed digits. The dialed digits can be
19 different if there's call routing which you generally see
20 on these for voicemail is the main one, but any kind of
21 call forwarding would also come up.

22 Q. For example, where it says called number here and it's
23 different from the dialed digits, this could potentially be
24 voicemail picking up?

25 A. That one specifically is voicemail. We know by that

1 6245 code that is Sprint voicemail.

2 Q. Okay. And MR?

3 A. Is the routing direction for the call and so that's
4 gonna be either inbound or outbound and you can see on that
5 one it was routed because it was transferred to voicemail.

6 Q. Now start and end date are self-explanatory. You
7 mentioned earlier about text messages being a little bit
8 different. Are you referring to these calls here?

9 A. Correct. Those calls will be in central time for text
10 messages.

11 Q. I believe duration also we can all figure out. What
12 is the NEID and repoll number?

13 A. NEID is network element ID -- identification number
14 and that's gonna be specific to a certain geographic area.
15 So 39 is the one we typically see for the Columbia area.
16 The repoll number is also gonna be tied to the geographic
17 location and 631 is the typical one for the Columbia area.
18 And then the last two columns are gonna be the first cell
19 site it hits off and then the last cell site, so the call
20 where it connects to and where it disconnects from.

21 Q. And what would cause there to be two different towers
22 indicated between first cell and last cell?

23 A. Generally it means there's movement involved, so that
24 way they switch towers.

25 Q. Movement of what?

1 A. The phone.

2 Q. Now we were talking about some of the summary
3 documents that you generated. If I could have you look
4 at some of these posters.

5 **THE COURT:** Mr. Hilliard, if you want to step up,
6 you're welcome.

7 **MR. HILLIARD:** Sure.

8 BY MR. BELL:

9 Q. Detective, do you recognize these posters?

10 A. Yes, I do.

11 Q. And what are these posters as you see them?

12 A. It's the contact between Wiley Sisk and Charles
13 Morehouse.

14 Q. And are these the posters that you took part in
15 creating?

16 A. Yes.

17 Q. And are these summaries of the CDR's that you
18 previously testified to?

19 A. Correct.

20 Q. And what date range were you tasked with summarizing?

21 A. They had -- the incident occurred on the 3rd, but
22 they wanted to know throughout the entire record, which I
23 believe they went back to the 21st of July.

24 Q. And do these documents that you've just reviewed, do
25 they fairly and accurately represent the contents of the

1 CDR except that they've been summarized by yourself?

2 A. Correct.

3 **MR. HILLIARD:** You can go ahead and mark those into
4 evidence now. I have no objection to that if that's what
5 -- I'm presuming that's what he's doing.

6 **THE COURT:** I think that's what he's doing.

7 **MR. BELL:** Your Honor, for the Court's edification,
8 we found a poster that had some markings on it unrelated
9 to this case that we're trying to alter.

10 **THE COURT REPORTER:** 99 to 109.

11 **THE COURT:** Those are all summary reports admitted
12 without objection.

13 **MR. HILLIARD:** Yes, sir.

14 (State's Exhibit Numbers 99 to 109, call summary
15 reports, were marked and admitted into evidence.)

16 **MR. BELL:** Permission to publish, Your Honor?

17 **THE COURT:** Sure.

18 BY MR. BELL:

19 Q. When it comes to Sprint, are you able to see the
20 content of text messages on Sprint phones?

21 A. No, we're not.

22 Q. Is that a limitation of your software or a limitation
23 of Sprint?

24 A. Sprint does not retain text message detail at all.

25 Q. And is that very fact stated on the subscriber

1 documents that you testified to earlier?

2 A. Yes, sir, it is.

3 Q. Now do you have your summary of the communications
4 between Charles Morehouse and Wiley Sisk in front of you?

5 A. Yes, I do.

6 Q. Again, what is the date range of the communications
7 that you found?

8 A. July 21st until August 4, 2015.

9 **THE COURT:** That's gonna be 110?

10 **MR. BELL:** Yes, Your Honor.

11 **MR. HILLIARD:** No objection.

12 (State's Exhibit Number 110, call summary report, was
13 marked and admitted into evidence.)

14 BY MR. BELL:

15 Q. How many communications were there on July 21st?

16 A. There were thirty-three communications.

17 Q. And how many of those were calls versus texts?

18 A. Four of them were phone calls.

19 Q. And is that reflected in State's 99 that you created
20 for court?

21 A. Yes, it is.

22 Q. And how many total communications again?

23 A. Thirty-three.

24 Q. And on July 24th?

25 A. There were two communications.

- 1 Q. And were they texts or phone calls?
- 2 A. They were phone calls.
- 3 Q. On July 29th, how many communications?
- 4 A. Twenty-four communications.
- 5 Q. How many of those were phone calls?
- 6 A. Fifteen.
- 7 Q. On July 31st, how many communications?
- 8 A. On the 31st, there were ten communications.
- 9 Q. And how many phone calls?
- 10 A. Eight.
- 11 Q. On July 30th, how many communications and how many
- 12 calls?
- 13 A. Two, and they were both calls.
- 14 Q. August 1st?
- 15 A. Fifteen communications and five were calls.
- 16 Q. Five were calls?
- 17 A. Correct.
- 18 Q. August 2nd?
- 19 A. There are forty-six communications with thirty calls.
- 20 Q. Forty-six communications and how many calls?
- 21 A. Thirty.
- 22 Q. All on what date?
- 23 A. August 1st.
- 24 Q. Can you confirm that date?
- 25 A. August 1, 2015.

1 Q. And what about August 2nd?

2 A. There were -- I'm sorry, August 2nd. There were
3 forty-six with thirty calls.

4 Q. All right. August 3, 2015?

5 A. Forty-nine communications with thirty-three calls.

6 Q. What time of day was the first call made on August 3rd
7 of 2015?

8 A. Midnight thirty-five.

9 Q. And that would be leading into the very early morning
10 of August 3rd?

11 A. Correct.

12 Q. And when was the final communication?

13 A. 10:48 PM.

14 Q. And referring to August 4th, how many communications?

15 A. Eight communications and two voicemails.

16 Q. Were there any calls or text message communications
17 midnight or beyond midnight on August 4th?

18 A. Yes.

19 Q. So leading into August 4th?

20 A. Correct.

21 Q. What were those?

22 A. There were three. I know there were three calls at
23 12:05, 12:08 and 12:10.

24 Q. And I refer you to State's 108.

25 **MR. BELL:** Permission to ask the detective to step

1 down?

2 **THE COURT:** Sure.

3 (Whereupon, the witness steps down from the witness
4 stand.)

5 BY MR. BELL:

6 Q. I'm gonna hand you a laser pointer and if you'd stand
7 over here and speak nice and loud. Now you testified
8 earlier that you have to add an hour to text messages and
9 that this software does that; is that accurate?

10 A. Correct.

11 Q. Okay. Would you point out the last entry that you
12 have for August 3rd.

13 A. Right on this line.

14 Q. And that is what kind of communication?

15 A. It's a phone call that went to voicemail.

16 Q. And these final six communications, what kind of
17 communications are they?

18 A. There's three inbound and three inbound calls right
19 in there.

20 Q. And this final communication, that is a text message;
21 is that accurate?

22 A. I don't have it right in front of me, but I believe
23 it was a text message.

24 Q. Okay. Could you refer to your notes for me.

25 A. Yes, it was a text message.

1 Q. And who sent who that text message at 12:13 AM the
2 morning of August 4th?

3 A. Morehouse sent it to Sisk.

4 Q. Did you have an opportunity to review Mr. Morehouse's
5 call detail record and determine when his final
6 communication was from that cell phone number?

7 A. Yes.

8 Q. And when was that?

9 A. It was that -- that text message there was the last.

10 Q. Is there any further activity detailed in his call
11 detail report?

12 A. There were routed calls, which means they didn't
13 actually connect to his phone.

14 Q. I want to switch gears with you for a second. On
15 August 3, 2015, did you see any communications between an
16 individual that you identify as Austin Lynch to Charles
17 Morehouse?

18 A. Yes.

19 Q. And roughly what time of day did that communication
20 occur?

21 A. About 5:00 PM.

22 Q. On what date?

23 A. 8-3-2015.

24 **MR. BELL:** I beg the Court's indulgence.

25 **THE COURT:** Uh-huh.

1 **MR. BELL:** I apologize, Your Honor. We've got a big
2 stack here.

3 **THE COURT:** I see that.

4 BY MR. BELL:

5 Q. Did you have a chance to review the call detail
6 records for Charles Morehouse? And, if you would, refer
7 to 9:48 PM.

8 A. On which date?

9 Q. On August 3, 2015. I'm gonna hand you what's been
10 entered as State's 27 identified as a text conversation
11 between the victim and Charles Morehouse. Are you able to
12 see in the CDR where that corresponds to the times located
13 in that phone?

14 A. Yes, it is on the CDR.

15 Q. And referring --

16 **MR. BELL:** Permission to publish, Your Honor?

17 **THE COURT:** Sure.

18 BY MR. BELL:

19 Q. So your testimony is that you can at least see that
20 there are text communications going out between these two
21 numbers, Charles Morehouse and the victim?

22 A. Correct.

23 Q. And you're speaking of the times indicated here, which
24 would be 9:46 PM up through 11:11 PM?

25 A. Correct.

1 Q. And in reviewing your call detail records after the
2 text message at 9:48 PM, who is the very next person that
3 Charles Morehouse contacts according to the CDR?

4 A. Wiley Sisk.

5 Q. I want to refer you specifically to the entire day
6 of August 3rd up to 10:48. Do you know how many
7 communications they had that day up to that point?

8 A. Up to 10:48 PM?

9 Q. Yes, sir.

10 A. Forty-nine.

11 Q. And between the hours of what would be 10:48 PM and
12 midnight leading into August 4th, how many communications
13 did Charles Morehouse and Wylie Sisk have?

14 A. None.

15 Q. Did you have an opportunity to also run these records
16 through your software and try to create a map indicating
17 where that phone was located while it was making those
18 calls?

19 A. Yes, I did.

20 (State's Exhibit Numbers 111 through 113 were marked
21 for identification.)

22 BY MR. BELL:

23 Q. Detective, do you recognize the contents of these
24 posters?

25 A. Yes.

1 Q. All three?

2 A. Yes.

3 Q. And what are these posters?

4 A. Those are three maps that I made showing the
5 information from the call detail records.

6 Q. And does that include the tower information list as
7 well that you detailed earlier?

8 A. Correct.

9 **MR. BELL:** Your Honor, at this time the State would
10 seek to enter 111, 112 and 113?

11 **THE COURT:** Any objection?

12 **MR. HILLIARD:** No, sir. I assume he's gonna say
13 something about what's on them, but I don't have any
14 objection to them. Based on the fact that he does that,
15 I don't have any objection.

16 **THE COURT:** 110, 111 and 112?

17 **MR. BELL:** 111, 112 and 113, Your Honor.

18 **THE COURT:** What was 110?

19 **MR. BELL:** I believe that was the last poster, Your
20 Honor, that we had published.

21 (State's Exhibit Numbers 111 through 113, cell phone
22 maps, were admitted into evidence.)

23 **BY MR. BELL:**

24 Q. If you would step down again and make sure you angle
25 yourself to the far side so the jury can see you.

1 A. (Witness complies.)

2 Q. I'm showing what's been marked as 112. Generally,
3 can you tell us what we're looking at here?

4 A. This map shows where the cellular sites are for
5 Sprint in this area and then has them labeled by what
6 Sprint has them numbered as.

7 Q. And the information -- where do you get the
8 information for those cell sites?

9 A. Directly from the tower list.

10 Q. And that's how you're able to plot the physical
11 location?

12 A. Correct.

13 Q. And you've labeled those "cell sites"?

14 A. Correct, by what Sprint calls them.

15 Q. Referring to 113, can you tell us what time period is
16 depicted on this map?

17 A. From 10:47 PM until 11:59 PM on August 3rd and that
18 should be 2015.

19 Q. Now can you walk us through what exactly we're seeing
20 on this map?

21 A. So for each call that is listed on the call detail
22 record it gives what is the cell site and what is the
23 azimuth and the azimuth is the direction that the tower
24 points and it's done in degrees. So what we've done here
25 is each call has the azimuth and then has an arc range for

1 the general area that azimuth points in.

2 Q. And whose calls are reflected on this poster?

3 A. Charles Morehouse.

4 Q. And those are the calls made during the time of 10:47
5 and 11:59 PM?

6 A. Correct.

7 Q. Are you able to chart text message information on
8 these towers?

9 A. No, text messages do not come with location data.
10 They only give you the time and then to and from.

11 Q. And, again, is that a limitation of your software or
12 a limitation of Sprint?

13 A. It's with Sprint.

14 Q. There's a green marker down here with a label. What
15 is that label?

16 A. 2400 Old Orangeburg Road and that's the approximate
17 location of where the body was.

18 Q. And are there any towers within proximity of that
19 location?

20 A. There's one very close by right here and there's
21 several others that are in close proximity.

22 Q. And during the period indicated, are there any calls
23 which were pinging off of those towers closest to 2400
24 Old Orangeburg Road?

25 A. Yes, sir, there are numerous calls.

1 Q. And is he pinging off of towers on both sides of that
2 incident location or just one side?

3 A. There's -- you can kind of -- these are actually
4 different colors, but it's kind of hard to see, but there's
5 multiple sides to this same tower and there's this tower
6 and that tower as well.

7 Q. And the two towers that you just indicated, do any of
8 those lines intersect at any place?

9 A. You can see there's intersections between these two
10 towers very close on here on the map and intersections
11 there.

12 Q. And in your opinion when you see this kind of data,
13 what does that indicate to you?

14 A. That the towers have overlapping coverage and that
15 based on different network capabilities they bounce from
16 tower to tower.

17 Q. And based on your opinion, where would that put the
18 cell phone during those times of those pings?

19 A. It would be right in this general area.

20 Q. And is that the same area as the incident location?

21 A. Yes, it is.

22 **MR. HILLIARD:** What exhibit was that?

23 **MR. BELL:** 113.

24 BY MR. BELL:

25 Q. Referring back to 112, were you asked to check the

1 ping locations of the calls as the night went on for
2 Mr. Morehouse?

3 A. Yes.

4 Q. And where did those -- where was the last ping
5 located?

6 A. It was right here.

7 Q. And what is that cell site close to?

8 A. It's in Cayce. It's close to the Congaree River and
9 Knox Abbott Bridge.

10 Q. Are there any towers closer to the river than that
11 one?

12 A. No, there are not.

13 **MR. BELL:** Please take your seat, sir.

14 (Whereupon, the witness re-takes the witness stand.)

15 BY MR. BELL:

16 Q. Did you have a chance to check the call detail record
17 for Wiley Sisk and see if he had ever had any contact with
18 the victim, James David Porter?

19 A. For the time period that we had the records, there was
20 no contact between Mr. Sisk and the victim.

21 Q. And to clarify, was there contact between Charles
22 Morehouse and the victim?

23 A. Yes, there was.

24 **MR. BELL:** Please answer any questions, sir.

25 CROSS-EXAMINATION

1 BY MR. HILLIARD:

2 Q. This is a -- rather than look through the exhibits
3 -- this is the exhibit that is either directly before or
4 directly after Exhibit Number 27. It's the one with the
5 phone numbers on it and let me -- I'm just gonna use it to
6 ask if you've checked on these phone numbers. [REDACTED]-977
7 -- permission to -- I'm sorry, Judge. I didn't ask.

8 THE COURT: No, you're fine.

9 MR. HILLIARD: Yes, sir.

10 BY MR. HILLIARD:

11 Q. [REDACTED]-9770, did you check on that number?

12 A. I checked on a lot of numbers and I don't have a
13 number list in front of me to say specifically if that one
14 was one or not.

15 Q. Okay. So I'm guessing that you couldn't -- you'd say
16 the same thing about [REDACTED]-6348?

17 A. Correct.

18 Q. All right, sir.

19 A. We're limited in the systems we have to tell who a
20 number belongs to, so sometimes we find information and
21 sometimes we don't.

22 Q. Well, if this were the -- and this has been previously
23 identified and introduced into evidence as from the
24 victim's phone, that would be a significant thing in the
25 investigation, right?

1 A. I don't handle that aspect of it.

2 Q. All right, sir. And the last -- and I apologize. I
3 was trying to do two things at once, but the last several
4 things that you said to the -- to the prosecutor, one of
5 them was that there was a great deal of conversation
6 between -- well, let me ask the question this way. Between
7 Charlie, the Defendant, and Rico, the deceased, did you
8 say that you checked on a lot -- or you saw a lot of phone
9 conversations between them on the 3rd?

10 A. No, I want to say there was -- I don't have the exact
11 number, but it was only a handful, maybe four --

12 Q. Well --

13 A. -- but there was no communication -- what he asked
14 was the communication between Mr. Sisk and the victim and
15 there was no communication and then he asked if there was
16 communication between Mr. Morehouse and the victim and
17 there was.

18 Q. And so you have run -- you have done this analysis
19 that you've described here. You've done that analysis on
20 -- on Rico's phone number?

21 A. I don't know who Rico is.

22 Q. Okay. You really don't know who Rico is?

23 A. No, sir. I deal with phone numbers.

24 Q. Well, let's try [REDACTED]-5870.

25 **THE COURT:** If he needs to see the exhibits --

1 **MR. HILLIARD:** Sir?

2 **THE COURT:** He needs to see an exhibit.

3 **MR. HILLIARD:** Yes, sir.

4 **THE COURT:** Don't ask him if he remembers a phone
5 number off the top of his head because that's all he does.

6 **MR. HILLIARD:** Fair enough. Fair enough.

7 BY MR. HILLIARD:

8 Q. Well, let me establish then perhaps that -- do you
9 have the victim's phone number there with you?

10 A. I don't believe I do actually.

11 Q. Well, how did you determine that the Defendant,
12 Charlie, [REDACTED]-1191, how did you determine that he was
13 in communication with the victim?

14 A. I maintain records on my computer.

15 Q. And so from testifying today, the only thing you know
16 about the victim and the Defendant is the number of times
17 they talked to each other?

18 A. I've never referred to a victim by a nickname, so
19 I'm not familiar with him by Rico, if that's what you're
20 referring to.

21 Q. No, sir. I'm asking you today -- well, let me just
22 back up. So the victim in the case --

23 A. James Porter.

24 Q. -- has a phone number.

25 A. Correct.

1 Q. And you have testified that the victim in the case,
2 James Porter, previously identified in court for the last
3 several days as Rico --

4 **THE COURT:** The witness has been sequestered.

5 **MR. HILLIARD:** Yes, sir. I understand. I understand.
6 He doesn't know that. I'm just -- for the purpose of the
7 jury, I'm saying that's the same person.

8 **THE COURT:** Well, I don't want to him to look bad for
9 not knowing what's been testified to because he's not
10 supposed to know.

11 **MR. HILLIARD:** That's exactly right, Judge. I'm --
12 and let me apologize. If it appears I'm trying to make
13 you look bad, I'm not. I promise. I'm trying to figure
14 out how to get -- well, that's not proper. I'm sorry.

15 BY MR HILLIARD:

16 Q. Do you know the victim, James Porter's phone number?

17 A. Not off the top of my head.

18 Q. And you don't have any documents here with you?

19 A. We recovered his actual cell phone and that's where
20 we were able to get numbers off of to then go back and
21 look for. We generally do not do mapping of the victim's
22 phone unless the solicitor's office requests it.

23 Q. So the solicitor's office didn't ask you to map the
24 victim's phone?

25 A. Well, generally when there's a body on the ground

1 they know where it is.

2 Q. Now you're trying to make me look bad. All right.

3 So did you do an analysis of the victim's phone number
4 interaction with the Defendant?

5 A. I looked at the Defendant's phone records to see how
6 many times the victim's phone was on there.

7 Q. All right. Did you do anything with the victim's
8 phone other than an analysis with the Defendant?

9 A. I don't handle the physical phones. That's another
10 detective at the department that does that.

11 Q. Maybe I'm asking the wrong question, but what I'm
12 trying to get at is the phone number analysis that you do,
13 the thing that you've already testified about, that --

14 A. Correct.

15 Q. -- did you do that kind of analysis on the victim's
16 phone with anyone else other than the Defendant?

17 A. We didn't -- I didn't do anything with the victim's
18 phone other than look into phone records I was given to
19 see if it appeared.

20 Q. That's what I'm asking. An analysis of the victim's
21 phone records, did you do that?

22 A. I was never given the phone records to analyze. Like
23 I said, generally we don't analyze the victim's phone
24 records like that.

25 Q. All right, sir. And what did you say about Austin

1 Lynch?

2 A. That there was a call between Mr. Morehouse and
3 Mr. Lynch at 5 PM on 8-3-15.

4 Q. And so you -- the only -- the only reason that you
5 have that analysis is because of the Defendant's phone?

6 A. Correct, the Defendant. And then we had the records
7 for Mr. Sisk. Those were the numbers that we -- those were
8 the records we analyzed.

9 Q. Mr. Sisk and the Defendant, Charlie?

10 A. Correct.

11 Q. But you did not do an analysis on anybody else?

12 A. Correct.

13 Q. Well, in that case, whatever those other phone numbers
14 are, you didn't do an analysis on those phone numbers?

15 A. Well, I did not do a call -- call record analysis, no.

16 **MR. HILLIARD:** That's all I have. Thank you, sir.

17 **THE COURT:** Any redirect?

18 **MR. HILLIARD:** Well, I'm sorry, I do have one other
19 thing. I forgot about the map.

20 BY MR. HILLIARD:

21 Q. So this is State's Exhibit Number 112 and you were
22 testifying -- if you would come down, please, sir, and I'll
23 try to just hold this maybe.

24 (Whereupon, the witness steps down from the witness
25 stand.)

1 BY MR. HILLIARD:

2 Q. This is the one that you testified from before; is
3 that right?

4 A. It's one of the ones, yes, sir.

5 Q. What I'm getting at, the point of this is, this is
6 the one where you talked about the river; is that right?

7 A. No, sir.

8 Q. Would you pick out the one you talked about the river
9 on.

10 A. (Witness complies.)

11 Q. All right. So -- and this square up there says 12:08
12 to 12:10 on August --

13 A. No, sir. There's three separate labels on that.

14 Q. All right, sir. Tell me about that.

15 A. There are three labels for three calls that have
16 location data from the call detail record.

17 Q. All right, sir.

18 A. One was at 12:08, one was at 12:05 and one was at
19 12:10, so there's three separate transactions that occurred
20 at that tower.

21 Q. At that tower?

22 A. Correct.

23 Q. And that tower -- well, let me ask the question. So
24 there were three phone calls that you've identified as the
25 last phone calls that were made from the Defendant's phone.

1 That's what we're talking about, right?

2 A. They were the last three entries on the Defendant's
3 phone that had tower information.

4 Q. Okay. And that was on that cell tower?

5 A. Correct.

6 Q. How far away from that cell tower can you be in order
7 to ping off of that cell tower?

8 A. Sprint has said that the range of their cell sites is
9 two to ten miles, but there's no exact for each one.

10 Q. Two to ten miles?

11 A. The accepted in the -- for what we're taught is around
12 generally three miles.

13 Q. About three miles?

14 A. Correct. Sometimes more, sometimes less. And
15 Sprint's the only one that will tell you two to ten miles.
16 Everybody else won't --

17 Q. They won't tell you anything?

18 A. No.

19 Q. The two to ten miles, about three miles, is that
20 impacted on by whether there's -- another tower is busy and
21 so the call might route to not quite as good a tower?

22 A. Sometimes if they're in close proximity to the towers.

23 Q. And the two to ten miles or maybe three mile range, is
24 that -- that's in a circle around the tower, correct?

25 A. No, there's -- at each -- what we're referring to as

1 a tower, technically it's a cell site, and it's a radio
2 antenna that points in a specific direction and on that
3 -- that tower listing tells you what direction that is.
4 That's your azimuth. And so at any given location there's
5 generally three different antennas so each one points --
6 so that they would cover a circle or have a 360 degree
7 coverage, but each antenna can only cover kind of what they
8 can see or what's in front of them.

9 Q. And so that's -- that's the azimuth?

10 A. Correct. The azimuth is the direction it points to.

11 Q. So the azimuth, that goes out like a cone; is that
12 right?

13 A. Well, the azimuth is a direct line, so in this case
14 the azimuth of these calls is off 60 degrees. So the
15 azimuth point's kind of in this general direction --

16 Q. Right.

17 A. -- and then the coverage is gonna be plus or minus
18 about 60 to 65 degrees from that azimuth so that your cone
19 would kind of stretch out from there.

20 Q. Right, but the cone does stretch -- the further it
21 gets away from the tower the more it stretches?

22 A. Correct.

23 Q. All right, sir. And so there's really nothing about
24 this that shows that anything happened at the river. It's
25 just not that specific.

1 A. We can't say that it happened at the river, no. We
2 just know that it was in this area.

3 Q. Right. And is the river on here somewhere?

4 A. Well, I know the river's right here. It's not colored
5 in.

6 Q. All right. Thank you, sir.

7 **MR. HILLIARD:** Give me just one second, Judge.

8 **THE COURT:** All right.

9 BY MR. HILLIARD:

10 Q. When you went through the phone records and you were
11 talking about the communications between Charlie and
12 Wiley Sisk, the number, those weren't necessarily actual
13 communications, correct?

14 A. It depends on your definition of communications.
15 Those were phone calls and text messages. Text messages
16 generally go through as soon as the phone has a signal.
17 Phone calls aren't always picked up, so if you don't want
18 to count there were attempted phone calls at least. I
19 can't -- if that's what you mean by communication.

20 Q. Yes, sir. Well, for example, if my wife calls me
21 right now and I'm standing here talking to you and I just
22 ignore that, then --

23 A. Correct. On your phone record it will show that it
24 routed to voicemail.

25 Q. Right, but you can't -- can you tell that from these?

1 A. You can tell if the call routed to voicemail. What
2 will happen is it will show -- under the direction, it will
3 show a routed call and then it will the voicemail code,
4 that 62245000, and that tells you that it's been routed to
5 voicemail.

6 Q. And does that -- is that distinguishable on these
7 documents that you have?

8 A. On the call detail records it shows it now.

9 Q. What about these charts that you presented to the
10 jury?

11 A. Yeah, it will show if it's a routed call.

12 Q. And did you do a determination of how many of those
13 -- you've indicated in testimony that there was that many
14 events. Did you do any kind of analysis to determine how
15 many events were actual conversations versus routed to
16 voicemail?

17 A. I can't tell from the records whether or not they
18 actually talked on a phone call, but there were numerous
19 calls that did go to voicemail when they were -- when
20 Mr. Sisk was trying to get ahold of Mr. Morehouse.

21 Q. All right, sir. So if Mr. Sisk called Mr. Morehouse
22 ten times and Mr. Morehouse didn't answer, that would show
23 up as ten things on these documents?

24 A. Correct.

25 Q. If my wife calls me ten times and I'm standing here,

1 it will show up as ten times?

2 A. Correct.

3 **MR. HILLIARD:** That's all I have.

4 **THE COURT:** Any redirect?

5 **MR. BELL:** Two questions, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. BELL:

8 Q. With regard to the exhibits that you prepared for
9 court today, text messages are listed on that document; is
10 that correct?

11 A. Correct.

12 Q. And would those text messages -- would a jury be able
13 to determine that based on the duration of each entry on
14 these posters?

15 A. Text messages have a zero second duration. Phone
16 calls that don't go through will still have duration as
17 the phones try to connect.

18 Q. You were questioned about the calls bouncing off the
19 different towers during peak or busy times. The poster
20 that you referred to with the cell site by the river, what
21 time did you map out on that poster?

22 A. The calls that occurred from midnight until 6 AM on
23 the 4th.

24 **MR. BELL:** Nothing further.

25 **THE COURT:** You can step down.

1 **MR. HILLIARD:** No objection to him being excused,
2 Your Honor.

3 (Witness excused.)

4 **THE COURT:** Okay. Let's take a break.

5 All right. Y'all step in the jury room. Don't
6 discuss the case. We'll take about fifteen minutes.

7 (Whereupon, the jury retires to the jury room at
8 3:58 PM.)

9 (Recess taken.)

10 **BAILIFF:** Court come back to order.

11 **THE COURT:** Be seated.

12 All right. Bring them in.

13 (Whereupon, the jury returns to the courtroom at
14 4:23 PM.)

15 **MS. MAYES:** The State calls Heather Owens.

16 (Whereupon, Heather Owens was duly sworn by the Clerk
17 of Court.)

18 **THE CLERK:** Once you're seated, state your full name,
19 spelling your last, please.

20 **THE WITNESS:** Heather Owens, O-W-E-N-S.

21 HEATHER OWENS,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. All right. And, Ms. Owens, were you subpoenaed to be

1 here today?

2 A. Yes.

3 Q. Can you tell us a little bit of information about
4 yourself? What county do you currently live in?

5 A. Lexington.

6 Q. And how old are you?

7 A. I'm thirty.

8 Q. Do you have any children?

9 A. I have two, a seven and a nine-year-old.

10 Q. Can you tell us whether or not you were residing in
11 the area of Lexington County back in August of 2015?

12 A. Yes, ma'am.

13 Q. I want to take you back earlier that year in 2015 and
14 ask you whether or not you had the occasion to become
15 acquainted with the Defendant in this case, Charles
16 Morehouse?

17 A. Yes, ma'am.

18 Q. Tell us how you went about meeting him and described
19 in general how your relationship with him developed.

20 A. Well, I met him early 2015, the beginning of the year,
21 through mutual friends and I would buy Xanax from him. I
22 would buy Xanax and pain pills and things like that. And
23 as I started having trouble with my relationship and he
24 supposedly was having trouble with his relationship, we
25 became closer to where we were intimate sometimes and we

1 hung out a lot.

2 Q. And you mentioned pills. During that timeframe of
3 2015, specifically on through August of 2015, were you
4 using pills, including pills that are -- contain
5 hydrocodone and things of a similar nature?

6 A. Yes, ma'am.

7 Q. Ultimately, what is your status today regarding that
8 addiction?

9 A. Oh, I'm on a Suboxone program now.

10 Q. Okay. And Suboxone, can you tell us whether or not --
11 or what for what purpose is that prescribed?

12 A. Basically to slowly help you come off of opiates that
13 you've been on for a long period of time.

14 Q. All right. And does that include pain pills that you
15 described to us that you were using in the time period of
16 2015?

17 A. Yes, ma'am.

18 Q. Can you tell us whether or not once this relationship
19 with Mr. Morehouse began it ever involved him actually
20 coming to your residence?

21 A. Very often.

22 Q. And I want to move you forward now, specifically to
23 the time period of August 3, 2015. Were you involved
24 with Mr. Morehouse on that date? Were you still in a
25 relationship with him, still friendly with him?

1 A. Friendly. I would never actually call it a
2 relationship. We were friends with benefits. I guess I
3 was the chick on the side or whatever you want to call
4 it. That's how it was.

5 Q. All right. I'm gonna show you this diagram. Is this
6 your photograph here on this diagram?

7 A. Yes, ma'am.

8 Q. Going back to that time period of August 3, 2015,
9 earlier in the day had Mr. Morehouse come to your residence
10 for any reason?

11 A. Yes, ma'am. My water was off that day, we share a
12 well with the neighbor, and he actually came over to help
13 me find it to turn the water back on.

14 Q. All right. So his first visit to your home that day
15 had been to assist you with your well?

16 A. Uh-huh.

17 Q. And what type of vehicle was he driving during that
18 point in time?

19 A. His burgundy Impala.

20 Q. And after that -- after that event earlier that day
21 where he had come by your house because of the well, did
22 you have the opportunity to see him at any point later that
23 day or into the evening hours?

24 A. I didn't see him again that day until late at night,
25 sometime after 9:30, probably between 9:30 and 11:30.

1 Q. All right. And so before I ask you about that time
2 period between 9:30 and 11:30, I want to ask you have you
3 ever seen Mr. Morehouse with a firearm before?

4 A. Yes, ma'am.

5 Q. On one occasion or more than one occasion?

6 A. More than one occasion.

7 Q. Where, if at all, do you recall him having the
8 firearm?

9 A. I -- from my experience it was in the glove box most
10 of the time if it wasn't on him.

11 Q. And when you say on him, where on his person?

12 A. Like in your (indicating).

13 **MS. MAYES:** And, Your Honor, she's -- for the record
14 she's pointing to the hip area.

15 **THE COURT:** Okay. The record will so reflect.

16 BY MS. MAYES:

17 Q. And you mentioned receiving pills from him. Now did
18 you have a prescription for those pills you received from
19 him?

20 A. No, ma'am.

21 Q. Do you know -- do you have personal knowledge as to
22 whether or not he frequently had other types of drugs in
23 addition to the pain pills you've mentioned?

24 A. Yes, ma'am.

25 Q. What type of drugs?

1 A. He had Oxycodone, Xanax, methamphetamine.

2 Q. Where do you remember seeing those drugs?

3 A. In a big black bag, like a suitcase-type.

4 Q. And who normally would carry that -- or who normally
5 would possess that bag when you had contact with
6 Mr. Morehouse?

7 A. He did.

8 Q. You mentioned the night of August 3rd sometime after
9 9:30. Where was it that you had the occasion to see him?

10 A. At my house.

11 Q. And when he came to your house, was he alone or was
12 he with someone?

13 A. He was with somebody, another male.

14 Q. All right. And you say another male. I want to
15 stop there and ask you prior to that date, the date of
16 August 3rd, had you ever met anyone by the name of Wiley
17 Sisk through Mr. Morehouse?

18 A. Yes, ma'am.

19 Q. And where had Wiley Sisk met you or where had you had
20 contact with Wiley Sisk before that night?

21 A. At my house.

22 Q. Okay. How was it that Wiley Sisk ended up at your
23 house?

24 **MR. HILLIARD:** Objection. Relevance.

25 **THE COURT:** I'm gonna allow it. This was the night

1 he was there with him, so --

2 **MR. HILLIARD:** It's a different night.

3 **MS. MAYES:** We can clarify, Your Honor.

4 **THE COURT:** All right. Clarify it then.

5 BY MS. MAYES:

6 Q. Are you familiar with the relationship between

7 Mr. Morehouse and Mr. Sisk?

8 A. Yes, ma'am.

9 Q. How was it that you met Mr. Sisk? Who introduced you
10 or who set up a meeting between you and Mr. Sisk?

11 A. Mr. Morehouse.

12 Q. And when -- when was that event in relation to the
13 night of August 3rd, which is --

14 A. It was a couple of days prior to August 3rd. I can't
15 tell you the exact date.

16 Q. All right. And what, if anything, did Mr. Morehouse
17 say to you about this contact with Mr. Sisk?

18 A. Can you rephrase the question?

19 Q. Yes. What is your --

20 **MR. HILLIARD:** Well --

21 **THE COURT:** Wait.

22 **MR. HILLIARD:** If she's gonna rephrase it, I'll wait
23 until the end.

24 **THE COURT:** Okay. Ask your question and then he may
25 have an objection.

1 **MR. HILLIARD:** Yes, sir.

2 BY MS. MAYES:

3 Q. You've indicated that you met Mr. Sisk through
4 Mr. Morehouse. Did Mr. Sisk work for Mr. Morehouse?

5 A. To my knowledge, yes, ma'am.

6 Q. In what capacity?

7 A. He was supposed to handle business, I guess, whatever
8 Charlie would tell him to do. If money was owed or he --
9 from what -- the word that I actually heard was "gun boy".

10 Q. All right. When he came to your residence, what, if
11 anything, did he retrieve? And I'm referring to Mr. Sisk.

12 A. A pistol.

13 Q. And who had left the pistol at your house?

14 A. Mr. Morehouse.

15 Q. So moving forward now to the actual night of August 3,
16 2015, based on your observations who do you believe the
17 person to be who was with Mr. Morehouse that night?

18 A. Mr. Sisk.

19 Q. Now did they actually come inside your residence?

20 A. Yes, ma'am.

21 Q. What happened once they came inside your residence?

22 A. The other guy that was with him that may have been
23 Mr. Sisk, like I say I can't positively identify him, but
24 he stood in the kitchen and me and Mr. Morehouse went into
25 my bedroom to talk because we were actually supposed to

1 hang out that night and at the time my car was broke down
2 so I had asked him about giving me a ride to take my kids
3 to North Augusta where my mom was so she could keep them
4 for the night and he said that he couldn't, he had to help
5 his friend with something.

6 Q. All right. So I want to stop you right there. Having
7 previously met Mr. Sisk, the person that you saw in your
8 home that night, can you tell us whether or not he had all
9 the same physical characteristics of Mr. Sisk?

10 A. He did.

11 Q. At some point you said you went into the bedroom. Who
12 was with you in the bedroom?

13 A. Just Mr. Morehouse.

14 Q. What name did you call him by?

15 A. Charlie.

16 Q. Was anyone in the bedroom at that point in time other
17 than you and Charlie?

18 A. No, ma'am.

19 Q. So you had a requested that he give you a ride to
20 North Augusta?

21 A. Uh-huh.

22 Q. And what was his response?

23 A. That he couldn't because he had to help his friend
24 handle something.

25 Q. So once he told you that he had to help his friend

1 handle something, what, if any, other information did he
2 give you about that?

3 A. I asked him what he meant, what they were gonna do.

4 **MR. HILLIARD:** Objection.

5 **THE COURT:** She can't tell what somebody said, but
6 she can tell what she --

7 **MS. MAYES:** This would be a statement from the
8 Defendant, Your Honor.

9 **THE COURT:** Well, re-characterize that then.

10 **MS. MAYES:** All right.

11 BY MS. MAYES:

12 Q. Was anyone else in the bedroom other than you and
13 Mr. Morehouse?

14 A. No, ma'am.

15 Q. All right. So this is a statement Mr. Morehouse is
16 making to you?

17 A. Yes, ma'am.

18 Q. All right. You asked him what?

19 A. What they were going to do.

20 Q. All right. And did Mr. Morehouse respond?

21 A. Yes, ma'am. He said we are gonna split somebody's
22 wig.

23 Q. And after he told you we're gonna split somebody's
24 wig, what happened next?

25 A. I didn't really ask any questions about what he

1 meant. I just kind of thought it meant rough somebody up,
2 whatever, I still don't know, but --

3 Q. Let me ask you this. What was his mood or demeanor
4 as he's making this statement to you?

5 A. He was in a hurry. He seemed really anxious, just
6 kind of get in and get out. Usually he would hang out a
7 little bit. Like he was just kind of on a mission to go.

8 Q. So after he makes this statement to you, did he state
9 anything else to you regarding his plans that night?

10 A. Yes. He had said -- I guess maybe the look on my
11 face, whenever he said that he told me if you don't want me
12 to go, tell me and I won't go, and I said well, go handle
13 whatever you have to handle, and he said well, it's either
14 him or me.

15 Q. It's either him or me?

16 A. Uh-huh.

17 Q. And did you know who he was referring to at that
18 point?

19 A. No, ma'am.

20 Q. After that conversation, Ms. Owens, did he leave the
21 bedroom?

22 A. Yes, ma'am.

23 Q. And where was the other individual that you believed
24 to be Mr. Sisk?

25 A. He was standing in my kitchen the whole time.

1 Q. After Mr. Morehouse came out of your bedroom and
2 after you saw Mr. Sisk in the kitchen, can you tell us
3 whether or not they left?

4 **MR. HILLIARD:** Objection.

5 **THE COURT:** Why can't she answer that?

6 **MR. HILLIARD:** Because it assumes facts not in
7 evidence. The prosecutor has identified the person in
8 the home as Mr. Sisk. The witness has said they are
9 consistent with Mr. Sisk, but --

10 **THE COURT:** I'll overrule that.

11 **MR. HILLIARD:** Thank you.

12 BY MS. MAYES:

13 Q. What happened next regarding Mr. Morehouse and this
14 individual that you believed to be Mr. Sisk?

15 A. They left in his car.

16 Q. Whose car are you referring to?

17 A. I'm sorry. Charlie's car.

18 Q. And your testimony is that was sometime after 9:30.
19 Did Mr. Morehouse ever come back to your residence that
20 night?

21 A. No, ma'am.

22 Q. And the next day can you tell us whether or not you
23 became aware of Mr. Morehouse's arrest the next day?

24 A. I did.

25 Q. Did you ever have any direct physical contact with

1 him after his arrest?

2 A. No, ma'am.

3 Q. Did you at any point, Ms. Owens, ever observe any
4 type of threats or coercion between the two of them, the
5 person in your home and Mr. Morehouse?

6 A. No, ma'am, I didn't.

7 Q. How did they appear to be acting with one another?

8 A. They were friends. Appeared to be.

9 **MS. MAYES:** Nothing further, Your Honor.

10 **THE COURT:** Mr. Hilliard.

11 **MR. HILLIARD:** Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. HILLIARD:

14 Q. Back at the point in time that you were -- this event,
15 this evening that you're talking about, back then you were
16 taking opiates and Xanax; is that right?

17 A. Yes, sir.

18 Q. You would consider yourself to be a drug addict at
19 that point?

20 A. Yes, sir.

21 Q. When did you stop -- or let me ask a better question.
22 So did you start taking Suboxone in order to get off of the
23 other pills?

24 A. Yes, sir.

25 Q. Did you do that at a program or rehab or detox or

1 jail?

2 A. At a program that I entered myself in.

3 Q. So -- and how long have you been taking the Suboxone?

4 A. Little over a year.

5 Q. And that's a maintenance program through a doctor?

6 A. Yes, sir.

7 Q. And so you -- Charlie came to your house that night
8 for what purpose?

9 A. We were supposed to hang out that night. He was gone
10 all day, so I'm -- he would pop in and out. I mean, it
11 wasn't always that I knew he was gonna show up.

12 Q. Right. So he just -- he showed up and I think you
13 testified that you -- that you knew Wiley Sisk or had met
14 Wiley Sisk?

15 A. Yes, I had seen him. I met him a couple of days
16 prior.

17 Q. But you can't say -- you can't say under oath that
18 the person in your house besides Charlie was Wiley Sisk.
19 You can't say that for certain?

20 A. No, because when I met him -- when I met him a couple
21 of days prior, it was outside in the dark. When he came
22 to my house that night on the 3rd, I didn't really pay him
23 any attention. I mean, he was -- it was just some guy with
24 Charlie. That's the way I looked at him.

25 Q. Just some guy with Charlie?

1 A. He had a hat on.

2 Q. And what Charlie said was that -- you wanted Charlie
3 to take you somewhere?

4 A. Uh-huh.

5 Q. Right?

6 A. Yes, sir.

7 Q. Okay. You have to say yes or no because this lady
8 has to write it down.

9 A. Yes, I asked him to.

10 Q. And he said I can't do that, I have to help a friend
11 with a situation?

12 A. Yes, sir.

13 Q. That Charlie was gonna help a friend with a situation?

14 A. Yes, sir.

15 Q. And he said to you if you don't want me to go just say
16 so and I won't go?

17 A. Yes.

18 Q. And after -- before that he said that they had -- that
19 he had to split somebody's wig?

20 A. Yes, sir, after. I've got to go help my friend with
21 something and I was like what's so important because like
22 I needed the ride because my car broke.

23 Q. You'd rather have him go with you than help his
24 friend?

25 A. I mean, if he could, but he had been gone all day, he

1 was in and out, you know, so. What was the question?

2 Q. He had to go split the wig, he couldn't go with you?

3 A. That's what he said. He said we have to go. We're
4 going to split somebody's wig.

5 Q. Okay. But then he said if you don't want me to go,
6 just say so and I'll go with you to wherever?

7 A. Yeah, but I'm not gonna be the one to tell him not to
8 do something if that's what he has planned.

9 Q. Okay. And then when he says -- he says to you it's
10 him or me, could that have meant just as easily that either
11 I'll go or the other guy will go and --

12 **MS. MAYES:** Objection. Speculation.

13 **THE COURT:** I think I'm gonna sustain that.

14 BY MR. HILLIARD:

15 Q. Well, remind me the context of the statement -- or
16 tell me what the statement was again about him or me.

17 A. It's either him or me.

18 Q. Okay. And remind me the context of that.

19 A. I don't understand your question.

20 Q. Well, it's -- okay. Let me see if I remember this
21 correctly. You and Charlie are having a conversation in
22 the bedroom, right?

23 A. (Nods head.)

24 Q. Right? Right?

25 A. Yes, sir.

1 Q. Okay. And during the conversation that you're having
2 in the bedroom, you want Charlie to take you somewhere but
3 Charlie says he's got to go help a friend, right?

4 A. Yes, sir.

5 Q. And after Charlie says that he has to go help a friend
6 rather than go with you somewhere, he says that you can
7 tell him that you would rather him not help the friend,
8 that you would rather have him go with you, right?

9 A. No, I didn't say that to him. I never told him I
10 would rather him take me here than go do something with
11 your friend. I didn't make a big issue of taking me. I
12 asked him, he said I have to go help him with something,
13 I dropped it at that.

14 Q. I'm sorry, I got it backwards. Charlie said to you
15 if you say so I'll do something with you rather than go
16 with my friend. You can choose whether I go or don't. He
17 said that.

18 A. He said if you don't want me to go, just tell me and
19 I won't.

20 Q. Okay. And at that point was when he said it's either
21 him or me?

22 A. I told him to go handle whatever he had to handle.
23 Handle his business.

24 Q. Okay. And the container that you're -- that Charlie
25 carried his drugs in was a black bag?

1 A. The one that I had saw, yes, sir.

2 **MR. HILLIARD:** Thank you, ma'am. That's all I have.

3 REDIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. And in response to that, when you told him if he had
6 to go handle his business, then go, what was his response?

7 A. It's either him or me.

8 **MS. MAYES:** Nothing further.

9 **THE COURT:** You may step down.

10 **MR. HILLIARD:** No objection to this witness being
11 excused, Your Honor.

12 (Witness excused.)

13 **MS. MAYES:** The State calls Dr. Janice Ross. May we
14 approach?

15 **THE COURT:** Sure.

16 (Whereupon, Janice Ross was duly sworn by the Clerk
17 of Court.)

18 **THE CLERK:** Once you're seated, Doctor, state your
19 full name, spelling your last name.

20 **THE WITNESS:** Janice Edwards Ross, R-O-S-S.

21 **MR. HILLIARD:** I'll stipulate to the qualifications.

22 **THE COURT:** Okay. Fair enough.

23 JANICE EDWARDS ROSS,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MAYES:

2 Q. Dr. Ross, give us some information about yourself.
3 Where are you currently employed?

4 A. With Newberry Pathology Associates in Newberry, South
5 Carolina.

6 Q. All right. And in what capacity?

7 A. I'm a hospital and a forensic pathologist.

8 **MR. HILLIARD:** We stipulate to the doctor's
9 qualifications to be qualified as an expert in forensic
10 pathology. Good to see you, Doctor.

11 **THE COURT:** And in case Ms. Mayes wants the jury to
12 understand exactly what it is, I'll allow her some
13 latitude, but her qualifications in the field of forensic
14 pathology are unquestionable. I think this is the second
15 time she's being offered as an expert today.

16 **THE WITNESS:** Yes.

17 BY MS. MAYES:

18 Q. And, Dr. Ross, just in general what is meant by the
19 term "forensic pathologist"?

20 A. To become a forensic pathologist, I've had four years
21 of college. I've got a bachelor's degree from the
22 University of South Carolina and my M.D. from Upstate
23 Medical Center in Syracuse, New York. I did further
24 training in the field of pathology. Pathology, as opposed
25 to something like surgery and pediatrics, teaches you how

1 to identify and diagnose cancers and different diseases,
2 infections. By using the microscope and looking at tissue
3 and by using the laboratory, we are taught how to do an
4 autopsy to find a cause of death. The word "forensic"
5 means legal, so I've done further training in that area.
6 And a forensic autopsy is somewhat more detailed. We
7 document injuries and patterns of injuries, take samples
8 for toxicology and document evidence for the courts of law.
9 So I'm Board-certified in three areas of pathology
10 including forensic pathology.

11 Q. Okay. Tell us a little about your educational
12 background that lead to you becoming medical doctor in the
13 field of forensic pathology.

14 A. Like I said, I went to the University of South
15 Carolina and then medical school for four plus years of
16 training in pathology.

17 Q. And does that include a specific certification as a
18 forensic pathologist?

19 A. Yes, we take a national exam to be certified.

20 Q. Is it possible for you to estimate how many autopsies
21 you have performed throughout your career?

22 A. It's over eleven thousand.

23 Q. Is it possible to estimate how many homicide autopsies
24 you've conducted throughout your career?

25 A. I'm not sure. Probably about ten percent.

1 Q. Okay. Now moving forward to your actual courtroom
2 experience, have you testified previously as an expert in
3 the field of forensic pathology?

4 A. Yes.

5 Q. Is it possible to estimate how many such times?

6 A. In South Carolina over two hundred times.

7 Q. Can you tell us whether or not you conducted an
8 autopsy on the victim in this case, James David Porter,
9 the Third?

10 A. Yes, I did.

11 Q. Dr. Ross, what was the date of your autopsy?

12 A. August 4, 2015.

13 Q. So that would be one day after the homicide?

14 A. Correct.

15 Q. During the course of your autopsy, do you get general
16 information such as age of the victim?

17 A. Yes, I do. The coroner calls and authorizes and
18 requests an autopsy and a time for the autopsy. At that
19 time he or she gives us the information from the scene and
20 whatever she knows -- he or she knows.

21 Q. Can you tell us the age of James David Porter on the
22 date of your autopsy?

23 A. Twenty-two.

24 Q. Dr. Ross, were you able to determine a cause of death?

25 A. Yes.

1 Q. What was that?

2 A. It's exsanguination, which means to bleed out, and
3 it's due to multiple lacerations of multiple blood vessels
4 primarily from a gunshot wound to the abdomen.

5 Q. Were you able to determine the manner of death?

6 A. Yes.

7 Q. What was that?

8 A. Homicide.

9 Q. Dr. Ross, is it possible for you to determine from
10 your autopsy how many gunshot wounds were inflicted on
11 James David Porter, the Third?

12 A. We had a total of anywhere from six to ten gunshot
13 wounds. The difference being one wound went through the
14 left hand and three wounds went through the right forearm
15 and those could have re-entered the body of the victim.

16 Q. All right. So based upon that information, what would
17 be the estimate or range of minimum number of gunshot
18 wounds to maximum number of maximum?

19 A. Minimum of six, maximum of ten.

20 Q. Okay. Somewhere between six and ten with some of
21 those possibly being re-entry where they enter one part of
22 the body, exit and then enter a second part of the body?

23 A. Correct.

24 Q. Dr. Ross, I'm gonna ask you to take a look at these
25 items and ask you whether or not you recognize them?

1 A. Yes, these are bullets we retrieved from the victim,
2 James Porter, at the time of autopsy.

3 Q. All right. And as part of the autopsy, is it routine
4 to inspect various locations in the body to determine
5 whether there may be a projectile still intact?

6 A. Yes, and we -- we do an external examination
7 thoroughly and in a case like this where there are gunshot
8 wounds, we do x-rays to identify whether or not any bullets
9 remain in the body.

10 Q. All right. And how many total were recovered from
11 Mr. Porter's body?

12 A. Two.

13 Q. All right. So does that -- or can you tell us to a
14 reasonable degree of medical certainty would that indicate
15 that the remaining bullets exited the body and would be
16 located elsewhere?

17 A. Correct.

18 Q. Now did you also have an opportunity to examine the
19 body for any signs of a physical altercation, such as a
20 fistfight, looking at the hands or looking at the face to
21 see if they got close enough to someone to actually engage
22 in an altercation?

23 A. Yes, we look for any and all injuries.

24 Q. Were there any signs of a physical altercation or
25 injuries to the face, lips or nose of Mr. Porter to

1 indicate a fistfight?

2 A. No, there was not.

3 Q. Was there any indication at all of a physical
4 altercation?

5 A. Just one abrasion on the back of the right hand near
6 the thumb, but it was not patterned and didn't have a lot
7 of reaction to it.

8 Q. All right. May that have been pre-existing or
9 potentially postmortem, what you're referring to now?

10 A. It didn't have a lot of reaction to it, so it could
11 have been right at the time of the death where there wasn't
12 a lot of circulation, blood circulation.

13 Q. Now looking at your findings as a whole, did you
14 determine any type of powder burns to the victim that may
15 indicate contact -- a contact gunshot wound such as being
16 close enough to the shooter where the gun would actually
17 touch the skin?

18 A. No, there was no -- no indication of soot or powder
19 or muzzle imprint.

20 Q. What, if anything, does that indicate to you
21 regarding the distance or range of these gunshot wounds
22 to James David Porter?

23 A. The range of gunshot wounds, when the bullet comes
24 out the end of the gun there's soot and powder, but the
25 soot and powder only go a certain distance depending on

1 the type of gun or the ammunition, so if you see soot or
2 powder you can say that the gun was fairly close to the
3 skin. In this case, in the areas where there was not
4 clothing on the person there was no soot or powder, so we
5 call that a distant wound.

6 Q. All right. And when you use the term "distant wound",
7 what type of range are you talking about?

8 A. At least two feet. It depends on -- on the gun.

9 Q. All right. So at least two feet. Could it be greater
10 than two feet?

11 A. Yes.

12 Q. So somewhere two feet or in excess of two feet away
13 from the victim at the time the gun was fired?

14 A. Yes.

15 Q. Now, Dr. Ross, do you also have the opportunity
16 during the course of your autopsy to evaluate your
17 findings for the angle or direction in which the bullets
18 are fired?

19 A. Yes.

20 Q. And the angle or direction in which the bullets
21 actually enter the victim's body?

22 A. Yes.

23 Q. How, if it all, in your training as a forensic
24 pathologist may that aid in determining the positioning
25 of the victim versus the positioning of the shooter at

1 the time of the shooting?

2 A. The bullets go straight, so it just tells you -- the
3 direction of the bullet just tells you it's going left to
4 right, back to front, up or down.

5 Q. Is that part of your forensic training as well?

6 A. Yes.

7 Q. Can you tell us whether or not you had the opportunity
8 in this case to actually make markings on a forensic
9 mannequin for the purpose of documenting the angle of entry
10 and exit wounds for James David Porter?

11 A. Yes, I did.

12 Q. And do you see that forensic mannequin present in the
13 courtroom?

14 A. Yes.

15 Q. Is that the same mannequin that you made those
16 documentations regarding?

17 A. Yes.

18 Q. Can you tell us whether or not during the course of
19 your autopsy the various gunshot wounds that you observed
20 are documented by photographs?

21 A. Yes, they are.

22 Q. Let me show you some photographs and ask you whether
23 or not you recognize them.

24 A. Yes, these are all photographs of wounds from James
25 Porter at the time of the autopsy.

1 Q. All right.

2 A. These, as well, are photographs of gunshot wounds
3 from the autopsy.

4 Q. Are those photographs -- that collection of
5 photographs a fair and accurate representation of the
6 injuries that you observed and documented during the
7 course of your autopsy?

8 A. Yes.

9 **MS. MAYES:** Your Honor, these would be State's
10 exhibits for evidence. I believe we have sixteen.

11 **MR. HILLIARD:** If we could talk about these for just
12 a second, Judge.

13 **THE COURT:** Uh-huh.

14 (Proceedings held at the bench; not reported.)

15 **THE COURT:** Are you good with those?

16 **MR. HILLIARD:** Yes, sir.

17 **THE COURT:** All right. So these will be -- so 14
18 coming in?

19 **MS. MAYES:** I believe so, Your Honor. That's correct,
20 Your Honor. 14.

21 (State's Exhibit Numbers 114 to 127, photographs, were
22 marked and admitted into evidence.)

23 BY MS. MAYES:

24 Q. Now, Dr. Ross, can you tell us whether or not when
25 using the forensic mannequin it allowed you to determine

1 or note points of entry and exit regarding those angles?

2 A. Yes, it would.

3 Q. All right.

4 **MS. MAYES:** I'm gonna ask, Your Honor, if the witness
5 may have permission to step down.

6 **THE COURT:** Absolutely.

7 (Whereupon, the witness steps down from the witness
8 stand.)

9 BY MS. MAYES:

10 Q. I'm gonna start by asking you about the gunshot
11 wounds to the thighs or leg areas. What can you tell us
12 about the point of entry of those wounds and what, if
13 anything, that would indicate?

14 A. The entrance wound of the right thigh, you can see
15 here, and the bullet went upwards and towards the middle
16 of the body. We found the bullet around the pelvic bone.

17 Q. Are you referring to this area here?

18 A. Yeah, that's supposed to be a bullet.

19 Q. All right. And so this would be the point of entry
20 here?

21 A. Correct.

22 Q. And what, if anything, can you tell us about the
23 direction or angle in which that bullet enters to enter
24 the thigh at this angle and actually moves upward into the
25 pelvis area where it was recovered?

1 A. A bullet goes straight, so it has to go upward.

2 Q. And in -- in describing that point of entry and where
3 the bullet was located, Dr. Ross, can you tell us whether
4 or not that is consistent with the victim being down and
5 someone standing over him firing the shot downward?

6 A. It's consistent with that, yes.

7 Q. And can you tell us whether or not that would be
8 consistent with the victim's legs being upright or upward
9 in this position?

10 A. It's consistent, yes.

11 Q. Now looking at the left thigh, what, if anything, can
12 you tell us about the point of entry?

13 A. This wound went, again, in the lower thigh, but it
14 came out. It went just underneath the skin and it came
15 out at -- above in the upper part of the thigh.

16 Q. All right. So this would be entry and this would be
17 exit, correct?

18 A. Correct.

19 Q. Now, once again, let me ask you what, if anything,
20 does that point of entry and that point of exit indicate
21 about whether the victim was down and someone was standing
22 over him?

23 A. Bullets go straight, so it just means that the bullet
24 is going upwards.

25 Q. All right. Would that be consistent with someone

1 standing over the victim firing downward?

2 A. Yes.

3 Q. Would that also be consistent with the victim's legs
4 being up as demonstrated in this position?

5 A. Yes.

6 Q. Now I want to move forward and ask you whether or
7 not there was any type of entry wound to the side of the
8 torso?

9 A. Just this one right here that did a lot of damage
10 internally. It came in the right side of the -- right
11 side of the belly and went through and hit a lot of blood
12 vessels and came out the left side.

13 Q. Would that be the exit wound here?

14 A. Correct.

15 Q. Now can you tell us whether or not you observed any
16 type of defensive wounds to James David Porter?

17 A. Well, any injuries to the hands or forearms can be
18 classified as a defense wound indicating just what it
19 means, what it says. If you see something coming at you,
20 you're gonna put your hands up and your arms up. So these
21 three wounds that go through the right forearm could be
22 defense wounds trying to stop the bullet and this one in
23 the -- that goes in the palmer aspect of the left hand and
24 comes out the back of the left hand.

25 Q. Can you tell us whether or not the identification of

1 defensive wounds such as wounds to the forearm or wounds
2 to the hands are included in your forensic training,
3 specifically in the field of forensic pathology?

4 A. Yes.

5 Q. And then finally, Doctor, I want to ask you about the
6 angle of this wound to the neck.

7 A. The one in the neck goes in the right side just
8 underneath the ear. It goes kind of behind the larynx, it
9 hits one of the cervical vertebra, one of the bones of the
10 cervix, vertebra number two, and it's going downward and it
11 comes out the left side of the neck.

12 Q. All right. So the exit wound would be here?

13 A. Correct.

14 Q. Dr. Ross, you mentioned that the C-2 area of the
15 spine is injured by this particular gunshot wound. What,
16 if anything, in your training as a forensic pathologist
17 can you tell us about a gunshot wound with that degree of
18 force to the area that would fracture the C-2 vertebra?

19 A. It hit the bone, but it did not go through the spinal
20 cord itself. But even that force could cause basically a
21 concussion of the cervical spine like a concussion of the
22 brain if you're hit in the head playing football or
23 something, which means that momentarily there could be a
24 lack of nerve -- innervation going from the brain down to
25 the rest of the body.

1 Q. Could you tell us whether or not that could result in
2 paralysis or temporary paralysis?

3 A. It could be temporary paralysis.

4 Q. Resulting in an immobilization of the victim?

5 A. Yes.

6 Q. And, Dr. Ross, looking at the angle in which that
7 bullet enters, upward, all the way downward to the bottom
8 of the neck on the opposite side, can you tell us whether
9 or not that wound is consistent with someone standing over
10 the victim firing at the victim on the ground?

11 A. It's consistent.

12 **MS. MAYES:** Your Honor, at this time the State would
13 request a demonstration. A live demonstration.

14 **THE COURT:** Sure.

15 **MS. MAYES:** Come forward, please.

16 (Whereupon, a gentleman steps forward.)

17 BY MS. MAYES:

18 Q. So looking here at the gunshot wound to the thigh,
19 that's -- according to your testimony can you tell us
20 whether or not that's consistent with firing in this way
21 and this way as the victim is down?

22 A. Yes, it is.

23 Q. And then the injury and gunshot wound that enters
24 the right torso, can you tell us whether or not that's
25 consistent with the victim rolling over?

1 A. It is consistent.

2 Q. With the bullet entering here?

3 A. Yes.

4 Q. And then the defensive wounds to the forearm, the
5 wounds you've identified to the forearm, can you tell us
6 whether or not that's consistent with the hand being -- or
7 arm being up in a defensive nature?

8 A. Yes.

9 Q. And then the gunshot wound through the palm that
10 exits the back of the hand, can you tell us whether or not
11 that's consistent with a defensive maneuver such as this?

12 A. It is consistent.

13 Q. And then you've indicated that some of the wounds may
14 be re-entry wounds?

15 A. Correct.

16 Q. Can you tell us whether or not that wound to the back
17 of the neck that enters here and exits out of the lower
18 left neck is consistent with someone standing over the
19 victim firing downward into him in this position?

20 A. It is consistent with that.

21 **MS. MAYES:** Thank you. You may return. You may
22 return, too.

23 (Whereupon, the gentleman returns to his seat and the
24 witness returns to the witness stand.)

25 BY MS. MAYES:

1 Q. I'll show you one more photograph, which is State's
2 Exhibit 123. I'm gonna ask you specifically about the
3 abrasion there to the lower right hip area. Can you tell
4 us whether or not that may be consistent with some type of
5 trauma?

6 A. It may or may not be. I think there's some dried
7 blood there and what we call livor mortis where after you
8 die blood by gravity goes down towards the ground.

9 Q. All right. And I want to refer specifically to this
10 area here across the skin.

11 A. That could be a little bit of an abrasion, but it
12 doesn't have a pattern to it, so.

13 Q. You weren't able to determine the type of instrument
14 or the source of any type of injury?

15 A. That's correct.

16 Q. Looking now, Dr. Ross, at the actual photographs which
17 are in evidence, 125 here to the left leg, is that the same
18 point of entry and exit that you previously demonstrated
19 with the mannequin?

20 A. Yes, it is.

21 Q. One we did not talk about here, State's Exhibit 117?

22 A. Yes, that's an entrance wound in the left upper
23 shoulder. It comes out of the back, the back of the left
24 shoulder.

25 **MR. HILLIARD:** What number was that?

1 **MS. MAYES:** 117.

2 BY MS. MAYES:

3 Q. 120, looking now at the left thigh area, what are you
4 depicting here with this rod? Did you place these rods?

5 A. Yes. Yes, that's the right thigh. That's the one
6 that goes in and goes upward and the bullet is found around
7 the pelvic area.

8 Q. All right. So this one goes in here and has no exit
9 wound and that is one of the bullets that you previously
10 identified as you retrieving during the autopsy and it's
11 located here inside the pelvis?

12 A. Correct.

13 Q. So that bullet is travelling upward from here?

14 A. Correct.

15 Q. And here, this is 120, again, you previously indicated
16 there was a wound to the right torso consistent with one
17 rolling over. What are we looking at here?

18 A. That's the one going in the right flank, right side,
19 and coming out the left side.

20 Q. Entering here and exiting here?

21 A. Yes.

22 Q. Is that the exit wound for that injury?

23 A. Yes, it is.

24 Q. And regarding the wounds that you've described as a
25 defensive nature, I'm gonna show you what is State's

1 Exhibit 124.

2 A. That's the right forearm showing the three wounds
3 through that forearm.

4 Q. So all of these here at the top of the forearm are
5 the actual entry wounds?

6 A. Correct.

7 Q. And then these are the exit wounds here?

8 A. Correct.

9 Q. What is it, Dr. Ross, that causes this type of
10 discoloration or bruising around the exit wound?

11 A. It's just some laceration of blood vessels under the
12 skin.

13 Q. State's Exhibit 114, we're looking at the left-hand
14 here.

15 A. Yes, it's an entrance wound in the palmer aspect of
16 the left hand.

17 Q. Entering here to the open palm?

18 A. Correct.

19 Q. And what are we looking at here in 115?

20 A. That's the exit wound on the back of the left hand.

21 Q. All right. The bullet travels through the left hand
22 palm and exits there around the knuckle area?

23 A. Correct.

24 Q. And finally, Dr. Ross, looking here at 116 -- I'll
25 come back to that. One moment. Regarding the actual entry

1 wound to the right neck that you previously identified, I'm
2 gonna show you a photograph.

3 **MR. HILLIARD:** No objection.

4 **THE COURT:** What number is that?

5 **MS. MAYES:** 128, Your Honor.

6 (State's Exhibit Number 128, a photograph, was marked
7 and admitted into evidence.)

8 BY MS. MAYES:

9 Q. What are we looking at here?

10 A. That's the entry wound right below the right ear.

11 Q. And State's 116?

12 A. That's the exit wound from that neck wound below the
13 left ear.

14 Q. Over here on this side?

15 A. Correct.

16 Q. Dr. Ross, based on this constellation of findings, the
17 consideration of all of the various angles that have been
18 documented by photographs, as well as the use of the
19 forensic mannequin, can you tell us whether or not all
20 these injuries may have been sustained while the victim was
21 on the ground?

22 A. They may have, yes.

23 **MS. MAYES:** I beg the Court's indulgence.

24 **THE COURT:** Yes, ma'am.

25 BY MS. MAYES:

1 Q. I wanted to ask you also looking at the angle of these
2 bullet wounds here into the thighs, can you tell us whether
3 or not that's consistent with someone standing in this
4 location to the victim? In other words, towards the bottom
5 of the victim below the thighs and below the feet to enter
6 at this angle here?

7 A. It's consistent with that, yes.

8 Q. And this angle here?

9 A. Yes.

10 Q. Whereas this wound that enters at a downward angle
11 through the bottom of the right ear and then a further
12 downward angle through the bottom of the left neck, can
13 you tell us whether or not that would be consistent with
14 a shooter standing here?

15 A. Yes.

16 **MS. MAYES:** Nothing further of Dr. Ross at this time,
17 Your Honor.

18 **MR. HILLIARD:** Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. HILLIARD:

21 Q. Doctor, you said that the -- that the injuries may
22 have all been sustained -- may have all been sustained
23 while the victim was on the ground; is that correct?

24 A. That's correct.

25 Q. They may also not have been sustained while the

1 victim was on the ground?

2 A. Correct.

3 Q. And there are -- you would agree with me that -- I
4 didn't hear the answer to the question. Did you put these
5 rods into the --

6 A. I marked the entrance and exit wounds and the rods
7 were placed accordingly.

8 Q. After -- by someone else after they were marked?

9 A. Correct, yes.

10 Q. And you did not manipulate the limbs to fix how they
11 might have been?

12 A. No, I did not.

13 **MR. HILLIARD:** Judge, I'm gonna get Jonathan to come
14 over here and hold this thing up, if that's all right?

15 **THE COURT:** Yes.

16 BY MR. HILLIARD:

17 Q. So if the -- well, let me ask you this. Do you know
18 whether or not this model has been -- how it relates to
19 the actual height and weight of the victim in this case?

20 A. No, I do not.

21 Q. So the victim could be shorter or taller?

22 A. It could be.

23 Q. And that would -- that would impact the -- it would
24 not impact the angles going through the body, but it would
25 impact where they would -- where they would come from out

1 on this side? In other words, a shorter person -- let's
2 say if this person were shorter, this would not necessarily
3 have been fired from that -- it would not take -- I don't
4 know how to ask this question. I'll ask another one. I'm
5 sorry.

6 The point of that is that the individual who was --
7 who was killed, the murdered person, could have been
8 standing while some of these shots were fired, true?

9 A. Some of them, yes. Bullets go straight, so the gun
10 would have to be -- for instance, in the neck would have
11 to be above the head and on his -- the victim's right
12 side.

13 Q. Okay. In the pictures, this angle -- this angle that
14 you have here is based on the bullet going down right at
15 the base of the right ear; is that right?

16 A. Correct.

17 Q. And that can be seen on State's Exhibit 128?

18 A. Yes, sir. That's the entrance wound.

19 Q. That's the entrance wound. And then State's Exhibit
20 Number 116 is the exit?

21 A. Correct.

22 Q. And did you measure the differential in the heights
23 of -- let me put this over here. Did you measure the
24 differential in the heights from the top of the head to
25 come up with this angle?

1 A. Yes, the entrance wound was six inches below the top
2 of the head and the exit wound was seven and a half inches
3 below the top of the head.

4 Q. And that's -- that's how this comes about?

5 A. Correct.

6 Q. Got you. And the others -- the other angles were
7 measured as well from the shoulder perhaps?

8 A. From the top of the head, yes.

9 Q. Oh, from the top of the head for the entrance and
10 the exit wound?

11 A. That's correct.

12 Q. All right. And the ones that -- let me ask you about
13 -- about this one where the -- where the bullet -- and this
14 is the one to the torso. Here, pull it over.

15 A. I see it, yes.

16 Q. The one from the torso where the bullet enters but
17 then is lodged in the torso; is that correct? Is that that
18 one?

19 A. Yes, it goes underneath the skin.

20 Q. What -- do you have a notion as to why a bullet
21 would --

22 A. That was probably a re-entry from the right arm --

23 Q. From this one?

24 A. -- that slowed the bullet down, yes.

25 Q. Okay. So if that's a re-entry, it would make sense

1 that -- that a bullet which goes through a barrier such as
2 a -- were some of the bones broken in this right arm?

3 A. Yes.

4 Q. So a bullet which goes through this right arm breaking
5 some of those bones would be slowed down enough so that
6 when it entered here it might not be going fast enough to
7 go on through skin?

8 A. That's correct.

9 Q. And that makes a lot of sense because there's not much
10 in there to stop that bullet; is that true?

11 A. Correct.

12 Q. So could you say with some reasonable degree of
13 medical certainty -- maybe that's a bad question -- but,
14 anyway, is that probably what happened?

15 A. Correct.

16 Q. So in that case this arm would have had to have been
17 down for that to have happened?

18 A. Yes.

19 Q. All right. And if the arm is down -- can you hold it
20 up a little higher? So I'm -- and the numbers here, the
21 nine and the eight, those relate to what, please, ma'am?

22 A. We -- just for organization purposes we number the
23 wounds from the top to the bottom, so the wound in the --
24 excuse me. The wound in the neck would be number one, for
25 instance, the one in the left shoulder is number two, the

1 two in the abdomen are three and four and then the ones in
2 the right forearm are five, six and seven, the one in the
3 right thigh is eight, the one in the left thigh is nine,
4 and the one to the left hand is number ten.

5 Q. So nine is one of the ones that you're fairly certain
6 happened while the victim was on the ground?

7 A. Well, the only other way the bullet would have -- in
8 order to make the bullet go up would be if the person was
9 standing and then the shooter had to be underneath him
10 shooting upward.

11 Q. Yes, ma'am. And so that would be true of nine and
12 then that would be true of eight probably?

13 A. Correct.

14 Q. Well --

15 A. Correct.

16 Q. But based on your forensic study, when the arm is
17 down and the bullet goes through the arm at this height and
18 then goes into the abdomen, that would not be a defensive
19 -- that would not be characterized as a defensive wound?

20 A. The wound through the arm I would -- I would define
21 as a defense wound.

22 Q. Even though the arm is in this position?

23 A. He could be standing or laying down.

24 Q. Pardon me?

25 A. He could be standing or lying down.

1 Q. He could be standing or lying down?

2 A. Correct.

3 Q. All right. And this one he certainly could be
4 standing -- well, and how about the wrist? The wrist --
5 this wrist doesn't really articulate, but there's no way
6 to determine which way -- I mean, the wrist could be this
7 way, the wrist could be that way, the hand -- the arm
8 could be down. I mean, there's no -- there's no way to
9 figure out exactly what that means, if anything, right?

10 A. I'd say the entrance wound is in the palmer aspect
11 and the exit wound is in back of the hand.

12 Q. Right. But other than that, the hand could be
13 anywhere?

14 A. Correct.

15 Q. And he could be standing up, laying down or running
16 down the road?

17 A. Correct.

18 Q. All right. Thank you, ma'am. And -- so certainly
19 this one he could be standing up as well?

20 A. Yes.

21 Q. And he could be in the process of falling down when
22 this one gets shot? I mean, if you -- let's say you're
23 shooting -- well, not shooting, but let's say he's getting
24 shot and he's in the process of falling down and as he's
25 falling down the person who's shooting is still shooting,

1 but as he's going down all of a sudden this situation gets
2 to be -- you know, he doesn't have to be -- that situation
3 gets to be possible. He may have been falling as this shot
4 was fired to the head?

5 A. Yes.

6 Q. Moving along, is it fair to say that we can't really
7 tell much of a probative nature about what happened and the
8 position of the body from the wounds; is that fair to say?

9 A. That's fair to say. You can -- you can put positions
10 that would be consistent with, yes.

11 Q. So it could be consistent with a lot of different
12 things?

13 A. Correct.

14 Q. Thank you, ma'am. And then you prepared and did a
15 toxicology report; is that correct?

16 A. We drew the blood in the vitreous and the urine and
17 sent it to SLED and they did the toxicology.

18 Q. And this is the toxicology from -- could you look at
19 this as a doctor and talk about the vitreous fluid
20 toxicology?

21 A. This is from blood and it just shows that there's some
22 marijuana on board, cannabinoid, some methamphetamine and
23 amphetamine. Amphetamine is probably a derivative of
24 methamphetamine.

25 Q. Yes, ma'am. And can you tell me what -- that level

1 methamphetamine is? Do you know that?

2 A. I don't offhand, but it's not lethal.

3 Q. It's not lethal?

4 A. Correct.

5 Q. Yes, ma'am. And that was from the -- from the victim
6 from your autopsy?

7 A. That's correct.

8 Q. And, Doctor, there was something that you were --
9 when you were talking about wounds, there was something
10 about an abrasion on one of the hands; is that right?

11 A. Yes, at the base of the right thumb on the back of
12 the hand.

13 Q. On the base of the right thumb on the back of the hand
14 there was an abrasion?

15 A. Yes. It looked peri mortal. It didn't have any
16 reaction to it and there was no pattern to it to tell me
17 what caused that.

18 Q. Premortal?

19 A. Peri. Around the time of death.

20 Q. Around the time of death?

21 A. Yes.

22 **MR. HILLIARD:** Thank you, Doctor. Thank you, ma'am.
23 That's all I have.

24 REDIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. Now, Dr. Ross, let me ask you do you also note the
2 victim's height?

3 A. Yes, seventy-one inches.

4 Q. All right. Seventy-one inches translates to what
5 height?

6 A. Five feet nine inches.

7 Q. All right.

8 A. Yeah, five feet eleven inches. I'm sorry.

9 Q. Five feet eleven inches?

10 A. Yes.

11 Q. And I'm gonna ask you to take a look at this
12 mannequin, again, if you could step down. Dr. Ross, if
13 you could step down.

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

16 BY MS. MAYES:

17 Q. All right. You had indicated previously during your
18 cross-examination that the only other way these could be
19 sustained other than the victim being shot while on the
20 ground would be for someone to be underneath the victim,
21 correct?

22 A. That's right.

23 Q. And then Mr. Hilliard is asking you questions about
24 this particular entry wound on a person who stands five
25 eleven and I believe your response -- well, tell us what

1 your response was in that regard.

2 A. Bullets go straight, so the muzzle of the gun had to
3 be above -- if he's in a standing position, the muzzle of
4 the gun would be above the victim.

5 Q. All right. So other than the victim being on the
6 ground, someone has to be either extremely high up shooting
7 downward or completely on the ground underneath the victim
8 shooting upward, correct?

9 A. Yes.

10 Q. And I believe he was asking you about looking at the
11 injuries here to the forearm and you felt that one may be
12 a re-entry. What are you referring to? Which one is it
13 that you are referring to that may be a re-entry from one
14 of those gunshot wounds to the right forearm?

15 A. The one that goes in the abdomen and stays underneath
16 the skin and the bullet is found right there.

17 Q. All right. So, again, this is one -- this is one
18 that would potentially go through the arm and then travel
19 -- show me again where this one travelled.

20 A. Well, it goes -- it goes in the abdomen here and the
21 bullet is found underneath the skin over there.

22 Q. All right.

23 A. Right to left.

24 Q. All right. So that is an upward angle as well
25 entering here and then travelling upward --

1 A. Slightly, yes.

2 Q. -- through the abdomen or torso area?

3 A. Correct.

4 Q. So, again, that's a situation where the person would
5 have to be firing at least at an angle underneath the
6 victim?

7 A. Potentially, yes.

8 Q. All right. You may return.

9 (Whereupon, the witness returns to the witness stand.)

10 BY MS. MAYES:

11 Q. And Mr. Hilliard was asking you about this particular
12 injury, which -- this gunshot wound, which enters here to
13 the left palm. Is there any scenario where that type of
14 injury to an open palm would not be considered a defensive
15 wound?

16 A. I can't -- generally it's thought of as a defense
17 wound. It could not be.

18 Q. All right. I'm gonna show you, again, some
19 photographs from the scene and ask you do you also as part
20 of your forensic examination look at photographs from the
21 scene?

22 A. Yes.

23 Q. In this particular case, Dr. Ross, I'm gonna show you
24 State's Exhibit 4. How is the victim lying?

25 A. He's lying on his back with his left knee slightly

1 upward and his right arm out.

2 Q. All right. And the right knee slightly upward against
3 the embankment, correct?

4 A. The left knee.

5 Q. I'm sorry, the left knee --

6 A. Yes.

7 Q. -- slightly upward against the embankment?

8 A. Correct.

9 Q. And on his back?

10 A. Correct.

11 Q. So the scenario that Mr. Hilliard gave you where
12 someone would be falling down when they get this gunshot
13 wound to the neck which enters through the back of the
14 neck, Dr. Ross, that would not be consistent with
15 someone --

16 **MR. HILLIARD:** Objection.

17 **THE COURT:** What's the objection?

18 **MR. HILLIARD:** I don't believe that's within her level
19 of expertise.

20 **THE COURT:** I think it is.

21 **MR. HILLIARD:** Sir?

22 **THE COURT:** You both have been allowed a wide latitude
23 as far as the doctor's examination. I'm gonna allow it.
24 I understand your objection, but I'm going to overrule it.

25 **MR. HILLIARD:** Yes, sir. Thank you, Judge.

1 BY MS. MAYES:

2 Q. Dr. Ross, you previously testified regarding the
3 injury to the C-2 vertebra?

4 A. Yes.

5 Q. Was that particular gunshot wound at a downward angle
6 and slightly behind the ear?

7 A. Yes.

8 Q. And in this particular case the victim is found not
9 on his face or stomach, but on his back, correct?

10 A. Yes.

11 **MS. MAYES:** Nothing further.

12 **RE CROSS EXAMINATION**

13 BY MR. HILLIARD:

14 Q. I have two. One, bullets go straight, but if bullets
15 hit bones they can be deflected and go in other directions;
16 is that true?

17 A. No, not really.

18 Q. Not really?

19 A. No. It has to be pretty thick.

20 Q. Pardon?

21 A. It has to be pretty thick. It depends on the
22 ammunition, but just going through an arm or a leg it
23 does not get deflected.

24 Q. And to go one more -- the last question. I promise.
25 The scenario of -- when the prosecutor was asking you on

1 her redirect about how tall a person would have to be to
2 shoot at this angle, when you and I were talking about it
3 you said if an individual were in the position of falling
4 that could account for that angle, correct?

5 A. It's possible, yes.

6 **MR. HILLIARD:** Thank you. That's all I have.

7 **THE COURT:** Thank you, Dr. Ross. You're done.

8 (Witness excused.)

9 **MS. MAYES:** At this time, Your Honor, the State does
10 rest.

11 **THE COURT:** All right. Folks, I've got a couple of
12 things to put on the record. My clerk, Ms. Frick, just
13 left. That's okay. She'll be right back. Can y'all be
14 in the jury room tomorrow morning at 9:30? We've got to
15 do a few more things this afternoon that don't require
16 your presence, but if y'all are here at 9:30 tomorrow
17 morning, I am -- are we still consistent with the same
18 plan?

19 **MR. HILLIARD:** Yes, sir.

20 **THE COURT:** Okay. I've been asking the lawyers and
21 the -- I can't tell the lawyers how to try their cases,
22 but I've asked how much longer and that sort of thing.
23 Mr. Hilliard's represented to me that he did not anticipate
24 the defense putting up any evidence and they were waiting
25 until right now to make that decision.

1 **MR. HILLIARD:** We're still, yes, sir.

2 **THE COURT:** All right. So it's my understanding that
3 -- they can change their mind tonight and that's up to
4 them, but they've told me consistently we don't plan on
5 presenting a defense, they plan on arguing the facts in
6 evidence, so that being the case 9:30 in the morning my
7 anticipated plan would be the State would present its
8 closing summary, then the defense would present its closing
9 summary, we'd have a short break and then I'd give you my
10 instructions on the law and then you can begin your
11 deliberations.

12 Now Ms. Frick and I talked, we were also making
13 plans, she's gonna have menus for y'all so first thing in
14 the morning at 9:15 or 9:30 she's gonna order y'all lunch
15 so that y'all can -- once you get the -- begin your
16 deliberations Lexington County will feed you and so I hope
17 Cribb's Bakery suits y'all, it's one of my favorites, so
18 she'll have a menu for y'all to select something good for
19 lunch and she needs those done early that way she can get
20 the order in and it will be here when we want it here.

21 So that's the plan for tomorrow. Again, you can't
22 discuss the case. Go home tonight and we'll see you in the
23 morning at 9:30.

24 **FOREPERSON:** Thank you, Your Honor.

25 (Whereupon, the jury retires for the evening at

1 5:46 PM.)

2 **THE COURT:** Go ahead. All right. Ms. Mayes came up
3 to the bench when she was examining Dr. Ross and handed
4 118, which y'all agreed would come into evidence, and she
5 represented to the Court she wished to withdraw it as a
6 State's exhibit. Do you consent to that?

7 **MR. HILLIARD:** Yes, sir.

8 **THE COURT:** Okay. So 118 is now a Court's exhibit,
9 so it will not be submitted to the jury.

10 **MR. HILLIARD:** Yes, sir.

11 (Court's Exhibit Number 5 was marked for
12 identification.)

13 **THE COURT:** All right. Now do y'all wish to get here
14 in the morning at 9:00 and make your motions and then go
15 over the instructions? That way you've got time to look at
16 it tonight.

17 **MR. HILLIARD:** That sounds good, Judge. Yes, sir.

18 **THE COURT:** Does that sound okay with you, Ms. Mayes?

19 **MS. MAYES:** It does, Your Honor, and I believe --

20 **THE COURT:** We're working on this. I'm not gonna
21 clutter it up again.

22 **MS. MAYES:** I believe your clerk may still have the
23 collection of jury instructions from the previous trial
24 and the State's request would be identical, hand of one
25 hand of all, intent, direct and circumstantial evidence.

1 **THE COURT:** I've already been handed the Sisk charges.
2 Don't worry about the other ones now. They're consistent
3 with the current case. I'm gonna trust you on that. Very
4 consistent with Sisk other than I'm taking out duress.

5 **MS. MAYES:** And adding possession with intent to
6 distribute?

7 **THE COURT:** Adding possession with intent to
8 distribute, which he asked me the question about ice,
9 crack, crank and all that. That's the same statute, 375,
10 correct?

11 **MR. HILLIARD:** Yes, sir.

12 **THE COURT:** And it's just the inference of more than
13 a gram for possession with intent and all the other
14 conspiracies.

15 **MR. HILLIARD:** We'd like a limiting charge so that
16 all the drug evidence about the other drugs and whatnot
17 doesn't get confused with possession with intent to
18 distribute and be tied directly to the gram and a half.

19 **THE COURT:** Are you gonna present me something on
20 that? What do you want for a limiting instruction?

21 **MR. HILLIARD:** I don't know, Judge. My lawyer has
22 taken ill.

23 **THE COURT:** All right. Well, give me a idea. I'm
24 not exactly sure what you want.

25 **MR. HILLIARD:** Well, something to the effect that the

1 charge of possession with intent to distribute ice is
2 directly related to the ice that was found in the car and
3 the ice that was found in the -- the ice that was found in
4 the bobblehead and not related to any other ice that may
5 have been testified about.

6 **THE COURT:** I don't want to comment on facts in my
7 charge though, do I?

8 **MR. HILLIARD:** No, sir. I think you can limit it to
9 -- I'll try to wake up my lawyer and see if I can come up
10 with something better.

11 **THE COURT:** All right. I think that's commenting
12 on the facts and I'll probably stay away from it. I
13 understand your request, but it sounds like to me fair
14 game in closing and you have to confine yourself to that
15 and all of the other -- there was more testimony in the
16 other trial about ounces and where it was and who thought
17 who had it and that didn't come up in this trial very much
18 at all, but it was a lot more testimony about the left
19 over black container and who had it after the fact.

20 **MR. HILLIARD:** Yes, sir.

21 **THE COURT:** I didn't hear it. That one didn't -- we
22 didn't go into that at all in this trial. I'll consider
23 anything on that, but I'm very cautious about commenting
24 and instructing on the facts.

25 **MR. HILLIARD:** Yes, sir. Do you want my directed

1 verdict motion tomorrow?

2 **THE COURT:** You can make it now if you went to.

3 **MR. HILLIARD:** Okay. Are you ready?

4 **THE COURT:** You can do it in the morning.

5 **MR. HILLIARD:** Well, we can do it now and then we
6 won't have to do it in the morning and we'll have more
7 time.

8 **THE COURT:** Let's do it now. That way we can only
9 work on instructions in the morning.

10 **MR. HILLIARD:** Thank you, Judge.

11 For a directed verdict motion at this point is the
12 prosecution has rested and taking the evidence in the
13 light most favorable to the prosecution we would ask you
14 to direct a verdict of not guilty on the theory that
15 there's no way that a reasonable jury could find the
16 Defendant in this case guilty based on what's been
17 presented and that would be that the only testimony about
18 his activity in the record is to the effect that he --
19 that he was present and that he fired three times to
20 try to stop them from fighting and that after that he
21 attempted to conceal -- conceal what had happened, but
22 there's nobody that said he shot anybody, there's nobody
23 that said he planned to shoot anybody, there's no evidence
24 of that in the record, so we'd ask you to direct a verdict
25 of not guilty.

1 **THE COURT:** I think that's clearly a question of
2 fact, the three shots in there, the fight, and that's
3 credibility, a factual issue. It's in my eyes in the
4 light most favorable to the State arguable that all of
5 the circumstances including that statement and the
6 circumstantial evidence that the State has presented,
7 presented a clear question of fact for the jury to decide
8 on all four of the indictments.

9 **MR. HILLIARD:** Thank you, Your Honor.

10 Judge, also would you like to question the Defendant
11 regarding his decision not to testify? He has told me
12 that he does not wish to testify. Would you like to do
13 that now or wait?

14 **THE COURT:** Sure. Let's do it right now.

15 **MR. HILLIARD:** Stand right here, Judge?

16 **THE COURT:** Sure. Standing right there would be
17 fine.

18 **MR. HILLIARD:** Okay.

19 **THE COURT:** All right. Mr. Morehouse, I'm gonna
20 place you under oath for this.

21 (Whereupon, Charles Alton Morehouse was duly sworn by
22 the Court.)

23 **THE COURT:** Now you understand this is your case,
24 this is your trial, these are the allegations the State
25 has made against you. The State has a burden of proving

1 your guilt beyond a reasonable doubt and that's what
2 they've presented is evidence for the jury to consider.
3 You don't have to present any defense. It's been
4 represented to me through your lawyer that you do not
5 wish to present anything in your defense, including your
6 own testimony.

7 Now have you had enough time to discuss with
8 Mr. Hilliard and anyone else of your choosing your
9 opportunity to present a defense and to present testimony
10 by you?

11 **THE DEFENDANT:** I'd like a few more minutes.

12 **THE COURT:** I'll give you the rest -- I'll give you
13 until tomorrow morning. I'll probably ask you again in
14 the morning the same question, but here's what I want you
15 to understand is this is your opportunity and you've got
16 all night to think about it. You can present testimony
17 if you'd like. It's your decision solely. Mr. Hilliard
18 can give you advice, but it's still your decision that you
19 need to make with a clear head and upon cool reflection
20 about what you want to do.

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** Now if you don't testify, you understand
23 I will instruct the jury, it will be one of the last
24 things I say to the jury is that they will not be allowed
25 to discuss your exercising your constitutional right to

1 not testify.

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** And they will not be allowed to even
4 discuss your making that decision and basically claiming
5 that constitutional right. They would have to consider
6 and confine their decision solely on the basis of the
7 State's evidence presented, not on your not testifying.
8 They can't hold that against you in any manner whatsoever
9 and I will emphasize that at the very end of the
10 instructions. Do you understand that?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** All right. I'm gonna give you until in
13 the morning. You've got time to talk to Mr. Hilliard all
14 you'd like and when you make that decision we'll go over
15 this again at roughly at 9:00 in the morning, okay?

16 **THE DEFENDANT:** Also I need to ask him one more
17 question.

18 **THE COURT:** Okay. All right. Go ahead, but I'm
19 still gonna ask you again in the morning.

20 (Discussion between the Defendant and Mr. Hilliard.)

21 **THE DEFENDANT:** Okay.

22 **THE COURT:** I'll ask you again in the morning to
23 see if your decision is still the same and we'll be good,
24 okay?

25 **THE DEFENDANT:** All right.

1 **THE COURT:** Fair enough. I'll see you in the
2 morning.

3 (Whereupon, the proceedings were concluded for
4 January 12, 2017, at 5:54 PM.)

5 (Whereupon, the following proceedings were held on
6 January 13, 2017, beginning at 9:13 AM.)

7 **BAILIFF:** All rise. Court is now in session. The
8 Honorable Judge Eugene Griffith presiding.

9 **THE COURT:** Y'all be seated.

10 All right. Give me y'all's -- starting with the
11 State, your suggestions on the closing instructions I
12 presented to y'all.

13 **MS. MAYES:** I saw the ones that your law clerk
14 e-mailed last night, Your Honor. I think we're in
15 agreement with all of those.

16 **THE COURT:** We're working on the verdict form. I
17 don't have it yet. Was there anything I left out that
18 y'all want or are requesting that I didn't consider?
19 The same question to you, Mr. Hilliard.

20 **MR. HILLIARD:** Are you still talking to them?

21 **THE COURT:** Well, I'm gonna come to you now while
22 they're looking at stuff.

23 **MR. HILLIARD:** All right. Yes, sir. We ask for a
24 charge on voluntary manslaughter and a charge on accident.

25 **MS. MAYES:** Your Honor, there's no information in

1 the record whatsoever to support voluntary manslaughter.

2 **THE COURT:** I'm -- I'm trying to go through the
3 testimony. What is -- give me something I can hang my
4 hat on fact-wise presented to the jury that they can go
5 to voluntary.

6 **MR. HILLIARD:** The circumstances of the events there
7 was that there was a fight happening and if the jury were
8 to believe there was a fight happening between the victim
9 and Mr. Sisk and also that Charlie was participating in
10 that fight and that he shot, then they could consider --
11 I would submit to the Court that that would be voluntary
12 manslaughter and not a murder. He didn't come in there
13 intending to kill anybody, but he was there and the murder
14 occurred during that fight. There's been testimony that
15 there was a fight and a bat and those kinds of things, so
16 we would submit to the Court that that's a prospect for
17 voluntary manslaughter.

18 **MS. MAYES:** Judge, the testimony in the record which
19 would be from the audio is that there's no evidence of
20 legal provocation whatsoever. I think the exact quote
21 regarding the victim is that he got out of his car and
22 according to Mr. Morehouse was as friendly as he could be
23 and Wiley lays into him with a bat, which would be an
24 assault by the co-defendant with no legal provocation
25 whatsoever by the victim which would be required for that

1 charge and it would be completely inapplicable in this
2 situation.

3 **THE COURT:** Tell me -- I want to ask you that. What
4 about provocation? Give me something I can hang my hat
5 on there.

6 **MR. HILLIARD:** We also have the brass knuckles,
7 Judge, that were there that were given to the -- to the
8 victim in the case. The brass knuckles given to the
9 victim and the brass knuckles that were -- were under
10 the body, that's evidence. And then the pathologist
11 testified also that there was -- there was marks on the
12 right hand of the victim. I didn't ask her about
13 consistent with the -- with brass knuckles, but at the
14 same time there were brass knuckles there, there were
15 marks on his right hand. There is evidence that he got
16 the brass knuckles before he went to the meeting.

17 **THE COURT:** I don't see it.

18 **MR. HILLIARD:** Thank you, Judge.

19 **THE COURT:** I can't. Now I try to put it in there
20 any way I can, but if it's not there I can't do it.

21 **MR. HILLIARD:** I understand.

22 **THE COURT:** I don't see the facts before the jury to
23 -- for them to consider voluntary, so respectfully I say
24 no.

25 **MR. HILLIARD:** Thank you, Your Honor. And as to

1 accident, Judge? Do you want to hear about that?

2 **THE COURT:** Yeah, let's hear it.

3 **MR. HILLIARD:** All right, sir. The accident that --
4 a lot of the testimony -- well, I say a lot. There was
5 a -- there was a circumstance which occurred in front of
6 the jury with one of the police officers talking about the
7 nightblindness when the Defendant said that he's night
8 blind, the shooting, and then there was testimony to the
9 affect that he didn't know what he was shooting at or
10 there was the implication that was suggested to the jury
11 that as a consequence of his nightblindness and firing
12 three shots I would submit to the Court that that gives
13 rise to the possibility in the jury's mind that perhaps he
14 was shooting and trying to stop the -- the fight, but he
15 accidentally hit the -- hit the deceased, the victim, in
16 this case. That would have been an accident if, in fact,
17 he was there shooting night blind and accidentally shot
18 the victim.

19 **MS. MAYES:** Your Honor, I believe there is case law
20 which we can locate if we have a few minutes. I didn't
21 know this issue was gonna be raised by defense counsel.
22 The case law on the felony murder rule, which is basically
23 hand of one hand of all in this situation, is if there is
24 a planned meeting to carry out a felony, which in this
25 case according to the Defendant's own statement the

1 outcome of meeting him was to beat his ass, if that is
2 -- if there's sufficient evidence of that, which the
3 State certainly maintains there is, then involuntary
4 manslaughter is not an option. It's the felony murder
5 rule if two people are carrying out a felony, it can't
6 be an accident. The State's position is that whatever
7 occurred is a natural consequence of the planned felony.
8 And if we need a few moments to research that, we can.

9 **THE COURT:** I've been thinking about it since you
10 said it the first time. I --

11 **MR. HILLIARD:** May I say one other thing?

12 **THE COURT:** Sure.

13 **MR. HILLIARD:** So I get that if the State proves
14 that he planned to go there and kill the guy, then it's
15 murder, so the question is does the jury believe that
16 that was the plan. If the jury believes -- I mean,
17 clearly the victim is deceased and the -- the prosecution
18 has -- and the evidence in front of the jury is that the
19 deceased -- that the Defendant fired three shots and
20 whether the jury believes there was a plan or not a plan
21 is up to the jury. If the jury were to decide, for
22 example, that Charlie didn't intend to go there and kill
23 anybody, that he wasn't a part of a felony murder
24 situation, that after he got there these events developed
25 and at that point as he said he shot and rather than

1 shooting to the left and missing, which was his intent
2 under the -- what the statement is, then because of the
3 nightblindness which has been brought out by the
4 prosecution and played at my request several times to
5 determine whether he said actually that he shot to miss
6 or not, but in any event if he -- if the jury were to
7 believe that he showed up with no ill intention and he
8 fired and because of his nightblindness struck and killed
9 the victim in the case, if they were to believe that,
10 which is supported by the evidence, that's our position,
11 then it would be an accident.

12 **MS. MAYES:** The distinction, Your Honor, is that we
13 don't have to prove that it was a planned murder if it's
14 a planned felony and two people are carrying out an
15 unlawful act and a murder occurs as a natural consequence
16 of that act, that is felony murder rule and that's why
17 he's not entitled to involuntary manslaughter and -- and
18 manslaughter.

19 **THE COURT:** I don't see a person going -- I don't see
20 how the facts can be construed that what's been described
21 for this jury to consider, whether it be the State's
22 proving murder or not, but somebody out there and a fight
23 started and accidentally shooting when they're shooting
24 in his direction three times, I just don't see how that
25 can be considered an accident.

1 **MR. HILLIARD:** He's night blind. When I say
2 accident, I mean he didn't intend to shoot the person.
3 Here's the thing. What they're -- what they're doing is
4 they're jumping from -- their position that it's a felony
5 murder, that that's a fact for the jury to determine
6 whatever the plan was. They're saying well, it was a
7 plan to do something, it was a plan to do a felony,
8 that's for the jury to decide. That's a -- that's a
9 fact --

10 **THE COURT:** I agree. I agree with you there.

11 **MR. HILLIARD:** All right, sir. And then the next
12 thing is if they don't have that plan, then they're just
13 out there and there's a fight and the testimony from
14 the -- from the Defendant is that he fired, his intent
15 was to stop the fight but as a consequence of the
16 nightblindness, the jury could find that he accidentally
17 shot the fella. So he's trying to stop the fight according
18 to him and he shoots and as a consequence of the night
19 -- that's all in the evidence. The jury could find that
20 to be true. I know the prosecution doesn't believe it,
21 but it is all facts which the jury could find to be true.

22 **THE COURT:** All right. I disagree with you.

23 **MR. HILLIARD:** Thank you.

24 **THE COURT:** But both issues you're asking
25 instructions on are on the record and preserved for any

1 future time.

2 **MR. HILLIARD:** Absolutely. Yes, sir.

3 **THE COURT:** Anything else in the instructions that
4 we have suggestions on?

5 **MR. HILLIARD:** No, sir. The ones that are in there
6 -- and I want to be sure because I've read several sets
7 of instructions and I don't want to get them confused in
8 my mind. The Defendant obviously didn't testify, so the
9 part of it that's in there about his criminal history,
10 that's been taken out. I don't think there's any
11 redaction in this case, so I think redaction's been
12 taken out. And I don't remember and I'll --

13 **THE COURT:** Well, the thing that was redacted that
14 the jury is unaware of is the statement he gave that's on
15 the CD that's been redacted, but we didn't tell the jury
16 anything about that because it was I think properly
17 presented.

18 **MR. HILLIARD:** Yes, sir.

19 **THE COURT:** Yeah, we didn't redact anything.

20 **MR. HILLIARD:** I understand. That's what I'm saying
21 is I don't -- I don't think there's any need for a charge
22 on redaction because there's nothing in front of the jury
23 about that.

24 **THE COURT:** I tend to agree with you. Ms. Mayes, do
25 you think so, too?

1 **MS. MAYES:** I do, Your Honor. I don't think there's
2 anything apparent about the audio that would lead the jury
3 to believe it has been redacted.

4 (Pause in proceedings.)

5 **THE COURT:** We're working on the verdict form. This
6 is kind of what it's gonna look like, Jacob's gonna get
7 it all on one page, if y'all want to see it. I don't
8 mind y'all using it in closings, so.

9 **MR. HILLIARD:** That's fine.

10 **THE COURT:** I don't like a two-page form with the
11 lesser included on the second page. It's gonna be on
12 the front page. Jacob's gonna print it up where I can't
13 read it, but that's okay as long as the foreperson can.
14 I like it big where I can read it. This will be done
15 otherwise. So it's gonna be on a singular page. I'll
16 have it here in a second, if y'all want it.

17 **MR. HILLIARD:** I'd like to have a copy of it, but
18 have no objection to it.

19 **THE COURT:** Okay.

20 **MR. HILLIARD:** This was the part that I didn't
21 remember for certain, but I wanted to check with the
22 prosecutor and the Court. I don't believe that I brought
23 out anything about criminal histories of the witnesses,
24 so I don't know that we need criminal history of the
25 witnesses.

1 **MS. MAYES:** There is testimony.

2 **THE COURT:** Everybody that testified, do you have
3 pending charges in and you've been arrested for and that
4 kind of stuff, that was brought out on direct by
5 Ms. Mayes. That would be the reason to have it.

6 **MR. HILLIARD:** All right. That's good. Thank you,
7 Judge.

8 **THE COURT:** That's why I had it before in the prior
9 trial because they're basically the same witnesses.

10 **MR. HILLIARD:** That's fine, Judge.

11 **THE COURT:** Okay. I mean, you didn't bring any of
12 it out. It was all on direct.

13 **MR. HILLIARD:** Yes, sir.

14 **THE COURT:** All right.

15 **MR. HILLIARD:** That's all I have.

16 **THE COURT:** All right. Good deal.

17 All right. What else do you got?

18 **MS. MAYES:** We have some excerpts that are gonna be
19 played during closing argument that are directly from the
20 audiotape in evidence -- that is currently in evidence.
21 I'm not sure if we should have this marked or -- as a
22 Court's exhibit or -- it's a demonstrative aid and it's
23 excerpts directly from the audio that's in evidence.

24 **THE COURT:** Do you want it marked as a Court's
25 exhibit, Mr. Hilliard, what she's gonna use?

1 **MR. HILLIARD:** Yes, sir.

2 **THE COURT:** And he'll be able to use it, too.

3 **MS. MAYES:** Yes.

4 **THE COURT:** And you can use the same. It's free
5 game, but -- you can use her disk if you want, but she's
6 only got what she wants on there, I guess.

7 **MR. HILLIARD:** I would guarantee that, Judge.

8 **MS. MAYES:** Correct. And the full audio is in
9 evidence.

10 (Court's Exhibit Number 6 was marked for
11 identification.)

12 **MR. HILLIARD:** While she's looking -- while she's
13 looking at those, you had indicated yesterday you were
14 gonna ask the Defendant one more time about his decision
15 not to testify.

16 **THE COURT:** Yes, I am.

17 All right. Mr. Morehouse, stand back up. I'll
18 remind you I placed you under oath yesterday about
19 testifying or not testifying.

20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** You've had all night to think about it,
22 plenty of opportunity to speak to your lawyer about this
23 issue?

24 **THE DEFENDANT:** Yes, sir.

25 **THE COURT:** Have you had enough time to discuss it

1 fully with him?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** And you're clearheaded this morning?

4 **THE DEFENDANT:** Yes, sir.

5 **THE COURT:** You got a good night's sleep, I presume?

6 More or less, all things considered?

7 **THE DEFENDANT:** Yes, sir.

8 **THE COURT:** Now is it still your decision to not
9 present anything, particularly your own testimony in this
10 case?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** And you're making that -- it's your
13 decision, not his. I mean, considering his advice it's
14 still your decision?

15 **THE DEFENDANT:** Considering his advice it is my
16 decision not to testify.

17 **THE COURT:** And so you're not gonna testify?

18 **THE DEFENDANT:** No, sir.

19 **THE COURT:** Fair enough.

20 **MR. HILLIARD:** Thank you, Judge.

21 **THE COURT:** All right. Are we ready for the jury?

22 **MS. MAYES:** One moment, Your Honor. Can we try the
23 audio out? We've had some issues with sound, Your Honor.

24 (Pause in proceedings.)

25 **MR. HILLIARD:** You're gonna take up the notepads

1 during the arguments; is that right?

2 **THE COURT:** (Shakes head.) No.

3 **MR. HILLIARD:** I'd ask you to take up the notes
4 because nothing that we --

5 **THE COURT:** I'm not gonna do that.

6 **MR. HILLIARD:** All right, sir.

7 **THE COURT:** I've never done that and that's why I'm
8 not. I don't want to have a practice of taking them or
9 not taking them. I've never done that, so that's the
10 only reason. I understand your request. I've never
11 taken them up, so in order that I can always remember
12 I've never done it, I'm not gonna do it.

13 **MR. HILLIARD:** Yes, sir.

14 **THE COURT:** I'll give them an instruction on it.

15 **MR. HILLIARD:** Yes, sir.

16 **THE COURT:** I generally do.

17 All right, Ms. Mitchell. We can bring in the jury
18 now.

19 (Whereupon, the jury enter the courtroom at 9:34 AM.)

20 **THE COURT:** All right. Mr. Marcle and ladies and
21 gentlemen of the jury, this is the opportunity for both
22 sides -- they've presented all the evidence and testimony
23 that you're gonna hear that you get to consider. As I
24 told you early on, except for demonstrative aids all of
25 the evidence that's been admitted -- when I say State's

1 exhibit admitted without objection because most all of
2 them were, but whatever's admitted when y'all get to the
3 jury room you can look at them all you'd like, and the
4 audio CD, that's for y'all's consideration in the jury
5 room. So I don't know what exhibits or what part of the
6 audio or what the lawyers are gonna argue or summarize
7 with, all of the evidence comes to you in the jury room
8 and so you'll get to look at it as long and as in depth
9 as you'd like. There's no limitations on that.

10 Now the lawyers' closing summaries are their version
11 of what they recollect that the evidence shows. It's not
12 what y'all are required to follow. Y'all just listen to
13 their closing summaries because that's what they believe
14 they've shown or not shown, all right? So what they say
15 is not evidence, what they say is what the evidence --
16 they believe shows, if that makes sense. As soon as they
17 finish, then I'm gonna give y'all a short break and then
18 we'll come in and do my instructions and then y'all can
19 begin your deliberations. Y'all have already got your
20 lunch forms in to Ms. Frick; is that right?

21 **THE CLERK:** Yes, sir.

22 **THE COURT:** Okay. I think I'll get mine done while
23 the lawyers are closing and then I'll be in the loop, too.

24 So give your attention to the lawyers. Ms. Mayes.

25 **MS. MAYES:** May it please the Court? Time always

1 reveals the truth. No matter what efforts he took to
2 conceal it, no matter what efforts he took to destroy
3 evidence, time reveals the truth. The truth about what
4 led to the execution of David Porter on that dirt road
5 here in Lexington County a little over a year ago.

6 Charles Morehouse is a man who has spent his life
7 preying on young addicts, addicts just like David. How
8 many times will we hear defense counsel say but his name
9 is Rico, his name is Rico? Why was that a recurring theme
10 throughout this trial? Rico is David from Chapin who
11 lives with his dad and drives his grandmother's Ford
12 Taurus. David was also an addict, a severe addiction to
13 the ice form of methamphetamine, that he tried to beat
14 over and over and over again. And this defendant, as
15 stated, has built his entire life making a career out of
16 peddling drugs to the most vulnerable kids out there.
17 That's what led David to that dirt road. He picked the
18 place, he decided when and where David would die.

19 Did David owe him money? Yeah, he did. Yeah, he
20 did. This wasn't about the money. We know that. His
21 pockets weren't pulled out. That \$200.00 that he says
22 on that audio, he owed me \$200.00, Rico said he had my
23 \$200.00, yeah, he had it, but this was about a whole lot
24 more than money. As he told Kelin Martinez that night
25 after the murder, as he talked to his buddies and friends

1 at some bar named Mojo's here in Lexington County a few
2 weeks before the murder, he believed David was an
3 informant, a snitch, and it all goes back to that meth
4 bust.

5 And you may have wondered what's this about, what's
6 the connection when you heard the NET team agent Mike
7 Merckel take the stand and talk about that meth bust back
8 in May just a few months before David's murder? What the
9 meth bust is about is that the NET team had conducted
10 surveillance on this house as he described and they go in
11 and they bust this house where meth is being made, meth
12 is being used, and everybody in that house got arrested
13 except for David and his friend. And Agent Merckel
14 described how he then approached David afterward about
15 being a confidential informant. Yeah, David thought about
16 it. David even discussed it with his dad and his dad said
17 don't do it, it's too dangerous, but unfortunately for
18 David that night, that event, marked his fate. Because
19 in this world one mistake, one misstep, one slip, will get
20 you killed.

21 He decided that. He believed, as he told Kelin
22 Martinez, everybody around Rico goes down except for
23 Rico. In his own words he called Rico an informant to
24 law enforcement. David wasn't an informant, but it's too
25 late to change any of that. And so he went on and told

1 Kelin Martinez how he knew he had charges coming, he knew
2 he was being watched, he knew he was under surveillance,
3 and all of that is weighing on his mind when he goes to
4 Aiken County as he re-ups as he describes to law
5 enforcement in that audiotape.

6 So how does he spend the day of August 3, 2015?
7 Well, first of all, he spends it with his gun boy as his
8 own girlfriend, Heather Owens, told you. That's what he
9 called him, Wiley, his gun boy. Brittany Moody described
10 him as the muscleman. He spends all day with Wiley. I
11 don't know how it would be possible to downplay this
12 relationship he has with Wiley and the fact that Wiley
13 worked for him and the fact that Wiley is at his beck
14 and call when you have this many communications all day,
15 multiple communications, dozens and dozens and dozens
16 leading up to this date, but on this particular day these
17 are just Sisk and Morehouse in and out all day long.

18 You heard the testimony that when he made the
19 decision about where to meet David and he sends that text
20 about Red Bank and there's an agreement to meet David,
21 the very first person he makes contact with is Wiley Sisk
22 later throughout the day. And so there's this whole
23 series of events where they go to Aiken, Wiley's with him,
24 they re-up, and as he says on the audio sometime around
25 that time when he went to re-up he found out he had

1 charges coming and in the audio, which is August 8th,
2 four days after, he's served with paperwork about those
3 controlled buys he made.

4 He talked about Chad Andrews. Was Chad Andrews an
5 informant? Yes. Was Chad Andrews somebody who was
6 involved in that on-going NET team investigation with
7 Charles Morehouse? Yes, he was. What's important is
8 what was in his mind five days earlier on the day that
9 David Porter was killed. He had no idea who that
10 informant was on that date or how many informants there
11 were or how many informants he had sold to.

12 But what he did know and what he says in that audio
13 is that David didn't fit in. David was nosey in his
14 words. David came from a nice house and it didn't seem
15 like the game for him. It didn't seem like the life for
16 him. That's what he tells these officers in that
17 interview. Everything about David made him suspicious.

18 And so you heard the testimony from the girls, Molly
19 and Alicia, about how they started the day with Austin
20 Lynch and David. Austin Lynch, also known as Junior,
21 another kid that he's preying upon, another kid he's got
22 at this point running drugs for him. He's what,
23 thirty-eight, thirty-nine years old preying on kids in
24 this community? So Austin gets so high on ice that he
25 becomes convinced there's a fan -- there's a camera in a

1 fan. Completely irrational, no basis whatsoever, but
2 David's dad installs security surveillance for a living
3 and somewhere in all of that Austin is convinced that
4 there's a camera in this fan. They take Austin back to
5 Momma's house. You heard the testimony from Detective
6 Brian Travis yesterday that around 5:00 there's a phone
7 call, there's communication between this Defendant and
8 Austin Lynch. One more thing. One more thing that he
9 didn't want to hear about David maybe now having a
10 camera. And the whole thing's irrational, but his entire
11 lifestyle is irrational. And he's paranoid, too. You
12 heard from the witnesses at Snoop's house if there's one
13 thing he hates it's a snitch.

14 So they come back from re-upping. At some point he
15 has this conversation with Austin Lynch and now there's
16 communication with David. He wants to meet with David,
17 David agrees to meet with him, he decides that it's Red
18 Bank, and at some point he lures him to that secluded,
19 dark road where nobody else is around and there's no
20 chance of him being seen. And he's made sure that Wiley's
21 with him.

22 So they end up going to Snoop's house. There was
23 this conversation with Snoop in the back room while
24 they're cutting up a line where he himself admits he
25 traded his 45 that everybody knows he carries. It's one

1 thing every witness said. He carries that 45 -- the
2 witnesses that were asked about it -- he carries that 45
3 right there on his hip. Everybody's seen him with that
4 gun. He wants the other gun. This is Monday night, the
5 night of the murder. He tells Snoop he wants to switch
6 out with that 40 because it's quieter. He knows his
7 guns. Whether or not that makes any sense to us is
8 really not the issue. That's what was in his mind and
9 that was what his intent was. He gets that 40 from
10 Snoop. You heard the testimony of his girlfriend,
11 Heather Owens. He seemed focussed on a mission. He
12 tells her we're going to split somebody's wig. He
13 decided this.

14 Now throughout the testimony you heard from the
15 various witnesses. What's important is they repeatedly
16 corroborate exactly what we know and exactly what he
17 said from his own mouth. Snoop, Christopher Williams,
18 described him as a friend, somebody he would see almost
19 every day. Heck, we've seen the ledger. Here's Snoop's
20 name on the ledger. 625 and one-quarter ounce. He's got
21 Snoop under his thumb, too, because he's running this
22 game and he's calling the shots and so Snoop, who's his
23 friend, that only goes so far because when detectives
24 show up and all of a sudden it's a homicide investigation,
25 no, they're gonna roll on him like anybody should. Snoop

1 comes clean about that gun being traded. The two ice
2 users in that house, Brittany Moody, Erica Waters, they
3 told what they knew. Wiley had a bat. He scrubs with
4 Ajax. Wiley burns his clothes. He takes off looking for
5 alibis, but throughout it all he's calling the shots.
6 He's the one telling Wiley get rid of that bat. And
7 Erica tells the police about the bat on August 7th, the
8 day after they execute a search warrant at Snoop's house.
9 We know the bat existed. We know the bat was a part of
10 this. She tells the police about a bat before he does
11 and then ultimately he gives his statement to the police
12 and what's he say about the bat? Wiley had the bat.
13 Wiley had the bat. He had the gun.

14 So let's talk about that a little minute -- a little
15 bit. Wiley didn't just end up in the woods right there
16 off that embankment on Old Orangeburg Road with a bat.
17 This was all by plan and it was all by design. Wiley
18 came out of that woods with that bat and took David down.
19 He's already on the ground when those first shots were
20 fired. Those first shots were fired by Charles Morehouse.

21 The bat. He talks about Wiley coming out of the
22 woods with the bat and then Sergeant Laintz said well,
23 you didn't see the bat? It's his car. He's supposed to
24 believe Wiley took a bat out of his car and went in the
25 woods as he put it to pee and he never sees the bat and

1 then he's taken by surprise when Wiley comes out of the
2 woods and starts assaulting David with a bat on this
3 secluded dirt road? Of course, not. That was all part
4 of the plan. And by design he starts out trying to tell
5 investigators Wiley had the gun and then when they
6 ultimately call him on it, well, wait, Wiley's got the
7 bat, you got the gun from Snoop, you had the gun on you.
8 Oh, yeah, yeah, yeah. I did have the gun on me, yeah,
9 and admit I fired three shots and I have no idea who I
10 hit because I'm night blind. Ridiculous. Absolutely
11 ridiculous. Wiley had the bat at his direction. Wiley
12 took David down at his direction.

13 This is the hand of one is the hand of all as the
14 Judge will charge you at the end of my argument, at the
15 end of Mr. Hilliard's argument. The Judge will charge
16 you on exactly what the law is in this state. The hand
17 of one is the hand of all means exactly how it sounds.
18 When two people conspire to carry out a criminal act,
19 they are both responsible for the outcome of that act.
20 It doesn't mean they even have to plan the murder, it
21 doesn't mean they even have to know it's gonna end in
22 murder, but if they plan an unlawful act, as the
23 Defendant put it, the outcome of meeting him -- he
24 thought the outcome of meeting him would be to beat his
25 ass, they are both responsible for the outcome, for the

1 murder.

2 And also under the hand of one is the hand of all,
3 as the Judge will charge you, the State does not even have
4 to prove who pulled the trigger. Whether they both pulled
5 the trigger, whether one pulled the trigger, that is not
6 something that has to be proven for Charles Morehouse
7 to be guilty of murder. They are both participating in
8 this act which leads to the murder of David Porter, but
9 I submit the evidence is overwhelming. We know he
10 fired that gun, we know he fired that gun multiple times,
11 we know he brought that gun to the scene. He fully
12 participated in the murder of David Porter.

13 He and Wiley Sisk are equally guilty of this murder.
14 Wiley Sisk had no motive to murder David Porter. Wiley
15 Sisk had no connection to David Porter. There's not even
16 a phone call or a text between of two of them ever. No
17 one could ever put the two of them together in the same
18 place. The only connection Wiley Sisk had to David Porter
19 was that man right there. That man that brought the two
20 of them together that night on that dirt road by his plan.

21 So let's talk about his own statement and how that's
22 corroborated by what we've heard from Erica Waters,
23 Brittany Moody, that he calls Brit-Brit, and Snoop.

24 First of all, he talks about using Ajax. Remember
25 how Brittany describes him going in quickly after they

1 came back immediately after the murder and she sees him
2 going in bathroom scrubbing up his arm? Why in the world
3 is he scrubbing up with Ajax if he didn't play a direct
4 role in this murder?

5 (Whereupon, a portion of Court's Exhibit Number 6
6 was played.)

7 **MS. MAYES:** I hit myself with Ajax.

8 (Whereupon, a portion of Court's Exhibit Number 6
9 was played.)

10 **MS. MAYES:** Brit-Brit. So we know their testimony
11 is completely corroborated by his own admissions. Then
12 he's questioned about that gun. A 45 that he always
13 carries is suddenly traded out on Monday night with Snoop
14 for the 40 caliber.

15 (Whereupon, a portion of Court's Exhibit Number 6
16 was played.)

17 **MS. MAYES:** So he admits he traded guns with Snoop
18 that night exactly as Snoop told us.

19 Heather Owens. We know he had contact with Heather
20 Owens on this same day.

21 (Whereupon, a portion of Court's Exhibit Number 6
22 was played.)

23 **MS. MAYES:** I really got to get to Heather's. I've
24 got to get the move on. So, again, Heather Owens'
25 testimony about seeing him that night corroborated by

1 his own mouth and then he had to get the move on.

2 The testimony you've heard from him about returning
3 back to Snoop's house after the murder, washing up with
4 Ajax, Brittany and Erica both being there, seeing Heather
5 that night and then he had to get the move on, it's all
6 corroborated.

7 Now let's talk about Chip Belk. Law enforcement
8 found out about Chip Belk, who's been charged as an
9 accessory in this case because he had contact with the
10 gun, because he got rid of the gun, the whole reason we
11 don't have a gun in this case, he gives it to somebody he
12 knows can get rid of it. But when he first slips up and
13 talks to law enforcement and mentions the name of Chip
14 Belk on Bobsled Road, they're like wait, what? They
15 didn't even know anything about Chip Belk. They didn't
16 know anything about Bobsled Road. That all came from him
17 during that interview and then you see him pause and that
18 long delay as he's trying to think up yet more lies about
19 how he's gonna explain any of this knowing as Sergeant
20 Laintz tells him when we finish this, guess where we're
21 going, we're going to Bobsled Road and we're gonna talk
22 to Chip and he's gonna roll on you just like all these
23 other people have and he's gonna tell us exactly what's
24 what. And then you see him start to come up with this
25 story well, Wiley gave the gun to Chip Belk, yeah, Wiley

1 gave the gun to Chip Belk and he tries to stick with that
2 story and then law enforcement confronts him with the
3 fact that they know that's not true, Wiley wasn't with
4 him after the murder, Wiley was back at Snoop's house
5 doing ice with Brittany and Erica, the ice that he left
6 with them, further evidence that Wiley is under his
7 thumb.

8 He's not afraid of Wiley. He's never been
9 afraid of Wiley. Where does he go after he does all his
10 running around looking for alibis? He ends up back at
11 Snoop's house by his own choice. He goes back there to
12 hang out with Wiley and Erica and Brittany and get high
13 with them after the murder. There's no fear or coercion.
14 He's the boss.

15 And so when they confront him on the fact that look,
16 Wiley wasn't at Chip's house, we know that, we know where
17 Wiley was, Wiley was back at Snoop's house, so you brought
18 the gun to Chip alone. Yeah. Once again, caught in
19 another lie, and he ends up admitting it's exactly like
20 law enforcement knows it is. He took that gun to Chip
21 Belk alone as Chip Belk took the stand and told all of us
22 under oath Morehouse came to him alone, Morehouse brought
23 him the gun, Morehouse took the bullets out of that gun,
24 Morehouse left him with the gun with instructions to get
25 rid of it. He came alone and he left alone.

1 So here's the first story when he tries to talk about
2 Wiley giving the gun to Chip.

3 (Whereupon, a portion of Court's Exhibit Number 6
4 was played.)

5 **MS. MAYES:** All right. Now let's talk about how
6 they confront him with the fact that Wiley wasn't with
7 him at all, he gave the gun to Chip, and he makes that
8 admission.

9 (Whereupon, a portion of Court's Exhibit Number 6
10 was played.)

11 **MS. MAYES:** All right. So there we go. Finally the
12 truth. I gave the gun to Chip. You're absolutely right.
13 Where's the gun? I have no clue. Did you leave Chip's
14 house without the gun? Yeah, I left Chip's house without
15 the gun.

16 So that's been his MO this entire time. To try and
17 put as much off on Sisk as he can regardless of the fact
18 that all the evidence puts it exactly where it was, at
19 his hand and his call.

20 Let's look at the timeline of where he went. He
21 absolutely admits to going to Momma's house, which is
22 where he saw Kelin Martinez who you heard from in this
23 case as well.

24 (Whereupon, a portion of Court's Exhibit Number 6
25 was played.)

1 **MS. MAYES:** All right. So he says I went to Momma's
2 from Whiskey Tavern, then back to Whiskey Tavern, then he
3 went to Snoop's and he talks about how he didn't have his
4 phone. We know he didn't have his phone. He'd already
5 ditched his phone and he was using everybody else's phone
6 because he had to call his wife. So remember the
7 testimony from Erica Waters? That by now it's four or
8 five in the morning, he's back at Snoop's house. He's
9 making her call his wife and he's been going through
10 Wiley's phone. He's not afraid of Wiley Sisk.

11 If there's any question at all about the conspiracy
12 between Charles Morehouse and Wiley Sisk, look no further
13 than this. August 4th, early morning hours, 12:05. It's
14 now midnight. This is after the murder. These are the
15 communications between Morehouse and Sisk and they go on
16 and they go on and continue well after the murder. These
17 are two people acting together. The last contact he has
18 before he ditches that phone is with Wiley Sisk.

19 So let's talk about this ridiculous story that he's
20 come up with where finally -- just like he finally admits
21 he did pass that gun to Chip, he finally admits okay,
22 yeah, I had the gun on me. I had the gun on me. Well,
23 of course, he had the gun on him because Wiley had the
24 bat and Wiley's been hiding in the woods with the bat and
25 Wiley comes out of the woods with the bat and takes down

1 David. He has the gun on him. He fires those first
2 shots. At some point he hands that gun off to Wiley Sisk.
3 And this ridiculous story that oh, I thought there was a
4 fight, I thought there was a fight between Wiley and David
5 and I was trying to break up the fight by firing the gun
6 three times. Absolutely ridiculous.

7 There was no fight between Wiley and David. This
8 was an ambush, a friend ambush, that he himself admits
9 that David did nothing whatsoever to provoke. David is
10 already greatly in fear about all of this as the girls at
11 the hotel told you, as Riley Furman told you. He agrees
12 to go meet Morehouse. He's in way over his head. He has
13 no idea what's in store for him. He's in a world he has
14 no business in. So he goes to that dirt road with fear
15 and apprehension in his heart and he gets out of that car
16 and attempts to diffuse that situation and as Morehouse
17 puts it he's as friendly as he can be. He's as friendly
18 as he can be and Wiley gets him with the bat. The only
19 difference is he knew Wiley had that bat. It's his car.
20 That bat's in his car. Wiley works for him.

21 (Whereupon, a portion of Court's Exhibit Number 6
22 was played.)

23 **MS. MAYES:** He's talking about being on the phone
24 with David at that last call at 11:13 and David pulls up.

25 (Whereupon, a portion of Court's Exhibit Number 6

1 was played.)

2 **MS. MAYES:** All right. So he didn't buck. He got
3 out, was as friendly as he could be.

4 So what led to this? What led to this is exactly
5 what he states in his own words in this audio and he
6 decides here -- he tells law enforcement ultimately as
7 far as Rico he said he had my \$200.00 and then he goes
8 into this big explanation about I didn't really care
9 about the money because I've lost money before, I've had
10 to lose the profit, I've had to cover the profit, it's
11 on me, you know, it's just not worth the hassle, so goes
12 into this big explanation about that and then he says
13 well, what I thought was going to be the outcome of
14 meeting him, beating his ass and him being an informant,
15 you know, I was iffy about him anyway, the dude owed me
16 money.

17 This is the key part here. The outcome of meeting
18 him, beating his ass, him being an informant. By his own
19 mouth he admits what it was a planned meeting, a planned
20 meeting to beat his ass, teach him a lesson, just like he
21 told Snoop and he still thinks David is an informant.
22 The only difference is it's led to a whole lot more than
23 beating his ass and he knew when he took that 40 from
24 Snoop that it was gonna end up being more.

25 (Whereupon, a portion of Court's Exhibit Number 6

1 was played.)

2 **MS. MAYES:** All right. So there you go. That is a
3 summary of all of this. That's what led us here. That's
4 what led him to do what he did. Now this is how he ends
5 it talking about David.

6 (Whereupon, a portion of Court's Exhibit Number 6
7 was played.)

8 **MS. MAYES:** I didn't want him in the game to begin
9 with and I tried to make that point known.

10 (Whereupon, a portion of Court's Exhibit Number 6
11 was played.)

12 **MS. MAYES:** He's talking about Junior. I tried to
13 make that point known to Junior. When I left his house,
14 I said, you know, he comes from a nice little house.
15 This just doesn't seem like the life for him, and it
16 wasn't.

17 The judge will charge you momentarily on the law in
18 this case and the law is actually very simple. As I said
19 before, the hand of one is the hand of all, and he'll give
20 you the exact charge on that. When two people are acting
21 together to carry out an unlawful activity, whether it's
22 beating his ass, whether it's an assault, whatever that
23 may be, they were both responsible for the outcome as a
24 natural consequence of that unlawful activity.

25 Murder. Murder under South Carolina law is defined

1 as the killing of any person. We know that has been
2 proven beyond a reasonable doubt. With malice
3 aforethought, whether express or implied. Malice, the
4 judge will charge you on what's malice. Hatred, ill will,
5 hostility. All of those things they've talked about him
6 expressing towards snitches, towards informants. Malice
7 aforethought. Now does that mean he has to plan it a day
8 in advance, an hour in advance, ten minutes in advance?
9 Absolutely not. Malice aforethought simply means you act
10 with malice in your heart and forethought can accompany
11 the pulling of the trigger. It can be one second of
12 malice before the act is done. But this isn't pulling
13 the trigger one time. By his own admission, he pulled
14 that trigger three times, but how many more? How many
15 more times did he pull that trigger out there? We know
16 David was shot six to ten times. We know he brought the
17 gun, we know he fired multiple shots. Malice aforethought
18 can be implied by the fact we've got multiple gunshot
19 wounds, by the fact that he pulled the trigger multiple
20 times.

21 Express. Express malice. We're gonna split
22 somebody's wig. It's either him or me. That's what it
23 all came down to. The very definition of malice. There
24 can be no greater manifestation of malice. This was done
25 for his own self-preservation. It's either him or me.

1 He's a witness, talking to the police, leading those
2 charges against me. Charles Morehouse ain't going to
3 prison for selling to an informant, not when you can take
4 the informant out. It's either him or me. Express malice
5 of his intent to murder an informant. That's what led us
6 here.

7 We have malice in multiple forms. We don't even have
8 to prove express malice. Charles Morehouse has made sure
9 everybody knew his intentions. I need a place to take
10 somebody to teach them a lesson is what he told Snoop as
11 they're cutting up that line and trading that 45 for a 40.
12 Snoop wanted nothing to do with that.

13 How did he describe Sisk acting? Like a little
14 puppy he said. Sisk looked up to him and went along with
15 everything he said. Morehouse is the boss. We know he
16 traded the gun on the night of the murder. We know he
17 told his girlfriend, Heather Owens. She described him
18 being on a mission. We're gonna split somebody's wig.
19 It's either him or me and Morehouse was making sure it
20 wasn't gonna be him. He called the victim an informant
21 and a snitch not only to Kelin Martinez at that birthday
22 party a couple of weeks before Rico was murdered. He
23 called him an informant to police. We know he admits
24 he had the gun on him. Finally, when Sergeant Laintz
25 confronts him with that fact after he's tried to tell

1 several lies around it, we know he had the gun on him.
2 He admits it from his own mouth. We know he admits he
3 fired the gun. Finally, one thing is for sure. David
4 was ambushed by a bat that brought him down and by a
5 second Defendant who brought him there with a gun, the
6 same Defendant that left that cigarette right there next
7 to David.

8 Here's David leaving his friends one day after his
9 22nd birthday to meet a career drug dealer on a dirt road
10 here in Lexington County. With that embankment behind
11 him, the muscleman with the bat who takes him down, that
12 Defendant with a gun in his hand, there was no way out
13 and nowhere left to turn. Those final three weeks with
14 his father he did everything under the sun to beat this.
15 Three weeks of a long and agonizing fight. He'd been in
16 inpatient treatment. It didn't work. Three weeks to
17 where it almost looked like he would beat this and three
18 weeks where in the end he didn't. He ends up at his mercy
19 on that dirt road.

20 Conspiracy. The judge will charge you on the law on
21 that. It's very simple. Two people agreeing to carry
22 out a criminal act. Clearly a conspiracy here between
23 Morehouse and Sisk.

24 Possession of a weapon during a violent crime.
25 Exactly what it sounds like. He brought the gun, the gun

1 was used. Under the hand of one hand of all we never
2 have to prove which one of them pulled the trigger,
3 although I submit the evidence is overwhelming Morehouse
4 did. That's why he washed up with Ajax, that's why he
5 threw his clothes in the washing machine as soon as he
6 got home that morning, that's why he got that gun from
7 Snoop because it was quieter.

8 And finally possession with intent to distribute
9 methamphetamine. That's his job. It's just another
10 day in his life. Again, all charges proven beyond a
11 reasonable doubt.

12 These wounds occurred when David is on the ground.
13 There's no question about that. The good thing about
14 being on a jury is that you don't have to leave your
15 common sense behind you. You get to rely on the same
16 common sense you use every day in your ordinary life.
17 Gunshot wounds don't go into there and come out here.
18 Gunshot wounds don't go in here and end up in the pelvis
19 unless he's down on the ground. We know that. A gunshot
20 wound doesn't happen at that angle and then also happen
21 at this angle unless he's rolling over to get away.
22 Gunshot wounds don't happen here in multitude unless
23 you're trying to protect yourself. Gunshot wounds don't
24 happen here unless you're protecting yourself. It
25 happened just like that. And that final shot at a

1 completely different angle, the person is now standing up
2 here. The gun's been passed off. That's an execution.
3 An execution by design, by plan, that he decided and he
4 brought to fruition.

5 You are the conscience of this community. You decide
6 which crimes will and will not be tolerated. I submit a
7 crime of this nature will shock the conscience of any
8 community anywhere in this country or a global county.
9 This is straight up Isis. You decide what will and will
10 not be tolerated in Lexington County. And I submit we
11 can't have this. The correct verdict in this case is
12 guilty of murder, guilty of conspiracy, guilty of
13 possession of a weapon during a violent crime, and guilty
14 of possession with intent to distribute methamphetamine.
15 He murdered David to save his own skin. The past can't
16 be undone. It's too late for David, but it's not too
17 late for justice. It's never too late. Thank you.

18 **THE COURT:** Mr. Hilliard.

19 **MR. HILLIARD:** Thank you, Judge. When we started
20 the week, I had spoken with you and indicated that we'll
21 be here a while and that turned out to be accurate. We've
22 been here a while. I know you're probably all tired. I'm
23 certainly tired as well. This is the conclusion of the
24 case.

25 There's no question that what happened is a -- is a

1 tragedy. David Porter, the Third, is dead and that's --
2 you know, that's sad, that's bad, that's an awful, awful
3 thing. His father has lost a son. That's an awful,
4 awful thing as well. And that's in some ways what this
5 case is about and in some ways it's not. Where -- where
6 you sit today in making a decision in this case is not
7 whether a tragedy occurred because clearly that's true,
8 the question is whether or not the State of South Carolina
9 over this past week with -- with evidence from the witness
10 stand and exhibits and those sorts of things, whether
11 they've proved it. And by proved it, I mean proved beyond
12 a reasonable doubt to the satisfaction of you twelve.
13 Because when -- when the prosecutor is standing up here
14 telling you what she's telling you, it's a version of what
15 she wants you to believe, and so she wants you to believe
16 somehow that -- that there's -- that because of the angles
17 of the bullets and whatnot or these rods that go through
18 the dummy, the rods going through the dummy, that somehow
19 this shows that two people shot the deceased. Well, I
20 submit to you that there's nothing about this that proves
21 that two people shot the deceased.

22 There's a lot that is in this case. Again, I'll
23 submit to you that the prosecution says, well, you know,
24 this proves something and that proves something and
25 there's a lot, and we're gonna go through some of those

1 things, but they have brought you only those parts of
2 this story which are -- in their opinion show that Charlie
3 here is guilty of murder. They didn't bring you -- and
4 I'll call him Rico because that's what -- you know, when
5 we came to court and when the witnesses were testifying
6 and that sort of thing, they may have started calling him
7 David, but on the street when these events were occurring
8 his name was Rico. That's what people called him was
9 Rico. And, you know, there's no -- there's no malice in
10 my heart to call him Rico because that was what he was
11 called.

12 So one of the things as the prosecutor was beginning
13 her remarks to you, and it was sort of bookends, Charlie
14 has been described as preying on kids and has been
15 described as -- as the leader of this situation where all
16 these drugs were getting into the kids and these kids
17 were out there doing drugs and he was the one who was
18 responsible for that. Why would -- why would she tell
19 you that? Well, she wants in your head, I submit to you,
20 that Charlie is a bad guy, Charlie is a bad guy, and
21 because he's a bad guy, the bookend, the other side of
22 that, is that you're the conscience of Lexington County
23 and as the conscience of Lexington County on the first
24 part you have a bad guy and on the second part you have
25 an opportunity to convict the bad guy of something and so

1 convict Charlie of murder.

2 That's not how it works. That's not -- you don't
3 be convicted by proving somebody's a bad guy. You've got
4 to prove beyond a reasonable doubt, to get beyond the
5 presumption of innocence, that -- that he has committed
6 the specific crimes that he's charged with here today.
7 And so that's the -- that's the function of you folks
8 here today is to make that determination.

9 And the -- you know, one of the things that was said
10 here by one of the police officers was that he is a -- he
11 puts on his cape, that he's a superhero in a way, a caped
12 crusader whose job it is to protect the community from
13 the bad guys. Now perhaps his job is that as he describes
14 it or perhaps his job is to investigate and present
15 information to twelve jurors who make a determination of
16 what that evidence proved. One of the things -- and the
17 prosecutor's indicated that don't lose your common
18 sense when you go back there into the jury room, and I'll
19 ask you the same thing. What makes sense? You know, the
20 truth makes sense.

21 And, you know, they -- when you look at this
22 demonstrative aid and -- do you notice that since last
23 night and to this morning this rod goes through both the
24 head and the hand? It wasn't like that yesterday, but
25 here it is this way today, and there's no evidence in

1 the record at all.

2 And let me say this. And the judge has said it, and
3 I'll say it, I'm just one guy doing the best I can to
4 remember and to write down and my notes aren't very good
5 a lot of times, but I'm just one guy trying to remember
6 what got said. So you guys are taking notes also and
7 whatever you write or think or believe that the evidence
8 is, that is the hard words that were said, if I make a
9 mistake I promise you that it's a mistake, that I'm not
10 trying to mislead you in any form or fashion. And if
11 I've done something to offend any of you, that's not
12 Charlie's fault. I mean, he -- I'm his lawyer, he hired
13 me and he's at this point stuck with me, so if I've made
14 some error or mistake or do that it's not on purpose and
15 just don't -- don't hold it against him.

16 But having said that, there's no evidence in the
17 record to show that there's any reason for this to be
18 that way. I mean, it could be that way, but it also
19 could be any other way. I mean, there's no reason to say
20 that this left hand is up here by the head and that the
21 same bullet that went through the left hand went through
22 the hip. I mean, there's nothing in the record to show
23 that. Nothing. That was put on there and it's -- I
24 mean, this thing is -- I don't know, it's a little bit
25 macabre sitting there, but at the same time, you know,

1 it proves which ways the bullets went, but -- and let's
2 think about that for a little bit. Because one of the
3 things that they -- that they have not done -- you know,
4 this one, there's no reason to suggest that that's --
5 that the hand -- the left hand and the head came that
6 way, but what was the -- what did the pathologist say?
7 There was a reason to believe, and that is that this one
8 bullet marked on the dummy as Number 4, that that --
9 because it lodged in there that likely it went through
10 the arm because that -- there was no other reason for
11 that bullet to lodge in there. You'll have the bullets
12 in the jury room with you and you can see that those
13 are full metal jacket bullets and they go through the
14 deceased, so that makes sense that that arm was down
15 there.

16 Now let's look at Number 2. Number 2 here on the
17 demonstrative aid is the bullet that goes through and
18 through up in the chest, right? I mean, you see right
19 here it goes through and through up in the chest. If,
20 in fact, the decedent was laying on the ground when this
21 shot was fired, does it make sense to you that two crime
22 scene investigators doing their very best to find evidence
23 and being on the scene with the body right there, if that
24 happened when they rolled over the body and looked under
25 it that they couldn't find that bullet? Where did that

1 bullet go? You know, how deep in the dirt would the
2 bullet go right there if the decedent is on the ground?
3 How deep would that bullet go? And this bullet, you know,
4 if he's laying there, this is a through and through
5 gunshot wound, if this bullet goes through, why don't
6 they have -- I mean, if he's laying on the ground why
7 don't they have that bullet? Because that this sand is
8 so -- I mean, they indicated that they came on the scene
9 and the body was there and nobody disturbed it and when
10 they -- when they got to the -- to the spot they were
11 very careful about it. I mean, did somebody stomp so
12 hard that they stomped the bullet? It just doesn't make
13 sense. And what does the truth do most of the time? It
14 makes sense.

15 And when -- as we as we go through the testimony
16 and the -- and the things that are said, sort of the
17 theme of the prosecution is that they want to prove a
18 great deal about what happened before the murder, they
19 want to prove a great deal of what happened after the
20 murder, and they want to tell you that the proof --
21 that the information before and the information after
22 necessarily concludes that Charlie was involved in the
23 murder. And they have witnesses and the witnesses --
24 you know, the witnesses -- it's been a miracle. It's
25 been a miracle that these -- that these persons who have

1 been under the influence of ice and Dilaudid and pills,
2 these folks that have been under the influence of all
3 those drugs for a significant period of time, have
4 managed to clean up their life without any -- you know,
5 there are couple of them on a methadone program, but the
6 rest of them just sort of put it down and didn't pick it
7 up and their lives have become improved, and that's just a
8 miracle. Do you really believe that they're all in that
9 position? What about the lady who -- you know, they talk
10 about the lady who goes to the biker gang party and she
11 says well, I was at the biker gang party and the vice
12 president or the president, some guy named Hollywood, and
13 it's a -- you know, it's a criminal biker gang and
14 Hollywood, the president or vice president, and Charlie
15 are talking about -- in full view of this person who's
16 unconnected and says well, you know, this guy's a snitch
17 and she hears that, but then when she gets to the end of
18 it, and who knows why she said what she said, you know,
19 who knows, but when you're determining the believability
20 of the witnesses and you're determining the truthfulness
21 -- and that's -- that's your job. That's one of the parts
22 of your job is the credibility and believability of a
23 witness. When you're trying to figure out whether the
24 witness is telling the truth or not, whether or not
25 they're forthcoming, their demeanor, their attitude in

1 answering questions, how they're in the position to know
2 what they say they know, all those things you take into
3 consideration, does it really make sense to you that the
4 president or vice president of an outlaw biker gang is
5 talking to an individual who's described as a major drug
6 dealer in the community that they're talking about
7 who's a snitch and who's not a snitch in front of some
8 civilian? Does that make sense? Well, as she goes on
9 through to talk about it, what does she say at the very
10 end of it? You know, I really don't remember. I just
11 remember what the detective told me. Well, what does
12 that tell you? I bet she wasn't supposed to say that.

13 How many of those other witnesses have talked to
14 the detectives? All of them. And how many of them --
15 and what does the -- what did the -- you know, no lesser
16 group of folks than the United States Supreme Court says
17 that it's okay for the police to lie to people. Okay.
18 So what did the police tell these folks in order to get
19 them to say what it was they said? And I'm not suggesting
20 that they just, you know, pushed them into that direction,
21 maybe they led them into that direction, they knew what
22 was going on in the investigation and they knew what it
23 was that was supposed to be said and they knew how they
24 were supposed to respond and here they are testifying,
25 and what is that testimony about? Well, let's see.

1 There's a whole lot of drug addicts who say that they
2 were under the active influence of a substantial amount
3 of various flavors of narcotics at the time that the
4 events occurred that they're describing and have described
5 for you over the past week and those folks are talking
6 about Charlie and him being nervous and him being paranoid,
7 but what are they also telling you about that? They're
8 telling you that ice makes you nervous and paranoid and
9 that Charlie was using ice during those periods of time.
10 So does that prove anything or does that just -- you know,
11 they want you to believe that there was something special
12 about this day, that there was a special thing about it.

13 Let's talk about that for a second. On the one hand,
14 in order to try to throw off on Charlie they say he always
15 had a gun. On the other hand, they want you to believe
16 that because he had a gun on this particular night that
17 somehow that meant that somebody was gonna be killed. So
18 how do they get those two things together? How can they
19 say he always had a gun, he's a bad guy, a drug dealer,
20 always carries a gun, and he had a gun on this night
21 because he was gonna -- gonna kill somebody? How do
22 they get there? Well, it goes from a 45 to a 40 and
23 the story is that a 40 is somehow -- a 40 caliber
24 semiautomatic handgun is somewhat quieter than a
25 45 caliber semiautomatic handgun. The only person that

1 ever said anything about whether that's true or false is
2 the gun expert and she said that with her earmuffs on
3 they sounded at the same decibel level.

4 But, again, don't -- don't forget your good common
5 sense when you get there about whether a 45 -- or a 40
6 is substantially quieter than a 45 and anybody who has
7 shot one, which would I suppose include the Defendant,
8 would know that. That don't make any sense. Why would
9 anybody say that? Why would they say it? Because they
10 have to have a reason for him to swap the gun. They have
11 to have a reason that that shows that he knew something
12 about a murder. Because if he didn't know that there was
13 gonna be a murder, if he didn't know that, then that's
14 not -- then he's not guilty. It's not the hand of one is
15 the hand of all.

16 He's on a mission. One of the things that -- and
17 these -- this thing is filled with things that the
18 prosecutor wrote down that Charlie had said about things
19 beforehand and things afterwards. He's on a mission.
20 Well, the lady who said that he was on a mission also said
21 that he would abandon his mission and stay with her if she
22 asked him not to go. What kind of mission is -- I mean,
23 what kind of mission is that if you're on a mission and
24 your girlfriend's gonna say no, not go and you're gonna
25 stay? That's what she said. That was her testimony.

1 So split a wig? What the heck is that? Does that
2 sound like the thing -- a thing that somebody who is a
3 big-time drug dealer -- does that sound like the words
4 of a big-time drug dealer? Split a wig. When you're
5 thinking about it, think about the credibility of the
6 witnesses, think about the believability, think about what
7 the prosecutor is putting before you.

8 And you also have the responsibility to think about
9 the lack of evidence. What don't you have? What don't
10 you have? You've got a lot of records, phone records,
11 from -- or between Charlie and Sisk, but you don't have
12 any phone records of any of these other people, you don't
13 have Rico's phone records. They're showing you what they
14 want you to see and they're not showing you other stuff.
15 What's in it? You're entitled to think about the fact
16 that they didn't show you stuff. What was in Rico's car?
17 Rico's car was there. You saw a dozen pictures. Maybe
18 not a dozen, sometimes I exaggerate, but there's a big
19 lot of pictures in this box of Rico's car and no idea
20 what's in it. None.

21 And what is the testimony that Charlie at some point
22 in time says? I've got to get to Heather's. I've got to
23 get to Heather's, okay? So what the heck is that? I've
24 got to get to Heather's. Why if I am a -- if I am a
25 murderer bent on malice on my way to -- to kill somebody,

1 if I am a man on a mission, why do I stop by my
2 girlfriend's house and bring my accomplice so that I can
3 create a witness for no reason? Nobody has said there's
4 any reason that he was there. Nobody. So why? Does it
5 make any sense? Well, maybe the reason that it doesn't
6 make any sense is because he wasn't a man on a mission.
7 He was having an ordinary sort of a day that turned out
8 tragically. I've got to get to Heather's and then
9 nothing.

10 So Rico has died -- according to the prosecution's
11 theory of the case, Rico has died because he was detained
12 and questioned in connection with a drug bust unrelated
13 to anybody in this case and somehow Charlie found out
14 about it and decided or believed that he was an informant.
15 Now the officer said Rico didn't have any drugs on him.
16 He also said that the young friend in Rico's car didn't
17 get arrested. Does that make any sense to you that a
18 person who's detained and talked to that -- there's no
19 reason for the police to arrest them to start with? They
20 had no reason to arrest them. Does that make any sense
21 to you?

22 Everybody -- and this is what he supposedly said.
23 Everybody around Rico goes down. Everybody. Now they've
24 brought the chief investigating officer, the co-chief
25 investigating officer. They've brought the expert drug

1 guy. They brought all those people. Now everybody around
2 Rico -- everybody around Rico goes down. Nobody, nobody
3 around Rico went down. What the heck are they talking
4 about? Who? Who? Who went down? Nobody. So because
5 everybody -- because they say Charlie said everybody
6 around Rico goes down that somehow Rico is an informant,
7 but there's nobody that goes down. It doesn't make sense.
8 It doesn't make sense. The reason it doesn't make sense,
9 ladies and gentlemen, is probably because it's not true.
10 It's not true.

11 There was one of the witnesses, and you'll recollect
12 this perhaps from your notes and whatnot, but there is,
13 in fact, an informant who made purchases from Charlie
14 according to the drug folks, and that guy's name was Chad
15 Anderson. Now the -- one of the witnesses has testified
16 -- one of the lay witnesses has testified that Charlie
17 before any of this happened knew, number one -- or talked
18 to her about the fact that Chad Anderson was an informant,
19 he knew Chad Anderson was an informant, and he knew that
20 he was gonna be arrested for that. That happened in this
21 courtroom. That was said. Now the police, you know,
22 they don't want you to think about that. They want you
23 to think the only reason that Charlie knew that Chad
24 Anderson was an informant was because he got served with
25 those warrants and that somehow the date on those warrants

1 included -- somehow he figured that out, but the testimony
2 was that -- from their witnesses, we didn't put up any
3 witnesses -- from their witnesses the testimony was that
4 Charlie knew about Chad Anderson before any of these
5 things happened.

6 Now if you're a murderer and -- so on the one hand
7 Charlie is the boss of this drug operation, running a
8 drug operation. The policeman said that he is really
9 smart and, you know, I don't know whether he really meant
10 that or not, but anyway he says it, and that Charlie is
11 running this drug operation. So if you're a smart guy
12 and you're getting ready to commit a murder, what don't
13 you do? You don't send a text message to the guy you're
14 gonna kill and say hey, come over here to the scene of
15 the murder, right? Everybody -- well, it makes sense
16 that if you've got your cell phone and you've got it in
17 your pocket and you come to the scene where the murder is
18 gonna happen and you get killed, the murderer is gonna
19 know, number one, that he texted the guy to come to the
20 scene of the murder, right? The murderer is gonna know
21 that and he's also gonna know to take the phone. That's
22 just common sense. Any idiot murderer would know that,
23 right? So if you're a murderer, does it make sense that
24 you're gonna text the victim to come to the murder site?
25 No. If you're not a murderer and you're gonna meet this

1 guy who's part of this drug operation and you're gonna
2 meet him, does it make sense that you're gonna text him
3 to come out there and meet you? Sure, that makes sense.
4 If you're a murderer, it doesn't. All right. So if
5 you're a murderer and you smoke cigarettes and you're at
6 the scene where the murder's gonna take place, does it
7 make any sense that you would just drop a cigarette?
8 You're smoking and then you just drop the cigarette. The
9 witnesses have testified that -- several of them -- or at
10 least one. I'm a smoker and I know what it looks like
11 when a cigarette burns down and so the cigarette was not
12 crushed, it was not flicked, it was not anything else.
13 It was dropped. So what causes you to drop a cigarette?
14 You drop a cigarette if you get surprised by something.
15 If something happens, it's like ahh, you drop your
16 cigarette, and what in the world now? That makes sense.
17 So what doesn't make sense is if you're a murderer and
18 you -- DNA's all over the TV. If you're a murderer and
19 you're at the murder scene, you don't drop your cigarette,
20 you put it out before you get out to kill the guy.

21 They made a big deal about Rico owing Charlie --
22 you know, that's one of the things, ladies and gentlemen,
23 is that they spent a lot of time and made a big deal out
24 of one thing and then say well, you know, this means he
25 got -- that's the reason he got killed, but then they

1 don't go together, they don't go together. We've been
2 here all week long, maps, plats, photos, diagrams,
3 everything. The victim owes Charlie \$200.00. That was a
4 big deal, right? That's a motive for the murder. Charlie
5 says \$200.00 doesn't matter. The guy had -- Rico had
6 \$200.00 in his pocket. They say that he's paranoid all
7 the time. He believes the Feds are watching him. Rico's
8 no fed. But he believes that the Feds are watching him
9 all the time and he decides to commit this murder. It
10 doesn't make sense. Chad Andrews. If you're gonna kill
11 somebody, kill Chad Andrews. That's the informant.
12 That's the guy. Split his wig, beat his ass. Heather
13 thinks rough him up. It's not murder.

14 When you are determining the truthfulness and
15 believability of the witnesses and how things are going
16 and you're looking at the way they testified, do you
17 remember the chemist and the dance that I had with the
18 chemist about whether he knew about another drug report
19 in this case? Do you remember that? He had the thing
20 in his hand. And y'all think about that however you want
21 to, but he had the thing in his hand and, you know, it
22 took me ten minutes to get it out of him.

23 They want you to convict Charlie. There is no
24 question about that. They have done everything they can
25 to make that be true. The question is have they proved

1 him guilty of the murder? That's the question. So when
2 you go through and think about it, they've got all these
3 things they say in the front, right, about split his wig
4 and trade the gun and all those kinds of things, and they
5 submit to you they want you to believe that those things
6 means that he's gonna go commit a murder, and then the
7 murder happens. And it's a murder. Wiley's already been
8 convicted of murder and I will guarantee you that that
9 trial didn't look like this trial. Because Wiley --
10 remember when we were talking about Wiley? Wiley has
11 said that Charlie had nothing to do with it. Now Wiley
12 also has said that Charlie did it all, but at least at
13 one point Wiley said Charlie didn't do it and he did it
14 all and Wiley's had a trial and been convicted.

15 So there is a murder, there's a convicted murderer.
16 The question is was Charlie present aiding and abetting,
17 the hand of one is the hand of all. That's the question.
18 So what do they -- what do they offer to show you that
19 -- that Charlie participated in the murder? Well, one
20 thing is that -- and remember everything that happens
21 after the murder is after the murder, right? So what
22 about the things that happened after the murder, the
23 coverup? Well, Charlie's there, the murder happened, he
24 is a narcotics dealer, he knows he's in trouble. Whether
25 he had anything to do with the murder or not, covering it

1 up makes sense. You know, sometimes when you have an
2 individual who --
3 who is trying to cover up some crime, that tends to
4 show that they were involved in the crime. Ladies and
5 gentlemen, in this case, I would submit to you that trying
6 to cover up the crime has nothing to do with whether or
7 not he participated in it. He knew that the police wanted
8 him. He knew that it would look bad for him. Trying to
9 cover it up after the fact doesn't mean that he actually
10 did anything. It just meant that he knew how it was gonna
11 look. So all this evidence about burning this and washing
12 that, you know, the clothing, Wiley burned his clothes.
13 Charlie could have burned his clothes. Wiley, get rid of
14 the bat. What about that? Charlie's telling Wiley to
15 wash the bat, Charlie's telling Wiley to get rid of the
16 bat and the only thing that happens to the bat is it goes
17 under the sink. If Wiley is the muscle, he's dumb muscle.
18 He doesn't get rid of the bat, he just washes it and puts
19 it under the sink. Now the police never got it, but
20 anyway the clothes got burnt, the police go to -- Wiley's
21 clothes got burnt. The police go to Charlie's house and
22 they find a full dryer running and they find a full washer
23 running and they say that somehow that means that Charlie
24 is trying to destroy evidence. Well, ladies and gentlemen,
25 does it makes sense to you that if I -- if I walk in my

1 house and I have my pants on and they've got blood and
2 whatnot all over them and I want to wash them, I'm gonna
3 not turn on the dryer, I'm not gonna put them in there
4 with something else, I'm gonna throw them in that washing
5 machine and pour a bunch of stuff in there and I'm gonna
6 wash them up, all right? I'm not gonna run a load in the
7 dryer and run a load in the washer. That doesn't make
8 any sense. What did they bring? They didn't bring you
9 all that because that doesn't prove what they want to
10 prove. What they brought you were those other clothes.

11 During the -- and you'll have -- and I know it's a
12 long, long audio. You'll have the audio with you when
13 you go back into the jury room and you can play it at
14 spots and I'll ask you to pay attention to the entirety
15 of whatever spot you pick. Just pick a spot, listen to a
16 little ahead and a little behind as it goes. One of the
17 things that Charlie says in there and, you know, they
18 agree with some of the things that he says and they
19 disagree with other things that he says and a lot of their
20 investigation is based on the things that Charlie told
21 them. They got significant investigation benefit out of
22 the conversation with him. That was helpful to the -- to
23 the government, that was helpful to the police, that
24 interrogation that they did. He said I shot to the left,
25 not even near that boy. That he's night blind and they,

1 you know, tried to make that into something, but he also
2 said I shot to the left not even near the boy. He says I
3 popped off three rounds.

4 I'm gonna stop in just a minute because I've used up
5 about as much attention span as I can legitimately expect
6 from a jury, but I do want to tell you a little bit about
7 the hand of one is the hand of all. And Charlie's got a
8 bunch of charges, all right? The judge is gonna tell
9 you what those charges are. Let me say this one before
10 I sit down. Possession with intent to distribute. The
11 possession with intent to distribute drugs that's in this
12 case, the drugs that are in evidence are those amounts,
13 the bobblehead, not the Pez dispenser, that was there,
14 the drugs in there is like a little over a gram. There
15 was a substantially lesser amount of drugs in his car.
16 The question for you to decide when you get to that spot
17 is gonna be whether he possessed with intent to distribute
18 those drugs or not. I would submit to you that, you know,
19 there's a lesser included offense of possession, you know,
20 of drugs in your house, a small amount by your bed, you
21 intend to use those yourself, makes sense. Intent to sell
22 them to somebody doesn't really make sense. A little
23 tiny bit in your car, you intend to use those yourself.
24 Probably. Intent to sell those to somebody else? It's
25 not really enough to sell. So, you know, you'll hear

1 that. You'll make that decision.

2 Possession of a weapon during the commission of a
3 violent crime, that's a situation where if you make the
4 determination Charlie committed a violent crime, then
5 there would be possession of a weapon during the -- the
6 commission of that crime.

7 The conspiracy, you know, that's a conspiracy about
8 the drugs, that's a conspiracy about the drugs being in
9 possession with intent to distribute those drugs. Another
10 conspiracy is about the murder, whether he was conspiring
11 with Wiley to commit the murder. Those are decisions for
12 you guys to make. The judge will give you a verdict form
13 at the conclusion of it.

14 And I want to -- I want to conclude by talking about
15 the hand of one is the hand of all because that's the --
16 you decide what the key element of this case is, but I'll
17 submit to you this is the key element of the case, and
18 the judge is gonna charge you about that, but prior
19 knowledge that a crime is going to be committed without
20 more is not sufficient to make a person guilty of the
21 crime. If you know a crime is gonna be committed before
22 it's committed, that's not enough. Mere knowledge that
23 another person is going to commit a crime -- even if
24 Charlie was present when the crime was committed is not
25 enough to convict Charlie as a principal. The finding

1 of a prior arranged plan or common scheme is necessary to
2 find Charlie guilty as a principal. Mere presence at the
3 scene of the crime is not sufficient to convict one as a
4 principal on the theory of aiding and abetting. You have
5 to have intent. It's a necessary element that there was
6 a common design and intent to commit the crime and the
7 crime must have been committed in connection with that
8 plan with the person. Charlie, who is aiding and abetting
9 by some overt act. That is, Charlie must have done some
10 thing in furtherance of the plan to commit the murder in
11 order to be guilty of the murder under the common plan,
12 scheme or design. Mere presence at the scene is not
13 sufficient to prove someone guilty of a crime.

14 And if you deconstruct this case, or diagram,
15 there's a whole lot of evidence about before the murder,
16 there's a whole lot of evidence about after the murder.
17 What happened on the dirt road, the only information that
18 you have about what happened on the dirt road is the
19 forensics and what Charlie said. That's all. Anything
20 beyond that is circumstantial, which is not to say it's
21 not good evidence, but you have to prove those elements.
22 Now Charlie says that he fired three times not at the boy
23 is what Charlie says and the forensics -- you know, the
24 prosecutor has this theory about the victim in the case
25 laying on the ground while the shots were fired and if

1 that doesn't make sense, if you can't figure out how come
2 they couldn't find any of those bullets under the body
3 when they came upon the body that was laying on the
4 ground, if you can't figure out why they couldn't find
5 any of those bullets that went through the body, then
6 their theory doesn't make any sense and once their theory
7 of the murder doesn't make any sense the whole thing falls
8 apart because everything else is either before or after
9 the murder. It doesn't prove the murder, it's before or
10 after. It makes it suspicious.

11 Ladies and gentlemen, what's happened here for this
12 week and today in Lexington County is the prosecution has
13 attempted to convict Charlie I submit to you because of
14 who he is. That's all. Thank you very much.

15 **THE COURT:** All right. Let's take a short break.
16 Y'all step in the jury room and I'm gonna give you about
17 ten minutes or fifteen minutes and have you right back in
18 here.

19 (Whereupon, the jury retires to the jury room at
20 11:06 AM.)

21 (Recess taken.)

22 **BAILIFF:** All rise.

23 **THE COURT:** Y'all be seated. Are we ready?

24 **MR. HILLIARD:** Yes, sir.

25 **THE COURT:** Okay.

1 (Whereupon, the jury returns to the courtroom at
2 11:13 AM.)

3 **THE COURT:** All right, folks. I come over here when
4 I give my instructions. I like to get a little closer.
5 Sometimes I stand up, but I'm gonna sit down and go from
6 here.

7 Now my job is to give you the instructions and then
8 the verdict form and when I get done the lawyers can make
9 comments because we discussed my instructions with them
10 before I give them to you, but until I actually do it --
11 I don't read everything verbatim. Sometimes I just talk
12 to you, tell you things and then I read a little bit and
13 make sure I get the specifics right, so it's gonna be a
14 little bit of both. Once I'm done, I'll put you in the
15 jury room and ask them all right, was that sufficient and
16 complete considering what's before the jury and they can
17 decide and they get to make suggestions or notations to me.

18 In any event, it's time for my opportunity to give
19 you the instructions and so, Mr. Marcle and ladies and
20 gentlemen of the jury, I tell you that the Defendant,
21 Charles Morehouse, has been charged with four crimes.
22 He's charged with the offense under an indictment for
23 murder, possession of a weapon during commission of a
24 violent crime, conspiracy, as well as possession with
25 intent to distribute methamphetamine. He's pled not

1 guilty to all four indictments. By doing that, he is
2 requiring the State to prove their case and all the
3 elements of each of the four indictments beyond a
4 reasonable doubt. Now I'll tell you now each of the
5 indictments stand on their own. The charges are all
6 independent. They don't go lock, step, they go
7 independently to you, so you consider them separately.
8 Now I have them on a verdict form. The indictments are
9 up on the bench somewhere, but this is the verdict
10 form which names each of the indictments and so that's
11 what you'll have in the jury room.

12 Now I tell you this, and I told you early on, that
13 Mr. Morehouse is clothed with the presumption of innocence
14 under our constitution and that presumption of innocence
15 stays with him unless and until the State proves its case
16 beyond a reasonable doubt and, therefore, dispels the
17 presumption of innocence from him.

18 Now the State must prove its case, as I told you,
19 beyond a reasonable doubt. I'm gonna define that
20 momentarily. Now I told you early on, and I'll tell you
21 again, some things I'm repeating myself on, and that's
22 okay, is that the constitution and the law that makes you
23 the finders of fact makes me the instructor of law on
24 this case.

25 Now understand this. I asked you during the

1 preliminary before we took the oath if anyone was gonna
2 have a difficult time understanding that I'm gonna tell
3 you the law and if it disagrees with your understanding
4 or your reading of the law from some other source, you
5 must disregard that law and accept the law as I'm giving
6 it to you here today. What's on the Internet, what's on
7 a -- from any other source is not relevant for our
8 purposes today as our criminal justice system depends on
9 the judges to give proper instructions on the law as it
10 stands in South Carolina.

11 Additionally, if I make a mistake in instructing
12 the law, there's another time and another place if that
13 mistake is made it can be considered and, if necessary,
14 corrected, but for our purposes today you must accept the
15 law as I'm giving it to you right now. I tell you also
16 that in criminal prosecutions the defense has no burden
17 whatsoever to prove anything. It is upon the State and
18 in our constitution that they must prove -- the State
19 must prove its cases beyond a reasonable doubt before a
20 finding of guilt may occur.

21 Now you as a group are the finders of fact. You're
22 answering questions of fact. Our constitution designates
23 you the finders of fact. As a matter of fact, since I'm
24 the instructor of the law I'm not allowed to even have an
25 opinion as to the facts. I make rulings on what testimony

1 and evidence comes in, but determinations of fact are
2 solely within the jury's power and the jury's authority.
3 So what facts you as a group of twelve make are the
4 factual law of this case.

5 Now in making determinations of fact, generally
6 your primary duty is to pass upon the credibility of the
7 testimony and the evidence which has been presented to
8 you as a group. Now in considering and passing upon
9 one's credibility, you can use anything in your collective
10 life experiences and your common sense that you wish to
11 use in making determinations of what evidence is truthful.
12 Now you're also to consider other things such as the
13 manner and appearance of any of the witnesses who
14 testified, was the witness straightforward in their
15 testimony, or were they hesitant in answering questions
16 presented to them, how did a witness come to know the
17 facts to which he or she testified to and what was the
18 witness's ability to recollect or to know these facts.
19 You can also consider whether there would be some reason
20 a witness would want to give testimony which would help
21 or hurt one side or the other. In other words, was a
22 witness biased or prejudiced in any manner.

23 You can consider whether the testimony a witness
24 provided was strengthened or weakened by other testimony
25 or other evidence. You, as a group, may believe as much

1 or as little of each witness's testimony as you deem
2 proper. You can believe testimony of one witness against
3 that of many, many against one, or any combination
4 therein. You can believe part of a witness's testimony
5 and disbelieve the rest. The fact that testimony is not
6 controverted does mean you must accept it as truthful.
7 You must gauge the credibility of all the witnesses and
8 all the evidence presented and make a determination of
9 the facts you believe and your verdict on those facts is
10 unanimous.

11 Now several witnesses who testified, there were
12 questions about their prior criminal record or pending
13 criminal charges. That evidence is -- a past record does
14 not affect the ability of any witness to testify. A past
15 record of a criminal conviction can only be considered
16 by you in determining that person's credibility or
17 believability. You're the judges of the facts in the
18 case and the believability of any of the witnesses who
19 testify.

20 Now during the trial I gave you several indications
21 that many -- not many, I'll say three or four witnesses
22 were qualified as expert witnesses in some field of
23 expertise. This is an exception to a lay witness, which
24 is generally a fact witness; I saw this, I smelled that,
25 and I did this. An expert witness is allowed to give

1 testimony as to opinions of what they believe facts and
2 things show because they can by education and experience
3 become an expert in some art, science or field of
4 expertise and they can state an opinion that may be
5 relevant to a material matter in this case, but it must
6 be within that expert's field of expertise, and the
7 expert needs to state the reasons for these opinions.
8 Now you should consider any of the expert's opinions
9 received as evidence in this case just like other
10 evidence received. Give it the weight you deem
11 appropriate and you think it deserves. If you think an
12 expert's opinion is not based on sufficient education or
13 experience or if you conclude that the reasons given for
14 the opinion are not sound or the opinion is outweighed by
15 other evidence, you may disregard that expert's opinion
16 entirely. An expert witness's opinion should be given no
17 greater weight or credibility just because of the fact
18 that they're an expert. You're to consider all of the
19 evidence presented to you and weigh the evidence fairly
20 and impartially.

21 Now weighing the evidence -- and I've noticed that
22 y'all have, as a group, listened carefully to the evidence
23 presented. Weighing evidence is entirely a mental process.
24 You weigh evidence using your good judgment, your common
25 sense and -- weighing evidence is entirely a mental

1 process. You weigh evidence which convinces of you its
2 truth regardless of where it came, whether it was from any
3 witness you heard today, your objective is to find the
4 truth which has been presented through the evidence and
5 testimony of the witnesses in this trial.

6 Now I tell you there are two types of evidence
7 generally presented in trials and in this trial there
8 were two types. There is direct evidence and there's
9 circumstantial evidence. Direct evidence is testimony of
10 a person who claims or asserts to have actual knowledge of
11 firsthand facts, such as an eyewitness. Circumstantial
12 evidence is slightly different. It is proof of a chain
13 of facts and circumstances indicating the existence of
14 another fact. Our law makes no distinction between the
15 weight or value given to circumstantial evidence or that
16 of direct evidence. There's no greater degree of certainty
17 required of circumstantial evidence than of direct
18 evidence. I tell you, you should weigh all evidence
19 presented in this case; however, to the extent the State
20 relies its case upon circumstantial evidence I instruct
21 you that all of the circumstances must be consistent with
22 each other and when taken together conclusively point to
23 the guilt of the accused beyond a reasonable doubt and
24 if these circumstances merely portray the Defendant's
25 behavior as suspicious, then the State's proof has failed.

1 So I tell you that after weighing all of the evidence,
2 whether it be direct evidence or circumstantial evidence,
3 if you're not convinced of the guilt of Mr. Morehouse
4 beyond a reasonable doubt, then you must find him not
5 guilty.

6 Discuss reasonable doubt. What is a reasonable
7 doubt? Reasonable doubt is simply this. It's the kind
8 of doubt which would cause a reasonable person to hesitate
9 to act. Reasonable doubt may arise from evidence which
10 is in the case or from a lack or absence of evidence in
11 the case. Proof beyond a reasonable doubt is proof that
12 leaves you firmly convinced of the Defendant's guilt. It
13 is the kind of doubt which one can assign a reason to if
14 the assignment can be done reasonably and convincingly.

15 I charge you that the Defendant is entitled to every
16 reasonable doubt which may arise in this case, and what
17 that means is that if any of you have a doubt about
18 anything in this trial you will be required to resolve
19 that doubt in favor of Mr. Morehouse. The very fact that
20 you will engage in a full and free discussion of the guilt
21 or innocence of the Defendant in this case does not
22 automatically create a reasonable doubt. You, the group
23 of twelve, must make a determination of whether or not a
24 reasonable doubt exists as to his guilt, and if you find
25 the State has not met that burden of proof of proof beyond

1 a reasonable doubt, then he is entitled to a verdict of
2 not guilty.

3 Now when I get to the specifics of the law of the
4 case and talk about intent, I'm gonna describe criminal
5 intent which is a necessary element of each crime which
6 must be proven by the State beyond a reasonable doubt.
7 Criminal intent is always a matter that must be determined
8 from the jury -- or by the jury from the circumstances
9 surrounding the situation. There's no way to prove intent
10 to a mathematical certainty. There's no way medical
11 science can dissect a person's brain to determine what he
12 or she had in mind, so our law states that criminal intent
13 may be inferred from the circumstances shown to have
14 existed both before and after the fact, and this is how
15 you, the jury, make a determination of whether or not the
16 element requiring intent was present.

17 Criminal intent is a state of mind that operates
18 jointly with an act or an omission in the commission of a
19 crime. Criminal intent is a mental state of conscious
20 wrongdoing. It's up to you, the jury, to determine what
21 the Defendant intended to do based upon the circumstances
22 shown to have existed and the State must prove criminal
23 intent beyond a reasonable doubt just as they must prove
24 each and every element of the crimes in the indictments.

25 The specifics. The Defendant is charged in the first

1 indictment, and I'm not sure of the exact numbers, but
2 there are four indictments. All of them have unique
3 numbers to them. The State must prove beyond a reasonable
4 doubt that the Defendant killed a person with malice
5 aforethought. Malice is hatred or ill will or hostility
6 towards another person. It is the intentional wrongdoing
7 of an act without just cause or excuse with the intent to
8 inflict injury or under circumstances that our law will
9 infer an evil intent.

10 Now malice aforethought does not require that the
11 malice exist for any particular time before the act was
12 committed, but the malice must exist in the mind of the
13 Defendant just before and at the time the act is committed;
14 therefore, there must be a combination of the previous
15 evil intent and of the act itself. Malice aforethought
16 may be either expressed or it may be inferred. These
17 terms do not mean different kinds of malice, but merely
18 the manner in which the malice was shown to have been
19 existing, that is by either direct evidence or by an
20 inference from the facts and circumstances which are
21 proven by the State. Express malice is when a person
22 speaks words of hatred or ill will towards another or
23 whether the person prepared beforehand to do an act which
24 was later accomplished. For example, lying in wait or
25 making preparations to show the deed was within the

1 Defendant's mind would be express malice.

2 Now malice also may be inferred from conduct by the
3 Defendant showing a total disregard for human life.

4 Inferred malice may also arise when the deed is done by
5 a deadly weapon. A deadly weapon is an article or an
6 instrument likely to cause death or great bodily injury.
7 Whether an instrument has been used as a deadly weapon
8 depends upon the facts and circumstances of each case.
9 Examples of instruments that can be deadly weapons are a
10 shotgun, rifle, pistol, knife, razor and other things of
11 that type.

12 Now the next item, possession of a weapon during the
13 commission of a violent crime. Mr. Morehouse is charged
14 with that crime also. The State must prove beyond a
15 reasonable doubt that Mr. Morehouse was in possession of
16 a firearm or did visibly display what appeared to be a
17 firearm during the commission of a violent crime. A
18 firearm means any machine gun, automatic rifle, revolver,
19 pistol, or any weapon designed or may be converted to
20 expel a projectile.

21 In order to find his guilt of possession of a weapon
22 during the commission of a violent crime, you must first
23 find him either guilty of a violent crime or attempting
24 to commit a violent crime. I tell you that our statutes
25 define murder as an example of a violent crime. The

1 State must also prove beyond a reasonable doubt that a
2 weapon further advanced or helped during the commission of
3 that crime.

4 Mr. Morehouse is also charged with the offense of
5 conspiracy. In order to sustain a conviction for criminal
6 conspiracy, the State must prove beyond a reasonable doubt
7 that Mr. Morehouse combined with one or more people for
8 the purpose of committing an unlawful act or committing a
9 lawful act by an unlawful means. Now in order to sustain
10 that conviction, there must be a mutual understanding,
11 an agreement or a common intention and plan. Passive
12 knowledge of or consent to the criminal conduct of another
13 is not enough to make a person a conspirator. There must
14 be guilty knowledge and participation. Similarly, the
15 mere fact that the Defendant may have been associated
16 with another person or met another person and discussed
17 the common aims and interests does not necessarily
18 establish proof of the existence of a conspiracy or that
19 the Defendant in this case was involved in a conspiracy.
20 On the other hand, it is not necessary that the agreement
21 be a formal one, that it be in writing or that the persons
22 hold a meeting and expressly state the terms of the common
23 plan or that the agreement be stated in words between
24 them. An agreement of a criminal conspiracy may come
25 into being through an implied mutual understanding. The

1 willful and intentional knowing adoption by two people of
2 a common plan is sufficient. I also tell you that no
3 overt acts need to be shown to establish a conspiracy. A
4 conspiracy may be shown by circumstantial evidence and by
5 the conduct of the parties. In order to convict a person
6 of conspiracy, the State must prove beyond a reasonable
7 doubt not only that the Defendant knew of the unlawful
8 conduct, but the Defendant agreed to combine with the
9 other person for the purpose of accomplishing the unlawful
10 conduct.

11 Now the indictments in this case allege several
12 offenses against the Defendant, particularly murder,
13 possession of a weapon during the commission of a
14 violent crime -- I'm sorry. I've got to go to the last
15 one first. The Defendant's charged with possession --
16 also, lastly, with possession of -- with intent to
17 distribute methamphetamine. In order for the State to
18 sustain a conviction of that offense, the State must
19 prove beyond a reasonable doubt that the Defendant
20 possessed methamphetamine with the intent to distribute
21 it. To prove possession, the State must prove beyond a
22 reasonable doubt that the Defendant had both the power
23 and the intent to control the disposition or the use of
24 the methamphetamine. Possession may be either actual or
25 constructive. Actual possession means the methamphetamine

1 was in the actual physical custody of the Defendant.
2 Constructive possession, it's slightly different, means
3 the Defendant had dominion and control or the right to
4 exercise dominion and control of either the methamphetamine
5 itself or the property on which the methamphetamine was
6 found. Mere presence at the scene where the drugs were
7 found is not enough to prove possession. Actual knowledge
8 of the presence of the methamphetamine is strong evidence
9 of the Defendant's intent to control its disposition or
10 use. The Defendant's knowledge and possession may be
11 inferred when a substance is found on the property under
12 the Defendant's control; however, this inference is simply
13 an evidentiary fact to be taken into consideration by you
14 along with the other evidence and be given the weight you
15 deem appropriate. Two or more persons may have joint
16 possession of a drug.

17 The State must also prove beyond a reasonable
18 doubt that the Defendant intended to distribute the
19 methamphetamine. Distribute means to deliver other than
20 by administering or dispensing a drug. Intent may be
21 shown by the acts and conduct of the Defendant and other
22 circumstances from which you may naturally and reasonably
23 infer intent. In determining whether the Defendant had
24 the intent to distribute, you may also consider the
25 circumstances surrounding the Defendant's alleged

1 possession. You may consider the amount of the substance
2 alleged to have been possessed, the manner in which it
3 was allegedly possessed, the place where it was allegedly
4 possessed and other factors which you consider to be
5 important. You must find the Defendant did not have
6 intent to distribute methamphetamine solely for his own
7 use. Possession of one or more grams of methamphetamine
8 creates an inference that the Defendant possessed the
9 methamphetamine with the intent to distribute it. This
10 inference does not relieve the State from proving beyond
11 a reasonable doubt that he had intent to distribute it.
12 It is simply another evidentiary fact to be taken into
13 consideration by you along with the other evidence and
14 you're to give it the weight you believe is appropriate.

15 Now if you find that the State's not proven beyond
16 a reasonable doubt possession with intent to distribute
17 methamphetamine, you may consider the lesser included
18 offense of possession of methamphetamine. In order to
19 sustain a conviction of that offense, the State must prove
20 beyond a reasonable doubt that the Defendant had both the
21 power and intent to control the disposition or use of the
22 methamphetamine. And, again, the possession may be either
23 actual or constructive. Again, actual possession means
24 it was in the actual physical custody of the Defendant.
25 Constructive possession means the Defendant had dominion

1 or control or the right to exercise dominion and control
2 over the methamphetamine itself.

3 Now several other factors which were presented
4 through different testimony, I've given you some general
5 instructions, is that the Defendant claims that he may
6 have been voluntarily intoxicated. Insanity caused by
7 the use of drugs or alcohol may be a defense if the
8 insanity is permanent and destroys the Defendant's
9 ability to know right from wrong; however, when voluntary
10 intoxication has not produced permanent insanity it is not
11 a defense to a crime and a person who voluntarily becomes
12 intoxicated is just as responsible for the acts committed
13 while intoxicated as when a person is not intoxicated.

14 Also the law of the hand of one is the hand of all.
15 When a crime is committed by two or more people who are
16 acting together in committing a crime, the act of one is
17 the act of all of them. A person who joins with another
18 to commit an unlawful act is criminally responsible for
19 everything done by the other person which happens as a
20 probable or natural consequence of the acts done in
21 carrying out the common plan and purpose. For example,
22 two people can be guilty of killing another when only one
23 of the two had the gun and there was only one bullet and
24 only one of the two fired the shot that caused the death.
25 If two people are acting together -- acting together

1 assisting together in committing the offense, the act of
2 one is the act of more or, as said, the hand of one is the
3 hand of all.

4 Prior knowledge that a crime is going to be committed
5 without more is not sufficient to make a person guilty of
6 that crime. Mere knowledge that another person is going
7 to commit a crime, even if the Defendant is present when
8 the crime is committed that is not sufficient to convict
9 him as a principal. Guilt as a principal is shown by
10 actual or constructive presence at the scene as a result
11 of a prior arrangement. Therefore, finding of a common
12 arrangement, plan or common scheme is necessary for the
13 finding of guilt as a principal. The State must prove
14 beyond a reasonable doubt by competent evidence of the
15 theory of the hand of one is the hand of all. I tell you
16 that a principal in a crime is one who either actually
17 commits the crime or is present aiding and abetting and
18 assisting in the committing of the crime. When a person
19 does the act in the presence of or with the assistance
20 of another the act is done by both. When two or more
21 acting within a common scheme, plan or intent and all are
22 present in the commission of a crime it does not matter
23 who actually commits the crime, all are guilty. The hand
24 of one is the hand of all.

25 Now during the commission of a crime means

1 sufficiently near to aid, abet or assist in the commission
2 of that crime; however, mere presence at the scene of a
3 crime is not sufficient to convict one as a principal on
4 the theory of aiding and abetting. Intent is also a
5 necessary element. There must have been some common
6 scheme, design or intent to commit the crime and the
7 crime must have been committed pursuant to -- or thereto
8 with the persons aiding and abetting by some overt act.
9 Intent means intending the result which actually occurs,
10 not accidentally nor involuntarily. Intent, again, may
11 be shown by the acts and conduct of the Defendant and
12 other circumstances from which you may naturally and
13 reasonably infer intent.

14 The State must also prove these elements beyond a
15 reasonable doubt. I tell you that mere presence at the
16 scene of a crime is not sufficient to prove someone guilty
17 of that crime. A defendant's presence where a crime is
18 being committed or mere association with a person who
19 commits a crime does not make that person a defendant, an
20 accomplice or an aider or abettor of the person committing
21 the crime. The burden is upon the State to prove every
22 element of the crime charged. Therefore, after reviewing
23 all of the evidence that the State -- you find that the
24 State has failed to prove the Defendant was only present
25 at the scene of the crime and did not prove beyond a

1 reasonable doubt of the participation in the crime, then
2 you must find him not guilty. The law is that proof at
3 the scene of the crime is not sufficient to find someone
4 guilty.

5 Now the Defendant has been contending and presented
6 arguments that there was evidence before you indicating
7 that someone other than he or she may have committed the
8 crime and that evidence raises a reasonable doubt with
9 respect to his guilt. In that regard, I charge you that
10 a defendant in a criminal case has the right to rely on
11 any evidence produced at trial that has a rational tendency
12 to raise a reasonable doubt with respect to his or her
13 own guilt. I previously charged you with regard to the
14 State's burden of proof it never shifts to the Defendant.
15 The Defendant does not have to produce evidence that
16 proves the guilt of another, but may rely on evidence that
17 creates reasonable doubt. In other words, there is no
18 requirement that the evidence proves or even raises a
19 strong probability that someone other than he committed
20 the crime. You must decide whether the State has proven
21 his guilt beyond a reasonable doubt but not whether the
22 other person or the people may have been -- committed the
23 crime.

24 Now I instruct you -- and this is very important.
25 I instruct and emphasize to you the very fact that

1 Mr. Morehouse made a decision to not testify is not a
2 factor which you may discuss in your deliberations or
3 in your consideration of the question of his guilt or
4 innocence. It must not be considered by you at all in
5 any manner whatsoever. Any person charged with a crime,
6 whether it be in this state or another state, has a
7 constitutional right to remain silent. That assertion of
8 that right must not be considered by any of you as I'll
9 tell you that under your oath you are to accept the law as
10 I instruct it to you. You're not to draw any conclusions
11 in any manner whatsoever from the fact that he has chosen
12 to not testify. The fact that he didn't testify should
13 not even be discussed in the jury room. The burden of
14 proof is upon the State to prove the elements of each of
15 the offenses beyond a reasonable doubt and that burden
16 remains with the State. A defendant has no burden of
17 proving anything. So the fact that he chose to exercise
18 his constitutional right and not testify should not be
19 discussed at all. You consider the evidence which was
20 presented.

21 Now moving onto the notes, I think I told you in the
22 preliminary that you would be allowed to take notes if
23 you so chose and certainly you were well within your --
24 within my instructions to do so. Now when you begin
25 deliberations, whoever took notes and whoever didn't take

1 notes, it doesn't matter. What I want to emphasize to
2 you is a note-taker took their own notes for their own
3 benefit. A person who didn't may be a better listener
4 and was paying attention to something else while the
5 note-taker was jotting down notes. The end result is a
6 person's recollection of what they heard and what they
7 think the evidence shows is just as valid as a person's
8 notes even if they contradict. So note-taker's notes do
9 not trump someone's memory. Everyone's on equal footing
10 whether they took notes or didn't take notes.

11 Y'all will have -- I'm not sure if it's that computer
12 over there, it may be a different one, but the audio of
13 anything played y'all will have that in the jury room. I
14 generally find that jurors now are computer savvy enough
15 that they can operate the computer. If you can't, I've
16 got a volunteer that can help. If you need testimony
17 replayed, that can be done. You need to gave Stacy some
18 warning.

19 Now once you start deliberations you're working on
20 your time. Ms. Frick told me she's gonna have lunch here
21 about 12:30; is that right?

22 **THE CLERK:** Yes, sir. It's been ordered and it will
23 be here then.

24 **THE COURT:** All right. So here's what we're gonna
25 do. I've got a few more things to tell you, but I'm more

1 or less done. I'm gonna put everybody in the jury room,
2 including the alternates. I'm gonna ask the parties were
3 my instructions sufficient or complete and they may say
4 judge, you forgot, you glossed over, and I may bring you
5 back in here and say okay, I did gloss over this aspect
6 of my instruction, therefore, here's some more. If they
7 say it's okay, then the evidence will be brought to you,
8 the verdict form will be brought to you and then you can
9 start deliberating. I'll pull the three alternates out
10 at that time. Y'all will still get your lunch. I'm not
11 sure which ones are my alternates, but I've got it written
12 down and we'll figure it out fairly quickly. Y'all will
13 still get your lunch, but you won't be in the jury room
14 with the twelve. Now once lunch gets here, if y'all want
15 to keep working and talk while you eat, that's fine. If
16 you want to stop, then stop. It's up to y'all. Once
17 you're on your time, you go for an hour, thirty minutes,
18 twenty, it doesn't matter. If somebody wants to step
19 outside or step in the restroom, you stop, okay? You
20 don't have to ask Mr. Mills' permission. You just tell
21 him. Say look, we want a break, we want to step outside,
22 and he's gonna make arrangements for that. If you run out
23 of cold drinks, you need to tell him what you need and he
24 can make arrangements to have it rounded up. But if you
25 have any questions for the Court, judge, we want to hear

1 those instructions again on what a reasonable doubt is,
2 write it down, hand it to him, I'll bring it in here.
3 We keep them as Court's exhibits because they're part of
4 the record once y'all write them down because it's a
5 communication between you and me and we're doing our job
6 together. I show the note to the lawyers and sometimes
7 it's judge, will you please give us the definition in
8 writing of reasonable doubt. A lot of times I'll print
9 up that portion of the instruction and just hand it back
10 to you, but I keep the note as a Court's exhibit so I
11 know what you asked and why I responded the way I did.
12 So don't tear the notes up and send them back. Sometimes
13 I've done in the past, I talk to the lawyers and say all
14 right, here's their question, I'd like to write this
15 response if y'all are in agreement with it, and we'll
16 respond back on the sheet of paper that you've written
17 the question.

18 If you want to hear testimony, we'd like to hear the
19 testimony of whomever. If you don't remember the name,
20 describe them. The police officer who gave testimony
21 about, whatever the issue is, just describe it enough.
22 That will give Stacy enough time to retrieve it off her
23 recording device and she can queue it up. That's
24 generally a good time to take a break is when you say
25 we want to hear testimony. Send the note out here, take

1 your break and then that gives her time to locate it,
2 okay? Don't sit back there and -- again, your own your own
3 time. If you ask me something, that's generally a
4 good time to suspend your talking, go to the restroom,
5 stretch your legs or whatever. So write your questions
6 down.

7 Now here's the questions I can't answer. Why didn't
8 the State call so and so as a witness, why didn't the
9 State present so and so as evidence, why didn't the
10 defense do this, that or the other. They presented what
11 they believed they should present. What they didn't do
12 is not a question you can ask. I can't ask them either.
13 They presented what they want you to consider. What they
14 presented is what you consider, okay? Y'all are not
15 allowed to ask questions about that. Sorry about that.
16 Why didn't so and so ask a question of this witness to
17 explain. You can't go back and do that. You get what you
18 get. You've got to decide it on what they've presented.

19 Now I'll tell you, again, I think I told you once,
20 but your verdict must be unanimous. The fact that y'all
21 discuss the guilt or innocence freely and completely does
22 not automatically create a reasonable doubt. Your verdict
23 must be unanimous on each of the indictments.

24 Now I told you earlier -- and I skipped a place in
25 here, y'all noticed I skipped it, I said I was gonna come

1 back to that, that was a paragraph about each indictment
2 stands on its own. So the murder indictment stands on its
3 own, the conspiracy on its own, the possession of a weapon
4 on its own, and the drug charge on its own. You can have
5 guilty on one and not guilty on three. They don't all
6 have to be the same way. They each are independent of the
7 other. Except the possession a weapon and the murder are
8 kind of tied and relate to each other. The other ones,
9 they stand completely independent. So your verdicts don't
10 have to be consistent. They can be any way y'all decide.
11 Three one way, one the other or two and two, four and zero,
12 zero and four. It's up to y'all. But on each one your
13 verdict has to be unanimous, all right?

14 Now I want y'all to go in the jury room and remember
15 this, that I've instructed you on the law. I can give
16 you more instructions, but I want you to confine your
17 decision to what's been presented here in the courtroom,
18 the testimony and evidence received by the Court, by this
19 trial, understanding and accepting my instructions and
20 finding unanimous verdicts. I'm certain y'all will. I'm
21 certain y'all will do exactly that.

22 Now I'm not allowed to tell y'all how to decide it or
23 have an opinion on it, so if I've done anything that gives
24 you an idea of what my opinion was on the facts, that's
25 really not proper for you to consider. Or any of my

1 rulings, how I ruled on objections, because the lawyers
2 have talked a little bit about the objections during the
3 trial and y'all have heard my reasoning coming back to
4 them and different things. My rulings are only my rulings
5 and that's my job here. I did some of it here, I did some
6 of it with y'all in the back. Do not take anything in the
7 jury room about my rulings as an indication of what I think
8 or know or care. I'm not allowed to have an opinion on the
9 facts. That is solely your job.

10 So, anyway, step in the jury room, all fifteen of you.
11 Once I find out whether my instructions were complete, I'll
12 either pull the alternates out and send the evidence back
13 or bring y'all back in here, okay? If you need more candy,
14 you've got to let me know, too, and Jacob can handle that.

15 (Whereupon, the jury retires to the jury room at
16 11:51 AM.)

17 **THE COURT:** Any objections, suggestions, complaints?

18 **MS. MAYES:** None from the State, Your Honor.

19 **MR. HILLIARD:** None from the defense, Your Honor.

20 **THE COURT:** Excellent. Now I know the State sent a
21 representative up here to inventory the evidence with
22 Stacy. Mr. Hilliard, do you want to come up here? They
23 went through it and got the Court's exhibits.

24 **MR. HILLIARD:** I watched them do that, Judge, and I
25 have full faith and competence in the court reporter.

1 She's --

2 **THE COURT:** I do, too.

3 **MR. HILLIARD:** -- done a terrific job for us the whole
4 time, so I'm good with that.

5 **THE COURT:** All the Courts's exhibits I'm told, except
6 for the one right here, are still over there. So this is
7 the only one that's still in the -- here in the courtroom,
8 so we should be good to go.

9 All right. Good enough. I'm gonna submit the box in
10 there.

11 **THE CLERK:** I have the computer and the external
12 speakers that they use to view or play.

13 **THE COURT:** Excellent.

14 Let's stand at ease.

15 (Whereupon, a luncheon recess taken.)

16 (Whereupon, the evidence was submitted to the jury
17 at 1:00 PM.)

18 (Court's Exhibit Number 7 was marked for
19 identification.)

20 **BAILIFF:** Order in the court. Court is now in
21 session.

22 **THE COURT:** Y'all be seated.

23 **MR. BELL:** Judge, Suzanne is on the way. I beg the
24 Court's indulgence one moment.

25 **THE COURT:** All right.

1 (Whereupon, the jury returns to the courtroom at
2 1:53 PM.)

3 **THE COURT:** All right. Mr. Marcle, have y'all reached
4 a verdict?

5 **THE FOREPERSON:** We have, Your Honor.

6 **THE COURT:** And is your verdict unanimous on all your
7 decisions?

8 **THE FOREPERSON:** Yes, sir, Your Honor.

9 **THE COURT:** Okay. Hand it to Mr. Mills.

10 **THE FOREPERSON:** (Handing.)

11 **THE CLERK:** (Handing.)

12 **THE COURT:** All right. It seems to be a consistent
13 verdict. You may publish.

14 **THE CLERK:** Indictment 2015-GS-32-2939, Indictment
15 2016-GS-32-2151, Indictment 2016-GS-32-51 -- excuse me --
16 2152, and Indictment 2016-GS-32-0642, the State versus
17 Charles A. Morehouse. We, the jury, find as follows:
18 Charge of murder, guilty. Possession of weapon during a
19 violent crime, guilty. Conspiracy, guilty. Possession
20 with intent to distribute methamphetamine, not guilty.
21 Possession of methamphetamine, guilty. And it is so
22 signed by the foreperson January 13, 2017.

23 Mr. Foreman, ladies and gentlemen of the jury, if
24 these are your verdicts, please indicate each of you by
25 raising your right hand.

1 All hands raised, Your Honor.

2 **THE COURT:** Mr. Hilliard, any other issue for the
3 jury?

4 **MR. HILLIARD:** Would you poll them, Judge?

5 **THE COURT:** And we'll do that by juror number.

6 **MR. HILLIARD:** Yes, sir. Thank you, Your Honor.

7 **THE COURT:** All right. Do y'all understand?

8 **THE FOREPERSON:** Yes, sir.

9 **THE COURT:** All right.

10 **THE CLERK:** As I call your number, if you'll hold up
11 your hand I'll ask so I can recognize you. As I ask you
12 are these your verdicts -- were these your verdicts and
13 are they still your verdicts, at that time please respond.
14 Number 157. You don't have to stand, honey. Just
15 hold your hand up where I can recognize you. As to the
16 verdicts, were these your verdicts and are they still your
17 verdicts?

18 **JUROR:** Yes.

19 **THE CLERK:** 199, as to the verdicts, were these your
20 verdicts and are they still your verdicts?

21 **JUROR:** Yes, ma'am.

22 **THE COURT:** Number 9, as to the verdicts, were these
23 your verdicts and are they still your verdicts?

24 **JUROR:** Yes, ma'am.

25 **THE CLERK:** Number 30, as to the verdicts, were these

1 your verdicts and are they still your verdicts?

2 **JUROR:** Yes, ma'am.

3 **THE CLERK:** Number 4, as to the verdicts, were these
4 your verdicts and are they still your verdicts?

5 **JUROR:** Yes, ma'am.

6 **THE COURT:** Number 17, as to the verdicts, were these
7 your verdicts and are they still your verdicts?

8 **JUROR:** Yes, ma'am.

9 **THE CLERK:** Number 161? Page?

10 **JUROR:** Oh, sorry.

11 **THE CLERK:** As to the verdicts, were these your
12 verdicts and are they still your verdicts?

13 **JUROR:** Yes.

14 **THE CLERK:** Number 5, as to the verdicts, were these
15 your verdicts and are they still your verdicts?

16 **JUROR:** Yes, ma'am.

17 **THE CLERK:** Number 83, as to the verdicts, were these
18 your verdicts and are they still your verdicts?

19 **JUROR:** Yes.

20 **THE CLERK:** Number 50, as to the verdicts, were these
21 your verdicts and are they still your verdicts?

22 **JUROR:** Yes, ma'am.

23 **THE CLERK:** Number 127, as to the verdicts, were these
24 your verdicts and are they still your verdicts?

25 **JUROR:** Yes, ma'am.

1 **THE COURT:** Number 55, as to the verdicts, were these
2 your verdicts and are they still your verdicts?

3 **JUROR:** Yes, ma'am.

4 **THE CLERK:** All jurors polled, Your Honor.

5 **THE COURT:** All right. Anything else, Mr. Hilliard?

6 **MR. HILLIARD:** No, sir. Nothing further for the jury.

7 **THE COURT:** All right. Mr. Foreperson, I need you
8 to sign the indictments and so we're gonna step back in
9 the jury room. I want to take y'all back there and talk
10 to you a minute and you can sign the actual indictments.

11 **THE CLERK:** Here they are, Judge.

12 **THE COURT:** You can come with us. Ms. Frick will
13 bring them with her and I'll talk with you real quick and
14 get right back in the courtroom.

15 (Recess taken.)

16 **BAILIFF:** All rise. Come to order. Court's back in
17 session.

18 **THE COURT:** Y'all be seated.

19 **MR. HILLIARD:** Judge, do you want to hear motions
20 while we --

21 **THE COURT:** Sure. That will be fine.

22 **MR. HILLIARD:** Thank you, Judge. Judge, I recognize
23 that the jury has spoken in regards to this situation, but
24 we would ask Your Honor to overturn the jury verdict and
25 issue a Court's verdict of not guilty based on the fact

1 that the evidence did not support the jury's verdict.

2 **THE COURT:** All right. Understanding that the Court
3 heard the directed verdict motion at the close of all the
4 evidence and at the end of the State's case both and now
5 post the jury's verdict, the Court made a finding there
6 was sufficient evidence to submit to the jury to answer
7 the questions of fact, the jury has done so and the Court
8 is not inclined to disturb a jury's verdict that's been
9 rendered as unanimous, so respectfully I'll deny your
10 motion.

11 **MR. HILLIARD:** Thank you, Your Honor. And we -- the
12 grounds of our previous motion we talked about earlier
13 regarding the -- sending the indictment for possession
14 with intent to distribute drugs, we believed that would
15 be more prejudicial than probative. Your Honor ruled on
16 that pre-trial and, of course, we proceeded with that and
17 I just wanted to put our grounds on the record, our belief
18 in that the submission was unconnected to these events.

19 **THE COURT:** And you're protected on those -- on that
20 issue.

21 **MR. HILLIARD:** Thank you, Your Honor.

22 **THE COURT:** How far off is Ms. Zmroczek?

23 **MR. BELL:** Judge, she indicated she was on the way I
24 think about twenty minutes ago, so she should be here.

25 **MS. MAYES:** Judge, if we could place a call to her

1 quickly now, I think that will be helpful. I think it
2 would be better to do both of them at the same time
3 considering the victim's family is here.

4 **MR. HILLIARD:** Yes, sir.

5 **MR. BELL:** She's gotten off the interstate, so she's
6 probably five to seven minutes out.

7 **THE COURT:** Okay.

8 (Pause in the proceedings.)

9 **THE COURT:** All right. Ms. Mayes, we'll start
10 with you and then I'm gonna go to Morehouse and then to
11 Mr. Sisk.

12 **MS. MAYES:** Yes, sir, Your Honor. As the Court is
13 aware, this is the tragic case of the murder of James
14 David Porter, the Third, one day after his 22nd birthday.
15 Your Honor, his family is present as they've been
16 throughout this trial, throughout the trial of the
17 co-defendant, Wiley Sisk.

18 One thing I want to add about David, just in us
19 preparing this case, this case is really a textbook
20 example of the dangers of methamphetamine, particularly
21 in this county, and how it has taken ahold of so many
22 young people. David was a freshman football player at
23 White Knoll High School and living a completely normal
24 life and after high school he was working at Zorba's in
25 Chapin and had a family who was dear to him and sometime

1 in January 2015 he used the ice form of methamphetamine
2 for the first time and the way the family has described
3 how that drug changed his life is profound. It completely
4 took over his ability to think straight, to control his
5 actions. He lost his job. As his father explained, he
6 lost the trust of his family. He attempted inpatient
7 treatment and, Your Honor, he just could not break the
8 grip of this drug.

9 I'm gonna bring forward at this time his older
10 sister, Ally Porter. I'm also, Your Honor, gonna pass
11 up to you a selection of photographs from David's life
12 throughout his childhood, throughout his high school years,
13 and ultimately leading up to his death at age twenty-two.
14 Also, Your Honor, attached to this is the written autopsy
15 report of Dr. Janice Ross.

16 **THE COURT:** All right. Ms. Porter, when you're ready.
17 Take your time.

18 **MS. PORTER:** I was ready until I walked up here.

19 Your Honor, I would like to take you back to the
20 last day I saw my brother. It was a Sunday in the middle
21 of the day and I was at my grandmother's house. We were
22 getting ready to leave when I noticed that my brother was
23 sitting on the front porch. He was just sitting in a
24 rocking chair watching the traffic drive by. I walked out
25 to talk to him and he broke down to me, desperate for help

1 with his addiction. I remember him giving me one of his
2 huge bear hugs that he always gave me and telling me how
3 much he admired my strength and my -- how he wished he was
4 as strong as I was. Strength may have been something that
5 my brother admired me for, but I admired him for so many
6 more things that I never got to tell him. During these
7 trials my brother's addiction was often a topic of
8 discussion, but this addiction didn't define my brother.
9 To truly express the effects this loss has had on my
10 family and I, it is important for me to let you know who
11 my brother was despite his addiction.

12 To begin with, David was my "big" little brother. He
13 may have outgrown me in middle school, but he always knew
14 who was in charge. He was my worst enemy at times, but my
15 best friend always. He was the critic of everything I did,
16 but he was also my protector. No one in this world ever
17 understood me quite the way my brother did. When he died,
18 I didn't just lose a brother, I lost the future. I've lost
19 an uncle for my children when I have them. David had just
20 turned twenty-two the day he was murdered. I still have
21 the birthday card that I never got to give him. In that
22 card I wrote how strong that I thought he was and how I
23 knew he could overcome this. I also wrote that no matter
24 his struggles I always saw the good in him and I saw his
25 potential. He had his entire life ahead of him with big

1 dreams to go to culinary school to become a professional
2 chef. I know that a hundred percent my brother would have
3 beat this addiction if he was only given that opportunity
4 and I know this because he had a sister and he had a
5 family who wasn't ever going to give up on him.

6 David had this contagiously energetic personality.
7 He had a passion and enthusiasm for things in life unlike
8 anyone I've ever met. Every time we were together he
9 would just babble on and on about all the things he was
10 interested in. When he got his first truck, he spent
11 every waking hour messing with it. He wanted to learn
12 everything about it. He wanted to detail every part of
13 that truck and literally that truck was the only thing he
14 would talk about and that was until he got his car and
15 then the car was literally the only thing he would talk
16 about and before you knew it he was rebuilding the engine
17 in the backyard.

18 David was very intelligent. I'm the college student
19 yet he graduated high school with better grades than I
20 did. He could solve any math problem in his head before
21 you could turn a calculator on. He was a hard worker and
22 dedicated to the jobs he held. He didn't just go through
23 the motions when he worked. He set his mind to becoming
24 the best at what he was doing, even if it was just making
25 and delivering pizza at Zorba's. He always saw the best

1 in people. He loved people unconditionally and he forgave
2 people so easily and I believe that because his heart was
3 so big and so gracious that he saw this world through a
4 pair of rose-colored glasses.

5 The last thing I want to tell you about my brother
6 and probably the most important to me was that he was a
7 Christian. He asked the Lord into his heart and he was
8 saved and baptized. Despite his addiction that salvation
9 isn't something you lose. When you ask for forgiveness
10 and you give your heart to Jesus, all your past, present
11 and future sins are washed away and cleaned and I know
12 that because I have that same salvation that the day on
13 my grandmother's front porch isn't going to be the last
14 time I see my brother.

15 David once drew me this beautiful picture. It had
16 mountains and a road driving straight through them and in
17 this drawing he also quoted Psalms 73:26 which says my
18 mind and my body may grow weak, but God is my strength
19 and he is all I ever need. My brother referred to this
20 scripture when he was feeling beat down and I'm so thankful
21 that he shared it with me because it brings me strength
22 also. Losing my brother felt like the first obstacle in
23 my life that has truly broken me. Shortly after this I
24 was diagnosed with major depressive disorder and I have
25 to regularly see somebody for that and I'm prescribed on

1 medication for that.

2 On the night of August 3rd these men didn't just kill
3 my brother. They killed a part of my parents, they killed
4 a part of me. None of us wanted to live in a world where
5 he -- without him. They tore our hearts out and broke them
6 into a million pieces and they expected to get away with
7 it with no regard for the pain or grief that I continue to
8 feel every second of every day. Unfortunately, I know it
9 will never go away. Time will help me learn to live with
10 this pain, but I can never overcome it. They took my
11 brother away from me. I miss him every single day and my
12 love for him will never dissipate because I know he's here
13 with me. David will always be my baby brother, my guiding
14 light, my source of strength and my reason for living.
15 What was done to him was not fair. It was cruel, it was
16 evil and can't be taken back. I think these men need to
17 spend the rest of their lives in prison for the things that
18 they did to my brother, for the things that will continue
19 to happen to me and my parents when we're faced with this
20 on a daily basis for the rest of our lives. If we have to
21 deal with it the rest of our lives, so should they. Thank
22 you.

23 **THE COURT:** Thank you, Ms. Porter.

24 **MS. MAYES:** Your Honor, Ms. Frazier, our victim
25 advocate has a brief statement from David's grandfather

1 and then, in addition to that, his father, James Porter,
2 will address the court.

3 **VICTIM ADVOCATE:** Your Honor, this statement's from
4 David -- or James David Porter, Senior.

5 These men have taken a young man from his family and
6 friends. I will never get to hear him call me grandpa
7 again, never get to be a part of his life. So for this I
8 hope they get life in prison so they won't have the chance
9 or opportunity to harm anyone ever again. They should be
10 punished to the fullest extent of the law. Thank you.
11 James David Porter, Senior.

12 **MR. PORTER:** Dear Judge, my name is James David
13 Porter, Junior. I'm the father of David Porter, the Third.
14 I know you've heard all the evidence and testimony in this
15 case. Some things you may not know is how big a heart he
16 had. He would give anyone the shirt off his back to help.
17 David was loving and funny, always had a joke, always had
18 something to tell you about. When he got his first truck,
19 we spent a lot of time together working on it. There are
20 many times we tore it down, rebuilt it, tore it down again.
21 It was just never big enough. His passion was automotive.
22 In high school he took automotive mechanics at Lexington
23 County Technology Center. He also played football, YMCA
24 baseball. He worked at Sudz Automotive downtown for a
25 while after high school. When he moved in with me, he got

1 a job at Zorba's in Chapin where his work ethic moved him
2 from a part-time delivery driver to the head pizza chef in
3 the kitchen within about three months. Mr. Jimmy, the
4 owner, would tell me that he wished he had more employees
5 like him.

6 David had some problems the last six months, but he
7 didn't deserve to die this way. He's missed so much.
8 There's not a day goes by that he's not remembered. Losing
9 one of my children is not something I ever thought I would
10 ever have to deal with in my lifetime. I live for my
11 children. Now I only have a daughter. Every time we're
12 together he's always in our conversations remembering
13 things he or we had done together. David will always be
14 missed. Please make sure his death doesn't go unpunished.
15 Give them the punishment they deserve. Life or more. It
16 would help us move forward. Thank you.

17 **THE COURT:** Thank you, Mr. Porter.

18 **MS. MAYES:** And, finally, Your Honor, Detective
19 Miles Rawl, on behalf of the Lexington County Sheriff's
20 Department. They began working this case, as you heard,
21 around midnight after they got that call and from that
22 moment on this case was worked nonstop. They talked to so
23 many witnesses in this case who turned out to be crucial
24 and it was an outstanding investigation.

25 **DETECTIVE RAWL:** Thank you, Your Honor. As an

1 employee with the Lexington County Sheriff's Department
2 and as the lead detective in this murder investigation of
3 James David Porter, the Third, I'm recommending a life
4 sentence for Charles Alton Morehouse and Wiley Eugene Sisk,
5 the Third, for this heinous and unjustified killing.

6 Charles Morehouse and Wiley Sisk took the life of
7 David because they thought he was a police informant. In
8 fact, David was not a police informant, and even if he
9 was, he did not deserve to get murdered. This heinous act
10 has caused an epidemic in our county, here in Lexington
11 County, and has made people believe that if you help the
12 police you will get killed. As Charles stated, you didn't
13 deserve to get killed until you snitched on somebody.
14 Therefore, they thought by taking out the informant it
15 would save him some jail time, it would save the boss some
16 jail time, so he used his gun boy, Wiley Sisk, to help him
17 carry out this heinous act. Therefore, we cannot allow
18 this to take place in our county and we cannot allow these
19 men to kill again. We need to put an end to people being
20 afraid to help the police and to help attack this drug
21 epidemic in our community. Charles Morehouse and Wiley
22 Sisk are a danger to our community and should be sentenced
23 to life in prison. Thank you.

24 **MS. MAYES:** And, Your Honor, to that I will add that
25 we also encountered these obstacles throughout our

1 preparation of the case. Witness after witness after
2 witness from the street told us of their fear to come
3 into this courtroom and testify against Sisk or Morehouse
4 because they feared Morehouse and his drug connections.

5 Your Honor, the records of the two defendants are as
6 follows. As to Mr. Morehouse, he has a conviction for
7 resisting arrest, and that's from 1995. Possession of
8 cocaine. That's out of Florida, 1996. A probation
9 violation. A possession of marijuana, a conviction also
10 out of Florida, from 2001. A drug conviction. It appears
11 to be either manufacturing or possession with intent to
12 distribute a Schedule I drug, and that is right here out
13 of Lexington County. That's from 2013. August of 2013.
14 That was a conviction which resulted in five years
15 suspended with three years' probation. And based on that
16 conviction it appears he would have been on probation at
17 the time this offense was committed. 2014, a conviction
18 for obtaining goods under false pretenses. And he also
19 has a conviction for criminal domestic violence from 2015.

20 Your Honor, as for Mr. Sisk, a conviction for
21 shoplifting from 2016. I believe we discussed that during
22 his trial and that that was mostly a TIA while he was held
23 or incarcerated on his charge. It looks like he has a
24 receiving stolen goods conviction from 2012 and also has
25 an obtaining goods under false pretenses conviction from

1 2012 and a grand larceny conviction. The date on that
2 grand larceny conviction I believe is also gonna be 2012.
3 And then it appears he has a probation violation from 2013.

4 Your Honor, that's the extent of the State's
5 presentation.

6 **THE COURT:** Okay. All right. Mr. Hilliard, I'll
7 start with you.

8 **MR. HILLIARD:** Thank you, Judge. Of course, we've
9 been here for the week and you also have the benefit of
10 the previous trial for the co-defendant as do I. Judge,
11 Charlie is forty-one years of age. He's got a GED. He
12 has two children, ages thirteen and ten. His wife is
13 here and has been here for the trial. She is emotional
14 and one of the things that she asked me to tell the Court
15 is for all the negative circumstances and things that
16 you've heard about Charlie that he has been a good dad.
17 I recognize that the Court has an obligation as the jury
18 has spoken. At the same time he has a liver disease that
19 we've heard about, his health is not good, and we would
20 ask you to take those factors into consideration in giving
21 your sentence.

22 **THE COURT:** All right.

23 **MR. HILLIARD:** I've also asked members of his family
24 if they'd like to say anything, Judge, but they're
25 distraught in connection to this situation. So they're

1 here. They don't support the activity, but at the same
2 time they love their family member.

3 **THE COURT:** All right. I'll hear from them if
4 they'd like to be heard.

5 **MR. HILLIARD:** No, sir.

6 **THE COURT:** All right. Ms. Zmroczek, are you ready?

7 **MS. ZMROCZEK:** Thank you, Your Honor. Good morning
8 -- -- or afternoon. Sorry. I got here as soon as I
9 could. Obviously we've been waiting for this date for a
10 little bit of time, too. You sat through our entire week
11 long trial as well. More importantly, Your Honor, you
12 got to hear from Wiley Sisk. And with all due respect
13 to Mr. Hilliard and Mr. Morehouse, these two are not
14 similarly situated, and I want to talk a little bit about
15 that. I want to not drag this on because the family has
16 been through this twice and I have advised Mr. Sisk not to
17 say anything, but he did want to tell me -- to tell them
18 and look them in the faces and tell them that he is
19 certainly sorry for their loss and I know that his family
20 is here and that they want to speak and I told them that
21 they would have an opportunity to do so.

22 Your Honor, you heard his testimony and you heard
23 what he said happened and, I mean, the jury obviously
24 deliberated for a long time on his case I think you can
25 remember because I think it was a tough decision for them.

1 I also want the Court to know that prior to having put
2 the family through two trials, the first time when it
3 came up for trial, in fact, we approached the solicitor's
4 office and we said we will take thirty years voluntary
5 manslaughter, thirty years and voluntary manslaughter,
6 and testify against Mr. Morehouse so his family doesn't
7 have to go through that. That offer was rejected by the
8 solicitor's office and that's certainly their -- their
9 right and their decision, however, I want the Court to
10 know that we attempted to not have to put the family
11 through this.

12 When the family's sister -- when Ashley {sic} stood
13 up and talked about how addiction had taken over her life,
14 Your Honor, that could have been Mr. Morehouse -- or,
15 excuse me, that could have been Mr. Sisk's sister because
16 six years ago in 2012 I was just practicing by my own --
17 on my own and I got appointed to Mr. Sisk. I sat down
18 with him and I told him if you don't stop doing this drug
19 something bad's gonna happen and then a few years later,
20 Your Honor, I got appointed to his case and I just shook
21 my head and said I told you so.

22 And Your Honor has read the letters, you heard --
23 well, you didn't get to hear, but I think you got to hear
24 how his first interview went with the police, how that
25 was consistent with what he's told. He wrote a nine page

1 statement. He spoke with them, he took them everywhere
2 that he could, you know, to try to tell them where things
3 were. He was extremely cooperative. And also coming down
4 from an extreme meth high. And then Your Honor you read
5 these two letters that were sent to the solicitor's office
6 from the jail about how I changed my mind, I did it all,
7 Mr. Morehouse had nothing to do with it and then you also
8 heard about how Mr. Morehouse got shipped to another
9 facility and that was because of the threats that the
10 solicitor's office spoke about not only to the witnesses
11 and to other people in this case, but those threats were
12 given to Mr. Sisk as well. And, Your Honor, his safety
13 isn't any more secure than it is when he was in jail
14 because I know that they'll be -- hopefully you'll write
15 keep separate on their sentencing sheets, but drug arms
16 reach very far, especially when your wife was formerly
17 employed by the sheriff's department, you have a lot of
18 connections, and that is what terrifies Mr. Sisk.

19 And he already spent ten months in solitary and he
20 didn't think he was gonna make it and I didn't think was
21 gonna make it. We understand that he's facing thirty
22 years day for day to life and, respectfully, I'm asking
23 the Court to give him thirty-five. The reason is because
24 he's twenty-seven years old, he has to do every single
25 day of whatever sentence you give him. If you look at

1 his record, shoplifting, receiving stolen goods, grand
2 larceny, Your Honor, these are -- these are the charges
3 and convictions of a drug addict and that's what he was.
4 And I know that it's the State's position and whoever
5 else's that he was the hired hit man for this and, Your
6 Honor, you can certainly judge the credibility of what
7 he said, and what he has said the entire time through this
8 case is that he was there, he was certainly in the car, he
9 thought they were going to get money, he didn't know about
10 the gun. And, Your Honor, with all that being said -- we
11 certainly respect the jury's verdict, but I think it
12 certainly emphasizes that these two are not similarly
13 situated.

14 His sister and his mom are here and, Your Honor, I
15 don't know if his mom's gonna be able to speak, but I know
16 this is what she told me. During our first trial when
17 James's -- David's dad got on the stand and was talking
18 about we wanted him to get better and we all know that --
19 that addiction creates lies within the family and they
20 believed that he was getting clean, but we all know that
21 he was in that hotel room and a car with a lot of drugs.
22 And you have his autopsy report up there, so you have his
23 toxicology and we know he was smoking that night. And we
24 don't blame him for that at all. I do blame meth because
25 that's exactly where Mr. Sisk was, but interestingly what

1 his mom said to me is when he testified it pained me
2 because I know exactly what he's going through. And she's
3 crying, Your Honor, and she's still going through that
4 because she is going to lose her son for a significant
5 amount of time. We don't feel that life is appropriate.

6 And I believe his sister would like to speak. Just
7 come to the bench, but say your name.

8 **MS. SISK:** My name's Jennifer Sisk and I know that
9 -- and I know that y'all think my brother's a guilty
10 person because of the things that he's done, but he is a
11 good man. He is my big brother. He's always taken care
12 of me. He's been there through everything. With my dad
13 passing away, he was my rock. He was the man who, you
14 know, I looked up to. I take care of -- we take care of
15 his son. His son's only seven years old. He doesn't
16 deserve to go for life. I understand that's my loss and
17 I can't imagine being in the place of his sister. And we
18 actually kind of went to the same schools, we went to
19 Saxon-Gotha, and I know that it's hard because my brother
20 could have been the one that lost his life and I'm not
21 saying that it's not right that he goes to jail because
22 he deserves it, he does, but I don't think life is the
23 answer. He has a family and yet I know that somebody
24 lost a life, but I don't think that we should go ahead
25 and crucify him for something that he was a part of, but

1 yet he wasn't there to do that, he was there for that guy,
2 to ride with him to do whatever he had to do. But I just
3 feel like they're making my brother out to be the worse
4 person and he really is not that bad. I understand that
5 due to the circumstance it is, but I feel like if y'all
6 would just give him a chance or get to know him by
7 themselves. I feel like each person makes their own
8 mistakes, right, and the only person who can judge us
9 is God and everybody is judging my brother as to be a
10 killer and that he did all this stuff wrong. I just want
11 people to know that deep down inside he has a big heart.

12 And just like the drug issue, we've struggled with
13 that for years just like his family, David Porter, and I
14 feel like if y'all gave him a chance to show y'all that
15 will he change and he's a better person, that he will. I
16 mean, I can't sit here and say that I'm a great person or
17 anything. I just feel as if I don't -- I really don't
18 know. I just don't want my nephew to lose his father. We
19 have enough people losing their lives and going to prison
20 for things that -- you know, I just want him to have the
21 chance to come home and see his son for maybe a birthday
22 or Christmas before something happens. I don't want him
23 to grow up without a father. And I know that my brother's
24 a bad person because of whatever he did, but I just don't
25 think children and my family should have to go through

1 him being called a murderer and stuff like that and it's
2 just hard for me because we've been here through the whole
3 time and I know exactly how the family feels because I
4 don't know how I would feel without my brother. Every
5 day I think about losing my brother and how I don't get
6 to see him everyday or talk to him. He's not dead or
7 passed away, but, you know, he's away where I can't see
8 him and we can't be a part and we're not family because
9 he's never there now and I just feel like y'all should --
10 I mean, I understand he's going to prison, but please
11 don't make him go for life. That's all I'm asking.

12 **THE COURT:** Thank you, ma'am.

13 **MS. ZMROCZEK:** And, Your Honor, he did mention --
14 one more thing, Your Honor, I was gonna say is that he
15 does have one child and I believe that you probably
16 remember this from the trial, that the reason he even --
17 he even got involved with Mr. Morehouse, who it's my
18 belief that he preyed on people to do his dirty work for
19 him, that he -- even when they couldn't do it right, that
20 the reason that he even agreed to go sit with him down to
21 meet the Mexican plug or whatever in Aiken was because
22 he needed money for his son's school supplies. And that
23 doesn't make anything illegal what he did -- any better,
24 Your Honor, but it does explain. It doesn't excuse, but
25 it certainly provides an explanation how he got hooked

1 up with Morehouse. And Morehouse knows that drugs are
2 addictive. I believe that he probably has an addiction
3 as well, but he knows when you're in control of the thing
4 that gives that addiction, Your Honor, that's why he was
5 able to have that much control over Mr. Sisk.

6 So, again, I'll sit down. I know we've been here
7 long enough, but I believe that thirty-five years is an
8 appropriate sentence for my client.

9 **THE COURT:** And he was arrested on what date,
10 August 8th?

11 **MS. ZMROCZEK:** Yes. Yes, sir.

12 **THE COURT:** And Mr. Morehouse was on August 4th?

13 **MS. MAYES:** That's correct, Your Honor. He was
14 actually detained on August 4th on the distribution
15 charges, but he was served with the murder warrant on
16 August 8th.

17 And, briefly, for the record I'll address the
18 State's approach as to plea negotiations. All along
19 the State's theory has been that it happened exactly as
20 Brittany Moody testified and that Mr. Sisk told you that
21 it happened, that Mr. Morehouse fired the first shot and
22 Mr. Sisk fired the head shot, and that is something that
23 Brittany Moody testified she was told in the privacy of
24 the bedroom by Mr. Sisk on that night.

25 **THE COURT:** All right. I'll start with Mr. Morehouse.

1 On Indictment 15-GS-32-2939, which is an indictment for
2 murder, the sentence is life. Days earned since the 4th
3 of August of 2015. That being the lead indictment, the
4 other sentences run concurrent. On the criminal
5 conspiracy, ten years; possession of a weapon, five years,
6 and possession of meth second is five years, but murder is
7 the lead indictment.

8 Regarding Mr. Sisk, which would be -- the lead
9 indictment for murder would be 15-GS-32-2943, the sentence
10 of the Court is forty-five years. He gets days earned
11 since August 8th of '15. The other two indictments
12 being possession of a weapon, five years, and criminal
13 conspiracy, ten years. All those run concurrent with one
14 another. I gave Mr. Sisk a little bit of consideration
15 for his cooperation in trying the case. That's it.

16 **PROBATION AGENT:** Judge, can we handle the probation
17 violation?

18 **THE COURT:** I'd think we can. I'm gonna revoke
19 probation.

20 **MR. HILLIARD:** Sir?

21 **BAILIFF:** Everyone remain seated. Court's not in
22 recess yet.

23 **THE COURT:** The warrants for Mr. Morehouse are for
24 supervision of the 2013 case?

25 **MR. HILLIARD:** Yes, sir.

1 **THE COURT:** I'll revoke in full and run concurrent.
2 Days credit since August 4th of '15. Would that be
3 suitable?

4 **MR. HILLIARD:** Yes, sir.

5 **THE COURT:** Consider it done. Good luck.

6 **MR. HILLIARD:** Thank you, Your Honor.

7 **MS. ZMROCZEK:** Thank you, Your Honor.

8 (Whereupon, the proceedings were concluded for at
9 3:00 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a
true, accurate and complete transcript of record of the
proceedings had and the evidence introduced in the trial
of the captioned case in Circuit Court on the 9th - 13th
day of January, 2017.

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I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

June 7, 2017

/s/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHARLES ALTON MOREHOUSE,

APPELLANT

APPELLATE CASE NO 2017-000114

ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in admitting appellant's statement to police because it was induced by implied promises of leniency for his wife, rendering it involuntary?

STATEMENT OF THE CASE

In December 2015, a Lexington County grand jury indicted appellant Charles Morehouse for murder, a weapons charge, possession of methamphetamine with intent to distribute, and criminal conspiracy. R. 1000-1007. On January 9, 2017, appellant was tried before the Honorable Eugene Griffith, Jr. and a jury. R. 1. Laura Suzanne Mayes and Lester McGill Bell represented the State. R. 1. John Hilliard represented appellant. R. 1. The jury acquitted appellant of PWID, but convicted him of the lesser included offense of possession. R. 962, ll. 14 – 22. The jury convicted appellant of murder, conspiracy, and the weapons charge. R. 962, ll. 14 – 22. Judge Griffith sentenced appellant to life imprisonment for murder and concurrent terms on the other charges. R. 985, l. 25 – 986, l. 7. This appeal follows.

ARGUMENT

The trial court erred in admitting appellant's statement to police because it was induced by implied promises of leniency for his wife, rendering it involuntary.

The State's theory of this case was inherently inconsistent. The State asked the jury to believe that appellant was a drug kingpin with multiple people in his employment who murdered the decedent because he suspected he was an informant. However, as defense counsel argued, appellant's actions the night of the decedent's death were not those of a sophisticated drug lord. R. 925, l. 6 – 927, l. 13. As defense counsel put it, had appellant planned to murder the decedent, he would not have texted and called him and would not have left the decedent's cell phone at the scene. R. 925, l. 6 – 927, l. 13. Had the trial judge not erroneously admitted appellant's statement which placed him at the scene of decedent's death, the result of this trial would have been different.

At approximately 11:30 PM on August 3, 2015, Keith Lytes was driving down a remote dirt road in Lexington County when he saw a white car and a body. R. 230, l. 13 – 232, l. 14. Lytes went to a nearby fire department and alerted the firemen who called 911 after Lytes took them to the body. R. 165, l. 15 – 168, l. 14. The 911 call was made at 11:42 PM. R. 157, ll. 5 – 24.

At the body's location, the police found a cigarette butt, shell casings for a .40 caliber gun, and the decedent's phone in his pocket. R. 645, l. 8 – 653, l. 13. The decedent also had \$220.00 in cash in his pocket. R. 650, l. 11 – 651, l. 25. The decedent's pockets were not pulled out of his pants. R. 651, ll. 17 – 21. The police only found three shell casings. R. 659, ll. 2 – 4. The State's pathologist said the decedent's body had between 6 to 10 gunshot wounds. R. 837, ll. 9 – 19. The pathologist testified that the decedent's wounds were consistent with someone

standing over him firing downward. R. 844, l. 2 – 847, l. 20. The ground where the decedent was found was described as soft “sugar sand.” R. 195, l. 20 – 196, l. 1. Despite the soft sand underneath the decedent’s body, the police could not find any other casings despite the use of metal detectors. R. 676, l. 11 – 681, l. 22. The crime scene investigator speculated that the other casings could have been buried in the sand despite the exhaustive search. R. 676, l. 11 – 681, l. 22.

The police activated the decedent’s cell phone and discovered calls and text messages in the hours leading up to the discovery of the body with a number they claimed belonged to appellant. R. 374, l. 10 – 381, l. 5. The police claimed appellant’s cell phone number was stored in the decedent’s phone as “A A King Chuck.” R. 374, l. 10 – 381, l. 5. The text messages set up a meeting in Red Bank. R. 374, l. 10 – 381, l. 5. The decedent texted, “Turning on 302 end of lagoon.” R. 374, l. 10 – 381, l. 5. The detective explained the “lagoon” is a pool formed by an old rock quarry near where the decedent’s body was found. R. 374, l. 10 – 381, l. 5. The State’s cell phone expert claimed appellant’s phone showed communications with co-defendant Wiley Sisk and that cell towers likely placed appellant in the vicinity of the crime scene. R. 776, l. 20 – 803, l. 23.

Appellant gave a statement to the police and explained that the decedent’s death was likely the result of an accidental shooting. State’s Ex. 22. R. 876, l. 23 – 882, l. 22. Appellant admitted being at the scene when the decedent was shot, but explained that he and his co-defendant Sisk only intended to give the decedent a beating in retaliation for being a suspected informant and never intended to murder him. State’s Ex. 22. R. 876, l. 23 – 882, l. 22. Sisk came out of the woods with a baseball bat and began fighting the decedent. State’s Ex. 22. R. 876, l. 23 – 882, l. 22. Appellant fired his gun in an attempt to break up the fight, but due to

appellant's night blindness, could not tell what happened to the shots he fired.¹ State's Ex. 22. R. 876, l. 23 – 882, l. 22.

Prior to trial, the court held a hearing on the admissibility of appellant's statement pursuant to Jackson v. Denno, 378 U.S. 368 (1964). R. 69, l. 18 – 98, l. 5. Appellant argued that his statement was induced only by implied promises of leniency for any role his wife might have played in either the murder or the drug investigation. R. 92, l. 12 – 98, l. 1. Defense counsel argued that appellant "was led to believe that there was some benefit in his making this statement and as a consequence to that it's not free and voluntary, but was in anticipation of a reward." R. 92, l. 12 – 98, l. 1. Appellant renewed his objections when the statement was offered during the trial. R. 362, l. 15 – 363, l. 18. R. 390, ll. 20 – 24.

The trial judge listened to appellant's recorded statement. R. 76, ll. 5 – 17. State's Ex. 22. At the very outset of the interrogation, the police asked appellant if he was worried about his family and he replied that he very much was. State's Ex. 22. The interrogator said if he had to guess who to be worried about with his family, it "would be that angle and not the one you were thinking." State's Ex. 22. Appellant asked whether he needed to be worried about his wife. State's Ex. 22. The police responded that there's a "good chance" that she would be charged. State's Ex. 22. Appellant responded, "For what?" and the police replied, "For the drugs." State's Ex. 22.

Appellant responded, "No sir, no sir." State's Ex. 22. The interrogator told him that his wife was keeping books for him. State's Ex. 22. Appellant denied it, but the police explained their evidence, then said they had already been in contact with his wife to let her know charges were likely. State's Ex. 22. The police then said they did that so the family could make

¹ The trial judge refused appellant's request to charge the jury on the defense of accident. R. 876, l. 23 – 882, l. 22.

arrangements for appellant's children and they would not have to call DSS. State's Ex. 22. All of this discussion was prior to reading appellant his rights on the recording pursuant to Miranda v. Arizona, 384 U.S. 436 (1966).

Appellant immediately said he needed to explain about his wife and that she had no idea he was selling drugs. State's Ex. 22. Appellant became tearful and emotional. State's Ex. 22. Only then did appellant tell police Sisk killed the decedent. State's Ex. 22. Appellant said he did not know that Sisk planned to kill the decedent. State's Ex. 22.

The police then confronted appellant with the claim that witnesses told them appellant (and Sisk) burned their clothes and that appellant had cleaned himself with Ajax. State's Ex. 22. The interrogator told appellant, "This is what helps you." State's Ex. 22. Appellant then cries again and says, "Y'all can't charge my wife," and that the kids were "all she's got." State's Ex. 22. The police then told appellant he was "doing the right thing." State's Ex. 22. They reiterated that to clear his conscience and for his family, he was doing the right thing by giving a statement. State's Ex. 22. The interrogator then said if he told them everything, he promised appellant he would "live a better life." State's Ex. 22. Appellant's response was that he was not worried about his heart, but was worried about his family. State's Ex. 22. Appellant exclaimed that his wife would be charged for something in which she had no involvement. State's Ex. 22.

The police then backpedaled and said they did not know for sure whether appellant's wife would be charged. State's Ex. 22. They claimed the decision to charge her was out of their control. State's Ex. 22. Appellant begged the police, telling them his wife only thought he was gambling and she did not know about the drugs. State's Ex. 22. The police then told appellant he was lying and said they were going to take him back to jail. State's Ex. 22. After further discussion, appellant then again said his wife knew nothing. State's Ex. 22. The police later said

that if they knew the “exact truth,” they “might can help” appellant. State’s Ex. 22. The police told them they knew he loved his wife and that they were “soulmates.” State’s Ex. 22. They said appellant needed to help himself, his wife, and his kids. State’s Ex. 22. Appellant ultimately admitted he and Sisk planned to beat the decedent and appellant fired the gun in an attempt to break up a fight. State’s Ex. 22.

The Fifth Amendment guarantees citizens the right not to incriminate themselves. U.S. Const. amend. V. “[A] confession, in order to be admissible, must be free and voluntary; that is, must not be extracted by any sorts of threats or violence, nor obtained by any direct **or implied promises, however slight**, nor by the exertion of any improper influence.” Bram v. United States, 168 U.S. 532, 542-43 (1897) (internal citations and quotations omitted) (emphasis added). See also Hutto v. Ross, 429 U.S. 28, 30 (1976) (quoting the above principle from Bram); State v. Rochester, 301 S.C. 196, 200, 391 S.E.2d 244, 246 (1990) (quoting the above principle from Bram and Hutto).

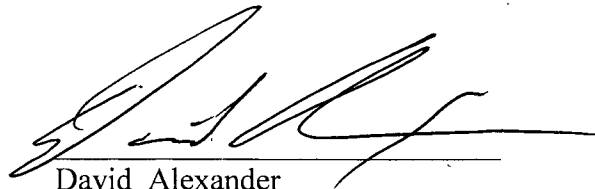
A statement induced by a promise is involuntary if it is “so connected with the inducement as to be a consequence of the promise.” State v. Peake, 291 S.C. 138, 139, 352 S.E.2d 487, 488 (1987). In Peake, the defendant’s statement was induced by a “guarantee” from a police officer. Id. Defense counsel in Peake asked the officer, “you told Allen Peake that if he would give you a statement that you would guarantee to him that you would not seek the death penalty.” Id. The officer replied, “That’s what I told him.” Id. The Court held the officer made a promise to the defendant that rendered his statement involuntary and reversed. Id.

From the totality of the circumstances surrounding appellant’s interrogation, it is clear that his will was overborne because of his fear that his wife would be charged. See State v. Miller, 375 S.C. 370, 384-85, 652 S.E.2d 444, 451-52 (Ct. App. 2007). The police skillfully

played on appellant's fear and dangled the possibility that she would not be charged, repeatedly telling appellant that he was doing the right thing for himself and his family. The police implied they could help appellant if he gave a statement. The implied promises of leniency for appellant's wife rendered his statement involuntary. Without his statement, the State could not have convicted appellant. This Court should reverse.

CONCLUSION

For the foregoing reasons, this Court should reverse appellant's convictions and remand this case for a new trial.

A handwritten signature in black ink, appearing to read 'David Alexander', written over a horizontal line.

David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of January, 2018.