

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM COLLETON COUNTY  
Court of General Sessions

Clifton Newman, Circuit Court Judge

---

Appellate Case No. 2023-001446

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**RECEIVED**

**Mar 31 2026**

**SC Court of Appeals**

The State of South Carolina,

Respondent,

v.

Rita M. Pangalangan,

Petitioner.

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**APPENDIX**

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## **INDEX**

|                                            |     |
|--------------------------------------------|-----|
| INDEX .....                                | i   |
| RECORD ON APPEAL .....                     | 1   |
| FILED MARCH 6, 2025                        |     |
| FINAL BRIEF OF APPELLANT .....             | 854 |
| FILED MARCH 25, 2025                       |     |
| FINAL BRIEF OF RESPONDENT .....            | 888 |
| FILED MARCH 26, 2025                       |     |
| OPINION NO. 2026-UP-018.....               | 923 |
| FILED JANUARY 21, 2026                     |     |
| PETITION FOR REHEARING.....                | 929 |
| FILED FEBRUARY 5, 2026                     |     |
| ORDER DENYING PETITION FOR REHEARING ..... | 934 |
| FILED FEBRUARY 9, 2026                     |     |

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The State of South Carolina,

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v.

Rita M. Pangalangan,

Appellant.

**RECORD ON APPEAL**

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INDEX

INDEX ..... i

TRIAL TRANSCRIPT .....1

    DATED AUGUST 28, 2023

JURY SELECTION.....5

PRETRIAL MOTIONS .....130

OPENING STATEMENT BY MR. STONE.....245

OPENING STATEMENT BY MR. LOY .....251

OPENING STATEMENT BY MR. PHILLIPS .....262

TESTIMONY

    HALLEY GODLEY

        Direct Examination by Mr. Stone .....267

        Cross Examination by Mr. Loy .....289

        Cross Examination by Mr. Phillips.....290

    CHARLES JONES

        Direct Examination by Mr. Stone .....291

    TODD SCHENK

        Direct Examination by Mr. Stone .....294

    LINDSAY LEWIS

        Direct Examination by Mr. Stone .....311

        Cross Examination by Mr. Phillips.....322

        Redirect Examination by Mr. Stone.....325

    BRITTANY HONEYCUTT

        Direct Examination by Mr. Stone .....326

        Cross Examination by Mr. Phillips.....334

    KELLY PADGETT

        Direct Examination by Mr. Stone .....335

    SPENCER STEVENS

        Direct Examination by Mr. Stone .....341

        Cross Examination by Mr. Loy.....344

|                                                                                                  |     |
|--------------------------------------------------------------------------------------------------|-----|
| BRIAN VARNADOE                                                                                   |     |
| Direct Examination by Mr. Stone .....                                                            | 345 |
| Cross Examination by Mr. Phillips .....                                                          | 350 |
| MATTHEW HOGUE                                                                                    |     |
| Direct Examination by Mr. Stone .....                                                            | 353 |
| BROOKLYN MOLINA                                                                                  |     |
| Direct Examination by Mr. Stone .....                                                            | 356 |
| Cross Examination by Mr. Loy .....                                                               | 365 |
| Cross Examination by Mr. Phillips .....                                                          | 366 |
| LINDSAY MITCHELL                                                                                 |     |
| Direct Examination by Mr. Stone .....                                                            | 367 |
| Cross Examination by Mr. Phillips .....                                                          | 377 |
| Redirect Examination by Mr. Stone .....                                                          | 379 |
| Recross Examination by Mr. Phillips .....                                                        | 379 |
| ANDREW GRUNDSTEIN                                                                                |     |
| Direct Examination by Mr. Stone .....                                                            | 383 |
| Cross Examination by Mr. Phillips .....                                                          | 411 |
| Redirect Examination by Mr. Stone .....                                                          | 413 |
| Recross Examination by Mr. Loy .....                                                             | 415 |
| Recross Examination by Mr. Phillips .....                                                        | 417 |
| JASON CHAPMAN                                                                                    |     |
| Direct Examination by Mr. Stone .....                                                            | 419 |
| Cross Examination by Mr. Loy .....                                                               | 443 |
| Cross Examination by Mr. Phillips .....                                                          | 444 |
| Redirect Examination by Mr. Stone .....                                                          | 448 |
| Recross Examination by Mr. Phillips .....                                                        | 449 |
| DEMETRA GARVIN                                                                                   |     |
| Direct Examination by Mr. Stone .....                                                            | 462 |
| Cross Examination by Mr. Loy .....                                                               | 486 |
| Cross Examination by Mr. Phillips .....                                                          | 491 |
| Redirect Examination by Mr. Stone .....                                                          | 493 |
| NICOLAS BATALIS, M.D.                                                                            |     |
| Direct Examination by Mr. Stone .....                                                            | 494 |
| Cross Examination by Mr. Loy .....                                                               | 517 |
| Cross Examination by Mr. Phillips .....                                                          | 532 |
| MOTION FOR DIRECTED VERDICT, MOTION FOR A MISTRIAL, AND<br>RENEWAL OF ALL PRETRIAL MOTIONS ..... | 536 |

|                                            |     |
|--------------------------------------------|-----|
| COURT’S RULING .....                       | 541 |
| LARRY KING                                 |     |
| Direct Examination by Mr. Loy .....        | 552 |
| Cross Examination by Mr. Stone .....       | 581 |
| Cross Examination by Mr. Phillips .....    | 596 |
| Redirect Examination by Mr. Loy .....      | 603 |
| Recross Examination by Mr. Stone .....     | 603 |
| Recross Examination by Mr. Phillips .....  | 607 |
| ROBERT ARABIS                              |     |
| Direct Examination by Mr. Phillips .....   | 608 |
| NANCY CARTER                               |     |
| Direct Examination by Mr. Phillips .....   | 615 |
| Cross Examination by Mr. Stone .....       | 621 |
| Redirect Examination by Mr. Phillips ..... | 623 |
| JASON CHAPMAN                              |     |
| Direct Examination by Mr. Phillips .....   | 640 |
| Cross Examination by Mr. Thornton .....    | 652 |
| Redirect Examination by Mr. Phillips ..... | 656 |
| Recross Examination by Mr. Thornton .....  | 657 |
| ELIZABETH CLUDE                            |     |
| Direct Examination by Mr. Phillips .....   | 658 |
| Cross Examination by Mr. Stone .....       | 666 |
| Redirect Examination by Mr. Phillips ..... | 668 |
| OBJECTIONS AND MOTIONS RENEWED .....       | 669 |
| COURT’S RULING .....                       | 669 |
| CLOSING ARGUMENT BY MR. STONE .....        | 673 |
| CLOSING ARGUMENT BY MR. LOY .....          | 691 |
| CLOSING ARGUMENT BY MR. PHILLIPS .....     | 698 |
| FINAL CLOSING ARGUMENT BY MR. STONE .....  | 709 |
| CHARGE OF THE COURT .....                  | 716 |
| VERDICT .....                              | 761 |
| POST-TRIAL MOTIONS .....                   | 766 |

|                                                                                                                         |     |
|-------------------------------------------------------------------------------------------------------------------------|-----|
| COURT’S RULING .....                                                                                                    | 766 |
| SENTENCING .....                                                                                                        | 772 |
| COURT’S EXHIBIT NO. 1 (DEFENDANT’S MOTION FOR ATTORNEY CONDUCTED<br>VOIR DIRE AND SUPPLEMENTAL PROPOSED VOIR DIRE)..... | 811 |
| MOTION FOR THE STATE TO DISCLOSE RULE 404(B), SCRE, (LYLE) EVIDENCE TO<br>THE DEFENSE .....                             | 823 |
| DEFENDANT’S OBJECTION TO THE STATE’S INTRODUCTION OF INADMISSIBLE<br>PROPENSITY EVIDENCE .....                          | 826 |
| INDICTMENTS AND SENTENCING SHEETS .....                                                                                 | 829 |
| NOTICE OF APPEAL.....                                                                                                   | 841 |
| CERTIFICATE OF COUNSEL .....                                                                                            | 843 |

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THE COLLETON  
COUNTY CLERK OF COURT’S OFFICE: STATE’S EXHIBITS #1 – 4;  
10-11 (PHOTOS) AND STATE’S EXHIBIT #40 (FLASH DRIVE)**

STATE OF SOUTH CAROLINA                    IN GENERAL SESSIONS COURT  
COUNTY OF COLLETON                        FOR THE 14<sup>TH</sup> JUDICIAL CIRCUIT  
2019-GS-15-00780, -709  
2022-GS-15-00710

-----)  
State of South Carolina)  
)  
)  
Plaintiff, )  
vs. ) TRANSCRIPT OF JURY TRIAL  
)  
Rita M. Pangalangan, ) VOLUME I  
And Larry King. ) (PAGES 1 - 220)  
)  
)  
Defendants. )  
-----)

August 28, 2023  
Walterboro, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge Presiding

Kymerlee M. Williams, CSR/RPR  
Official Circuit Court Reporter III  
Post Office Box 8091  
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INDEX

|                         |     |
|-------------------------|-----|
| PROCEEDINGS             | 5   |
| JURY SELECTION          | 5   |
| PROCEEDINGS CONTINUED   | 219 |
| CERTIFICATE OF REPORTER | 220 |

**EXHIBIT LIST**

| <b>ITEM NUMBER</b> | <b>DESCRIPTION</b> | <b>PAGE</b> |
|--------------------|--------------------|-------------|
| C-1                | Motion             | 45          |
| C-2                | Motion             | 148         |

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PROCEEDINGS

\*\*\*

MONDAY AUGUST 28, 2023

WALTERBORO, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

\*\*

JURY SELECTION

THE COURT: Ladies and gentlemen, I have some more questions to ask to determine your general qualifications to serve. Some of these questions may call for you to respond giving information that you might deem to be overly personal, and you might not want to stand and openly answer these questions.

If that is the case, then you can then make a mental note of the questions, and I'll have you come forward at the end and share those responses with me in the presence of the lawyers, but you must give a complete and truthful responses to all questions, and the preference simply is for you to respond where you are, if the questions apply to you.

Is any member of the jury panel not a citizen of the United States, you're not a U.S.

1 citizen, please stand. If you're not a citizen  
2 and resident of Colleton County, if you do not  
3 live in this County, please stand.

4 PROSPECTIVE JUROR: I just moved to Goose  
5 Creek.

6 THE COURT: You moved to Goose Creek. When  
7 did you move there?

8 PROSPECTIVE JUROR: December.

9 THE COURT: In December? And your juror  
10 number is?

11 PROSPECTIVE JUROR: 298.

12 THE COURT: All right, do I got two  
13 something? Juror 2 --

14 PROSPECTIVE JUROR: 98.

15 THE COURT: 298. All right, Madam 298, you  
16 must be a resident of this County to serve on  
17 jury duty in this County, so we will excuse you.  
18 Thanks for coming.

19 Is any member of the jury panel unable to  
20 read, write, speak or understand the English  
21 language? If you cannot read, write, speak or  
22 understand the English language, please stand.  
23 If you have less than a sixth-grade education,  
24 or its equivalence, please stand.

25 If you have any physical or mental problems

1       that you think would prevent you from serving on  
2       jury duty, based on a physical or mental or  
3       medical condition, or any condition that you  
4       think would prevent you from serving on jury  
5       duty, and you, therefore, want to be excused  
6       because of your physical infirmity or medical  
7       condition, if so, please stand.

8             All right, and tell me your juror number?

9             PROSPECTIVE JUROR:   Juror number 13.

10            I have a Meniere's disease, which causes  
11       severe vertigo attacks, and whenever I have  
12       those I can't drive, so -- and I never know when  
13       they're gonna happen.

14            THE COURT:   All right, juror number 13, we  
15       will excuse you, thank you.   Yes, ma'am?

16            PROSPECTIVE JUROR:   I'm scheduled to have a  
17       hysterectomy at the end of this week, and I have  
18       to get everything prepared.

19            THE COURT:   You're juror number 500, so  
20       we'll transfer number 500 to come back another  
21       time.   How much time do you need?

22            PROSPECTIVE JUROR:   It's six weeks.

23            THE COURT:   Three months, four months, six  
24       months, nine months?

25            PROSPECTIVE JUROR:   It's six weeks.

1           THE COURT: All right, we'll transfer her  
2 to a future date, which I think is appropriate.  
3 Thank you.

4           PROSPECTIVE JUROR: Thank you.

5           THE COURT: If you have a criminal record  
6 involving a crime for which you could have  
7 gotten more than one year in jail, and that is  
8 at any point in your lifetime you have a  
9 criminal conviction for a crime that you could  
10 have gotten more than one year in jail,  
11 regardless of the sentence, and you have not  
12 been granted a pardon or amnesty by the  
13 government, if that is the situation, you're not  
14 qualified to serve, and it must be brought to my  
15 attention.

16           If that applies to any of you, please  
17 stand. If you think it might apply to you,  
18 please stand. All right, no one's standing.

19           If you work as a Clerk, a Deputy Clerk, a  
20 Constable, a Commission, a Law Enforcement  
21 Officer, or a County Officer, or within the  
22 walls of any courthouse, if so, please stand.  
23 Yes, sir, juror number?

24           PROSPECTIVE JUROR: 86.

25           THE COURT: 86.

1           PROSPECTIVE JUROR: I worked for 20 years  
2 at the Beaufort County Sheriff's Office.

3           THE COURT: And are you currently a  
4 commissioned Law Enforcement Officer?

5           PROSPECTIVE JUROR: No, sir.

6           THE COURT: And I think you indicated that  
7 you work in -- is it private?

8           PROSPECTIVE JUROR: Yes.

9           THE COURT: All right, so I do not think  
10 you're disqualified. It refers to current  
11 status.

12          PROSPECTIVE JUROR: Okay.

13          THE COURT: All right, thank you. Is there  
14 any member of the jury panel who has already  
15 served on jury duty this past calendar year,  
16 2022 or 2023, in this courthouse, you've already  
17 served, please stand.

18           If you have served as a member of the Grand  
19 Jury of this County in the past four years, if  
20 so, please stand. Those are the basic  
21 qualifying questions. There are a number of  
22 exemptions, which means you may choose not to  
23 serve, if you are entitled to an exemption. The  
24 first exemption is for those of you who may be  
25 65 years of age or older and want to be



1       exempted. We'd certainly love to have you stay,  
2       but if you're 65 years of age or older, and you  
3       wish to be exempted, please stand.

4               Excuse me, yes, sir, juror number?

5               PROSPECTIVE JUROR: 386.

6               THE COURT: 386? All right, how old are  
7       you?

8               PROSPECTIVE JUROR: 72.

9               THE COURT: 72. Can't tell behind that  
10       mask. You still don't look 72. All right,  
11       well, you are entitled to be exempted, and you  
12       may be exempted. Thank you for coming. Yes,  
13       ma'am?

14              PROSPECTIVE JUROR: 76.

15              THE COURT: 76, and is that your juror  
16       number?

17              PROSPECTIVE JUROR: I'm juror number --  
18       excuse me, 319.

19              THE COURT: Juror 319, all right, ma'am,  
20       thank you very much for coming, and you are  
21       exempted. Yes, sir?

22              PROSPECTIVE JUROR: 73.

23              THE COURT: Juror number 73, and how old  
24       are you?

25              PROSPECTIVE JUROR: 68.

1           THE COURT: 68? All right, thank you, sir,  
2           you are exempted. Another exemption concerns  
3           prior jury service. No person is required to  
4           serve more often than once every three calendar  
5           years in this Court. It does not apply to  
6           Magistrate's Court, Federal Court, or any other  
7           Court, other than Circuit Court.

8           If you've already served within the last  
9           three years, and you would like to be exempted,  
10          or as a member of the County Grand Jury within  
11          the last five years, and you'd like to be  
12          exempted, please stand.

13          The next exemption deals with those of you  
14          who have small children under the age of seven,  
15          and no one can care for them, and you would,  
16          therefore, like to be exempted, because you're  
17          responsible for caring for children under the  
18          age of seven. If that applies to any of you and  
19          you would like to be exempted, please stand.  
20          Yes, ma'am, juror number?

21          PROSPECTIVE JUROR: Juror number 236. I  
22          have a two-month-old.

23          THE COURT: All right. I'm sure you need  
24          to be exempted, and you may. Thank you very  
25          much. Tell us that juror number again, please?

1 Ma'am, as you leave, your juror number?

2 PROSPECTIVE JUROR: 236.

3 THE COURT: 236?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right. She said 236. Yes,  
6 ma'am?

7 PROSPECTIVE JUROR: 436. I have a five-  
8 year-old.

9 THE COURT: 436.

10 PROSPECTIVE JUROR: Yep.

11 THE COURT: All right, juror number 436 is  
12 exempted. Thank you for coming. Yes, sir?

13 PROSPECTIVE JUROR: Juror number 407, and I  
14 have a five-year-old.

15 THE COURT: Juror number 407, you're  
16 exempted, thank you. The next exemption deals  
17 with those of you who may be attending school,  
18 or working at a school, and you have a school-  
19 related conflict, and you would like to be  
20 transferred to come back during the time that  
21 you do not have a school-related conflict.

22 If that applies to any of you, and you  
23 would like to be transferred, please stand.  
24 Yes, ma'am, juror number?

25 PROSPECTIVE JUROR: 279. And we have the

1 first week of classes right now for USC nursing  
2 program, and we're a pretty small faculty, so it  
3 would be difficult for someone to take over my  
4 classes. If I could come back in the summer  
5 months?

6 THE COURT: All right, number 279 will be  
7 transferred to come back during the summer  
8 months. Thank you for coming. Yes, ma'am, up  
9 front?

10 PROSPECTIVE JUROR: 249. I'm a  
11 Kindergarten teacher at Richland Elementary  
12 School.

13 THE COURT: 249?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And you want to come back  
16 during the summer?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: All right, that we'll do.  
19 Thank you.

20 PROSPECTIVE JUROR: Thank you.

21 THE COURT: Yes?

22 PROSPECTIVE JUROR: Juror 81. I'm a high  
23 school teacher and full-time Master student.  
24 Come back in the summer.

25 THE COURT: All right, number 81, yes,

1       ma'am, you will be transferred to come back  
2       during the summer.

3               If you're employed by the Department of  
4       Corrections, and would like to be exempted,  
5       please stand. If you perform services for a  
6       business, a commercial or an agricultural  
7       enterprise and the work you do is so essential  
8       to the operation of the business, such that the  
9       business would have to close, or stop  
10      functioning, if you were required to be here on  
11      jury duty, and you, therefore, would like to be  
12      exempted to prevent your business from closing,  
13      or stop functioning, if that applies to any of  
14      you, please stand.

15             PROSPECTIVE JUROR: Juror 280.

16             THE COURT: 280. Tell me about it.

17             PROSPECTIVE JUROR: Well, I'm the owner of  
18      my own business, and I'm an owner/operator.

19             THE COURT: Okay, number 280 will be  
20      exempted. Yes, sir?

21             PROSPECTIVE JUROR: It's just me and my dad  
22      that works for our business, and I do most of  
23      the work, because he's up in the age that he  
24      can't do all of the work.

25             THE COURT: What's your juror number?

1 PROSPECTIVE JUROR: 461.

2 THE COURT: 461. All right, number 461  
3 will be exempted, thank you for coming. Anyone  
4 else? If you're the primary caretaker of  
5 someone who is elderly or incapacitated, if so,  
6 please stand, if you're the caretaker of someone  
7 who's elderly or incapacitated.

8 PROSPECTIVE JUROR: Juror 471.

9 THE COURT: Yes, ma'am?

10 PROSPECTIVE JUROR: My mom I am her  
11 caregiver. She had open heart surgery. She  
12 hasn't been back to work yet, so I take care of  
13 her.

14 THE COURT: Number 471 is exempted. Thank  
15 you for coming.

16 Yes?

17 PROSPECTIVE JUROR: Juror 94. I take care  
18 of my mother, she's on oxygen, and she's  
19 bedridden.

20 THE COURT: All right, juror number 94 is  
21 exempted. Thank you, ma'am. Ladies and  
22 gentlemen, that concludes the statutory list of  
23 qualifications and exemptions for jury service.  
24 It may be that you're qualified and not entitled  
25 to an exemption, but jury service this week

1 poses an extreme hardship upon you for some  
2 reason or another.

3 I cannot permanently excuse a juror who is  
4 qualified, but under extreme and compelling  
5 circumstances I can transfer you to come back  
6 another time. Very briefly, in order to be  
7 qualified to serve on jury duty you must be a  
8 U.S. citizen, you must be a citizen and resident  
9 of Colleton County, you must be able to read,  
10 write, speak and understand the English  
11 language, you must have at least a sixth grade  
12 education or its equivalent, you must be able to  
13 mentally and physically render efficient jury  
14 service, you must not have been convicted of a  
15 crime for which you could have gotten more than  
16 one year imprisonment, unless you've been  
17 granted a pardon or amnesty by the government,  
18 and that's for any time in your lifetime, you  
19 must not work within the walls of any  
20 courthouse, or a Constable or Sheriff, Deputy  
21 Sheriff, or a County Officer, and you must not  
22 have previously served on jury duty within the  
23 past calendar year, or as a member of the Grand  
24 Jury within the last four years.

25 If any of these qualifying questions

1 concerns you, if you did not respond to any  
2 question that you did not wish to respond to  
3 openly, or if you have any other problems,  
4 concerns or issues regarding serving on jury  
5 duty this week, please come forward. At this  
6 time please come forward at this time.

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: Good morning.

9 PROSPECTIVE JUROR: Juror number 230.

10 PROSPECTIVE JUROR: Yes, sir, I can do  
11 that.

12 THE COURT: We can do that.

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Juror number 230.

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: All right, ladies and  
17 gentlemen, thank you all for your cooperation.  
18 The panel is now qualified. We have another  
19 group coming in to go through qualifications  
20 with them as well.

21 All right, so, ladies and gentlemen, we  
22 need to have you back at 1 o'clock, 1 o'clock,  
23 so you'all have a break. Please come back at 1  
24 o'clock. Just a moment. All right, ladies and  
25 gentlemen, come back at 1 o'clock.



1 (Jurors exit the courtroom.)

2 THE COURT: We'll take a few minutes and  
3 come back and talk about some of the issues  
4 while we have this break. We'll take about five  
5 minutes.

6 (Recess.)

7 BAILIFF: All rise.

8 BAILIFF: All rise. Please be seated.

9 I thank you all. I need to talk to the  
10 lawyers about some things first.

11 (Jurors exit the courtroom.)

12 THE COURT: I thought someone said 11:30,  
13 but you and I talked about 11:00.

14 CLERK: Yes, sir.

15 THE COURT: I think some other folks said  
16 11:30, so we'll go with 11:30.

17 CLERK: Okay.

18 THE COURT: It's not 100 degrees outside.  
19 All right, we need to get some orientation in  
20 this case. I haven't seen an indictment, I  
21 don't know anything about it, other than -- Mr.  
22 Stone?

23 MR. STONE: Yes, sir. Your Honor, we have  
24 six indictments in this case. Three indictments  
25 charging Rita Pangalangan and three charging

1 Larry King. The charges are for murder, great  
2 bodily injury on a child, excuse me, Your Honor,  
3 which is under South Carolina Code Section 16-3-  
4 95(a), as well as conspiracy.

5 All three of these indictments and all  
6 three of these charges relate to both  
7 Defendants, Rita Pangalangan, as well as Larry  
8 King.

9 I've got a witness list, Your Honor, that  
10 I'll hand up to you as well.

11 I'll hand you the indictments.

12 Your Honor, if I may approach? I may  
13 already have this in the stack that I had up  
14 here before you, but just in case.

15 THE COURT: No, we're good. Yes, sir, Mr.  
16 Stone.

17 MR. STONE: And, Your Honor, I'm Duffie  
18 Stone. We know each other, but I just wanted to  
19 reiterate that. This is Sean Thornton, he is my  
20 Deputy Solicitor, and he'll be with us during  
21 this trial as well. And then Dylan Hightower is  
22 our investigator, who will be helping us with  
23 Court exhibits and various things like that,

24 THE COURT: Who are all the people behind  
25 you there?

1           MR. STONE: Those are new members of our  
2 office. We brought in our new lawyers that are  
3 starting, just starting to get through this next  
4 month. They've been in training for the last  
5 months, so we asked that they come and then we  
6 have a couple other people that -- some of them  
7 are more experienced lawyers that are assisting  
8 them as well.

9           THE COURT: Okay.

10          MR. STONE: And I think we've got some  
11 concerned citizens up in the back.

12          THE COURT: Okay. Yes, sir.

13          MR. LOY: Thank you, Your Honor. I'm John  
14 Loy, an attorney out of Summerville assisting  
15 Mr. --

16          THE COURT: How do you spell your last  
17 name?

18          MR. LOY: L-O-Y.

19          THE COURT: John Loy.

20          MR. LOY: Yes, sir.

21          THE COURT: All right.

22          MR. LOY: Mr. Gil Gatch is the lead counsel  
23 in this case, he's asked me to help him with the  
24 trial and the defense of the case here this  
25 week.

1 THE COURT: Mr. Phillips?

2 MR. PHILLIPS: Good morning, Your Honor.

3 THE COURT: Good morning.

4 MR. PHILLIPS: So I'm Dave Phillips, I have  
5 with me Courtney Howard, my Paralegal.

6 MR. PHILLIPS: These are law students that  
7 work for me, and this is my Paralegal.

8 THE COURT: Okay, and --

9 MR. PHILLIPS: And, of course, Ms. Rita  
10 Pangalangan.

11 THE COURT: Pangalangan?

12 How you doing?

13 You okay? Okay. And the Defendant is?

14 MR. LOY: Mr. Larry King, Your Honor.

15 THE COURT: What's his first name again?

16 MR. LOY: Larry King.

17 THE COURT: Larry --

18 MR. LOY: King.

19 THE COURT: Okay.

20 MR. STONE: And, Your Honor, one matter I'd  
21 like to make sure before we swear the jury, I do  
22 have a motion to quash. Procedurally, if you  
23 must handle this motion prior to swearing in the  
24 jury.

25 THE COURT: All right.

1           MR. PHILLIPS: I also have a motion for the  
2           conspiracy indictment right here, as well as the  
3           normal requested judicial proposed voir dire  
4           questions that I've handed up. I'd like that  
5           matter to be heard.

6           THE COURT: Okay. I've read over that.

7           MR. GATCH: I do have a motion as to one of  
8           the indictments, but only one of the  
9           indictments, and that's the conspiracy  
10          indictment.

11          THE COURT: A motion to?

12          MR. GATCH: To quash that indictment.

13          THE COURT: To quash, all right. Anything  
14          else you want to mention now?

15          MR. STONE: Just, procedurally, as Your  
16          Honor knows, we have a significant number of  
17          pretrial motions.

18          I imagine most of those will come after we  
19          have a secured sworn jury panel.

20          THE COURT: Well, I think it depends on  
21          what time they are -- it depends what time we  
22          get a jury. I don't like to just let jurors go,  
23          because a lot of times a motion somebody think  
24          is gonna take three or four hours only takes an  
25          hour.

1           MR. STONE: I want to go back to maybe like  
2           2015, I think you asked me that one time, "Do  
3           you really believe it's gonna last all day?" I  
4           said, "Yes," and it lasted until lunch the next  
5           day, so just trying to set expectations.

6           THE COURT: All right, thanks for taking me  
7           back.

8           THE COURT: All right.

9           MR. PHILLIPS: I would also have a motion  
10          for sequestration. I don't think that would be  
11          --

12          THE COURT: Any objection to the  
13          sequestering of witnesses?

14          MR. STONE: No, sir.

15          THE COURT: All right, witnesses are  
16          sequestered.

17          MR. GATCH: Make sure, Your Honor, of  
18          course, that would apply to both sides I'm  
19          assuming?

20          THE COURT: That's mutual, that's on both  
21          sides.

22          THE COURT: All right. Welcome, ladies and  
23          gentlemen, I'm Clifton Newman, and I am the  
24          presiding Judge here this week in this courtroom  
25          in Colleton County, and you all have been

1 summoned for jury duty. In order to serve on  
2 jury duty, you must be qualified to serve. We  
3 had one group that came in I believe at 9:30  
4 this morning, and you're all the second group,  
5 and after you are qualified, those of you who  
6 are qualified we'll have you come back at 1  
7 o'clock hopefully to begin jury voir dire in our  
8 case that we're gonna try this week, or the  
9 first case we will try this week.

10 As indicated, in order to serve, you must  
11 be qualified to serve. As part of the  
12 qualifications process, it's necessary that an  
13 oath be administered to you, and I notice  
14 you'all like the Judge to do it all.

15 Is that a Waltherboro/Colleton protocol, the  
16 Judge administers the oath?

17 CLERK: We do, but it's up to the Judge.

18 THE COURT: Okay. Well, I usually have the  
19 Clerk do it, but it says --

20 CLERK: We can do it.

21 THE COURT: In order to serve, you must be  
22 qualified to serve, so if you all will stand and  
23 raise your right hands to receive the juror  
24 qualifications oath. If you'll raise your right  
25 hand, please. Do you solemnly swear or affirm

1       that you will give complete and truthful  
2       responses to all questions that you are asked  
3       during this process? If you accept this oath,  
4       please indicate by saying I do.

5               PROSPECTIVE JURORS: I do.

6               THE COURT: Thank you, you may be seated.  
7       If you did not take the juror oath, please  
8       stand, if you did not take the oath. Now, that  
9       oath says that you will give complete and  
10      truthful responses to all questions that you are  
11      asked during this process, and that also applies  
12      to your entire service this week, and we look  
13      forward to working with you all this week.

14              The first part of the qualifications  
15      process is the roll call, where the Clerk will  
16      call the names of those of you who have been  
17      summoned to appear, to get certain information  
18      from you, so if you will give the Clerk, Ms.  
19      Lori, your attention.

20              THE COURT: Ladies and gentlemen, I now  
21      have some additional questions to ask, to  
22      determine your general qualifications to serve.  
23      And I'm not intending to embarrass anyone, so if  
24      you do not wish to respond openly to any  
25      question, then I'll give you an opportunity at



1 the end of the process to come forward and share  
2 those responses to me at the bench. Remember  
3 you must give complete and truthful responses to  
4 all questions, and the preference simply is for  
5 you to stand and respond, if it applies to you.  
6 Is any member of the jury panel not a citizen of  
7 the United States of America?

8 If you're not a U.S. citizen, please stand.

9 If you are not a citizen and resident of  
10 Colleton County, please stand, if you do not  
11 live in this County. All right.

12 Yes, sir.

13 PROSPECTIVE JUROR: I live in North  
14 Charleston.

15 THE COURT: North Charleston. How long  
16 have you been over there?

17 PROSPECTIVE JUROR: About six months.

18 THE COURT: And you intend to continue  
19 living there?

20 PROSPECTIVE JUROR: For now. I do have  
21 property here in Colleton County though.

22 THE COURT: All right. Do you have vote  
23 here?

24 PROSPECTIVE JUROR: I'm sorry, I can't hear  
25 you.

1 THE COURT: Do you vote?

2 PROSPECTIVE JUROR: I am not registered.

3 THE COURT: All right. And so your current  
4 permanent residence is Charleston County?

5 PROSPECTIVE JUROR: North Charleston, yes,  
6 sir.

7 THE COURT: It's Charleston County. All  
8 right, well, we'll excuse you from being here,  
9 since you live in Charleston.

10 THE CLERK: Juror number?

11 PROSPECTIVE JUROR: Juror number 119.

12 THE COURT: 119.

13 Is there anyone here who cannot read,  
14 write, speak or understand the English language,  
15 please stand, if you cannot read, write, speak  
16 or understand the English language.

17 If you have any physical or mental problems  
18 that you think would prevent you from serving on  
19 jury duty, if you have a physical or mental or  
20 medical condition, or any condition that you  
21 think would prevent you from serving on jury  
22 duty, if so, please stand.

23 All right, yes, ma'am, your juror number?

24 PROSPECTIVE JUROR: 322.

25 THE COURT: All right and tell me about it.

1 PROSPECTIVE JUROR: I have severe anxiety.

2 THE COURT: Juror 122?

3 PROSPECTIVE JUROR: 322, sir.

4 THE COURT: 322, thank you. All right, and  
5 you said you worked at a gas station?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: And you're able to do that  
8 full-time or --

9 PROSPECTIVE JUROR: I have to take breaks  
10 sometimes, because my anxiety gets so bad I  
11 start panicking.

12 THE COURT: Do you shut down the station,  
13 or --

14 PROSPECTIVE JUROR: Oh, no, sir, my other  
15 coworker she'll take over while I go take my  
16 break and calm myself down sometimes.

17 THE COURT: All right. So we will excuse  
18 you, number 322, right? Number 322, thank you  
19 for coming.

20 PROSPECTIVE JUROR: Thank you.

21 THE COURT: If you have a criminal record  
22 involving a crime that you could have gotten  
23 more than one year in jail, at any point in your  
24 lifetime if you have a criminal record for a  
25 crime punishable by imprisonment for more than

1       one year, and you have not been granted a pardon  
2       by the government or the President of the United  
3       States, or amnesty by a governmental authority,  
4       if so, please stand, if that applies to you.

5             If you work as a Clerk, a Deputy Clerk, a  
6       Constable, a commissioned Law Enforcement  
7       Officer, or a County Officer, or within the  
8       walls of any courthouse? If so, please stand.  
9       If you work as a County Officer, commissioned  
10      Law Enforcement Officer, or within the walls of  
11      any courthouse or a Law Enforcement Officer, if  
12      you've already served on jury duty during the  
13      past calendar year, that's 2021, I'm sorry, 2022  
14      and 2023?

15            If you have questions, pose them to the  
16      Judge. If you have already served on jury duty  
17      in 2022 and 2023, if so, please stand.

18            THE COURT: Yes, sir.

19            PROSPECTIVE JUROR: I have a question,  
20      Judge. If you -- the last question that you  
21      asked about working in the County, if you've  
22      done that before, does that matter?

23            THE COURT: No, if you're a current  
24      employee.

25            PROSPECTIVE JUROR: Okay.

1           THE COURT: If you're currently. Where did  
2 you used to work?

3           PROSPECTIVE JUROR: I used to work in  
4 Charleston County.

5           THE COURT: All right.

6           PROSPECTIVE JUROR: I used to do security  
7 at the Courthouse.

8           THE COURT: And how long ago was that?

9           PROSPECTIVE JUROR: Two years ago.

10          THE COURT: All right, your juror number?

11          PROSPECTIVE JUROR: 422.

12          THE COURT: 422.

13          PROSPECTIVE JUROR: Yes, sir.

14          THE COURT: All right, thank you. That  
15 does not disqualify you.

16          PROSPECTIVE JUROR: Okay.

17          THE COURT: We're talking about current  
18 employment. If you've already served on jury  
19 duty within the past four years, or a member of  
20 the Grand Jury of this County within the past  
21 five years, if so, please stand. Let's see,  
22 yes, ma'am? What's your juror number?

23          PROSPECTIVE JUROR: 480.

24          THE COURT: 48?

25          PROSPECTIVE JUROR: 480.

1           THE COURT: 480, all right. Tell me why  
2           you're standing.

3           PROSPECTIVE JUROR: You said in the last  
4           five?

5           THE COURT: Yes, ma'am.

6           PROSPECTIVE JUROR: Yes, sir, I did.

7           THE COURT: Which one applies to you, the  
8           Grand Jury or petit jury?

9           PROSPECTIVE JUROR: I think it was -- I was  
10          on the -- it was just a regular jury.

11          THE COURT: And what year was that?

12          PROSPECTIVE JUROR: I think it was like a  
13          year and-a-half, or two years ago.

14          CLERK: What's your jury number, again?

15          PROSPECTIVE JUROR: Huh?

16          CLERK: What's your jury number?

17          PROSPECTIVE JUROR: 480.

18          THE COURT: Okay. We'll run your name  
19          through the computer and get back to you on it.

20          PROSPECTIVE JUROR: Okay.

21          THE COURT: All right, thank you. We'll  
22          now move to exemptions for jury duty. The first  
23          exemption is for those of you who may be 65  
24          years of age or older. If you are, we'd love to  
25          have you stay, but if you want to go, please

1 stand. If you're 65 years of age or older and  
2 you would like to be exempted. Next exemption  
3 deals with those of you who may have served on  
4 jury duty within the last three years.

5 For one year you're not qualified to serve  
6 again, but two additional years you choose not  
7 to serve? So if you've served on jury duty in  
8 this Court within the last three years, and you  
9 would like to be exempted, please stand.

10 Yes, sir, number 19 or 121?

11 PROSPECTIVE JUROR: Yeah.

12 THE COURT: Which one, 119?

13 PROSPECTIVE JUROR: 121.

14 THE COURT: 121, yes, sir.

15 PROSPECTIVE JUROR: I was on jury duty, but  
16 we did not go to trial, does that count?

17 THE COURT: Yes, sir, if you were on jury  
18 duty, it counts.

19 PROSPECTIVE JUROR: Okay, but it didn't go  
20 to trial.

21 THE COURT: If you're on jury duty it  
22 counts.

23 PROSPECTIVE JUROR: Okay then.

24 THE COURT: Yes, sir.

25 PROSPECTIVE JUROR: So it was back in '22,

1           end of '22 I believe.

2           THE COURT:   And it was here in --

3           PROSPECTIVE JUROR:   Yes, sir.

4           THE COURT:   The same courtroom?

5           PROSPECTIVE JUROR:   Yes.

6           THE COURT:   All right, and your juror  
7           number is again?

8           PROSPECTIVE JUROR:   121.

9           THE COURT:   121.   All right, she's gonna  
10          run you through that computer and see if your  
11          name pops up.   If it does, you can leave then.  
12          And, again, if you've served on the Grand Jury  
13          of this County within the last five years, you  
14          may be exempted from service.

15          If that applies to any of you, please  
16          stand.   If any of you have small children under  
17          the age of seven, and no one can care for them  
18          while serving on jury duty, and you would like  
19          to be exempted to tend to your small child or  
20          children under the age of seven.

21          If that applies to any of you, please  
22          stand.   Yes, ma'am?   Juror number?

23          PROSPECTIVE JUROR:   443.

24          THE COURT:   Number?

25          PROSPECTIVE JUROR:   443, Judge.



1 THE COURT: 443. Tell me about it.

2 PROSPECTIVE JUROR: I have a young son.

3 THE COURT: All right, I understand. How  
4 old is that young son?

5 PROSPECTIVE JUROR: Six.

6 THE COURT: Six-years-old?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: All righty, you're exempted.  
9 What's the number, again?

10 PROSPECTIVE JUROR: 443.

11 THE COURT: 443. Yes, ma'am, thank you for  
12 coming.

13 Yes, ma'am?

14 PROSPECTIVE JUROR: 20.

15 THE COURT: All right, yes, ma'am?

16 PROSPECTIVE JUROR: I have a four-year-old,  
17 I'm a single mom.

18 THE COURT: All right, number 20. All  
19 right, thank you, you may go. The next  
20 exemption deals with those of you who may be  
21 attending school or working at a school.

22 If you are attending school or working at a  
23 school, and you have a school-related conflict  
24 and want to school-related conflict, whether  
25 you're a teacher, student, crossing guard, bus

1 driver, any of the school-related function, and  
2 you wish to be transferred to a time you do not  
3 have a school-related problem, if so, please  
4 stand. Your juror number is?

5 PROSPECTIVE JUROR: 366.

6 THE COURT: All right and tell me about it.

7 PROSPECTIVE JUROR: I'm currently attending  
8 college and go on Tuesdays and Thursdays. I  
9 might take another class.

10 THE COURT: Yeah, when will you be  
11 available to come back?

12 PROSPECTIVE JUROR: After December whenever  
13 I graduate.

14 THE COURT: Okay, number 366, you'll be  
15 transferred to December.

16 PROSPECTIVE JUROR: Thank you.

17 THE COURT: Yes, sir. Yes, sir?

18 PROSPECTIVE JUROR: 282.

19 THE COURT: 282.

20 PROSPECTIVE JUROR: I'm a football coach.  
21 I'm not a teacher, but we have football practice  
22 after school every day at 3 o'clock.

23 THE COURT: All right. And you're the  
24 football coach where?

25 PROSPECTIVE JUROR: Colleton Prep.

1           THE COURT: All right. And when will you  
2 be available to come back?

3           PROSPECTIVE JUROR: After football season,  
4 January.

5           THE COURT: All right, you'll be  
6 transferred to after January. Very good, thank  
7 you, you may go.

8           PROSPECTIVE JUROR: Thank you.

9           THE COURT: If you work at the Department  
10 of Corrections and would like to be exempted,  
11 please stand.

12           If you perform services for a business, be  
13 it commercial or agriculture, any kind of  
14 business, and the services that you perform, the  
15 work you perform are so essential to the  
16 operation of the business that it would have to  
17 close or stop functioning, if you were required  
18 to serve on jury duty, therefore, you would like  
19 to be exempted from jury duty.

20           If that applies to any of you, please  
21 stand. Yes, ma'am?

22           PROSPECTIVE JUROR: Hi, I'm a hairstylist.  
23 I run a hair studio. I actually missed three  
24 appointments this morning to come here.

25           THE COURT: And your juror number is?

1 PROSPECTIVE JUROR: 411.

2 THE COURT: You've got what she said?

3 CLERK: 411.

4 PROSPECTIVE JUROR: 411.

5 THE COURT: 411. All right, number 411,  
6 you're exempted, thank you for coming.

7 PROSPECTIVE JUROR: Thank you.

8 THE COURT: Maybe you can call and  
9 reschedule those appointments that you said you  
10 missed this morning.

11 Did someone else stand? She's the only  
12 one? If you are the primary caretaker for  
13 someone who is elderly or incapacitated, and you  
14 would like to be exempted to take care of them,  
15 if so, please stand.

16 Ladies and gentlemen, that concludes the  
17 list of qualifications and exemptions for jury  
18 service. It may be that you're qualified to  
19 serve and not entitled to an exemption, but that  
20 service this week imposes an extreme hardship  
21 upon you, I cannot permanent excuse a juror who  
22 is qualified to serve and not entitled to an  
23 exemption, but under the appropriate  
24 circumstances, I can transfer you to come back  
25 at another time.

1           And very briefly in order to serve, you  
2           must be a U.S. citizen, you must be a citizen  
3           and resident of Colleton County, you must be  
4           able to read, write, speak and understand the  
5           English language, you must have at least a sixth  
6           grade education or its equivalent, you must be  
7           able to physically and mentally render efficient  
8           jury service, and you must not have a criminal  
9           record involving a crime for which you could  
10          have gotten more than one year imprisonment,  
11          regardless of the sentence, unless you've been  
12          granted a pardon or amnesty, you must not work  
13          as a Clerk, Deputy Clerk, commissioned Law  
14          Enforcement Officer, County Officer, or be  
15          employed within the walls of any courthouse, and  
16          you must not have previously served on jury duty  
17          within this past calendar year, or as a member  
18          of the Grand Jury of Colleton County for the  
19          past four years.

20          If any of these questions concerns you, if  
21          you do not stand, because you did not want to  
22          speak openly, if you have any other problems,  
23          issues or concerns with serving on jury duty  
24          this week, please come forward at this time.  
25          Please come forward at this time. Okay, and the

1 two jurors who told us that they've been here  
2 before, who have served already, what's their  
3 numbers?

4 CLERK: 121 and 480.

5 THE COURT: Number 121 and 480 are you  
6 still with us? Yes, you served in 2022, so  
7 you're good to go. And number 121, yeah, all  
8 right.

9 CLERK: Yes.

10 THE COURT: Thank you all.

11 BAILIFF: Juror 269.

12 All right, ladies and gentlemen, the panel  
13 is qualified. We're gonna need you'all to  
14 leave, and to come back at 1 o'clock. We need  
15 you back at 1 o'clock. Thank you very much.

16 (Jurors exit the courtroom.)

17 THE COURT: Okay, we have the jury out  
18 until 1 o'clock, and we can talk now, and then  
19 after we have some time in between for the voir  
20 dire. We'll take up whatever matters we can  
21 talk about now.

22 MR. STONE: Yes, Your Honor. Yeah, if I  
23 may, Your Honor, we went and actually checked on  
24 the return. The return was handed back to the  
25 Magistrate, not that it changed any of the

1       analysis previously, but I'll hand that up to  
2       you. It was actually -- the second search  
3       warrant was executed on August the 7th and the  
4       return was on the same day.

5               THE COURT:     Who is the officer who lost  
6       their child in the wreck or something?

7               Which County officer was that?

8               MR. STONE:    I'm sorry?

9               THE COURT:    Isn't there a Colleton County  
10      Officer who lost his child in a car wreck?

11              MR. Stone:    Yes, sir.

12              THE COURT:    Who was that?

13              THE CLERK:    Daniel Green.

14              THE COURT:    Green, okay, all right. Okay,  
15      I think I remembered it from the last time. So  
16      just before -- you mentioned State v. Wise, did  
17      you say?

18              MR. STONE:    Yes, sir, I believe that's  
19      correct.

20              THE COURT:    Tell me about that case.

21              MR. STONE:    Well, the State v. Wise says  
22      that the return on the search warrant is an  
23      administrative process and not one that affects  
24      the admissibility or the execution of the search  
25      warrant or issues for the Court. I don't think

1       that is -- I think now that that's no longer  
2       necessary as we actually have a copy of the  
3       return which was dated the same day that the  
4       search warrant was executed.

5             And, again, this is the second search  
6       warrant executed, because the defense requested  
7       that we gather another hour of video.

8             We went back and did that with the police,  
9       we decided out of caution executed a search  
10      warrant on it, but I think at this point the  
11      return's done one way or the other.

12            So I don't know that that was even -- that  
13      it's even necessary to analyze it.

14            THE COURT: All right. Mr. Phillips?

15            MR. PHILLIPS: Yes, Your Honor.

16      Technically, the statute requires it to be  
17      filed, not just signed, but I think the more  
18      pressing matter is that we have a limited amount  
19      of time would be whether the we are going to an  
20      attorney-conducted voir dire on the motion to  
21      quash. Because that motion, I'll be honest,  
22      Your Honor, is going pretty quick later, as far  
23      as time-sensitive nature with them coming back  
24      as one, there's really three matters I think we  
25      need to focus on to be honest with you.



1 THE COURT: All right.

2 MR. PHILLIPS: As far as the attorneys  
3 conducting voir dire, Your Honor has heard me  
4 say specifically, when you look at the date of  
5 South Carolina has essentially the fastest  
6 process of voir dire, and that's not in the  
7 Defendant's favor.

8 We're seeking to have a fair trial and then  
9 quash a jury, and, unfortunately, the period  
10 ended while the voir dire process that we have  
11 in the State. The only information we know are  
12 unconstitutional things that I'm not supposed to  
13 base my decision on striking the jury.

14 Very little have I been able to glean from  
15 their employment whether they're married, and,  
16 of course, their address.

17 Outside of that, we have race and age and  
18 gender, which I'm not supposed to take into  
19 account. And so with that, that barely  
20 scratched the surface level of voir dire, it  
21 allows me to know, not only the known biases,  
22 but the unknown biases of these potential  
23 jurors, so I can make an intelligent decision on  
24 preemptory strikes, or whether strikes is  
25 necessary by having this additional information,

1 Your Honor.

2 Specifically, again, it's necessary in the  
3 interest of justice to obtain an impartial jury,  
4 with the intelligent exercise of rendering  
5 challenges by counsel, informed consideration of  
6 the Court, I think the challenges for cause.

7 Again, I marked in here that unknown biases  
8 will not just reveal themselves, but through the  
9 process of voir dire, were we able to hopefully  
10 find out additional information, so I can make  
11 those intelligent decisions of who to strike.

12 We have such little information. It also  
13 aids both sides, both the prosecution and  
14 defense in making sure we don't violate Batson  
15 v. Kentucky, Your Honor, that we don't run into  
16 an issue of that specific situation.

17 I have, because we're trying to crack the  
18 door here and have it open for attorney  
19 conducted voir dire in criminal cases, I've  
20 limited it in scope significantly.

21 I know in other states it can take days and  
22 weeks and months, I'm not asking for any of  
23 that. I'm just trying to get the process  
24 started, so I'm asking for an hour from each  
25 side, and really just three main questions to be

1 posed, and with attorney conducted voir dire  
2 ready to pose these questions, and see how the  
3 jurors interact on it, based on those responses,  
4 I can make decisions about who I'd like to  
5 strike. I have on page seven of that, Your  
6 Honor, what we have listed, I'll make sure I say  
7 it for the record here, Your Honor.

8 THE COURT: Well, you filed your motion,  
9 right?

10 MR. PHILLIPS: So it's marked as Defense  
11 Exhibit Number 1.

12 THE COURT: When do you intend to file it?

13 MR. PHILLIPS: We could absolutely file it.

14 THE COURT: Yes, it's part of the record.  
15 You mentioned you wanted it for the record.

16 MR. PHILLIPS: I have for the appellate  
17 record, as Your Honor knows, I had it marked as  
18 Defense Exhibit Number 1. Your Honor has a  
19 copy, the prosecution has a copy of it.

20 And on page seven it has the three specific  
21 questions. Now, from pages eight --

22 THE COURT: The Court will admit it as a  
23 Court's exhibit, so it'll be a part of the  
24 record.

25 MR. PHILIPS: Yes, Your Honor.

1 THE COURT: All right.

2 (Court's Exhibit 1 admitted into evidence.)

3 MR. PHILLIPS: And pages eight and 12 are  
4 the State's supplemental requested voir dire  
5 questions. We need to know which questions Your  
6 Honor has issues with, as far as our specific  
7 request, and, of course, the motion for  
8 attorney-conducted voir dire.

9 THE COURT: What says the State?

10 MR. THORNTON: Thank you, Judge. I'll take  
11 them one at a time.

12 As to the attorney conducted voir dire, I  
13 think that that entire procedure, the entire  
14 procedure we use in South Carolina is best left  
15 to the General Assembly, and, of course, the  
16 Supreme Court setting out our rules.  
17 Specifically, I object to all three of the  
18 questions that he's asked. When he's asking,  
19 "What are your assumptions, opinions and  
20 feelings about a person being arrested, but  
21 presumed innocent under the law," in your  
22 catchall charge to the jury, you're gonna tell  
23 them that they have to give them the benefit of  
24 that presumption.

25 The same thing as to two, as to three,

1        "What are your assumptions, opinions and  
2        feelings about prosecutors and criminal defense  
3        lawyers," you know, one of the things you tell  
4        them, and I've never tried a case with Mr.  
5        Phillips or any of the other attorneys in here,  
6        but I have a feeling that all of us are going to  
7        say the same phrase at some point, which is,  
8        "Whatever the attorneys tell you is not  
9        evidence, you have to base the case on the  
10       evidence."

11                So the fact that they might like or dislike  
12        a certain class of people is not particularly  
13        relevant when the Court is going to instruct  
14        them on more than one occasion, that what the  
15        attorneys say is not evidence.

16                That the evidence to decide this case comes  
17        from the witness stand and in the exhibits that  
18        are introduced.

19                So I would object to the questions  
20        themselves, and the attorney-conducted voir  
21        dire, I don't believe that is proper in the  
22        State of South Carolina, and I do not believe it  
23        would be proper in this case.

24                I can go ahead and move into our  
25        objections, Judge, one at a time on the

1 requested additional questions by Your Honor,  
2 that the Courts can be -- do you want me to do  
3 it now? I will. If you want me to wait, I'll  
4 wait.

5 THE COURT: Well, first I'll address the  
6 issue of the proposed attorney conducted voir  
7 dire, and the motion that South Carolina selects  
8 jurors faster than most places in the country.

9 I happen to think that's a good thing, and  
10 I've been a part of both processes, including  
11 spending the first six years of my career  
12 engaging in voir dire, attorney voir dieres, and  
13 questioning jurors on, you know, any and  
14 everything we could think of asking them, and  
15 the Judge would allow or overrule the questions.

16 And we have attorney-involved voir dire in  
17 death penalty cases. I think that the lawyers  
18 are able to submit the questions, and if there  
19 is any indication that there's a need to follow-  
20 up by the Court, that can be requested of the  
21 Court.

22 I don't believe there's anything, any  
23 statistics anywhere that shows that by the  
24 lawyer asking the question, that it's any more  
25 effective than the judge asking the questions.

1 And these three proposed questions, whether the  
2 feelings, opinions, assumptions about a person  
3 being arrested for a crime, but being presumed  
4 innocent under the law, I don't think that can  
5 get any significant information from a juror.

6 I think, to me, it's a rather confusing  
7 question. And you're asking the jurors to  
8 resolve a conflict about thinking that the  
9 person being arrested, and then being presumed,  
10 you know, as far as suggesting, do you believe  
11 anyone who's arrested is automatically guilty,  
12 that seems to be what he's drawing out, but I  
13 don't see any benefit in asking such a question,  
14 or how an attorney involved voir dire could get  
15 anything much out of that, other than trying to  
16 get the jury talking, so they can ask some  
17 follow-up questions.

18 MR. PHILLIPS: Yes, Your Honor, that's  
19 specifically the reason.

20 THE COURT: This would generate a  
21 conversation with the jury?

22 MR. PHILLIPS: Absolutely, if anybody has  
23 ever looked at a news article online, and seen  
24 what people write, they -- everybody knows that  
25 you are presumed innocent under the law, just

1       because you're arrested doesn't mean your  
2       guilty, but all I see in the comment section of  
3       the internet news article is, "Hang the person,"  
4       and all kinds of nastiness.

5               So, yes, I'd like to generate a  
6       conversation to expose that bias.

7               THE COURT: So, therefore, the questions  
8       proposed here, the proposed attorney voir dire  
9       questions is, this is just a feeder into opening  
10      up a greater question of the jurors, same as  
11      feelings, assumption, opinions about being a  
12      juror, and having to determine whether the State  
13      met its burden of proof beyond a reasonable  
14      doubt solely on the evidence admitted at the  
15      trial.

16              And to me that's sort of putting the cart  
17      before the horse, because the responsibility to  
18      charging the jury is the responsibility of the  
19      Court, and to corner jurors prior to trial, to  
20      try to get them to speculate on the meaning of  
21      burden of proof, and the basis under which they  
22      are to determine guilt or innocence, I think  
23      that, obviously, the serious benefit of that --  
24      and likewise the feeling -- their personal  
25      feelings about defense attorneys and



1 prosecutors. I know about the effort to try to  
2 put South Carolina in a category of attorney  
3 conducted voir dire, I don't believe there's any  
4 authority anywhere in this State for that at  
5 this point in time in history, unless you know  
6 of some.

7 MR. PHILLIPS: Unfortunately, we're asking  
8 a lot of things.

9 THE COURT: Yeah. Yeah, so --

10 MR. PHILLIPS: I mean I'd be happy if we  
11 modify or rephrase, let's say --

12 THE COURT: Yeah.

13 MR. PHILLIPS: -- do you believe a person's  
14 guilty simply because they've been arrested?

15 THE COURT: Uh-huh.

16 MR. PHILLIPS: If Your Honor wished for  
17 that modification --

18 THE COURT: Perhaps they --

19 MR. PHILLIPS: -- there's got to be a  
20 first.

21 THE COURT: Perhaps that go back to the  
22 argument of the State that that's something the  
23 Legislature might need to explore, and I don't  
24 believe that it's something that we need to make  
25 in this case, so I'm going to deny that motion.

1 MR. PHILLIPS: Yes, Your Honor.

2 THE COURT: Now, regarding -- we'll just  
3 move to the next thing.

4 Go ahead.

5 MR. THORNTON: Yes, thank you, Your Honor.  
6 All right, so as to the next set of questions,  
7 Your Honor, I don't object -- so he's got the  
8 proposed supplemental Judge voir dire questions.

9 The first four are I would say standard,  
10 with one exception that I have, and it talks  
11 about you, a family member, or a close friend  
12 knowing any potential witnesses.

13 I've never heard it phrased that way. I  
14 certainly have no objection to asking the jurors  
15 if they know anybody who's a State's witness or  
16 Defendant's potential witness.

17 You know, and the same with number two,  
18 number three and number four, I just think it's  
19 a little overbroad if you -- I don't know how  
20 somebody would know if a friend of theirs knows  
21 someone who knows someone who knows someone. I  
22 think it's relevant if the jurors know them, and  
23 it might even be relevant if a family member  
24 does, if that's, you know, obviously, a family  
25 member they're going to be with fairly

1 frequently.

2 THE COURT: Uh-huh.

3 MR. STONE: Other than that, I don't have  
4 any objection to one through four.

5 THE COURT: I typically ask, "Do you know  
6 any of the lawyers, witnesses, parties," not  
7 trying to figure out do you know anyone who  
8 knows anyone.

9 MR. PHILLIPS: The reason for the question  
10 is, if someone's father, brother was best  
11 friends with one of the individual witnesses,  
12 that would be, again, something I would need to  
13 know to exercise an intelligent jury strike.

14 THE COURT: We can modify the question to  
15 try to reach that without trying to put the  
16 juror in a trap at the end of a trial, where  
17 they didn't disclose the fact that they're third  
18 cousin and knew someone.

19 We'll have to just do the voir dire and  
20 see, but I understand the basis for your seeking  
21 for me to ask the question, and we'll try to  
22 accommodate you in some way.

23 MR. PHILLIPS: And, Your Honor, my response  
24 to number three, "If a potential," or, excuse  
25 me, "a potential juror or family member or close

1 friend has ever donated for some type of  
2 contribution to Solicitor Duffie Stone's  
3 campaign, or Sheriff Buddy Hill and any of their  
4 election, or any of those type of things, I  
5 think those are --

6 THE COURT: Yeah.

7 MR. PHILLIPS: -- absolutely appropriate  
8 questions.

9 THE COURT: But if they're aware of it, the  
10 question, "Do you --

11 MR. PHILLIPS: Of course.

12 THE COURT: "Do you, a family member or a  
13 close friend know the Solicitor?" How would  
14 they know that? I imagine every juror or every  
15 jurors a family member or a close friend  
16 probably knows the Solicitor, or knows of the  
17 Solicitor, but that would have to be based on  
18 their personal knowledge.

19 MR. PHILLIPS: We did limit the scope and  
20 add the word personal knowledge. And, again, as  
21 to that second question, three and four, goes  
22 directly to campaign donation contributions for  
23 their campaign.

24 THE COURT: All right, and why did you  
25 throw the Sheriff in there?

1 MR. PHILLIPS: Well, they're law  
2 enforcement officers. The Colleton County  
3 Sheriff's Department investigated this case,  
4 that's all absolutely a part of it. The  
5 Solicitor office is the arm of law enforcement.

6 THE COURT: Okay, so --

7 MR. THORNTON: Your Honor, the only thing  
8 I would point out is, you know, they could go  
9 online and look at that, it's on the website.

10 THE COURT: So the campaign --

11 MR. PHILLIPS: What --

12 THE COURT: -- disclosure laws require  
13 disclosure of campaign contribution?

14 MR. PHILLIPS: What's the harm of the  
15 question then? Why would they not want that to  
16 be asked?

17 THE COURT: It's really insignificant,  
18 really, so we'll cross that bridge.

19 MR. PHILLIPS: Thank you.

20 THE COURT: Okay.

21 MR. THORNTON: Judge, five through 11 I  
22 have the same issue. It's something that I'm  
23 pretty accustomed to seeing a Judge say, "Have  
24 you ever been a caregiver for a person, or a  
25 care person who has a disability," but when you

1 start adding in the family member, close friend,  
2 I just think it's overbroad. At some point it's  
3 going to be, you know, every juror's gonna have  
4 to stand up, and because as Your Honor had  
5 indicated, their third cousin once knew somebody  
6 who was a caregiver for someone else.

7 So I don't, you know, from a -- just a  
8 general -- from five through 11 I don't have any  
9 issue, other than I think it's overbroad.

10 If we could just limit it to even, if you  
11 or a family member, instead of adding in a  
12 friend, or an immediate family member, I've  
13 heard it referenced that way to try to limit it.

14 THE COURT: All right.

15 MR. PHILLIPS: I assume he's referencing  
16 five through either, past and present  
17 employment. So, specifically, I don't believe  
18 it's overbroad. This case deals with the  
19 unfortunate death of a child. There's going to  
20 be a lot of arguments about caregiving and child  
21 abuse, specifically. We would to know, again,  
22 to make an intelligent exercise, if somebody was  
23 a part of being a caregiver.

24 THE COURT: Yeah.

25 MR. PHILLIPS: As well as number seven,

1       home health nurse or aid, or whether they're --  
2       potentially, we've got a discovery motion later.

3               Again, have you worked at a business  
4       dealing with vehicles, so there may be some  
5       discussions of testimony or evidence presented  
6       by the State related to the functionality of a  
7       vehicle.

8               THE COURT:   Again, I certainly understand  
9       that the lawyers would like to tell the Judge  
10      what questions to ask the jury, but I don't  
11      accept lawyers dictating to me words to use in  
12      voir dire.

13              And so I appreciate the subject matter, and  
14      the areas that you have mentioned that I've  
15      seen, I have no problem with any of that, but --

16              MR. PHILLIPS:   thank you.

17              THE COURT:   -- just as I don't put words in  
18      the lawyers' mouth that you must ask this  
19      question this way --

20              MR. PHILLIPS:   Well, I agree with you --

21              THE COURT:   -- and I don't need it to be  
22      dictated to me --

23              MR. PHILLIPS:   Yeah, I understand.

24              THE COURT:   All right.   Go ahead.

25              MR. PHILLIPS:   Absolutely.   I don't -- all

1 right, go ahead.

2 MR. THORNTON: Thank you, Your Honor. The  
3 same thing he had mentioned five through eight,  
4 I think I actually said five through 11, but I  
5 would have the same feelings, excuse me, for  
6 nine and ten.

7 They're pretty standard from a you or a  
8 family member perspective, so I don't really  
9 have any issue with that.

10 I don't have any issue with 11. I do have  
11 -- I do take issue and object to both 12 and 13.  
12 Really it goes back to what we talked about on  
13 the suggested attorney voir dire, which is --  
14 because you already cover that, when you ask  
15 them, you know, is there any reason you can't  
16 render fair and efficient jury service?

17 So I think 12 and 13 are already covered by  
18 the general charge. And, you know, you haven't  
19 even charged them on the law yet, which is no  
20 matter what your feelings are, you have to  
21 accept the law as I tell it to you.

22 So I think that 12 and 13 are just kind of  
23 designed to potentially get a disqualification  
24 on an otherwise qualified juror. So I think  
25 that that's covered in your general charge, as



1 to 12 and 13.

2 THE COURT: Well, I agree with you on 12 --  
3 and I agree with you on 13 and disagree with you  
4 on 12. 13 wants to know whether you can vote  
5 guilty or not guilty.

6 I mean, I agree with the Solicitor's  
7 argument on that, but I think number 12 can be  
8 structured, which, you know, will be a good  
9 question.

10 MR. PHILLIPS: That's fine, Your Honor.

11 THE COURT: All right.

12 MR. THORNTON: Your Honor, 14, 15 and 16 we  
13 have no objection. I would just note for us  
14 it's the same objection.

15 17 and 18 are kind of restated of 12 and 11  
16 just with a different subject matter. It's got  
17 the same morally or religiously opposed, or  
18 would you hesitate to vote not guilty, so I  
19 would object for the same reasons on 17 and 18.

20 THE COURT: Well, by the time I get to  
21 those questions, they will know what kind of  
22 case it is.

23 MR. STONE: Yes, sir.

24 THE COURT: But I will eliminate number 18,  
25 but not 17.

1           MR. THORNTON: We have no objection to  
2           number 19, Your Honor. And, again, I know what  
3           the Court has ruled, but the same two objections  
4           for 20 and 21. I know Your Honor's already  
5           indicated you will charge the morally or  
6           religiously, but the same objection on that.

7           THE COURT: All right.

8           MR. THORNTON: That brings us -- 22 I  
9           think, frankly, is just overbroad. "Have you or  
10          a family member or a close friend ever had a  
11          discussion regarding criminal activity with  
12          anyone from pretty much anybody."

13          So, again, I would object to that as just  
14          being, frankly, overbroad, if they've ever had  
15          any conversation about criminal activity.

16          THE COURT: All right, that would include  
17          everyone, I would say.

18          MR. STONE: Yes, sir, pretty much.

19          MR. PHILLIPS: If I could just respond?

20          THE COURT: Yes, sir.

21          MR. PHILLIPS: Not many people have had  
22          contact with FBI, SLED, the County Sheriff's  
23          Department, DEA or Attorney General's Office, or  
24          the Colleton County Sheriff's Office.

25          THE COURT: Well, I think the gist is to

1       argue the kind of concerned citizen, who might  
2       have spoken up about criminal activity, such  
3       that you reported it, or had some conversation  
4       with someone about it. It'd be interesting to  
5       know that, yes, I went to a meeting, and I  
6       objected to crime in my community. If you want  
7       that person to stand up, or come forward about  
8       that, and I don't see any problem.

9               MR. PHILLIPS: Thank you, Your Honor.

10              MR. THORNTON: I don't have any objection  
11       to 23, Your Honor, or 24. I do object to 25,  
12       26, 27, 28, 29, so I'll just go kind of one at a  
13       time.

14              THE COURT: Okay.

15              MR. THORNTON: Basically, do you believe  
16       that our laws are too lenient, and there should  
17       be stricter punishment.

18              Well, you know, sentencing is not in the  
19       purview of the jury, that's in your purview.  
20       They shouldn't even be considered with the  
21       leniency or strictness of a sentence. "Would  
22       you believe a police officer's testimony over  
23       another witness?"

24              I think you will instruct the jury that  
25       they are allowed to believe all of the witness'

1 testimony, some of it, or none of it at all. I  
2 think that's covered in Your Honor's charge.  
3 "Do you believe that someone's probably guilty  
4 or hiding something, if that person does not  
5 testify?" And then "Do you feel that the  
6 Defendant must testify, that you would need to  
7 hear the Defendant testify to decide on whether  
8 the prosecutor proved guilt beyond a reasonable  
9 doubt."

10 My assumption is, and this may be  
11 incorrect, that 28 and 29 are related, because I  
12 wasn't sure when else that would come up. But,  
13 Your Honor, unless this is different than every  
14 other case I've seen you do, is going to tell  
15 them that if the Defendant does not testify,  
16 they're not allowed to consider it.

17 So whether they believe it prior to them  
18 being charged on the law is not relevant. It's  
19 something that's covered once you charge the  
20 jury, which is strictly within your province.  
21 I'll stop there if I need to.

22 THE COURT: All right. Mr. Phillips?

23 MR. PHILLIPS: I believe they're all proper  
24 questions for me to be able to intelligently use  
25 my preemptory challenges.

1           I mean, specifically, if a potential juror  
2 believes that the criminal laws in South  
3 Carolina are too lenient, that'd be good for me  
4 to know, because I'm gonna strike them.  
5 Specifically, if a potential juror says they are  
6 gonna believe an officer's testimony over that  
7 of a regular witness, I'm going to strike them.

8           THE COURT: So if somebody says, "I believe  
9 the laws are too lenient," then you believe  
10 they're both likely to find the person guilty?

11          MR. PHILLIPS: Absolutely.

12          THE COURT: Regardless of the facts of the  
13 case?

14          MR. PHILLIPS: Yes.

15          THE COURT: Okay.

16          MR. PHILLIPS: I'd like to know, so I can  
17 make that decision.

18          THE COURT: I understand.

19          MR. PHILLIPS: If I don't know, I can't --

20          THE COURT: I understand.

21          MR. PHILLIPS: -- make an intelligent  
22 decision, Your Honor.

23          MR. THORNTON: 30, Your Honor, I think is  
24 overbroad. "Have you ever commented on a news  
25 article --"

1           THE COURT: Hold on, let me talk about this  
2 one.

3           MR. THORNTON: Yes, sir, I apologize.

4           THE COURT: Okay, I'm gonna ask the 24  
5 through 27, but not 28 and 29.

6           MR. PHILLIPS: Yes, Your Honor.

7           THE COURT: All right.

8           Yes, sir?

9           MR. THORNTON: Thank you, Your Honor. 30,  
10 31 and 32 I think they're just overbroad. Have  
11 you ever commented on a news article on the  
12 internet related to a person's arrest, crime or  
13 criminal trial? I think that would, you know,  
14 in today's social media age, I realize some --  
15 well, me, some of the older people maybe not,  
16 but most people are probably going to say that.  
17 "Have you ever commented, liked or followed a  
18 law enforcement agency's page or a Solicitor's  
19 page?"

20           Certainly, I think 30 is overbroad, but I  
21 would make the same argument for 31 and 32.

22           THE COURT: I think they have a right to  
23 know who the bloggers are, and the people who  
24 like to comment. I don't know if the question  
25 -- to the extent to which the Court might be

1 required to follow-up on these people, but I'm  
2 gonna ask those questions and we'll see.

3 MR. PHILLIPS: Yes, Your Honor.

4 THE COURT: Who likes things, who comments  
5 on things, you know. Of course, we all click  
6 like sometimes, I don't--

7 MR. PHILLIPS: The basis of the question,  
8 as Your Honor pointed out, a lot of these pages  
9 have -- I hate to say that I'm fan boy, groupie  
10 kind of thing, comment on every single thing,  
11 and there's some highly prejudicial comments.

12 THE COURT: Well, we'll explore some of  
13 that for you.

14 MR. THORNTON: Judge, no objection to 33,  
15 34, 35, 36, 37, 38, 39, 40, 41, 42.

16 I object to 43 and 44 about grievances  
17 against lawyers or a bad experience with  
18 lawyers, for the same reason that I asked about  
19 -- or objected to the ones earlier, asking about  
20 relationships with attorneys.

21 THE COURT: All right.

22 MR. PHILLIP: But if there's a potential  
23 juror that hates lawyers, I don't want them on  
24 my jury, and I might strike everybody for that.

25 THE COURT: All right.

1           MR. PHILLIPS: And the other thing I  
2 haven't really emphasized with the prior request  
3 of this, is this case has media attention, as  
4 Your Honor knows, that heightens the level of  
5 scrutiny that I think we have to do normally,  
6 because the average person may have come across  
7 this.

8           I know Your Honor's gonna ask about that,  
9 that's kind of a standard thing, "Have you heard  
10 about this case, especially since it's been put  
11 in the media," and so it does emphasize or  
12 highlight and enhance the prejudice that we  
13 could potentially have with the jury pool.

14          THE COURT: Okay. I'm going to ask 41  
15 through 43, and with 43 I'll say, "That  
16 experience with the defense attorney or the  
17 Solicitor."

18          MR. PHILLIPS: Thank you, Your Honor.

19          THE COURT: All right.

20          MR. PHILLIPS: Thank you.

21          THE COURT: What else?

22          MR. PHILLIPS: The next motion would be the  
23 motion --

24          MR. PHILLIPS: If we are doing voir dire, I  
25 don't think my requests are very controversial.



1 I think now might be a good time to put that --

2 THE COURT: Which one?

3 MR. PHILLIPS: As if we're addressing voir  
4 dire of the jury panel -- I'm sorry, are we  
5 still on voir dire? I didn't mean to interrupt.

6 THE COURT: No, we're through with voir  
7 dire, except for your comment.

8 MR. PHILLIPS: Well, I don't think mine's  
9 going to be terribly controversial.

10 THE COURT: All right.

11 MR. PHILLIPS: I would like Your Honor to  
12 ask, and it may already be included in whatever  
13 it is you're planning to voir dire the jury; but  
14 just point out to them that the allegations in  
15 this case surround the death of a child, and  
16 does anyone know of any reason, or believe that  
17 that fact could interfere with their ability to  
18 be fair and impartial to both the State and the  
19 defense.

20 THE COURT: All right.

21 MR. PHILLIPS: And then I would like to do  
22 it separately. I'd like to follow that question  
23 up with whatever it is, "The child in this case  
24 was disabled to the extent of nonverbal and  
25 nonmobile, do you think that that fact would

1       interfere with your ability to be fair and  
2       impartial to both sides?" Because I think  
3       they're two different questions, and I would  
4       like them separated. And I think it also  
5       emphasizes the importance of the questions, and  
6       that's all I've got.

7               THE COURT: All right. Mr. Stone?

8               MR. THORNTON: No objection, Judge.

9               THE COURT: All right.

10              MR. PHILLIPS: Thank you.

11              THE COURT: Yes, sir. What's the next  
12       question? I'm trying to just balance what  
13       pertains to jury selection, and what's beyond  
14       jury selection.

15              MR. PHILLIPS: The only two is the two  
16       motions to quash, and we ask for that before the  
17       jury's sworn. And so --

18              THE COURT: Yeah.

19              MR. PHILLIPS: -- whoever we select and  
20       then send them out, it just --

21              THE COURT: We won't swear them when we are  
22       selecting hem. They won't be sworn in --

23              MR. PHILLIPS: Okay.

24              THE COURT: -- until you get a chance to --

25              MR. PHILLIPS: Argue the motions.

1 THE COURT: -- argue whatever it is for  
2 these jurors.

3 MR. PHILLIPS: Thank you, Your Honor.

4 THE COURT: All right.

5 MR. PHILLIPS: Your Honor, just for  
6 scheduling purposes, if I can ask are we gonna  
7 take a break or something after the selection of  
8 the jury?

9 THE COURT: I think we want to get the --  
10 we want to see who's gonna be in the pool, then  
11 we'll take a break and come back and actually do  
12 a selection.

13 MR. PHILLIPS: Thank you, Your Honor.

14 THE COURT: Yeah, we've got to get a break  
15 after. Anything else before we start letting  
16 them in? Do we want to take a few minutes?

17 MR. STONE: Not from the State, Your Honor.

18 MR. PHILLIPS: No, Your Honor, thank you.

19 THE COURT: All right, so we'll take a few  
20 minutes, and they'll be coming in at the same  
21 time. All right.

22 (RECESS)

23 \*\*

24 JURY SELECTION CONTINUES

25 BAILIFF: All rise.

1 THE COURT: You may call your case.

2 MR. STONE: Thank you, Your Honor. The  
3 State of South Carolina calls the case 2019-GS-  
4 15-781, charging Rita M. Pangalangan with the  
5 offense of murder.

6 Indictment 2019-GS-15-780, charging Larry  
7 Eugene King with the offense of murder.

8 2022-GS-15-710, charging Rita M.  
9 Pangalangan with the offense of great bodily  
10 injury on a child.

11 Indictment 2022-GS-15-709, charging Larry  
12 Eugene King with an indictment for great bodily  
13 injury on a child.

14 2022-GS-15-814, charging Rita M.  
15 Pangalangan with the offense of criminal  
16 conspiracy.

17 And Indictment 2022-GS-15-813, charging  
18 Larry Eugene King with the offense of criminal  
19 conspiracy. And I'll hand those six indictments  
20 up to Your Honor.

21 THE COURT: Ladies and gentlemen, the State  
22 has called for trial of the case of the State v.  
23 Rita M. Pangalangan, and the case of the State  
24 v. Larry Eugene King.

25 Each person is charged -- each Defendant is

1 charged with the offense of murder, great bodily  
2 injury on a child, and criminal conspiracy.  
3 They have each pled not guilty, and they're  
4 presumed not guilty.

5 They cannot be found guilty unless the  
6 State presents evidence, which convinces the  
7 jury of each of their guilt beyond a reasonable  
8 doubt, and that is the purpose of the trial to  
9 determine whether the State can meet that burden  
10 of proof.

11 The parties are in Court with counsel and  
12 then for the defense.

13 Counsel, will you introduce yourself and  
14 anyone else you'd like to introduce.

15 Mr. Phillips?

16 MR. PHILLIPS: Thank you, Your Honor.

17 THE COURT: Yes, sir

18 MR. PHILLIPS: My name is Dayne Phillips.  
19 I practice law in Columbia. I represent Ms.  
20 Rita Pangalangan.

21 I'm here with my Paralegal, Courtney  
22 Powers, and two law students from Berkely as Law  
23 Clerks.

24 THE COURT: For the defense of Mr. King.

25 MR. LOY: Thank you, Your Honor.

1           Good afternoon, ladies and gentlemen, my  
2           name is John Loy with Mr. Gil Gatch to my left,  
3           both of us are attorneys who practice out of  
4           Summerville within Dorchester County.

5           We're here today to represent Mr. King.  
6           Mr. King is on my left with the coat and tie.  
7           Thank you very much.

8           THE COURT: And ladies and gentlemen, we're  
9           here for the jury selection in this case. And  
10          we're going to select two alternates, three  
11          alternates, four alternates.

12          MR. STONE: I think two would be  
13          sufficient, Your Honor, but it's up to you.

14          MR. PHILLIPS: Two is good.

15          MR. LOY: At the Court's discretion, Your  
16          Honor.

17          THE COURT: All right, well, we select 14  
18          jurors.

19          Now, this means that if the juror is  
20          selected, you must be here, and you must be here  
21          on time. And if for any reason that you are  
22          unavailable to serve as a juror on this case,  
23          because of anything else going on in your life,  
24          I need to know about it before you are selected  
25          and sworn on the jury.

1           If you're unavailable to serve or unable to  
2           be here as instructed by the Court, I need to  
3           know about it. Is any member of the jury panel  
4           related by blood, connected by marriage, any  
5           type of personal relationship, or if you know  
6           any of the parties who have been introduced thus  
7           far, if so, please stand. And without making  
8           any additional comment, tell me your juror  
9           number and your basis for standing. First  
10          starting with the first person who has the mic  
11          there.

12           PROSPECTIVE JUROR: Juror 158.

13           THE COURT: Let me make sure your mic is  
14          on.

15           PROSPECTIVE JUROR: Hello?

16           THE COURT: Yes.

17           PROSPECTIVE JUROR: Juror 158. I work with  
18          Rita.

19           THE COURT: And would that affect your  
20          ability to be a fair and impartial juror?

21           PROSPECTIVE JUROR: No, sir.

22           THE COURT: When you say you work with  
23          Rita, what do you mean? Can you'all turn the  
24          mic on, and leave them on, so we don't have to  
25          go through this for every situation?

1 PROSPECTIVE JUROR: Hello?

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR: I manage Rita at the  
4 Supply Chain Distribution Center.

5 THE COURT: All right, thank you, sir.

6 PROSPECTIVE JUROR: Number 431, I work with  
7 Mr. King.

8 THE COURT: And would that affect your  
9 ability to be fair and impartial?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: When you say work with Mr.  
12 King --

13 PROSPECTIVE JUROR: In the past.

14 THE COURT: Say it again?

15 PROSPECTIVE JUROR: I worked in the past at  
16 with him.

17 THE COURT: All right. And years ago  
18 meaning how long ago?

19 PROSPECTIVE JUROR: Six, seven years, eight  
20 years, something like that.

21 THE COURT: All right, thank you. And did  
22 I ask you, would that affect your ability to be  
23 fair and impartial as a juror?

24 PROSPECTIVE JUROR: I don't believe so.

25 THE COURT: All right, thank you.



1           PROSPECTIVE JUROR: I'm juror 67, I not  
2 only work with Mr. King. He is a family member  
3 of my children, and Rita was also my children's  
4 teacher.

5           THE COURT: And would that affect your  
6 ability to be a fair and impartial juror?

7           PROSPECTIVE JUROR: No, sir.

8           THE COURT: Despite the fact that these  
9 relationships that you've mentioned, can you set  
10 aside those facts and decide the case based on  
11 the law and the evidence in this case?

12          PROSPECTIVE JUROR: Yes, sir.

13          THE COURT: All right, thank you.

14          MR. PHILLIPS: And her number, again, Your  
15 Honor

16          THE COURT: Your number again is 67?

17          PROSPECTIVE JUROR: Yes.

18          THE COURT: Yes.

19          PROSPECTIVE JUROR: I'm juror number 8.  
20 Mr. King is an old family friend from years ago,  
21 and also a teacher relationship with my daughter  
22 Ms. Pangalangan.

23          THE COURT: Who has a teacher relationship  
24 with your daughter?

25          PROSPECTIVE JUROR: My daughter in the

1 past.

2 THE COURT: What about your daughter?

3 PROSPECTIVE JUROR: She was a student.

4 THE COURT: Of?

5 PROSPECTIVE JUROR: Ms. Pangalangan.

6 THE COURT: A student of who?

7 PROSPECTIVE JUROR: Ms. Pangalangan.

8 THE COURT: Okay, thank you. And would  
9 that fact affect your ability to be a fair and  
10 impartial juror?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: All right, thank you.

13 Yes, ma'am?

14 PROSPECTIVE JUROR: Juror 266.

15 THE COURT: Yes, ma'am?

16 PROSPECTIVE JUROR: I worked with Ms.  
17 Pangalangan. We talk together.

18 THE COURT: And would that affect your  
19 ability to be a fair and impartial juror?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: All right. Can you set aside  
22 that fact, and decide the case?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR: Number 39.

1 THE COURT: Yes, ma'am?

2 PROSPECTIVE JUROR: Miss Rita was my  
3 teacher.

4 THE COURT: And would that fact affect your  
5 ability to be fair and impartial?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: All right, thank you.

8 PROSPECTIVE JUROR: Juror number 17.

9 I work at Colleton County Animal Shelter,  
10 and we've had a case involving Ms. Pangalangan.

11 THE COURT: And would that fact affect  
12 your ability to be a fair and impartial juror?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: All righty, thank you.

15 MR. PHILLIPOS: Your Honor, I think we have  
16 some potential voir dire, if we have anymore  
17 issues like that.

18 THE COURT: Yes.

19 PROSPECTIVE JUROR: Juror number 35. I  
20 went to high school with Rita.

21 THE COURT: And would that fact affect your  
22 ability to be fair and impartial?

23 PROSPECTIVE JUROR: No, it won't.

24 THE COURT: All right, thank you.

25 PROSPECTIVE JUROR: Juror number 106. I

1           grew up with Mr. King's son, and we're still  
2           friends to this day.

3           THE COURT: And would that affect your  
4           ability to be fair and impartial?

5           PROSPECTIVE JUROR: No, sir.

6           THE COURT: All right, thank you.

7           PROSPECTIVE JUROR: Juror 255. I worked  
8           with Rita when she was at the Childhood Center.

9           THE COURT: And would that affect your  
10          ability to be a fair and impartial juror?

11          PROSPECTIVE JUROR: No.

12          THE COURT: All right, thank you.

13          PROSPECTIVE JUROR: Juror 269. Mr. Larry  
14          King is my husband's cousin.

15          THE COURT: And would that prevent you from  
16          being fair and impartial?

17          PROSPECTIVE JUROR: No.

18          THE COURT: Thank you.

19          PROSPECTIVE JUROR: Juror 50. I know Mr.  
20          King.

21          THE COURT: The fact that you know Mr.  
22          King, would that prevent you from being a fair  
23          and impartial juror? And what --

24          PROSPECTIVE JUROR: Yes.

25          THE COURT: The fact that you are friends

1 with him, that would prevent you from being a  
2 fair and impartial juror?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: All right. You will not be  
5 considered for jury in this case, that's number  
6 50; is that right?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: All right, but just stay with  
9 us, but we won't put you on the list.

10 PROSPECTIVE JUROR: Mr. King has been a  
11 friend of our -- me and my immediate family for  
12 a while.

13 THE COURT: And what's your juror number?

14 PROSPECTIVE JUROR: 261.

15 THE COURT: And would that prevent you from  
16 being a fair and impartial juror?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: All right, juror number 261  
19 will not be considered. Yes, sir?

20 PROSPECTIVE JUROR: Number 352.

21 THE COURT: Just a moment, the previous  
22 gentleman, were you 261?

23 PROSPECTIVE JUROR: 261.

24 THE COURT: 261, yes, ma'am.

25 CLERK: Thank you.

1 THE COURT: Yes, sir.

2 PROSPECTIVE JUROR: 362, I work for Mr.  
3 King.

4 THE COURT: And would that prevent you from  
5 being a fair and impartial juror?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR: 360. I used to hang  
9 out with Mr. King.

10 THE COURT: And would that fact affect your  
11 ability to be a fair and impartial juror?

12 PROSPECTIVE JUROR: No.

13 THE COURT: All right, thank you.

14 PROSPECTIVE JUROR: I'm number 90. I used  
15 to work with Mr. King's first cousin, with whom  
16 he once lived and was very close, but besides  
17 that I have also previously attended 12 step  
18 meetings and had private conversations with Mr.  
19 King.

20 THE COURT: And would that fact affect your  
21 ability to be fair and impartial in this case?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: All right, so juror number 90  
24 will not be considered. Thank you. And, ladies  
25 and gentlemen, in this case the indictment is

1 for murder, great bodily injury on a child, and  
2 criminal conspiracy, which stems from  
3 allegations that on or about August 5th of 2019,  
4 the death of **Child** occurred here  
5 in Colleton County.

6 That as a result of the death of **Child**  
7 **Child** is Rita Pangalangan and Mr.  
8 Larry Eugene King have been charged and indicted  
9 for these three offenses.

10 If you've heard anything about this case,  
11 or you know something, or have heard something  
12 about this case, please stand. And the  
13 allegations were where here in Colleton County.

14 MR. STONE: I'll give the exact address,  
15 Your Honor. **Child** Highway, that was  
16 at the home of Mr. King and Ms. Pangalangan.

17 THE COURT: **Child** Highway. If  
18 you know anything about this case, or have heard  
19 anything about this case, please stand.

20 MR. PHILLIPS: And, Your Honor, given the  
21 two instances that happened, I would like the  
22 individuals questioned.

23 THE COURT: All right. And don't tell me  
24 what you've heard, just tell me who you are.  
25 Yes, sir?

1 PROSPECTIVE JUROR: Number 23.

2 THE COURT: Number 23. And would that fact  
3 affect your ability to be fair and impartial?

4 PROSPECTIVE JUROR: No.

5 THE COURT: All right, thank you.

6 MR. PHILLIPS: And I hate to be the Jack in  
7 the box, but I think I do need to know what  
8 they've heard for me to exercise --

9 THE COURT: Well, you requested an  
10 individual voir dire, didn't you?

11 MR. PHILLIPS: Are we gonna bring them up,  
12 Your Honor?

13 THE COURT: At the appropriate time.

14 MR. PHILLIPS: Yes, Your Honor.

15 THE COURT: Yes?

16 PROSPECTIVE JUROR: Juror number 355.

17 THE COURT: Yes.

18 PROSPECTIVE JUROR: Just on social media.

19 THE COURT: And would the fact that you  
20 have heard something about this on social media,  
21 would that affect your ability to be fair and  
22 impartial?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: All right, thank you.

25 PROSPECTIVE JUROR: Juror number 17. When



1       that incident occurred out there, Animal Control  
2       was called out.

3               THE COURT: All right. And the fact of  
4       what you have heard would that affect your  
5       ability to be fair and impartial?

6               PROSPECTIVE JUROR: Yes.

7               THE COURT: All right. And have you formed  
8       an opinion at this point in time concerning this  
9       case?

10              PROSPECTIVE JUROR: I don't know how to  
11       answer that.

12              THE COURT: Well, it's either yes or no.

13              PROSPECTIVE JUROR: Yeah.

14              THE COURT: And you've indicated that you  
15       do not think you can be fair and impartial; is  
16       that correct?

17              PROSPECTIVE JUROR: Yeah.

18              THE COURT: All right, so number 17 will  
19       not be considered.

20              MR. PHILLIPS: And, Your Honor, make my  
21       note for \* at the appropriate time.

22              THE COURT: All right, well, let's continue  
23       the matter of voir dire at this time, if you'll  
24       come forward.

25              (Bench conference.)

1 THE COURT: So I'll just have you give your  
2 juror numbers at this point. Yes?

3 PROSPECTIVE JUROR: 235.

4 THE COURT: Juror number 235.

5 PROSPECTIVE JUROR: 289.

6 THE COURT: Well, just -- juror 235, can  
7 you be fair and impartial despite what you may  
8 have heard?

9 PROSPECTIVE JUROR: Yes, I can.

10 THE COURT: All right.

11 PROSPECTIVE JUROR: 289, and, yes, I can.

12 THE COURT: All right. Yes?

13 PROSPECTIVE JUROR: 106, and, yes, I can.

14 THE COURT: All right, thank you.

15 PROSPECTIVE JUROR: 269, and \*I'm not too  
16 sure about it.

17 THE COURT: All right, thank you.

18 PROSPECTIVE JUROR: Juror 353, and, yes, I  
19 can.

20 PROSPECTIVE JUROR: Juror 330, and, yes, I  
21 can.

22 PROSPECTIVE JUROR: Juror 494, yes, sir, I  
23 can.

24 CLERK: I'm sorry, is that 494?

25 PROSPECTIVE JUROR: Yes, 494.

1 PROSPECTIVE JUROR: Juror 370, yes, I can.

2 PROSPECTIVE JUROR: 138, and, yes, I can.

3 PROSPECTIVE JUROR: Juror number 67, and I  
4 don't think so.

5 THE COURT: All right, juror number 67 will  
6 not be considered as part of the panel.

7 PROSPECTIVE JUROR: Juror 8, uncertain.

8 THE COURT: Pardon?

9 PROSPECTIVE JUROR: Uncertain, sir.

10 THE COURT: All right, thank you. The  
11 deceased [REDACTED] was a child  
12 who was what age at the time of death?

13 MR. STONE: 13, Your Honor.

14 THE COURT: Age 13 at the time of death.  
15 The child was nonverbal and non-vocal. The fact  
16 that the Defendants are charged with the death  
17 of a child, would that affect your ability to be  
18 a fair and impartial juror?

19 If the fact that this case involved the  
20 death of a child, would it affect your ability  
21 to be fair and impartial, please stand. And  
22 give me your juror numbers.

23 PROSPECTIVE JUROR: 428.

24 THE COURT: 428. 428 will be excused, or  
25 not part of the jury panel. Stay with us.

1 PROSPECTIVE JUROR: Juror 67.

2 THE COURT: 67 will not be a part of the  
3 jury panel. Stay with us.

4 PROSPECTIVE JUROR: Juror 8.

5 THE COURT: Juror number 8.

6 PROSPECTIVE JUROR: 269.

7 THE COURT: 269. Yes?

8 PROSPECTIVE JUROR: 255.

9 THE COURT: One more time without the mask.

10 PROSPECTIVE JUROR: 255.

11 THE COURT: 255. All right.

12 PROSPECTIVE JUROR: 212.

13 THE COURT: 212. 212, 255, 269, 8, 67 and  
14 428 will not be part of the panel. If the fact  
15 that the child was nonverbal and non-mobile,  
16 would that fact affect your ability to be fair  
17 and impartial, please stand.

18 And you've already stood I believe, didn't  
19 you? What's your juror number?

20 PROSPECTIVE JUROR: 179.

21 THE COURT: 179, okay, thank you. 179 will  
22 not be considered part of the panel. The people  
23 who may testify in this case, meaning  
24 perspective witnesses, and if any of you are  
25 here, I need you to stand. And that would

1 include Mathew Hogue, who works for SLED,  
2 Brooklynn Gonzales Melina, who works for SLED,  
3 Lindsay Mitchell, who works for SLED, Halley  
4 Godley who works for SLED, Todd Schenk, S-C-H-E-  
5 N-K, who works for SLED, Lindsey Lewis, who  
6 works for SLED, I'm sorry, Lindsey Lewis, who  
7 does not work for SLED, Brittany Honeycutt,  
8 Olivia Robertson, Spencer Stevens, Demi Garvin,  
9 David Eagerton, Dr. Andy Grundstein, Jason  
10 Chapman, who works for the County Sheriff's  
11 Department, this County, Richard Haley, who  
12 worked for this Colleton County Sheriff's  
13 Office, Brian Varnadoe, who works with the  
14 Colleton County Sheriff's Office.

15 Kelly Padgett, who works for the Colleton  
16 County Sheriff's Office, Angela Stallings, who  
17 works for the Colleton County Sheriff's Office,  
18 Michael Malinsky, Jason Vigliotti, Charles  
19 Jones, who works for Colleton County EMS,  
20 Emergency Services, Coroner Richard Harvey, and  
21 Dr. Nicolas Batalis at the Medical University of  
22 South Carolina, Rita Pangalangan, Elizabeth  
23 Clyde, Richard -- I'm sorry, Robert Arabis,  
24 Nancy Carter, and/or Daniel Foster, if you, or  
25 if you are aware, if you or any family member or

1 close personal friend, as far as you know, know  
2 any of the potential witnesses, whose names I've  
3 called out, if so, please stand.

4 If you, or to your knowledge, any family  
5 member, or a close friend know any of the  
6 potential witnesses, whose names I've called  
7 out, please stand, and tell me your juror  
8 number, and who is it that you know. Yes, sir.

9 PROSPECTIVE JUROR: Number 23, and I know  
10 SLED Agent Halley Godley.

11 THE COURT: All right, and would that fact  
12 affect your ability to --

13 PROSPECTIVE JUROR: No.

14 THE COURT: -- to be fair and impartial?

15 PROSPECTIVE JUROR: No, it wouldn't.

16 THE COURT: All right, thank you.

17 PROSPECTIVE JUROR: 266, I taught Brian  
18 Varnadoe.

19 THE COURT: All right. Would that fact  
20 affect your ability to be fair and impartial?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR: 306. I know Brian  
24 Varnadoe and Angela Stallings.

25 THE COURT: And would that fact affect your

1 ability to be fair and impartial should they  
2 testify?

3 PROSPECTIVE JUROR: No.

4 THE COURT: All right, thank you.

5 PROSPECTIVE JUROR: 89. I know several of  
6 the law enforcement officers you referred to  
7 just working at the hospital, but it would not  
8 affect my ability.

9 THE COURT: All right, thank you.

10 PROSPECTIVE JUROR: Juror 261, Kelly  
11 Padgett.

12 THE COURT: Okay, number 261. Is here on  
13 the list here?

14 CLERK: 261?

15 THE COURT: Yeah.

16 MR. PHILLIPS: I have him struck, Your  
17 Honor.

18 THE COURT: Has been struck?

19 MR. PHILLIPS: Yes, sir.

20 THE COURT: Are you keeping my list track  
21 of that? Are any of you keeping track of that?

22 CLERK: We've been keeping track, uh-huh.

23 THE COURT: How about his number, 261?

24 CLERK: Yes, sir, we put a check by him.

25 THE COURT: All right.

1           You need to speak up. Okay, you've already  
2           been struck, sir, so you don't need to stand, if  
3           you've already been struck, or not included as a  
4           PROSPECTIVE JUROR. Yes, sir?

5           PROSPECTIVE JUROR: Juror 253, I work with  
6           Mr. Varnadoe at the correctional facility.

7           THE COURT: All right. Would that fact  
8           affect your ability to be fair and impartial?

9           PROSPECTIVE JUROR: No, sir, it would not.

10          THE COURT: Thank you. Yes, ma'am?

11          PROSPECTIVE JUROR: Juror 353, I know Brian  
12          Varnadoe.

13          THE COURT: Would that fact affect your  
14          ability to be fair and impartial -- fact affect  
15          your ability to be fair and impartial --

16          PROSPECTIVE JUROR: No, sir.

17          THE COURT: -- should he testify? All  
18          right.

19          PROSPECTIVE JUROR: Number 450, and I work  
20          with \*.

21          THE COURT: All right.

22          PROSPECTIVE JUROR: Juror 158, relative of  
23          Angela Stallings.

24          THE COURT: Would that fact prevent you to  
25          be -- from being fair and impartial?



1 PROSPECTIVE JUROR: No, Your Honor.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR: Juror number 208, I  
4 know a few of the Officers, Jason Chapman and  
5 Angela Stallings.

6 THE COURT: Would that affect your ability  
7 to be fair and impartial?

8 PROSPECTIVE JUROR: No, sir.

9 PROSPECTIVE JUROR: Juror 29, and then work  
10 with both Richard Haley and Angela Stallings,  
11 and no.

12 THE COURT: Thank you. And as far as your  
13 knowledge, do you, or any member of your family  
14 or close friend of yours know any of the lawyers  
15 involved, including elected Solicitor Deputy  
16 Stone, Prosecutor Sean Thornton, if so, please  
17 stand. If you know, or any close friend of  
18 yours know either the Solicitor Stone, Thornton,  
19 or any of the defense lawyers, if so, please  
20 stand. Yes, sir.

21 PROSPECTIVE JUROR: Juror number 86, I've  
22 worked with Ms. Pangalangan during my law  
23 enforcement career.

24 THE COURT: During your law enforcement  
25 career?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: All right, would that prevent  
3 you from being fair and impartial?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: All right, thank you. If you  
6 or any close family member or friend of yours,  
7 to your knowledge, contributed to, or donated to  
8 the campaigns of Sheriff Buddy Hill and/or  
9 Deputy Stone, if so, please stand.

10 If you or any close friend or family  
11 member, to your knowledge, contributed to or  
12 donated to or attended political events related  
13 to the campaign of Solicitor Stone or Sheriff  
14 Hill, if so, please stand. Nobody's standing.  
15 If any of you, any close personal friend or  
16 family member ever been a caregiver of another  
17 person, or a person with a disability, if so,  
18 please stand. If you, any family member or  
19 close friend ever been a caregiver of another  
20 person, or a person with a disability, and, if  
21 so, please stand.

22 PROSPECTIVE JUROR: Juror 437, I was a home  
23 health nurse. I've dealt with multiple cases.

24 THE COURT: 437, all right, thank you.

25 PROSPECTIVE JUROR: 266. I am one of the

1 caregivers for my mother.

2 THE COURT: All right, thank you.

3 PROSPECTIVE JUROR: I had a disability  
4 child that passed away, sir, and I have been in  
5 childcare for over 20 years.

6 THE COURT: Your juror number is?

7 PROSPECTIVE JUROR: 184.

8 THE COURT: 184, thank you.

9 PROSPECTIVE JUROR: 218, my grandmother and  
10 mother used to care for my grandfather, and my  
11 sisters currently help take care of my mother.

12 PROSPECTIVE JUROR: Juror number five, a  
13 close friend of mine is a caregiver.

14 CLERK: I'm sorry, what's your number  
15 again?

16 PROSPECTIVE JUROR: Juror --

17 THE COURT: Use the mic a little closer to  
18 your face.

19 PROSPECTIVE JUROR: Juror number five, a  
20 close friend of mine is a caregiver.

21 PROSPECTIVE JUROR: Juror number 425, and  
22 I'm one of the caregivers for my mother.

23 PROSPECTIVE JUROR: Juror number 53, I used  
24 to be a caregiver, and also received care.

25 PROSPECTIVE JUROR: Juror number 339, my

1 mom used to be a caregiver for my uncle, he was  
2 disabled, being hit by a car on his bike.

3 THE COURT: If you or any close friend or  
4 family member, to your knowledge, has ever been  
5 a home healthcare nurse or aid, except the lady  
6 who stood a minute ago, or worked -- or been a  
7 mechanic and worked at a business dealing with  
8 vehicles, and, if so, please stand. And just  
9 give us your juror numbers.

10 PROSPECTIVE JUROR: Juror number 289, my  
11 son is a diesel tech, and my father is a  
12 mechanic as well.

13 THE COURT: All right, thank you.

14 PROSPECTIVE JUROR: Juror number 35, I am a  
15 Certified Nursing Assistant.

16 PROSPECTIVE JUROR: Juror number 372, I am  
17 a Nursing Assistant.

18 PROSPECTIVE JUROR: Juror number 431, I was  
19 -- I worked at Rogers Chevy in 2007, so --

20 PROSPECTIVE JUROR: Heavy equipment  
21 technician for about 20 years, juror number 36.

22 PROSPECTIVE JUROR: 431, I'm a Certified  
23 Nursing Assistant.

24 PROSPECTIVE JUROR: 144, I used to work as  
25 a mechanic assistant, and now I work for

1 Mercedes.

2 PROSPECTIVE JUROR: Number 450, and I'm a  
3 Patient Care Tech at the hospital.

4 THE COURT: I'm sorry, can you repeat that?

5 PROSPECTIVE JUROR: Number 450, I'm a  
6 Patient Care Tech at the hospital.

7 PROSPECTIVE JUROR: Number 218, many years  
8 ago my mom was a nurse's aide.

9 PROSPECTIVE JUROR: Your Honor, can you  
10 repeat the statement again, please?

11 THE COURT: Have you or any close family  
12 member or friend, to your knowledge, ever been a  
13 home healthcare nurse or aid, or worked in a  
14 business dealing with vehicles?

15 PROSPECTIVE JUROR: Okay, my -- my uncle  
16 works in the Colleton County Fleet Management as  
17 a mechanic, and I'm juror number 339, sorry.

18 PROSPECTIVE JUROR: Juror 264, my mother is  
19 a home health aide, and my older brother owns a  
20 diesel -- or a long-haul truck business, and he  
21 also works on trucks.

22 PROSPECTIVE JUROR: Juror 29, I've worked  
23 in the Fire Department for ten years, and I had  
24 to work with the mechanic shop the whole time.

25 PROSPECTIVE JUROR: Juror 355, my father

1 has an ATV mechanic shop.

2 PROSPECTIVE JUROR: My brother-in-law is a  
3 diesel mechanic, also my father was as well.

4 MR. PHILLIPS: What's your juror number?

5 PROSPECTIVE JUROR: 235.

6 THE COURT: Have you, or any close family  
7 member or friend ever been a victim of a violent  
8 crime or felony criminal offense, such as rape,  
9 robbery, burglary, or a murder or other serious  
10 assaults? Have you ever been the victim of,  
11 witness to, or accused of, if so, please stand.

12 PROSPECTIVE JUROR: I'm juror 410, and I  
13 was a victim of a home invasion back in 2019.

14 PROSPECTIVE JUROR: 216, my cousin was a  
15 felon.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: 257, I was a victim of  
18 a violent assault.

19 PROSPECTIVE JUROR: 218, my dad was a  
20 victim of an assault when he was getting off-  
21 duty in New York, and my brother was accused of  
22 a violent crime, but was not convicted.

23 PROSPECTIVE JUROR: 264, I witnessed my dad  
24 beat my mom when I was little.

25 THE COURT: You witnessed your dad doing

1           what?

2           PROSPECTIVE JUROR:   Physically abusing my  
3           mom.

4           THE COURT:   All right.   If any of you are  
5           so morally or religiously opposed to violent  
6           crimes, or criminal defenses, that you cannot  
7           render a fair and impartial decision, regardless  
8           of the evidence in the case, if so, please  
9           stand.

10          If you, or any of your immediate family  
11          member or close friend of yours have ever been  
12          the victim of child abuse, a witness of a crime  
13          against a child, or ever been accused of a crime  
14          against a child, either you, a family member or  
15          close friend, to your knowledge, if so, please  
16          stand.

17          PROSPECTIVE JUROR:   Juror number 56, I am a  
18          witness -- juror number 56, the case is coming  
19          up Thursday of a family member that was  
20          assaulted.

21          THE COURT:   All right, thank you.

22          PROSPECTIVE JUROR:   Juror number 5, I was  
23          -- juror number five, I was a victim.

24          THE COURT:   Do either you, a family member  
25          or a close friend suffers from a disability, if

1           so, please stand.

2           PROSPECTIVE JUROR:   Number 23, my sister-  
3           in-law is mentally disabled and wheelchair  
4           bound.

5           PROSPECTIVE JUROR:   218, my mom is legally  
6           blind.

7           MR. STONE:   I'm sorry, I couldn't hear the  
8           answer.

9           THE COURT:   Her mom is --

10          PROSPECTIVE JUROR:   Legally blind.

11          THE COURT:   -- legally blind.

12          PROSPECTIVE JUROR:   289, my son has a  
13          spinal cord injury.

14          PROSPECTIVE JUROR:   144, my father is now  
15          disabled after having cancer and back surgery.

16          PROSPECTIVE JUROR:   197, my have a daughter  
17          with Down Syndrome.

18          MR. PHILLIPS:   I'm sorry, Your Honor, I  
19          didn't hear.

20          THE COURT:   A daughter with Down Syndrome.

21          MR. PHILLIPS:   What's the jury number?

22          PROSPECTIVE JUROR:   197.

23          MR. PHILLIPS:   Thank you.

24          THE COURT:   If you're so morally or  
25          religiously opposed to a crime against a child,



1       that that would prevent you from being fair and  
2       impartial, or if you're so religiously or  
3       morally opposed against someone with a  
4       disability that prevents you from rendering a  
5       fair and impartial decision, and despite the  
6       evidence, in a case where the allegation  
7       involved a child, and a child with a disability,  
8       if so, please stand.

9               Have you, a family member or a close friend  
10       ever has had discussions regarding criminal  
11       activity with anyone, from the FBI, SLED, the  
12       Sheriff's Department, DEA, the Attorney  
13       General's Office or the Solicitor's Office, or  
14       if you've served on a Neighborhood Watch Group,  
15       if so, please stand. If you have a black -- or  
16       if you have a Back the Blue sticker on your car,  
17       or a sign in your yard, if so, please stand. If  
18       you believe that someone is probably guilty,  
19       because they are arrested by the police, if so,  
20       please stand.

21              If you believe that our criminal laws are  
22       too lenient, and that there should be stricter  
23       punishment, if so, please stand. If you believe  
24       that a police officer's testimony should be  
25       believed over another person, simply because the

1 person is a police officer, if so, please stand.  
2 If you have commented on a news article on  
3 social media, concerning a person being  
4 arrested, crime, or a criminal trial, if so,  
5 please stand.

6 If you've ever posted a comment on a news  
7 article, on the Internet or social media, such  
8 as Facebook or Twitter that related to someone's  
9 arrest, a crime or criminal activity, or a  
10 criminal trial, if so, please stand. If you've  
11 ever commented on, liked or followed a law  
12 enforcement agent's social media site, such as  
13 following the Facebook page of the Sheriff's  
14 Department of this County, or commented, or  
15 clicked like, or followed a prosecution agency's  
16 social media site, such as the Solicitor's  
17 Office Facebook page, if so, please stand.

18 Tell me your jury number, and the basis for  
19 your standing.

20 PROSPECTIVE JUROR: Juror 128, I think I  
21 follow Summerville Police Department on  
22 Facebook.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: Number 86, follow  
25 Colleton County law enforcement.

1 PROSPECTIVE JUROR: Number 39, Colleton  
2 County Sheriff's Office, and Walterboro Police  
3 Department.

4 THE COURT: What about it?

5 PROSPECTIVE JUROR: I follow them on  
6 Facebook.

7 THE COURT: All right.

8 PROSPECTIVE JUROR: I follow Walterboro  
9 Police Department and the Sheriff's Department  
10 for Walterboro.

11 MR. STONE: What's her number, sir?

12 CLERK: What's your juror number?

13 PROSPECTIVE JUROR: 184.

14 PROSPECTIVE JUROR: Juror 355, I follow  
15 Walterboro Police Department on Facebook.

16 PROSPECTIVE JUROR: Juror 235, I follow the  
17 City and County Sheriff's Office.

18 PROSPECTIVE JUROR: 89, I follow the City  
19 and County Facebook page.

20 PROSPECTIVE JUROR: Juror number 253, I  
21 follow the Sheriff's Department, Walterboro  
22 Police Department.

23 PROSPECTIVE JUROR: Juror 359, I'm pretty  
24 sure I follow the City and the County on  
25 Facebook, and maybe Summerville Police. I don't

1 really recall.

2 PROSPECTIVE JUROR: Juror 32, I follow the  
3 Colleton County Sheriff's Department and  
4 Walterboro Police Department.

5 PROSPECTIVE JUROR: 372, I follow Colleton  
6 County Sheriff's Department on Facebook.

7 PROSPECTIVE JUROR: 218, I follow the  
8 Charleston County Aviation Department -- or  
9 Police Department, and Summerville on Facebook.

10 PROSPECTIVE JUROR: 264, I follow Colleton  
11 County Sheriff on Facebook.

12 PROSPECTIVE JUROR: Juror number 208, I  
13 follow Colleton County, the City of Walterboro.

14 PROSPECTIVE JUROR: Juror 29, I follow all  
15 emergency services in Colleton County, and have  
16 shared with family things that were posted.

17 PROSPECTIVE JUROR: 306, follow Colleton  
18 County Sheriff's Office and the Fire Department.

19 THE COURT: If you, or any close family  
20 member of yours, or close friend has ever been  
21 employed in law enforcement with any law  
22 enforcement agency, or any prosecution agency,  
23 including a Solicitor's Office, or U.S.  
24 Attorney's office, or any City Attorney's  
25 office, or ever applied for a job with any law

1 enforcement agency, county jail, prison,  
2 courthouse, or Solicitor's Office, or  
3 volunteered with any law enforcement agency,  
4 prosecutor's office, Victims Advocacy groups,  
5 such as Sister Care and all, if so, please  
6 stand. Yes, sir.

7 PROSPECTIVE JUROR: Juror number 86, I've  
8 worked with and volunteered for multiple law  
9 enforcement agencies.

10 COURT REPORTER: I'm sorry, sir, could you  
11 say that again?

12 THE COURT: Worked with and volunteered for  
13 multiple law enforcement agencies.

14 PROSPECTIVE JUROR: Multiple law  
15 enforcement agencies, yes, sir.

16 THE COURT: Yes, sir.

17 PROSPECTIVE JUROR: 39, my husband is  
18 employed with Waltherboro Police Department.

19 PROSPECTIVE JUROR: Number 230, I have a  
20 son who's a Police Chief in Nebraska. I have a  
21 son who was a Sheriff's Detective in North  
22 Carolina, and a son who's in Border Patrol down  
23 in Arizona.

24 PROSPECTIVE JUROR: Number 11, my dad works  
25 with the Beaufort County Sheriff's Department.

1 Brother-in-law works for Dorchester County  
2 Sheriff's Department, and my sister-in-law works  
3 for North Charleston Police Department.

4 PROSPECTIVE JUROR: Juror 253, I used to  
5 work for years for the Correctional Department.  
6 I have family members in the Police Department.

7 PROSPECTIVE JUROR: Juror 422, I used to  
8 work in DC. I have family members in the  
9 Charleston County Police Department, and I also  
10 volunteer with Charleston County.

11 PROSPECTIVE JUROR: Juror 32, my  
12 girlfriend's father works for the Walterboro  
13 Police Department.

14 PROSPECTIVE JUROR: Number 437, my  
15 daughter's father is a retired police officer.

16 PROSPECTIVE JUROR: Juror 295, I have  
17 friends at the Walterboro and Colleton County  
18 Police Department.

19 MR. PHILLIPS: The number, again, I  
20 apologize, I did not hear that.

21 PROSPECTIVE JUROR: Juror 494, my father is  
22 a retired policeman.

23 THE COURT: The previous one was 295,  
24 right?

25 PROSPECTIVE JUROR: 295, yes, sir.

1 THE COURT: Were you the previous person --

2 PROSPECTIVE JUROR: 295, yes, sir.

3 THE COURT: Yes, sir, thank you.

4 PROSPECTIVE JUROR: Juror 370, I worked for  
5 the Police Department for about 25 years.

6 PROSPECTIVE JUROR: Juror 360, my wife  
7 works for 911 Dispatch.

8 PROSPECTIVE JUROR: Juror number 257, I  
9 have multiple family members who are police  
10 officers that work for the Department of  
11 Corrections.

12 PROSPECTIVE JUROR: Juror 355, my kids'  
13 father works with the Edisto Police Department.

14 PROSPECTIVE JUROR: Juror 79, my first  
15 cousin is a police officer for the City of  
16 Walterboro. My best friend was also a  
17 Correctional Officer.

18 PROSPECTIVE JUROR: 218, my father,  
19 grandfather and uncle were NYPD. My father also  
20 worked at Dorchester County Correctional  
21 Institute. My sister is a former Summerville  
22 Police Dispatcher. My brother-in-law is a  
23 current Summerville police officer, and I used  
24 to work Dispatch in Summerville, and at the  
25 Charleston County International Airport.

1 PROSPECTIVE JUROR: Juror 339, my uncle is  
2 a Colleton County Deputy Sheriff.

3 PROSPECTIVE JUROR: 207, served three years  
4 in Military Corrections.

5 PROSPECTIVE JUROR: Juror 208, my uncle's a  
6 retired U.S. Highway Patrol, and for South  
7 Carolina Highway Patrol, and my nephew is the  
8 Captain of the Police Department.

9 PROSPECTIVE JUROR: Juror 29, I work  
10 closely and am friends with many law enforcement  
11 in Clark County, Nevada, and I work for Colleton  
12 County 911 Dispatchers, Walterboro police  
13 officers, and County Sheriff.

14 THE COURT: And have you or member of your  
15 immediate family or close friends, to your  
16 knowledge, ever provided support, or is a  
17 supporter of any law enforcement booster  
18 organization, such as a Trooper Association,  
19 DARE, CAVE, MADD, or served as a member of any  
20 organization, religious or non-sector, that  
21 opposes the consumption of alcohol or illegal  
22 drugs, if so, please stand.

23 PROSPECTIVE JUROR: Juror 29, I serve on  
24 the Board of Drug and Alcohol Abuse.

25 THE COURT: Anyone else? If you ever had a



1 ribbon or a bumper sticker on your vehicle that  
2 shows the position against a specific crime, or  
3 other crimes, for example, MADD, or is a member  
4 of a group whose primary purpose is the  
5 promotion of victims' rights, if so, please  
6 stand.

7 If you, a close personal friend or family  
8 members ever served on a jury panel in a  
9 criminal case, or appeared as a witness in a  
10 criminal trial, if so, please stand. If you've  
11 ever served on a jury panel, or you or a close  
12 family member or friends, or appeared as a  
13 witness in a criminal case, if so, please stand.

14 PROSPECTIVE JUROR: Juror number 257, I've  
15 been a witness, and I have served on a jury in  
16 Georgia.

17 THE COURT: All right.

18 PROSPECTIVE JUROR: Juror 410, I was a  
19 witness to the home invasion trial.

20 PROSPECTIVE JUROR: 218, I was a witness in  
21 a criminal case, and I'm pretty sure my dad was  
22 also.

23 THE COURT: You're pretty sure you did what

24 PROSPECTIVE JUROR: My dad was a witness.

25 THE COURT: All right, thank you.

1           PROSPECTIVE JUROR: 231, I was a witness in  
2 a criminal trial in Columbia.

3           THE COURT: Thank you.

4           PROSPECTIVE JUROR: Number 86, I testified  
5 in Federal Court. My sons who are involved in  
6 law enforcement, I would imagine that they were  
7 in Court as police officers.

8           CLERK: Juror number?

9           PROSPECTIVE JUROR: Juror number, 230,  
10 please.

11          PROSPECTIVE JUROR: Juror number 184, I was  
12 on jury on a case.

13          THE COURT: Here in Colleton?

14          PROSPECTIVE JUROR: Yes.

15          THE COURT: All right. Have you or any  
16 close personal friend or family member ever had  
17 a bad experience with the criminal defense  
18 attorney or a solicitor, or filed a grievance  
19 against any attorney, whether it be defense  
20 attorney or solicitor, if so, please stand.

21               If you know of any reason why you should  
22 not be selected to be on this jury, please  
23 stand. If any member of the jury panel have  
24 formed an opinion concerning the guilt or  
25 innocence of the accused, based on any comments

1 by any of your fellow-jurors here today, please  
2 stand. Has any comments by any of the jurors  
3 here today who stood and made comments, if any  
4 of those comments have created any bias or  
5 prejudice for or against the State, or  
6 Defendant, if so, please stand.

7 Now, this case and the way our Court runs,  
8 as you can see, it's now 2:15 and we haven't had  
9 lunch yet. So we don't know what time we'll get  
10 through any given day of this week regarding  
11 this case.

12 If you know of any reason why you cannot  
13 serve on the jury, based on your expectation  
14 that the Court will end at 5:00 or 5:30, because  
15 we don't know what time we might end on a given  
16 day, if anything about Court hours that affect  
17 your ability to be available for jury duty here  
18 this week, if so, please stand. All right, tell  
19 me your juror number.

20 PROSPECTIVE JUROR: 264.

21 THE COURT: All right, we'll ask you more  
22 questions in a minute. Anyone else? Any  
23 additional questions by the State or the  
24 defense?

25 MR. PHILLIPS: Earlier with the individual

1 or individuals that heard something about the  
2 case, I want to know what they heard. Your  
3 Honor, \* voir dire --

4 THE COURT: I said what?

5 MR. PHILLIPS: The individuals that you  
6 took just the juror numbers down, as far as what  
7 they've heard, you know, we don't know what  
8 they've heard, and Your Honor said you'd revisit  
9 it.

10 THE COURT: Yes, sir. Other than speaking  
11 with certain jurors individually, any other voir  
12 dire questions proposed by the State or the  
13 defense?

14 MR. STONE: No, sir.

15 MR. PHILLIPS: None, Your Honor.

16 THE COURT: All right. And if we could  
17 have those juror numbers who have indicated that  
18 I'd speak to later. Do you have the juror  
19 numbers?

20 MR. PHILLIPS: I don't have a separate  
21 sheet of them, no, Your Honor. It's hard  
22 keeping up.

23 THE COURT: All right, let's give it a try,  
24 Solicitor?

25 MR. STONE: I believe we do.

1 THE COURT: All right.

2 MR. STONE: Would you like me to just hand  
3 it up?

4 THE COURT: No, just call out those jurors'  
5 numbers, and I'm going to individually --

6 MR. STONE: Yes, sir.

7 THE COURT: -- talk to them.

8 MR. STONE: 235.

9 THE COURT: If you'll stand as he calls  
10 your numbers. Number 235, okay.

11 MR. STONE: 289.

12 THE COURT: 289.

13 MR. STONE: 106.

14 THE COURT: 106.

15 MR. STONE: 269 has already been excused.

16 THE COURT: 269 has been excused, thank  
17 you.

18 MR. STONE: 353.

19 THE COURT: 353.

20 MR. STONE: 330.

21 THE COURT: 330.

22 MR. STONE: 494.

23 THE COURT: 494.

24 MR. STONE: 370.

25 THE COURT: 370.

1 MR. STONE: 138.

2 THE COURT: 138.

3 MR. STONE: And then 67 and 8 have both  
4 already been excused for other reasons, Your  
5 Honor.

6 THE COURT: All right.

7 MR. PHILLIPS: Do you have anybody else?

8 MR. STONE: No, but I think that's it, Your  
9 Honor.

10 THE COURT: And these are the jurors that  
11 indicated that they have --

12 MR. PHILLIPS: That matches what we have.

13 THE COURT: These are the jurors who  
14 indicated that they have heard something about  
15 the case, and I didn't ask them what --

16 MR. PHILLIPS: That's right.

17 THE COURT: -- is that right?

18 MR. PHILLIPS Yes, Your Honor.

19 THE COURT: Okay, very good. So those  
20 jurors to include juror number 138, we need you  
21 all to stay for a few minutes to ask you some  
22 more questions.

23 All the other jurors, we're going to excuse  
24 you and have you come back at 3 o'clock. All  
25 the other jurors can leave, except for those

1 jurors, and we need you back at 3 o'clock, not  
2 3:05, but 3 o'clock. Thank you all.

3 (Prospective jurors exit the courtroom.)

4 BAILIFF: Be quiet, please.

5 THE COURT: Add 23 to that list.

6 MR. STONE: Did I miss one?

7 THE COURT: 23.

8 THE COURT: Any other matters regarding the  
9 qualifications of the jury panel?

10 MR. PHILLIPS: Your Honor, I think probably  
11 for appellate purposes, by asking those  
12 questions, so I'll put on record we had a bench  
13 conference, where I made the motion to quash the  
14 jury panel based on the statements. One was  
15 specifically, a potential juror, said that she  
16 was with Animal Control, juror number 17, that  
17 she arrived on-the-scene that day of the  
18 incident, and that she couldn't be fair and  
19 impartial.

20 There was also another juror, if I could  
21 find the number, who said that they know the co-  
22 Defendant, Mr. King, through AA and other  
23 certain instances. I made the motion to quash  
24 the jury panel during that bench conference,  
25 however, Your Honor did ask those questions.

1 THE COURT: All, right any comments?

2 MR. PHILLIPS: Your Honor, juror number 17  
3 didn't say anything prejudicial one way or the  
4 other, she said, "I came to the scene, and I  
5 can't be fair and impartial," so I don't know  
6 how that's remotely prejudicial, and then I  
7 think you covered the questions with the juror,  
8 not once, but twice, asking them if anyone said  
9 anything that would cause them to be concerned  
10 about sitting on the jury, and there were no  
11 responses.

12 So I believe that you've covered any  
13 potential prejudice, which I quite frankly  
14 didn't see to begin with anyway.

15 THE COURT: All right.

16 MR. LOY: No, Your Honor, nothing.

17 THE COURT: All right. Anything else  
18 regarding any other challenge or cause to anyone  
19 on the jury panel?

20 MR. LOY: Not from Mr. King, Your Honor.

21 MR. PHILLIPS: Your Honor, there is the  
22 jury number 86, the law enforcement 20 years, he  
23 was a cop in Beaufort. I think he worked  
24 probably pretty closely with the Solicitor's  
25 Office in Beaufort County, where I know



1 Solicitor Stone and Sean Thornton primarily  
2 work. The fact that he, again, was in law  
3 enforcement for 20 years and has that close  
4 relationship, I move to strike for cause.

5 THE COURT: All right, what says the State?

6 MR. THORNTON: Unusually, Judge, I have  
7 five counties, which means I have five Sheriff's  
8 Offices. I have 28 total law enforcement  
9 agencies that we work with. Your question to  
10 that individual juror was, "Can you be fair and  
11 impartial, and do you have such a relationship  
12 with anybody that would cause you to not be able  
13 to be fair and impartial?" He indicated he  
14 could not, "I don't believe that we have such a  
15 close relationship, that -- in fact, I haven't  
16 spoken to him in several years."

17 He was actually an officer on a case.  
18 Goodness, I think it's been six or seven years  
19 ago, but, again we have so many officers that we  
20 deal with on a regular basis. I'll also point  
21 out that out of this entire family we dealt  
22 with, there's about ten or 15 that actually  
23 said, "I know either Ms. Rita," as they  
24 referred, "or Mr. King," all of which said that  
25 they can be fair and impartial. And as much as

1 I would love to ask Your Honor to strike  
2 everybody that knows the Defendants, I can't do  
3 that, so I think it's properly \*.

4 THE COURT: All right, the State has five  
5 strikes, defense has ten.

6 MR. STONE: I think it's ten and 20.

7 THE COURT: Oh, ten and 20, oh, Lord.

8 MR. STONE: Yes.

9 MR. PHILLIPS: That's correct, Your Honor.

10 THE COURT: You've got 20 strikes to work  
11 with then.

12 MR. PHILLIPS: Yes, Your Honor.

13 THE COURT: You might think he qualifies  
14 for service, and I deny your motion to strike  
15 for cause.

16 MR. PHILLIPS: Yes, Your Honor.

17 THE COURT: Ten and 20, well, how many are  
18 we working with?

19 CLERK: So far 71.

20 THE COURT: Oh, that's pretty good. Okay,  
21 well, we're gonna reconvene, if you'll give us a  
22 list, and then we'll come back at -- I'm gonna  
23 say five after 3:00, something like that.

24 (RECESS)

25

★★

1                                   **JURY SELECTION CONTINUES**

2                   BAILIFF: All rise. Please be seated.

3                   THE COURT: Welcome back, if I can get my  
4 mic on. All right, ladies and gentlemen, we're  
5 gonna proceed with jury selection of this case,  
6 give the Clerk your attention.

7                   CLERK: Okay, when we call your number,  
8 we'd like you to grab all of your belongings,  
9 come down here in front of this microphone, and  
10 turn and face the gallery, and you'll either be  
11 told to bring your stuff to the jury box, or  
12 you'll be released and told to go back to your  
13 seat.

14                  We're gonna start with juror 370. What say  
15 you for the State?

16                  MR. STONE: Please present the juror.

17                  CLERK: What say you for the Defendant.

18                  THE COURT: I guess call Defendant, King.

19                  CLERK: Okay. What say you for Defendant,  
20 King?

21                  MR. LOY: Strike the juror.

22                  CLERK: Okay, you may return to your seat.  
23 Juror number 372. What say you for the State?

24                  MR. STONE: Please present the juror.

25                  CLERK: What say you for the Defendant,

1 King?

2 MR. GATCH: Please seat the juror.

3 CLERK: What say you for the Defendant,  
4 Pangalangan?

5 MR. PHILLIPS: Please excuse the juror.

6 CLERK: You may return to your seat. Juror  
7 number 147. What say you for the State?

8 MR. STONE: Please present the juror.

9 CLERK: What say you for Defendant, King?

10 MR. GATCH: Please present the juror.

11 CLERK: What say you for Defendant,  
12 Pangalangan?

13 MR. PHILLIPS: Please seat the juror.

14 CLERK: Please have a seat in the jury box.  
15 Over here, thank you. Juror number 56. What  
16 say you for the State?

17 MR. STONE: Please present the juror.

18 CLERK: What say you for Defendant, King.

19 MR. GATCH: Present the juror.

20 CLERK: What say you for Defendant,  
21 Pangalangan?

22 MR. PHILLIPS: Please seat the juror.

23 CLERK: Please have a seat in the jury box,  
24 ma'am. Juror number 23. What say you for the  
25 State?

1 MR. STONE: Please present the juror.

2 CLERK: What say you for Defendant, King.

3 MR. GATCH: Please excuse the juror.

4 CLERK: You may return to your seat, sir.

5 Juror number 5. What say you for the State?

6 And, jurors, please, when you come up, make sure

7 you bring all of your belongings, in case you

8 are sat. What say you for the State?

9 MR. STONE: Please present the juror.

10 CLERK: What say you for Defendant, King?

11 MR. GATCH: Present the juror.

12 CLERK: What say you for Defendant,

13 Pangalangan?

14 MR. PHILLIPS: Please seat the juror.

15 CLERK: Please have a seat in the jury box.

16 Juror number 26.

17 MR. GATCH: Madam Clerk, what was that

18 number?

19 CLERK: 26. What say you for the State?

20 MR. STONE: Please present the juror.

21 CLERK: What say you for Defendant, King?

22 MR. GATCH: Please excuse the juror.

23 CLERK: Sir, you may return to your seat.

24 Juror number 472. What say you for the State?

25 MR. STONE: Please present the juror.

1 THE COURT: What say you for Defendant,  
2 King?

3 MR. GATCH: Please excuse the juror.

4 THE COURT: Ma'am, you may return to your  
5 seat. Juror number 295. What say you for the  
6 State?

7 MR. STONE: Please present the juror.

8 CLERK: What say you for the Defendant,  
9 King.

10 MR. GATCH: Please present the juror.

11 CLERK: what say you for Defendant,  
12 Pangalangan?

13 MR. PHILLIPS: Please excuse the juror.

14 CLERK: Sir, you may return to your seat.  
15 Juror number 463. What say you for the State?

16 MR. STONE: Please present the juror.

17 CLERK: What say you for Defendant, King?

18 MR. GATCH: Please excuse the juror.

19 CLERK: Ma'am, you may return to your seat.  
20 Juror number 220. What say you for the State?

21 MR. STONE: Please present the juror.

22 CLERK: What say you for Defendant, King?

23 MR. GATCH: Please present the juror.

24 CLERK: What say you for Defendant,  
25 Pangalangan?

1 MR. PHILLIPS: Please excuse the juror.

2 CLERK: Please return to your seat. Juror  
3 number 208.

4 MR. PHILLIPS: I'm sorry, what was the  
5 number?

6 CLERK: 208. What say you for the State?

7 MR. STONE: Please present the juror.

8 CLERK: What say you for Defendant, King?

9 MR. GATCH: Please excuse the juror.

10 CLERK: You may return to your seat. Juror  
11 number 77. What say you for the State?

12 MR. STONE: Please present the juror.

13 CLERK: What say you for Defendant, King.

14 MR. GATCH: Please present the juror.

15 CLERK: What say you for Defendant,  
16 Pangalangan?

17 MR. PHILLIPS: Please seat the juror.

18 CLERK: Please have a seat in the jury box,  
19 sir. Juror number 39. What say you for the  
20 State?

21 MR. STONE: Please excuse the juror from  
22 this case.

23 CLERK: You may return to your seat. Juror  
24 number 138. What say you for the State? What  
25 say you for the State?

1 MR. STONE: Please present the juror.

2 CLERK: what say you for Defendant, King?

3 MR. GATCH: Please present the juror.

4 CLERK: what say you for Defendant,

5 Pangalangan?

6 MR. PHILLIPS: Please excuse the juror.

7 CLERK: You may return to your seat. Juror

8 number 29. What say you for the State?

9 MR. STONE: Please present the juror.

10 CLERK: What say you for Defendant, King?

11 MR. GATCH: Please present the juror.

12 CLERK: What say you for Defendant,

13 Pangalangan?

14 MR. PHILLIPS: Please excuse this juror.

15 CLERK: Please return to your seat. Juror

16 number 11. What say you for the State?

17 MR. STONE: Please present the juror.

18 CLERK: What say you for Defendant, King?

19 MR. GATCH: Please present the juror.

20 CLERK: What say you for Defendant,

21 Pangalangan?

22 MR. PHILLIPS: Please excuse this juror.

23 CLERK: Please return to your seat. Juror

24 number 257. What say you for the State?

25 MR. STONE: Please present the juror.



1 CLERK: What say you for Defendant, King?

2 MR. GATCH: Please present the juror.

3 CLERK: What say you for Defendant,

4 Pangalangan?

5 MR. PHILLIPS: Please excuse this juror.

6 CLERK: You may return to your seat. Juror

7 number 64. What say you for the State?

8 MR. STONE: Please excuse this juror.

9 CLERK: You may return to your seat. Juror

10 number 339. What say you for the State?

11 MR. STONE: Please present the juror.

12 CLERK: What say you for Defendant, King?

13 MR. GATCH: Please present the juror.

14 CLERK: What say you for Defendant,

15 Pangalangan?

16 MR. PHILLIPS: Please seat this juror.

17 CLERK: Please have a seat in the jury box.

18 Juror number 58. What say you for the State?

19 MR. STONE: You said 58?

20 CLERK: 58, yes. What say you for the

21 State?

22 MR. STONE: Please present the juror.

23 CLERK: What say you for Defendant, King?

24 MR. GATCH: Please seat the juror.

25 CLERK: What say you for Defendant,

1 Pangalangan?

2 MR. PHILLIPS: Please seat this juror.

3 CLERK: Please have a seat in the jury box.

4 Juror number 230. What say you for the State?

5 MR. STONE: Please present the juror.

6 CLERK: What say you for Defendant, King?

7 MR. GATCH: Please excuse the juror.

8 CLERK: Please return to your seat. Juror  
9 number 218. What say you for the State?

10 MR. STONE: Please present the juror.

11 CLERK: What say you for Defendant, King?

12 MR. GATCH: Please present the juror.

13 CLERK: What say you for Defendant,

14 Pangalangan?

15 MR. PHILLIPS: Please excuse this juror.

16 CLERK: You may return to your seat. Juror  
17 number 450. What say you for the State?

18 MR. STONE: Please present the juror.

19 CLERK: What say you for Defendant, King?

20 MR. GATCH: Please present the juror.

21 CLERK: What say you for Defendant,

22 Pangalangan?

23 MR. PHILLIPS: Please seat this juror.

24 CLERK: Please have a seat in the jury box.

25 Juror number 197.

1           What say you for the State?

2           MR. STONE:   Please present the juror.

3           CLERK:   What say you for Defendant, King?

4           MR. GATCH:   Please excuse the juror.

5           CLERK:   You may return to your seat.   Juror  
6           number 355.   What say you for the State?

7           MR. STONE:   Please present the juror.

8           CLERK:   What say you for Defendant, King?

9           MR. GATCH:   Please present the juror.

10          CLERK:   What say you for Defendant,  
11          Pangalangan?

12          MR. PHILLIPS:   Please excuse this juror.

13          CLERK:   You may return to your seat.   Juror  
14          number 352.   What say you for the State?

15          MR. STONE:   Please excuse the juror.

16          CLERK:   Please return to your seat.   Juror  
17          number 158.   What say you for the State?

18          MR. STONE:   Please excuse the juror.

19          CLERK:   Please return to your seat.   Juror  
20          number 3.   What say you for the State?

21          MR. STONE:   Please present the juror.

22          CLERK:   What say you for Defendant, King?

23          MR. GATCH:   Please present the juror.

24          CLERK:   What say you for Defendant,  
25          Pangalangan?

1 MR. PHILLIPS: Please seat the juror.

2 CLERK: Please have a seat in the jury box.

3 Juror number 431. What say you for the State?

4 MR. STONE: Please excuse the juror.

5 CLERK: Please return to your seat. Juror

6 number 32. What say you for the State?

7 MR. STONE: Please present the juror.

8 CLERK: What say you for Defendant, King?

9 MR. GATCH: Please present the juror.

10 CLERK: What say you for Defendant,

11 Pangalangan?

12 MR. PHILLIPS: Please seat the juror.

13 CLERK: Please have a seat in the jury box.

14 Juror number 12. What say you for the State?

15 MR. STONE: Please present the juror.

16 CLERK: What say you for Defendant, King?

17 MR. GATCH: Please present the juror.

18 CLERK: Wha say you for Defendant,

19 Pangalangan?

20 MR. PHILLIPS: Please seat this juror.

21 CLERK: Please have a seat in the jury box.

22 Juror number 422. What say you for the State?

23 MR. STONE: Please present the juror.

24 CLERK: What say you for Defendant, King?

25 MR. GATCH: Please present the juror.

1 CLERK: What say you for Defendant,  
2 Pangalangan?

3 MR. PHILLIPS: Please seat this juror.

4 CLERK: Please have a seat in the jury box.  
5 Juror number 36. What say you for the State?

6 MR. STONE: Please present the juror.

7 CLERK: What say you for Defendant, King?

8 MR. GATCH: Please present the juror.

9 CLERK: what say you for Defendant,  
10 Pangalangan?

11 MR. PHILLIPS: Please excuse this juror.

12 CLERK: You may return to your seat. Juror  
13 number 253.

14 MR. STONE: I'm sorry what --

15 CLERK: 253. What say you for the State?

16 MR. STONE: Present the juror.

17 CLERK: What say you for Defendant, King?

18 MR. GATCH: Please present the juror.

19 CLERK: What say you for Defendant,  
20 Pangalangan?

21 MR. PHILLIPS: Please seat this juror.

22 CLERK: Please have a seat in the jury box.  
23 Judge, that is your 12 jurors, and now we'll go  
24 onto the alternates.

25 THE COURT: Thank you.

1 CLERK: Okay, for the first alternate,  
2 juror number 131. What say you for the State?

3 MR. STONE: Please present the juror.

4 CLERK: What say you for Defendant, King.

5 MR. GATCH: Please excuse the juror.

6 CLERK: You may return to your seat. Juror  
7 number 207. What say you for the State?

8 MR. STONE: Please present the juror.

9 CLERK: What say you for Defendant, King?

10 MR. GATCH: Please present the juror.

11 CLERK: What say you for Defendant,  
12 Pangalangan?

13 MR. PHILLIPS: Please excuse this juror.

14 CLERK: You may return to your seat. Juror  
15 number 334. What say you for the State?

16 MR. STONE: Please present the juror.

17 CLERK: What say you for Defendant, King?

18 MR. GATCH: Please present the juror.

19 CLERK: What say you for Defendant,  
20 Pangalangan?

21 MR. PHILLIPS: Please seat this juror.

22 CLERK: Please have a seat in the jury box.  
23 That's alternate one. Juror number 89. What  
24 say you for the State?

25 MR. STONE: Please present the juror.

1 CLERK: What say you for Defendant, King?

2 MR. GATCH: Please present the juror.

3 CLERK: What say you for Defendant,

4 Pangalangan?

5 MR. PHILLIPS: Please excuse this juror.

6 CLERK: You may return to your seat. Juror

7 number 266. What say you for the State?

8 MR. STONE: Please excuse this juror.

9 CLERK: You may return to your seat. Juror

10 number 215. What say you for the State?

11 MR. STONE: Please present the juror.

12 CLERK: What say you for Defendant, King?

13 MR. GATCH: Please excuse the juror.

14 CLERK: You may return to your seat. Juror

15 number 195. What say you for the State?

16 MR. STONE: Please present the juror.

17 CLERK: What say you for Defendant, King?

18 MR. GATCH: Please present the juror.

19 CLERK: what say you for Defendant,

20 Pangalangan?

21 MR. PHILLIPS: Please seat this juror.

22 CLERK: Please have a seat in the jury box.

23 Jury, that is your 12 jurors and two alternates.

24 THE COURT: Very good. And that is all

25 regarding the jury selection.

1 All right, ladies and gentlemen, you all  
2 have been selected to be the jury in the trial  
3 of this case. Those of you who were not  
4 selected you are excused for the day, but  
5 remember, however, you are still on jury duty.  
6 What kind of call in system.

7 CLERK: We get them to call back after 6:00  
8 for further instructions, so --

9 THE COURT: Okay, if you'all will call  
10 tomorrow after 6:00 for further instructions.  
11 Call tomorrow after 6:00, not today, not in four  
12 days, but tomorrow after 6:00 for further  
13 instructions, and we thank you all very much.

14 Now, ladies and gentlemen, for those of you  
15 who have been selected, I need you to go to the  
16 jury room. Once you are selected on the jury,  
17 you cannot discuss the case in any form or  
18 fashion. You can talk about whatever you want  
19 to, but you cannot talk about the case while you  
20 are here, while you're at home, during a time --  
21 a period of time you're on the jury, until I  
22 tell you it's time to do so.

23 That will be after everything has been  
24 presented, but we need to talk to the lawyers a  
25 little bit, so if you will go to the jury room



1 and get acquainted with each other.

2 (Jury exits the courtroom.)

3 \*\*

4 **PRETRIAL MOTIONS**

5 THE COURT: Any matters of law while the  
6 jury is out? Yes, sir.

7 MR. PHILLIPS: Yes, Your Honor, give me one  
8 second. Your Honor, Defendant Pangalangan,  
9 would have a motion to quash the indictment for  
10 murder.

11 Specifically, the State included the  
12 incorrect mens rea as an element of defense in  
13 the indictment. If you look at State v. Watson,  
14 in that Footnote 5 it really outlines, while  
15 malice and recklessness, obviously, are not  
16 equivalent, extreme recklessness and leading to  
17 an inference of malice.

18 In this indictment for murder,  
19 specifically, the State has added, it says,  
20 "That in Colleton County, South Carolina on or  
21 about August 5th, 2019, the Defendant, Rita  
22 Pangalangan, did with malice aforethought and  
23 with wanton and reckless disregard for human  
24 life, kill **Child**, and

25 **Child** did die as a result of

1 Rita Pangalangan's actions all in violation of  
2 Section 60-3-10."

3 And I will go to the laws of South  
4 Carolina. The highlighted portion is the  
5 reckless disregard for human life. The  
6 appropriate statement on law would be extreme  
7 recklessness that can, you know, lead to malice,  
8 there's an inference of malice.

9 So this language generally what would be  
10 included in the indictment, but the State chose  
11 to include it in the indictment, and when they  
12 did, without having the word extreme prior to  
13 the reckless disregard for human life, changes  
14 the burden in that part.

15 So you have regular negligence, gross  
16 negligence, or in this case you have  
17 recklessness or extreme recklessness. And so  
18 with that now being put as an element in the  
19 indictment, given under Gentry, I understand  
20 that it's a notice document, but the defect is  
21 apparent on the face of the indictment.

22 The offense is not stated with sufficient  
23 certainty and particularity and fails to  
24 properly apprise within the proper elements  
25 that's intended to be charged for murder,

1 specifically, in this case with the improper now  
2 element that's put into the indictment.

3 When it is not necessary to be indicted in  
4 the first place and doesn't have the critical  
5 word extreme for that. And I'll be happy to  
6 kind of go through that.

7 Essentially, it's -- the motion to quash is  
8 to ensure, obviously, that the jury doesn't have  
9 the proper basis listed for which they would  
10 make their determination under guilt beyond a  
11 reasonable doubt.

12 THE COURT: What says the State?

13 MR. STONE: Your Honor, I'll hand you --

14 THE COURT: Well, maybe first I'll hear  
15 from --

16 MR. STONE: Yeah.

17 THE COURT: -- Mr. King, then the State  
18 will complete the response.

19 MR. LOY: Your Honor, I would join in Mr.  
20 Phillips' motion as the argument. I wouldn't  
21 add to the argument. I would, if I can at this  
22 time, however, address the criminal conspiracy  
23 indictment and my motion to quash that.

24 THE COURT: You're talking about a motion  
25 to quash the murder?

1           MR. KING: And, Your Honor, I would join  
2 that motion, but I do not have an additional  
3 argument.

4           THE COURT: All right, Mr. Solicitor. Mr.  
5 Stone?

6           MR. STONE: Yes, sir. May it please the  
7 Court, Your Honor? Murder is the unlawful  
8 killing of another with malice. Malice in South  
9 Carolina can be proven two ways, one, with the  
10 expressed malice, and the other with implied  
11 malice. This is a case of implied malice.

12           The case specifically that I'm referring  
13 to, that I put actually in the indictment that  
14 I'll also be handing up and requesting as a jury  
15 charge, I'll hand you up State v. Wiles, that is  
16 a Court of Appeals case from 2003, State v.  
17 Muzon, which is the basis of this entire  
18 argument, which is the case from the South  
19 Carolina Supreme Court in 1957, that being  
20 99SE2d672. And then State v. Heyward, as well,  
21 which is a Supreme Court decision decided in  
22 1941.

23           But, primarily, the argument would be  
24 concerning the language in State v. Muzon.

25           THE COURT: Uh-huh.

1 MR. STONE: In that case, Your Honor, they  
2 talk about malice and they define it, and it is  
3 defined, specifically, and this, again, is cited  
4 in Muzon, it's in Heyward, it's also in re Tracy  
5 B, which is 704SE2d71.

6 Specifically, malice can be inferred from  
7 conduct so reckless and wantons, as to indicate  
8 the depravity of mind and general human regard -  
9 - disregard for human life.

10 In the context of murder, malice is not  
11 required ill-will toward the individual, but it  
12 signifies a general malignant recklessness of  
13 the lives and safety of others.

14 And then it goes onto say, or condition  
15 with regardless of social duty.

16 Again, under State v. Malon, that being  
17 70SE447, it talks about also implied malice,  
18 which the circumstances demonstrating a wanton  
19 or reckless disregard for human life.

20 The language in Muzon is, "The recklessness  
21 of the lives and safety of others."

22 That's an exact quote from Muzon, that is  
23 what we put actually in the indictment. And as  
24 the indictment as State v. Gentry says, is a  
25 notice requirement.

1           We went further than would be necessary.  
2           Had we only put in the indictment, murder is the  
3           unlawful killing of another with malice  
4           aforethought, that would have been sufficient.  
5           We went further than that quoting State v.  
6           Muzon, therefore, giving the Defendant,  
7           basically, more notice than is required, which  
8           is we're not going on expressed malice, we're  
9           going on implied malice, and so that's the  
10          reason that language is actually in the  
11          indictment.

12          So if you, as State v. Gentry requires,  
13          analyze the case to see does the Defendant --  
14          first of all, do you know what type of sentence  
15          to hand down, were they convicted?

16          Certainly, this answers that. If the  
17          Defendant knows how to respond, I think it  
18          actually helps that we put that language in  
19          there, but even if we didn't, that language is  
20          still then sufficient for the Defendant to  
21          respond.

22          And then finally I think State v. Gentry  
23          also mentions that referencing to the statute  
24          itself is also -- there's no question that we  
25          have named both Defendants. There's no question

1       that we've called the proper charge, and, again,  
2       had the indictment only said unlawful killing of  
3       another with malice, that would have been  
4       sufficient on its face.

5               We added additional language, in order to  
6       give the defense, both Defendants, proper notice  
7       that we are going under the State v. Muzon  
8       theory of murder.

9               MR. PHILLIPS: And in response, Your Honor,  
10       State v. Watson is a 2002 case. If you see  
11       right there where I have it cited on page one,  
12       where it says, "Citation omitted," it's citing  
13       Muzon. And so Muzon is a 1957 case.

14              We have a 2002 case directly from our  
15       Supreme Court, and our Supreme Court notes  
16       citing Muzon and Watson, while malice and  
17       recklessness, obviously, are not equivalent,  
18       extreme recklessness can lead to an inference of  
19       malice. And when you look at Muzon, it's not  
20       just recklessness, it's malignant recklessness,  
21       it is a higher level, the difference between  
22       negligence and gross negligence.

23              THE COURT: Is that State v. Charles  
24       Watson?

25              MR. PHILLIPS: 349SC372, Your Honor,

1 Footnote 5, a 2002 case.

2 THE STATE: Well, let's see, so Watson  
3 involves a requested instruction involving  
4 reckless homicide, but murder. And the question  
5 is whether the Judge erred in refusing to  
6 instruct the jury reckless homicide is less an  
7 included offense, and the Court's the ultimate  
8 determination.

9 Now, the Court denied charging reckless  
10 homicide with the charge of involuntary  
11 manslaughter. He was found guilty and  
12 sentenced. And let's see, and they conclude  
13 that the Judge was correct in not charging  
14 reckless homicide and affirmed the Judge's  
15 refusal to give that requested charge.

16 So now we have a motion to quash the  
17 indictment, not dealing with what should the  
18 jury be instructed, and what was the problem  
19 with that one?

20 MR. PHILLIPS: Because the prosecutor -- or  
21 the Solicitor included that language, and put  
22 the incorrect language in the indictment, it now  
23 made it part of the element of the offense that  
24 will be part of the jury's determination, and  
25 that's the incorrect standard. And it's



1 even --

2 THE COURT: How can you contend it's gonna  
3 be part of the jury's determination?

4 MR. PHILLIPS: Because they've put it as  
5 part of the indictment. They've listed that as  
6 -- again, I haven't heard a motion to amend the  
7 indictment from the State, but as the indictment  
8 stands it's defective on its face.

9 THE COURT: Mr. Solicitor?

10 MR. STONE: Your Honor, I -- first of all,  
11 I don't doubt at all that extreme recklessness  
12 can get you to the same standard under Muzon, I  
13 totally agree with that; but I'm not gonna move  
14 to amend the indictment, because the law is not  
15 wrong.

16 That indictment is not wrong. The language  
17 that I cited for you in State v. Heyward, page  
18 four of page six of the opinion that I handed  
19 up, it --

20 THE COURT: You jumped to Heyward, okay,  
21 page four, let's see what -- first of all.  
22 Well, that's not in Beaufort County, number one,  
23 number 1041, goodness gracious.

24 MR. PHILLIPS: I did not try that one, Your  
25 Honor.

1           MR. STONE: So in that case, I think they  
2 shot back at the man. Actually, law enforcement  
3 officers went to his house, knocked on his door,  
4 because they were coming into question him. He  
5 shoots the officer, actually, as the guy enters  
6 his front door, basically, saying that he didn't  
7 have any ill-will toward him individually, and  
8 he didn't -- wasn't committing it from the  
9 standpoint of expressed malice. What the Court  
10 went into there was whether or not somebody  
11 rises to a level of a total reckless disregard  
12 for the lives and safety of others, if that  
13 qualifier had implied malice, which is exactly  
14 where it gets to on page four, on the right-hand  
15 column under State v. Gauman on that second,  
16 excuse me, third paragraph. Probably about --

17           THE COURT: Let me get there.

18           MR. STONE: Yes, sir.

19           THE COURT: Which page?

20           MR. STONE: Page four.

21           THE COURT: Yeah, I found it.

22           MR. STONE: And -- yes, sir. In the  
23 sentence it starts, "In its legal sense."

24           THE COURT: In its legal sense, on the  
25 right side of the --

1 MR. STONE: Yes, sir. Under -- see where  
2 it's blued out as State v. Gauman?

3 THE COURT: Yeah.

4 MR. STONE: It goes down to that full  
5 paragraph about midway in that paragraph.

6 THE COURT: In its legal sense, all right.

7 MR. STONE: "It is employed in the  
8 description of murder, it is not necessarily  
9 import ill-will toward the individual injured,  
10 but signifies rather a general, malignant  
11 recklessness of the lives and safety of others."  
12 And it goes onto say, "Or a condition of the  
13 mind who shows heart, regardless of social  
14 duty."

15 I didn't put all of the language in the  
16 indictment, but I did put in the part about the  
17 recklessness of the lives and safety of others.  
18 Similarly, if you go to State v. Wiles, which is  
19 -- I also handed you -- handed up there --

20 THE COURT: Uh-huh. State v. Wiles.

21 MR. STONE: This is a case --

22 THE COURT: At least we're getting more in  
23 a current era of 2003.

24 MR. STONE: Well, and what that does really  
25 it's all still referencing back to Muzon, but

1       the whole concept is, how do you show implied  
2       malice? This does imply malice rise to the  
3       level of -- can rise to the level of murder. In  
4       this case you've got somebody who was trying to  
5       escape.

6               There was somebody -- they actually ran  
7       over somebody, their belt got connected, or  
8       something, underneath the car, and the car drug  
9       them for several feet, and the car, in fact, was  
10      weaving back and forth.

11             And, again, it goes back to in that  
12      situation, whether the driver of the car did not  
13      have any specific ill-will toward that person,  
14      however, again, they had a malignant  
15      recklessness of the lives and safety of others.  
16      If you go from that page, Your Honor, to page  
17      six of seven, the very first sentence of the  
18      second column, and that'd be the column to the  
19      right.

20             THE COURT: All right. "Import ill-will  
21      toward the individual injured, which signifies  
22      rather a general malignant recklessness of the  
23      lives and safety of others, or a condition of  
24      mind which shows a heart regardless of social  
25      duty and fatal mischief."

1           Again, down in the next paragraph, "Implied  
2 malice is when circumstances demonstrate a  
3 wanton or reckless disregard for human life, or  
4 a reasonably prudent man would have known that  
5 according to common experience there was a plain  
6 and strong likelihood that death would follow  
7 the contemplated act.

8           Again, in the analysis, and I know we will  
9 argue this again from the standpoint of a jury  
10 charge, but in the analysis of an indictment,  
11 the question is, have we given them sufficient  
12 notice of the charges to answer and review, as  
13 Your Honor is sitting as the potential  
14 sentencer, should be able to deal with it. Had  
15 we only put murder as the unlawful killing of  
16 another, that would have been sufficient.

17           We went further then that, in order to give  
18 the defense notice that we would be going off of  
19 the State v. Muzon theory of implied malice.  
20 And not only have we met the threshold level of  
21 clarity in the indictment, we have actually gone  
22 further than that. And the law, quite frankly,  
23 Your Honor, is correct. I mean I'm not asking  
24 to amend the indictment, because I didn't put  
25 any law in there that was not correct, that's

1 correct law.

2 MR. PHILLIPS: Thank you, Your Honor. So  
3 specifically, again, with malignant recklessness  
4 is the same as the wording of extreme  
5 recklessness.

6 When you look at State v. Watson in the  
7 Footnote 5, it says, "While malice and  
8 recklessness, obviously, are not equivalent,  
9 extreme recklessness can lead to an inference of  
10 malice." That is plain language from the Court,  
11 and that's in 2000 -- and make sure I say it  
12 correctly, 2002, and they cite Muzon, the case  
13 that the Solicitor's relying on, and it says,  
14 "Malice in the -- malice may be inferred from an  
15 act so reckless, as to manifest the depravity of  
16 mind and disregard of human life, that's the  
17 extreme recklessness.

18 And when they included that language, it  
19 must have the correct language in the indictment  
20 as to that. They didn't have to, they did.  
21 Unfortunately, they did the incorrect language.  
22 And I think Watson fully explains it, cites the  
23 case that they're relying on, and act so  
24 reckless as to manifest the depravity of mind  
25 and disregard human life. The other cases they

1 cite on talk about malignant recklessness, and  
2 there's the difference between reckless and  
3 extreme recklessness.

4 THE COURT: Anything further?

5 MR. STONE: Not from the State.

6 MR. PHILLIPS: No, Your Honor.

7 THE COURT: I think the problem you run  
8 into, when Appellate Courts are addressing  
9 issues at various stages of the proceeding, with  
10 the -- what's the name of your case again?

11 MR. PHILLIPS: Watson.

12 THE COURT: Watson, and dealing with proper  
13 jury charge involving alleged lesser included  
14 offense, to Wiles dealing with a directed  
15 verdict, and --

16 MR. PHILLIPS: And not to cut you off, Your  
17 Honor, Wiles, that's the one that deals with  
18 assault and battery with intent to kill --

19 THE COURT: Yeah.

20 MR. PHILLIPS: -- doesn't exist anymore.

21 THE COURT: Pardon?

22 MR. PHILLIPS: That charge doesn't even  
23 exist anymore.

24 THE COURT: Yeah, well, a whole lot has  
25 changed since 1934 and all of that.

1 MR. PHILLIPS: We're here in 2023.

2 THE COURT: But this indictment serves the  
3 notice -- or failed the notice requirement of  
4 the indictment. The jury will be charged on the  
5 proper standards of law, that's why I am  
6 commenting that a jury charge would not  
7 necessarily mislead -- would not mislead a jury,  
8 based on some disputed language in the  
9 indictment.

10 The indictment being a notice document, as  
11 to the nature of the charge. The indictment is  
12 not published to the jury. The indictment may  
13 or may not be submitted to the jury, depending  
14 upon evidence presented. It most likely will  
15 not be given to the jury. I find that the  
16 indictment is sufficient, and I'll deny the  
17 motion.

18 MR. PHILLIPS: Thank you, Your Honor, and  
19 just for the Appellate record is, that you're  
20 finding not just a deficiency, but that the  
21 level that's put in there is its reckless  
22 disregard for human life, or it must have the  
23 extreme reckless?

24 THE COURT: Well --

25 MR. PHILLIPS: Well, I just need --



1 THE COURT: I ruled regarding that.

2 MR. PHILLIPS: But I need a ruling for the  
3 Appellate Court.

4 THE COURT: What do you want me to rule on?

5 MR. PHILLIPS: What you're finding.

6 THE COURT: Say it again.

7 MR. PHILLIPS: You're finding --

8 THE COURT: I find that the indictment is  
9 adequate.

10 MR. PHILLIPS: Thank you, Your Honor.

11 Next is a motion to quash the infliction of  
12 great bodily injury to the child, or in the  
13 alternative to amend the indictment, to provide  
14 the required mens rea, specifically, under 17-  
15 19-90, specifically, the State has not put the  
16 Defendant on notice regarding whether it intends  
17 to prove actions were -- and, again, I think  
18 maybe it's now cleared up, since we have the  
19 hearing for the prior motion, whether they  
20 believe the actions were intentional negligent,  
21 or extremely reckless in inflicting such injury  
22 that resulted in death, because it's not a  
23 strict liability statute.

24 And the reason I say that is, we have also  
25 a criminal conspiracy indictment, so we have

1 kind of competing theories. You have  
2 recklessness, but you have conspiracy. Those  
3 don't mirror each other, as far as the burden.  
4 This, we believe, is a reasonable and necessary  
5 request that essentially prevents there being  
6 any movement, as far as what the proof that  
7 would be pushed forward at trial, and, again,  
8 putting us on notice as to what the State  
9 intends to prove.

10 From the murder indictment, the one we just  
11 had, it appears that their basis that their  
12 argument's going to be that just reckless  
13 disregard for human life is sufficient. We  
14 certainly disagree with that but given the fact  
15 that there was also a conspiracy indictment,  
16 that goes to an intentional act. So now we have  
17 competing theories that the State has put  
18 together.

19 They have one indictment of an intentional  
20 act, where two people have conspired together to  
21 do either the unlawful act by unlawful means, or  
22 a lawful act by unlawful means. And so with  
23 that being said, now that we have this issue,  
24 where the specific indictment for infliction of  
25 great bodily injury upon a child has no mens

1       rea, now, looking through case law and  
2       arguments, as far as putting us on notice, and,  
3       again, with that, Your Honor, just to make sure,  
4       I've cleaned this up for any appeal down the  
5       road.

6               I had marked the motion to quash the murder  
7       indictment as Defendant's Exhibit Number 2. I  
8       understand that Your Honor said it'd be taken as  
9       the Court's exhibit. Now, I've marked this --

10              THE COURT: Introduce into evidence defense  
11       exhibits 1, 2 --

12              MR. PHILLIPS: No --

13              THE COURT: It doesn't refer to the  
14       reckless -- you filed a motion, which is part of  
15       the record. You can number whatever exhibit  
16       number you want to.

17              MR. PHILLIPS: I just -- as a former  
18       appellate defender, Your Honor, I'm just trying  
19       to help them out, if they ever need it. In --

20              THE COURT: What do you want it to be, a  
21       Court's exhibit or defense exhibit?

22              MR. PHILLIPS: I've already marked them,  
23       Your Honor.

24              THE COURT: Well, it can be a defense  
25       exhibit --

1 MR. PHILLIPS: They're --

2 THE COURT: -- and a Court exhibit, it'll  
3 be both.

4 (Court's Exhibit 2 admitted into evidence.)

5 MR. PHILLIPS: Thank you, Your Honor,  
6 they're already -- and what's marked as defense  
7 exhibit as the motion to quash the great bodily  
8 injury indictment.

9 And specifically with this, Your Honor, in  
10 looking at State v. Freelan, 106SC220, again, we  
11 are jumping back in time. That is a 1916 case,  
12 because there's not a lot of law on this.

13 THE COURT: 1916?

14 MR. PHILLIPS: Yes, Your Honor, we're time  
15 traveling a little bit. With that, our Supreme  
16 Court did address the issue of when there is no  
17 mens rea provided in the statute.

18 This is a quote, "The statute must be read  
19 in light of the fundamental principle of common  
20 law, which is general though, perhaps not a  
21 universal application, that an evil intent must  
22 concur with the act of a crime. And then citing  
23 a United States Supreme Court case, Balant,  
24 essentially it says, "While the general rule of  
25 common law -- was a necessary element in the

1 indictment and proof of every crime, this was  
2 followed in regard to statutory crimes, even  
3 when the statutory definition, and not terms  
4 included. And I know I just said a lot, and  
5 that was probably hard to follow. I think the  
6 easiest thing and the persuasive authority is  
7 our sister, State of Georgia, had a case  
8 recently in 2023, Your Honor.

9 So we're now dealing with present day, our  
10 sister state in Georgia said, "Indeed, criminal  
11 intent is an essential element of every crime,  
12 where criminal negligence is not involved." And  
13 then specifically goes through, "As stated by,"  
14 that would be the Supreme Court of Georgia,  
15 consistently held by the Court of Appeals of  
16 Georgia, and this is quoting as I have been,  
17 again, what was marked as Defense Exhibit 3, "In  
18 the absence of an expressed statutorily defined  
19 mens rea element, the allegation of criminal  
20 intent is necessarily inferred from an  
21 indictment that charges an offense and the  
22 language of the statute, and alleges it was  
23 committed unlawfully."

24 Our position is, because our statute does  
25 not have a mens rea element, that we do need to

1       make sure that we're all on the same page with  
2       that. Because with the indictment, again, what  
3       we arguably had, at least what was argued by the  
4       Solicitor on the murder indictment, we do not  
5       have, for this indictment, we don't know the  
6       specified mens rea from which they're going to  
7       present that, and it's in direct contradiction  
8       with the criminal conspiracy indictment.

9               THE COURT: From the State?

10              MR. STONE: May it please the Court, Your  
11       Honor, South Carolina Code Section 16-3-95, and  
12       in particular as quoted in this indictment,  
13       subsection A, "Makes it unlawful to inflict  
14       great bodily injury upon a child," period, and  
15       we quoted the exact statute.

16              And we not only quoted the number of the  
17       statute, but we actually quoted the specific  
18       subsection of the statute. That is what the  
19       statute says, that is what we quoted in the  
20       indictment, and that's proper for a notice  
21       document.

22              As far as trying to add in new language,  
23       well, the defense just objected to me adding  
24       language to the last one, but in this one I'm  
25       quoting directly out of the statute, and, again,

1       it is unlawful to inflict great bodily injury  
2       upon a child. There's no mention of anything  
3       other than that.

4               MR. PHILLIPS: A quick response. I lost  
5       the last motion, and so on that same rational,  
6       then it needs to be \*, so you can't have it both  
7       ways.

8               MR. STONE: If he has some law that says  
9       that particular code section should have a mens  
10      rea, and then explain to it, I'll be glad to  
11      take a look at it, but that's not what the  
12      statute says.

13              And the reason that we quote directly from  
14      the statute is, to make sure the Defendant knows  
15      what to answer. We did that, and, again,  
16      there's no mens rea listed in Subsection A.  
17      Subsection B, however, I will note, it does have  
18      one, but that's not what they're charged with.

19              THE COURT: Well, this introduces the  
20      necessity of there being criminal intent to the  
21      -- guilty of committing any criminal offense.  
22      And part of the instructions to the jury, if  
23      requested, will be intent. That the intent must  
24      be present.

25              It's a part of every law, every statute,

1       there must be criminal intent, versus  
2       accidental, or inadvertent, you know, there has  
3       to be a fulfillment of the statutory requiring  
4       the intent to commit a criminal offense. And,  
5       again, that's not a flaw in the indictment.  
6       I'll remind you that it deals with the question  
7       of the sufficiency of proof, in order for a jury  
8       to find someone guilty.

9             All right, I deny the motion.

10            MR. PHILLIPS: but, Your Honor, and that --

11            THE COURT: Now, are we gonna -- I think  
12       we're gonna cut the jury panel loose. We just  
13       had them --

14            MR. PHILLIPS: Yes, sir.

15            THE COURT: -- to go back there, while we  
16       dealt with the issue of quashing the indictment  
17       or not. So now we're ready to let them go. We  
18       can bring them back out.

19            MR. PHILLIPS: Your Honor, I do have one  
20       other matter.

21            THE COURT: Involving quashing?

22            MR. PHILLIPS: Yes, sir.

23            THE COURT: Oh, I'm sorry.

24            MR. PHILLIPS: Judge, it's the last  
25       indictment you haven't ruled on.



1 THE COURT: All right.

2 MR. PHILLIPS: I see -- I look at the other  
3 indictments, and I see it says the crime took  
4 place at this location, at this time, and it was  
5 crimes against this child. It describes what's  
6 alleged to have been done.

7 I look at the criminal conspiracy  
8 indictment, and as far as the notice document, I  
9 think it just fails. It doesn't tell us what it  
10 is we're here to defend. It says that there was  
11 an explicit understanding, for the purpose of  
12 accomplishing an unlawful object, or unlawful  
13 means by unlawful means.

14 But I mean we're gonna do an opening  
15 statement at some point in time, and I don't  
16 know if my client is accused of conspiring to  
17 commit murder, if he's accusing of conspiring to  
18 commit great bodily injury on a child, if he's  
19 accused of conspiring to cover up whatever may  
20 have happened in the \*, or if he's conspiring --  
21 confused of conspiring to sell drugs that day.

22 I mean it doesn't list the victim, it  
23 doesn't list a crime, it doesn't say what it is  
24 he's accused of having done, or -- it just  
25 doesn't -- it doesn't put us on notice.

1           Again, I don't know what it is he's accused  
2           of having done.

3           THE COURT:   What says the State?

4           MR. STONE:   Your Honor, criminal conspiracy  
5           is the combination of two or more persons for  
6           the purpose of either accomplishing criminal,  
7           unlawful objects, or by unlawful means.  You've  
8           got -- we served them both with the indictment  
9           for murder, as well as the intentional  
10          infliction of injury on the child.  Both of  
11          those are criminal offenses, both of those took  
12          place with both Mr. King, as well as Ms.  
13          Pangalangan, both participating.

14          And, again, I think you already reviewed  
15          the video.  Actually, you see both of them  
16          putting the child in the car, both of them leave  
17          the child in the car.  All of those actions,  
18          Your Honor, because they did it together is a  
19          conspiracy.

20          So I think -- I'm not real clear on how we  
21          could have been any more specific to give them  
22          notice.  The obvious time and day, all of that  
23          is the same as the murder, and the unlawful harm  
24          to a child.  The name of the victim is the same.  
25          The name of the Defendants are the same.

1           MR. PHILLIPS: The indictment I'm looking  
2 at doesn't have the name of the victim. The  
3 indictment I'm looking at doesn't have the name  
4 of the victim unless I've got an outdated copy.  
5 It doesn't put us on notice, as to did they  
6 conspire to murder the child?

7           Did they conspire to hurt the child? Did  
8 they conspire to cover up whatever might have  
9 happened, or did they conspire to commit some  
10 other unlawful act? Again, I can't go into an  
11 opening statement, and explain to the jury what  
12 the facts are gonna show, as it relates to this  
13 indictment, because I don't know what this  
14 indictment says they did.

15           THE COURT: Then let the jury come out and  
16 let them go, and we can continue talking. I'm  
17 not giving them.

18           MR. PHILLIPS: I understand.

19           THE COURT: Whether this one's quashed or  
20 not, would have no impact on whether the jury  
21 stays or leaves.

22           MR. STONE: thank you.

23           THE COURT: If you'll bring the jury out.  
24 What time tomorrow do they need to come in?  
25 Opinions?

1 MR. STONE: Sir, I'll be here when you tell  
2 me to, but it's whatever is convenient. Are you  
3 staying here, or are you traveling?

4 THE COURT: No, I'm staying here.

5 MR. STONE: Okay. I'm traveling, but I can  
6 make it one way or the other.

7 9:30, is that --

8 MR. PHILLIPS: I'm traveling as well, but  
9 it's the discretion of the Court, I agree.

10 MR. LOY: You have the gavel, we will be  
11 here.

12 THE COURT: No, we don't -- I'm talking  
13 about the jury panel. Are we about through with  
14 your motions?

15 MR. PHILLIPS: I don't have another  
16 pretrial.

17 MR. STONE: I do.

18 THE COURT: Well, my question is, what time  
19 should the jury come back tomorrow?

20 MR. STONE: I apologize, we'll be ready to  
21 go when they get here tomorrow morning.

22 (Jury enters the courtroom.)

23 \*\*

24 PROCEEDINGS CONTINUED

25 THE COURT: All right, welcome back. We

1       still need to deal with some matters before  
2       presenting anything to you, so we're gonna let  
3       you all go for the day, as opposed to holding  
4       you back there. We need you to return at 9:30  
5       tomorrow morning.

6               Once again, please do not discuss the case,  
7       do not view any news media concerning the case,  
8       do not go on Facebook or Twitter or any other  
9       social media site to try to find out something  
10      about the case. You're not supposed to be  
11      exposed to any information about the case, other  
12      than that which you receive here in the  
13      courtroom.

14             And it's very important that you follow  
15      those instructions, and so we will see you back  
16      in the morning. I know that inquiring minds  
17      would love to know, for you to come and tell  
18      them about that case you got picked on. You're  
19      not to discuss the case with anyone. Do not let  
20      anyone talk you into saying anything about this  
21      case.

22             We'll see you all in the morning at what  
23      time?

24             JURORS: 9:30.

25             THE COURT: 9:30, all right. Have a good

1 evening.

2 (Jury exits the courtroom.)

3 THE COURT: I'm gonna take about five  
4 minutes, and then plow into the next matter.

5 (RECESS)

6 BAILIFF: All rise. Please be seated.

7 THE COURT: Criminal conspiracy.

8 MR. PHILLIPS: And, Your Honor, I guess  
9 just for the record, Defendant Pangalangan,  
10 would join in with counsel's motion.

11 THE COURT: You don't know what he's  
12 accused of?

13 MR. PHILLIPS: Not a thing, correct.

14 THE COURT: Okay, what says the State?

15 MR. STONE: Your Honor, we go back to State  
16 v. Gentry, when it comes to the adequacy of the  
17 indictment, specifically, in this case.

18 It specifically talks about, number one,  
19 the Court knowing what sentence to hand down,  
20 that's not a question. The Court has what  
21 sentence to hand down?

22 Second, where the Defendant recalled  
23 whether he knows to plea either an acquittal or  
24 a conviction, whether he needs to plead guilty  
25 or go to trial. And then it really talks about,

1 and something that was interesting that I didn't  
2 know until just a few minutes ago, in  
3 determining whether an indictment meets the  
4 sufficiency standard, and, again, requiring it  
5 as a notice for them for crimes that we're  
6 charging them with, the Court must look at the  
7 indictment with a practical eye, and viewing all  
8 the surrounding circumstances.

9 And they mention a case called State v.  
10 Adams, 277SC Rule 15. So I looked at State v.  
11 Adams during the break that we just had. State  
12 v. Adams, they charged him with burglary. And  
13 in burglary, as Your Honor knows, is breaking  
14 and entering into a dwelling, with the intent to  
15 commit a crime therein. The argument by the  
16 Defendant was, well, you didn't say what crime I  
17 was gonna commit when I broke into the house,  
18 therefore, the indictment is insufficient.

19 The Court said, no, that's not, the Judge  
20 can look at all of the circumstances, and in  
21 this case, Your Honor, you've got three  
22 indictments.

23 These Defendants were charged with three  
24 indictments at the exact same time. They know  
25 what they're here for. They know that the

1 conspiracy is simply the two Defendants working  
2 together. If it is insufficient from an  
3 evidentiary standpoint, that would be something  
4 at the directed verdict stage, but for this a  
5 sufficiency of the indictment question is, do  
6 they know what they're defending?

7 And I think it's a little bit incredulous  
8 to say that they don't have a clue what the  
9 conspiracy comes from.

10 THE COURT: In a conspiracy you have common  
11 law conspiracy, and what's the other?

12 MR. STONE: I apologize, I'm sorry?

13 MR. PHILLIPS: Conspiracy?

14 THE COURT: Conspiracy, yeah.

15 MR. PHILLIPS: It's a statutory issue.

16 THE COURT: Statutory or common law. And  
17 this is statutory, let's see.

18 MR. STONE: I've got statutory, and I think  
19 I put that. I don't have the indictment, I  
20 handed the indictment back up to you, so --

21 THE COURT: It says \* --

22 MR. STONE: Okay.

23 THE COURT: -- to the statute, it mentions  
24 the statute.

25 MR. PHILLIPS: Again, a burglary case,



1       where he says, we broke into the house at 1517  
2       Maple Street with an intent to commit a crime  
3       therein. Yeah, that puts you on notice. You  
4       know what it is you can defend. We broke into  
5       the house, we didn't break into the house, we  
6       were invited to the house, I have an alibi, I  
7       wasn't at the house, but for this to say they  
8       conspired to commit some unlawful purpose,  
9       unspecified, and bring two separate charges.  
10      And so there could be a conspiracy to commit  
11      murder, it could be a conspiracy to hurt this  
12      child, or it could be a conspiracy to cover up  
13      whatever happened afterwards.

14             And if we go into opening statements,  
15      again, those are wildly distinct, or at least  
16      very distinct factual scenarios.

17             THE COURT: Well, you want them to say they  
18      conspired to commit a murder, or conspired to --  
19      the statute involving assault, great bodily  
20      injury on a child?

21             MR. PHILLIPS: Or did they conspire to  
22      commit a felony, did they conspire to cover --  
23      something. I don't want them to do that, but  
24      what I want you to do is quash the indictment,  
25      because --

1 THE COURT: Well, I know --

2 MR. PHILLIPS: -- we have --

3 THE COURT: -- but if they're required to  
4 do what you seem to suggest, that'll elevate the  
5 crime to maybe an accessory before the fact, or  
6 an accessory after the fact. Are you asking --  
7 is that what you're sort of seeking?

8 MR. PHILLIPS: No, and they haven't --

9 THE COURT: Well, if they did.

10 MR. PHILLIPS: Yes --

11 THE COURT: If they did what you're saying  
12 they should have done --

13 MR. PHILLIPS: I mean if they did what --

14 THE COURT: -- would that make them an  
15 accessory?

16 MR. PHILLIPS: I don't think they could --  
17 not if they're -- I don't think they could be an  
18 accessory to a crime they're accused of having  
19 committed. I think they could --

20 THE COURT: All right.

21 MR. PHILLIPS: -- either be a principal or  
22 an accessory.

23 THE COURT: Uh-huh.

24 MR. STONE: So if they're accused of having  
25 committed the murder, I don't think that they

1 can be an accessory to that murder also. I  
2 think that what they should do, if they're gonna  
3 say you conspired to commit --

4 THE COURT: But you can't be charged with  
5 the murder and an accessory --

6 MR. STONE: To the murder.

7 THE COURT: -- before the fact?

8 MR. STONE: I don't -- no, sir, I don't  
9 believe that you can. I think you are either a  
10 principal or an accessory. And I also think the  
11 accessory before the fact, or the principal  
12 distinguishes, it's sort of academic.

13 THE COURT: Well --

14 MR. STONE: But in this case --

15 THE COURT: -- maybe this discussion is  
16 academic, because where does the law require to  
17 specify anything more than this indictment does?

18 MR. STONE: I think if this is --

19 THE COURT: It doesn't say -- do you have  
20 any authority that the State must specify that  
21 they're in conspiracy to cause great bodily  
22 harm, conspiracy to commit a murder, such as  
23 your burglary, the burglary that was referenced,  
24 a conspiracy to commit a burglary?

25 Do you have authority, where the indictment

1 must be more specific than this?

2 MR. LOY: Your Honor, I do not have  
3 authority at my hand which says that. My  
4 understanding is, the principal is --

5 THE COURT: All right.

6 MR. LOY: -- that this indictment is to  
7 serve as a --

8 THE COURT: If it exists, Mr. Phillips  
9 would have it, I tell you that.

10 MR. LOY: My understanding -- well, I don't  
11 know, he didn't make this motion, so maybe he  
12 didn't look at it ahead of time.

13 THE COURT: He joined in though.

14 MR. PHILLIPS: Thank you, Your Honor.

15 THE COURT: Mr. Phillips, anything further?

16 MR. PHILLIPS: Not anything further, no  
17 argument.

18 THE COURT: Anything further on this  
19 issue?

20 MR. STONE: No, sir.

21 THE COURT: I think the indictment is  
22 officially sufficient, based on the statute.  
23 And if the State fails to connect the dots and  
24 prove a criminal conspiracy in violation of the  
25 law, then the Court will direct a verdict.

1 MR. PHILLIPS: The only thing I will just  
2 say, that we have the presentation of reckless  
3 disregard for human life, but conspiracy is the  
4 intentional act. I think we do have that  
5 contradiction, and I'm gonna keep bringing it  
6 up.

7 THE COURT: Yeah, but just reflecting on  
8 the case they had in Clarendon County, where  
9 boys were accused of going in and robbing and  
10 committing -- killing an owner, facing the death  
11 penalty, and the only thing they came out being  
12 convicted of is criminal conspiracy, so it  
13 stands alone.

14 And Solicitor Darrell was happy at least he  
15 charged with criminal conspiracy.

16 MR. STONE: We're not really concerned  
17 about that at this point.

18 THE COURT: What's next?

19 MR. PHILLIPS: Yes, Your Honor. The  
20 Defendant, Pangalangan, does have a motion for  
21 suppression of untimely and prejudicial  
22 disclosure of evidence.

23 A couple of different things, there's  
24 multiple pieces of evidence that I would argue  
25 was disclosed late, but I'm going to focus on

1       one first. Specifically, on August 18th the  
2       State conducts tests on a vehicle, in which the  
3       decedent was found, that was 1,474 days after  
4       the Defendant's arrest on August 5th, 2019.  
5       Failed to disclose those video recordings, or  
6       tell us about it, I believe, in the status  
7       conference that we had until Wednesday, August  
8       23rd, the five days later, with no accompanying  
9       information, just two short videos of the  
10      vehicle, and some tests being done.

11             And then subsequently disclosed Volkswagen  
12      certifications for Jason Bigalotti (phonetic)  
13      and Michael Molinski on this Friday, August  
14      25th, with no additional explanation or  
15      documentation, no reports.

16             It appears, based on what is presented in  
17      the witness list, that the State is gonna either  
18      present testimony, or presentation of these  
19      videos for Michael Molinski and Jason Bigalotti  
20      in this case.

21             Now, again, I don't want to muddy the  
22      water, so I'm gonna stay with just this one  
23      first. In looking at kind of the timeline here,  
24      we go all the way back to where I first came on  
25      the case on November 9th of 2022.

1 I mailed a copy of the motion for  
2 discovery, Rule 5, Brady and Rule 5 to the  
3 Solicitor's Office. On November 16th of 2022,  
4 Solicitor Duffy Stone sent a letter to all the  
5 defense counsels indicating his intent of  
6 calling this case for trial in August.

7 And then on May 24th of 2023 our Supreme  
8 Court issued a General Sessions docket  
9 management order, it became effective on July  
10 23rd of 2023, requiring the timely disclosure of  
11 discovery.

12 Specifically indicating that the case  
13 should not be put on a trial docket until all  
14 the discovery is complete and been provided to  
15 defense counsel.

16 Specifically, it says, "The Solicitor shall  
17 not list any case in which the State, the  
18 Solicitor and law enforcement has not complied  
19 with Rule 5 and Brady at the time of the post-  
20 trial docket is transmitted to the Chief and the  
21 Clerk of Court, and used in order, in terms of  
22 discovery, is any material subject to a --  
23 discovery under Rule 5, and then specifically on  
24 June 21st of 2023, we received an email from the  
25 Clerk's Office, scheduling this case for trial

1 during this Court term of August 28th.

2 And then on August 7th I emailed a  
3 supplement motion of discovery to them  
4 requesting different things, specifically, would  
5 have been additional video recordings. And then  
6 on August 18th we had our status conference, and  
7 these tests were conducted on the vehicle. And  
8 then on August 23rd, again, that's when the  
9 disclosure of the videos were provided in an  
10 email.

11 At that point, again, no accompanying  
12 information, it was just two videos. And then  
13 two days later, last Friday, we had  
14 certifications for Jason Biagotti and Michael  
15 Molinski just Volkswagen certifications, no  
16 reports of what they did. I did a follow-up  
17 email on August 26th the next day to Solicitor  
18 Thornton, asking if -- or inquiring when the  
19 videos were done, who was present when the  
20 videos were recorded, if background checks on  
21 these potential witnesses were done, the subject  
22 matter on which these potential expert witnesses  
23 are expected to testify and the substance of  
24 their testimony.

25 In response, Solicitor Thornton provided



1 the following: "The videos were done last  
2 Friday. Present were Molinski, Vigaloti, Dylan  
3 Hightower and Jason Chapman. They are the same  
4 folks who may be heard and seen in the videos.  
5 Do not have raps on them, but we'll get those to  
6 you Monday, along with the others."

7 Sorry, Madam Court Reporter. "Those are  
8 the same folks who may be heard or seen in the  
9 videos, do not have raps on them, but will get  
10 those to you Monday, along with the others.  
11 They may testify as to the vehicle, its  
12 operation and its interaction with the key fob.

13 Also, whether the key fob can be locked in  
14 the car." And so, specifically, again, the  
15 others, take this one piece at a time. When  
16 we're looking at how this unfolded, it's been  
17 1,474 days since the Defendant's arrest, 280  
18 days since Solicitor Stone's letter calling the  
19 case for -- saying he's gonna call the case for  
20 trial in August, 91 days since our Supreme Court  
21 issued the General Sessions docket management  
22 order, 63 days after we sent an email -- or  
23 received an email from the Clerk of Court's  
24 Office scheduling this case for trial, 16 days  
25 since we sent a supplemental motion for

1       discovery five days after the tests were  
2       conducted, and then five days before trial for  
3       just the videos.

4               I've got to be specific here, my motion is  
5       to suppress the testimony and videos on this  
6       specific -- and, again, I'm going to the others  
7       in a second, but, specifically, suppress this  
8       evidence, not only based on Rule 5, but also  
9       given the General Sessions docket management  
10      order, and Early v. State, our South Carolina  
11      Supreme Court, that's 418SC255, noted that the  
12      purpose of Rule 5 is for the defendant to have a  
13      meaningful opportunity to prepare a defense,  
14      based on evidence that may be introduced at  
15      trial.

16              Given this situation, the prejudice is now  
17      I don't have the time to retain my own expert to  
18      review the car, inspect the car, review the  
19      videos, and then, of course, potentially have  
20      rebuttal expert testimony at trial, because of  
21      the eleventh-hour disclosure of this evidence.

22              So to me the -- our specific arguments that  
23      the prejudice on its face it's apparent, through  
24      the late nature, it's four years later, and  
25      we're having potential expert witnesses. And

1 the way it's done on Wednesday, and then Friday  
2 after it was done the previous week, leaves us  
3 in a position where I don't have the ability to  
4 retain my own independent expert to conduct  
5 tests and inspections, and potentially have  
6 rebuttal testimony.

7 So I'll save the rest, but I think,  
8 specifically, given under what's here, and I  
9 hate to pound the chest a bit, but I think we've  
10 got to -- there has to be sending a message that  
11 the whole purpose of timely disclosure of  
12 evidence means something, and having this is a  
13 tactic that puts defense counsel at a  
14 disadvantage.

15 It impairs the Defendant's right to a fair  
16 trial, our right to present a meaningful  
17 opportunity -- or having a meaningful  
18 opportunity to present a full and complete  
19 defense. And that certainly violates the Fifth,  
20 Sixth, Fourteenth Amendments to the United  
21 States Constitution, Article 1, Sections 3 and  
22 10, or -- excuse me, 3 and 14 of the South  
23 Carolina Constitution.

24 It's just fundamentally unfair to have  
25 discovery provided in this manner, specifically,

1           when there's no reports given, and given just  
2           over the amount of time provided. And I'll take  
3           it piece-by-piece, but that's the first.

4           THE COURT: Piece-by-piece on the same  
5           issue?

6           MR. PHILLIPS: Well -- so we have multiple  
7           different issues related to discovery, but for  
8           now I figured it's easier for the record and  
9           easier for Your Honor, if we take it by  
10          evidence.

11          THE COURT: All right.

12          MR. PHILLISP: Thank you.

13          THE COURT: Anything you have to say on  
14          that, Mr. Loy?

15          MR. LOY: Your Honor, I would like to join  
16          in the motion. In all candor, Mr. Gatch and I  
17          are more than Mr. Phillips, and I don't know  
18          that --

19          THE COURT: All right.

20          MR. LOY: Yes, sir.

21          THE COURT: Response by the State?

22          MR. STONE: Thank you, Your Honor, may it  
23          please the Court?

24          THE COURT: Yes, sir.

25          MR. STONE: Your Honor, I think this may

1 fall under the category of no-good deed goes  
2 unpunished, when I provided something, I'm not  
3 required to provide. Obviously, under Rule 5, I  
4 don't have to tell Mr. Phillips who my witnesses  
5 are, or what the substance of their testimony is  
6 going to be, but I did try to do that when he  
7 asked. I would also note for the Court, and  
8 it's actually in Mr. Phillips' motion on page  
9 six of 11, there's this thing we call continuing  
10 duty to disclose.

11 So these videos were created at the test,  
12 determining the locking and the interaction of  
13 the vehicle with the key fobs on Friday, and it  
14 was Friday, I think it's the 18th, it was -- and  
15 it may have been the same day as our status  
16 conference, but it was late in the afternoon.

17 Mr. Hightower was present with them. The  
18 videos in question, I think the two videos  
19 together are a total of a minute, or less than a  
20 minute. And they were done -- it was created on  
21 Friday, that Friday, the 18th. I believe they  
22 were uploaded into our system by Monday, and I  
23 sent them to him -- sent the two things on  
24 Wednesday. He emailed me back, and asked --  
25 well, the email he basically read you, Judge,

1       you know, who are these people and what's the  
2       substance of their testimony? Which I gave him  
3       the basic tenant of, but, you know, and the case  
4       management order I've heard -- he's the second  
5       or third defense lawyer that I've heard get up  
6       and say that it says the discovery's got to be  
7       complete.

8               What it says is, that we have to be in  
9       compliance with Brady and Rule 5, and stuff like  
10      this is why. This information didn't exist  
11      until that day, and I turned it over -- it was  
12      done on Friday, I turned it over the following  
13      Wednesday, you know, and the car --

14             THE COURT: Is this documented being  
15      elevated to the status of a statutory rule?

16             MR. STONE: Yes, sir, I'm getting beaten up  
17      with it just about every time. The first thing  
18      they say is, "Well, Judge, they gave me  
19      something.

20             They gave me a piece of paper after the  
21      case was put on the trial docket, and that's in  
22      violation of the docket management order," and  
23      it isn't. What it says is, we have to be in  
24      compliance with Rule 5 and Brady. And I would  
25      also point out that the --

1           THE COURT: It also says Judges are to  
2 manage the discovery and --

3           MR. STONE: Yes, sir.

4           THE COURT: -- Judges are to do this, and  
5 Judges are to do that.

6           MR. STONE: Yes, sir. And I would also --

7           THE COURT: You know, it's -- is really a  
8 misnomer?

9           MR. STONE: I'm sorry, Judge?

10          THE COURT: -- a misnomer, docket  
11 management order, is that the --

12          MR. STONE: I think it's an attempt to help  
13 everybody manage the docket properly, Judge.  
14 Beyond that, that's a -- those decisions are  
15 made above my pay grade, but I can tell you what  
16 it says. And what it says is, that we're  
17 supposed to comply -- be in compliance with Rule  
18 5 and Brady. The other thing I would point out  
19 is --

20          THE COURT: And it also says Judges are to  
21 do these first appearances and second  
22 appearances, and coordinate this, and schedule  
23 that, and now it's being cited in motions. A  
24 motion to suppress based on the violation of a  
25 docket management order.

1 MR. PHILLIPS: I have to jump in, Your  
2 Honor.

3 THE COURT: No, you don't.

4 MR. STONE: That is --

5 THE COURT: You don't have the privilege of  
6 jumping in. That, you know, rules are adopted,  
7 and there's ways, generally, through the  
8 Legislature, or if the Supreme Court's going to  
9 amend the rule, then it appear an objection now,  
10 a period through which it becomes law, unless,  
11 you know, whenever the procedure takes place,  
12 but this is new to me, that an order trying to  
13 manage the docket is being elevated in a murder  
14 trial, as a basis for the motion to suppress.  
15 Now you can jump in there.

16 MR. PHILLIPS: thank you, Your Honor. That  
17 is -- the General Sessions docket management  
18 order is at the bottom of the pile of the things  
19 that I'm relying on. We have not only --

20 THE COURT: I realize that, that you're  
21 including it in your argument.

22 MR. PHILLIPS: Sure, 'cause it --

23 THE COURT: So you've got enough to go on,  
24 right?

25 MR. PHILLIPS: It -- I think --



1 THE COURT: Without throwing that in there.

2 MR. PHILLIPS: Well, I think, ultimately,  
3 the Chief Justice would agree he -- for the  
4 Supreme Court to issue this, it must have some  
5 basis in that, but also due process, fundamental  
6 fairness, obviously, our right to  
7 confrontational witnesses, her right to have  
8 effective assistance of counsel.

9 THE COURT: I think you cited as a basis --  
10 or one of the bases is a motion to suppress, and  
11 that's my position on it, regarding this docket  
12 management order. It's not the Court's, but it  
13 includes a lot of things that are not mandated  
14 by the discovery rules.

15 MR. PHILLIPS: Yes, Your Honor. And I  
16 guess just to be clear, my request is also made  
17 on the Defendant's right to a fair trial, his  
18 right to confront confrontational witnesses,  
19 compulsory process, meaningful opportunity to  
20 present a full and complete defense, effective  
21 assistance of counsel.

22 THE COURT: Well, we heard the first time  
23 on all the other ones.

24 MR. PHILLIPS: and Rule 5.

25 THE COURT: Okay, I understand. I

1 understand your position --

2 MR. PHILLIPS: I know, Your Honor.

3 THE COURT: -- all around, but --

4 MR. PHILLIPS: It's just -- it puts -- from  
5 a defense attorney standpoint, I'm now in a  
6 position where I don't have time to do what I  
7 need to do.

8 THE COURT: I understand, you said that the  
9 first time.

10 MR. STONE: Nothing further, Judge.

11 THE COURT: Well --

12 MR. STONE: Your Honor, with one -- I  
13 apologize, may I add one thing?

14 THE COURT: Yes, sir.

15 MR. STONE: I was -- I meant to -- I was in  
16 the process of saying this and I stopped, and I  
17 apologize for interrupting the Court. I would  
18 also point out this is not -- this is about  
19 functionality with the fobs, and how the fobs  
20 interact with the vehicle.

21 The vehicle's been impounded, and, you  
22 know, defense counsel could have gone and seen  
23 it, or gone and looked at it any time he got  
24 ready. We haven't prevented him from doing so,  
25 just like we did, so --

1           THE COURT:   Yeah, well, his -- I mean the  
2 point is a valid point, offering an expert  
3 witness and an expert witness' report three days  
4 before trial --

5           MR. PHILLIPS:   But Your Honor --

6           THE COURT:   -- or five days, or -- well,  
7 there is no report, so what's the basic -- what  
8 are they going to testify to?

9           MR. STONE:   Your Honor, they will testify,  
10 as to the fact that -- as to how the remotes,  
11 the key fobs operate when the vehicle is  
12 running, versus when it is not running.

13           I mean it's a demonstrative -- you can look  
14 at the videos and see what they're doing. It's  
15 not really expert testimony in the sense -- like  
16 a DNA analyst, or something, they're basically -  
17 - and that's why it was videotaped.

18           THE COURT:   I believe my question was  
19 what's expert about that?

20           MR. PHILLIPS:   Right.

21           MR. STONE:   It isn't, it doesn't require  
22 unexpert opinion. There isn't gonna be opinion  
23 testify, it's just -- it would be factual  
24 statements.

25           MR. PHILLIPS:   In response, they provided

1 two days later, Friday, certifications from  
2 Volkswagen, whether they end up pushing to  
3 qualify, they're gonna have these individuals up  
4 there in a capacity, with somebody that has at  
5 least some type of training and experience that  
6 the jury does not have, whether they try to  
7 qualify them --

8 THE COURT: Yeah.

9 MR. PHILLIPS: -- or not.

10 THE COURT: I'm going to defer ruling on  
11 that, but I intend to agree with the defense on  
12 the extent of offering an expert a week, or  
13 three or four days before trial, but I'll defer  
14 ruling, because I haven't heard enough testimony  
15 or anything about the case, to get a sense of it  
16 all. I'm sure the case is not going to turn on  
17 what they did last week.

18 MR. PHILLIPS: Well --

19 THE COURT: I would hope not.

20 MR. PHILLIPS: -- our specific thing would  
21 be that the State is going to rely heavily on  
22 that.

23 THE COURT: Uh-huh.

24 MR. PHILLIPS: And with that --

25 THE COURT: How do you know that?

1 MR. PHILLIPS: Well, again, I would be able  
2 to hire my own potential expert to do their own  
3 inspection, conduct an independent, you know,  
4 potentially, have a rebuttal, if something's  
5 different.

6 THE COURT: But I mean you've got time to  
7 do that if you want to do it. I said I would  
8 defer ruling on the motion.

9 MR. PHILLIPS: But I'm in trial now.

10 THE COURT: Well, if you want to get  
11 someone from Volkswagen to go out there, if you  
12 want to, you know, I don't know. You know, it's  
13 -- I'm deferring ruling on it, but you're  
14 continuing to argue it, basically.

15 MR. PHILLIPS: I understand.

16 THE COURT: All right.

17 MR. PHILLIPS: I'm just making my point  
18 clear, Your Honor, I followed that.

19 THE COURT: What's the next issue?

20 MR. PHILLIPS: Yeah, so the additional  
21 issue, there is a CV that was provided very  
22 recently, I think within the last -- the  
23 Solicitor can correct me if I'm wrong, within  
24 the last week or so of David Eagerton, and  
25 there's no reference in discovery of who this

1 individual is.

2 And so I asked today, you know, the basis  
3 of the testimony? And I think this will parlay  
4 into another motion that I have, that this  
5 individual is going to testify as an expert  
6 witness, to relay the alleged drug use from the  
7 Defendants.

8 And so I think we've got a couple of  
9 different issues related to that. One, again,  
10 with -- I understand his position is that he  
11 doesn't have to give us any heads-up as far as  
12 his witnesses, but now that we have that, we  
13 certainly can wait to have that resolved with --  
14 because I do have a motion related to that, not  
15 only the 404(b), but also additional motions  
16 related to that, so --

17 THE COURT: I don't make preliminary  
18 rulings on these evidentiary issues, prior to  
19 the trial.

20 MR. PHILLIPS: So the basis -- we'll just  
21 address it when they call the witness, Your  
22 Honor.

23 THE COURT: Okay.

24 MR. PHILLIPS: Based on the Solicitor's  
25 statement earlier, as far as their intent is

1       only to present the one statement from the  
2       scene, the other argument that I would have  
3       related to discovery is no longer necessary. I  
4       understand your ruling, it certainly is in  
5       abeyance at this point, and so we'll move to the  
6       next motion.

7               THE COURT: Okay. I only have one thing in  
8       abeyance, or two?

9               MR. PHILLIPS: Specifically, I believe  
10      whether you're going to keep out testimony in  
11      evidence, but, essentially, my motion to  
12      suppress the videos and the testimony --

13              THE COURT: Key fob type testimony?

14              MR. PHILLIPS: That's correct.

15              THE COURT: All right.

16              MR. PHILLIPS: Now, one matter may be  
17      cleared up from the Solicitor. Again, their --  
18      the lead investigator on this case  
19      unfortunately, passed away it looks like on  
20      January 16th of 2021, and he handled a great  
21      deal of evidence. And I think, Your Honor, what  
22      you just said, that you're not gonna do any  
23      pretrial evidentiary rulings, so I have to just  
24      address it as things arrive during the trial,  
25      but we have significant issues of potential

1       hearsay, not only investigative hearsay,  
2       pursuant to State v. King, but also just the  
3       hearsay level of the documents that he dealt  
4       with, because we have a confrontation clause  
5       problem as well, and then foundational issues,  
6       and, potentially, authentication issues of  
7       evidence.

8               So a lot, unfortunately, happens when you  
9       have one individual who worked on evidence, and  
10      is, essentially, a motion for suppression of  
11      evidence, due to unavailable witness. However,  
12      based on Your Honor's statement, that you're not  
13      gonna provide any pretrial rulings on  
14      evidentiary, I don't want to go too far, and  
15      Your Honor say you're not ready to address that.

16             THE COURT: Well, I'd still like to know  
17      what's coming down the pipe.

18             MR. PHILLIPS: And, unfortunately, the  
19      problem --

20             THE COURT: Suppression based on the --

21             MR. PHILLIPS: The unavailability --

22             THE COURT: -- unavailability of a witness.

23             MR. PHILLIPS: Yes, Your Honor, and the  
24      problem that I'll have at this point is, I  
25      don't, obviously, have privy to what evidence



1 the State is gonna seek to admit, and so that is  
2 a conceptual problem on my end that we'll just  
3 have to address at the appropriate time; but I  
4 wanted to make sure Your Honor is aware of that  
5 issue.

6 THE COURT: okay. Any comment the State  
7 wants to make about that?

8 MR. STONE: I don't understand it, Your  
9 Honor, I apologize, but suppress what? I can't  
10 respond, if he moves to suppress what exactly?

11 MR. PHILLIPS: Well, I guess the first --  
12 if the State's going -- willing to identify what  
13 pieces of evidence that only the sergeant  
14 handled, that they intend to seek to present,  
15 then we could certainly address it piece-by-  
16 piece, or we can wait for the trial.

17 THE COURT: Yes, sir, we're having a trial  
18 before the trial.

19 MR. PHILLIPS: Well, I'm just trying to --  
20 judicial economy, Your Honor, if we handle it  
21 now, then we don't have to stop.

22 THE COURT: All right. Well, a lot of  
23 things that are legal as judicial economy are  
24 really judicial economy.

25 What's the next one?

1           MR. PHILLIPS: Yes, Your Honor, the next is  
2           kind of a joint motion for the State to disclose  
3           404(b) Lyle evidence. And, of course,  
4           Defendant's objection to the introduction of  
5           inadmissible propensity evidence. And so with  
6           that, the motion to disclose what potential  
7           404(b) evidence, that kind of then is bolstered  
8           by our objection to it, but --

9           THE COURT: What type of propensity  
10          evidence are we dealing with here?

11          MR. PHILLIPS: It depends what the --  
12          that's why I had the motion to disclose the  
13          404(b), because I can't unring the bell, if it  
14          comes out in trial, and I have to move for a  
15          mistrial.

16          THE COURT: That's when you make an  
17          objection, before the bell is rung.

18          MR. PHILLIPS: Unfortunately, sometimes  
19          that's impossible, and so I'm trying to deal wit  
20          that now, so we don't have a mistrial issue.

21          THE COURT: Okay. A response from the  
22          State?

23          MR. STONE: Your Honor, we're not gonna  
24          offer any propensity evidence, I don't think  
25          that's proper. I think any evidence that we

1 would offer, again, the defense should have time  
2 to object; but I will tell you that the only  
3 thing that falls under res gestae, as well as  
4 404(b) that would even be arguable, are two  
5 witnesses.

6 One is Brittany Honeycutt, and the other is  
7 Lindsey Lewis, both of them have given written  
8 statements. I'll be glad to give you a copy of  
9 those, as well as the defense. The defense  
10 already has a copy of the statements. And those  
11 statements, one of the witnesses was actually  
12 with Rita Pangalangan for the Friday, Saturday  
13 and Sunday, excuse me, I take that back, I  
14 apologize.

15 This happened on a Monday, the child was  
16 killed on a Monday. Rita Pangalangan left her  
17 child with this babysitter Friday, Saturday and  
18 Sunday, and she describes, basically, Rita  
19 Pangalangan leaving the child with her and  
20 taking off, and she doesn't see her for the full  
21 weekend, didn't know she was leaving.

22 That leads, literally, into that Monday, so  
23 this is, literally, part of the case itself  
24 under res gestae. The other witness is somebody  
25 who lived with Rita Pangalangan through the --

1       going up until, I believe, August the 1st, and  
2       this happened again on August the 5th. In her  
3       statement she said that, among other things --  
4       and, again, I'll give you the full statement, so  
5       you can view it, but among other things she said  
6       that Rita Pangalangan told her, "Take the -- I  
7       need you to take the child, and I need you to  
8       take her with you."

9               And she said, "I can't do that." The  
10       witness says, "I can't do that, I'm going to  
11       work." And she said, "Just take the child with  
12       you to work, and put her in the car, that's what  
13       I always do." That, to me, Your Honor, again,  
14       this is on August -- this is the timeframe that  
15       she's actually living with Rita Pangalangan. It  
16       goes directly to the reckless disregard for the  
17       safety of the child being something that Rita,  
18       apparently, does pretty consistently, that she  
19       used to put the child in the back of the car.

20              Again, these statements are all written,  
21       the defense has full statements to these things.  
22       They are about two pages a piece. In fact, Ms.  
23       Lewis' statement is two pages in order, Ms.  
24       Honeycutt's statement is four pages total, and  
25       the defense has that.

1 THE COURT: Yes, sir.

2 MR. PHILLIPS: Thank you, Your Honor. Any  
3 evidence of that nature that's not resulting  
4 from a conviction must be explained, or at least  
5 proved by clear and convincing evidence to be  
6 admissible, and pursuant to State v. Gorr, when  
7 a prior bad act, or similar to the one, where a  
8 person's being tried, the danger of unfair  
9 prejudice is enhanced. So not only under the  
10 404(b), if an exception applies, we argue that  
11 it doesn't, but if an exception applies, you  
12 still have the 403 analysis that the probative  
13 value of the evidence is substantially  
14 outweighed by its prejudicial effect.

15 And here it's not a result of a conviction,  
16 and it's highly similar, so the danger of unfair  
17 prejudice is enhanced under the case law. We  
18 would argue that this is the exact -- again,  
19 under propensity evidence, it's where there's  
20 smoke there's fire. This is the exact reason  
21 why this should not be presented.

22 THE COURT: All right.

23 MR. STONE: Your Honor --

24 THE COURT: I need to review that; do you  
25 have a copy of that

1 MR. STONE: Yes, sir, and I'll give you the  
2 statements as well.

3 THE COURT: All right.

4 MR. STONE: I'll also hand you State v.  
5 Smith (phonetic), which kind of outlines the use  
6 of both 404(b) and res gestae, it's actually a  
7 very good overview of the entire case, and, in  
8 particular, in child abuse cases, so I'll hand  
9 you that, and I'll give a copy of that to the  
10 defense as well, and I will give you these  
11 statements.

12 THE COURT: It's just a reaction to what  
13 I'm hearing about looking at cases and all that  
14 is, that the context -- the State is to prove  
15 the case regarding the death of a child, when  
16 you have I guess the defense is that it was an  
17 accident, it was inadvertent, it was a loving  
18 mother who would never do anything to hurt her  
19 child, or whatever, but I don't know that the --  
20 and, of course, the State can't wait until the  
21 defense decides to offer that defense, because  
22 the defense may not offer anything, so the State  
23 has to be able to prove this theory.

24 And, you know, I think there's  
25 circumstantial evidence, based on whether the

1           circumstances exist surrounding the situation.

2           I want to read these cases and --

3           MR. PHILLIPS:   Yes, Your Honor.

4           THE COURT:  -- and, hopefully, within the  
5           context of all this.  You know, every case is  
6           unique.

7           MR. STONE:  That said, it's that one case  
8           that's got -- it's, quite frankly, such a good  
9           analysis, Your Honor, that it mentions other  
10          cases, but it summarizes it all very well.  And  
11          I'll make -- can I make copies of these?  I have  
12          hole punches in them and I --

13          THE COURT:  Sure.

14          MR. STONE:  -- don't want to hand up to the  
15          Court something that is hole-punched.

16          THE COURT:  -- up here, they're --

17          MR. STONE:  Sorry.

18          THE COURT:  -- when --

19          MR. STONE:  I apologize, sorry, thank you.

20          MR. PHILLIPS:  And, again, remember the  
21          course of 404(b) law has, you know, has changed  
22          a way, I mean, specifically, we need to look at  
23          State v. Perry, 430SC24, but, again, going back,  
24          specifically, here, and what I have for Your  
25          Honor, so you can follow, when you have your

1       ability to read their case, what was handed to  
2       Your Honor is the objection to 404(b), again,  
3       what was marked as Defense Exhibit 1 before --  
4       or, excuse me, 10.

5               Under State v. Fletcher, our Supreme Court  
6       explained the clear and convincing evidence is  
7       the degree of proof, which will produce the  
8       amount of trier of facts affirmed as to the  
9       allegations sought or established, that's when a  
10      prior bad act does not result from a conviction,  
11      it must be proved by clear and convincing  
12      evidence.

13             If you have someone come in and say, "Well,  
14      I was told this a few days before," and it's not  
15      a result of clear and convincing evidence, and  
16      you take, based off of the case law, that it  
17      must be proven by that level of threshold of an  
18      evidentiary standard, and then you put that in  
19      context with State v. Gorr, that when a prior  
20      bad act is similar to one for which the  
21      Defendant is being tried, the danger of unfair  
22      prejudice is enhanced.

23             THE COURT:   Okay.

24             MR. PHILLIPS:   Our position would be, even  
25      if it satisfies the 404(b) exception in Your



1 Honor's mind, then it would still have to  
2 survive the 403, and our argument would be that  
3 it survives neither, but certainly not the 403,  
4 given the context of what's provided, that its  
5 prejudicial effect is highly outweighed --  
6 substantially outweighed by any probative value  
7 that would be presented.

8 THE COURT: That leaving a child with a  
9 babysitter you tend to think that the person is  
10 guilty of murder?

11 MR. PHILLIPS: that's gonna be their --  
12 that's exactly the argument they said they're  
13 gonna make. I mean that's exactly the argument  
14 from which they're gonna say.

15 THE COURT: In your case analysis you're  
16 saying prior bad acts tend to my child, or have  
17 to wait in the car while you go to work, or  
18 whatever.

19 MR. PHILLIPS: That's just not the way the  
20 State's gonna present it, and I wish it was  
21 that --

22 THE COURT: Okay, well, we'll evaluate all  
23 this. That's another reason I won't rule in  
24 advance.

25 MR. PHILLIPS: Understood, Your Honor.

1 THE COURT: Critical issues.

2 MR. PHILLIPS: Understood, Your Honor. The  
3 next motion really deals with -- I think  
4 Solicitor Stone said he was gonna mark, or pre-  
5 mark the photographs.

6 We would have 403 objections of photographs  
7 there.

8 THE COURT: Well, anything that they're  
9 offering, you do not object to?

10 MR. PHILLIPS: I haven't seen what  
11 they're --

12 THE COURT: You don't know of anything that  
13 you will object to.

14 MR. PHILLIPS: That's the problem.

15 THE COURT: All right.

16 MR. PHILLIPS: Yeah.

17 THE COURT: Okay.

18 MR. PHILLIPS: I'm sure I will.

19 THE COURT: What about the photographs?  
20 What's the story there?

21 MR. PHILLIPS: I don't know if they had an  
22 opportunity to Premark anything yet. I know  
23 they were in the process of wanting to do that.

24 THE COURT: We have gory photographs.

25 MR. STONE: We are not -- Judge, here's --

1       the -- the only -- we've actually -- going  
2       through I think the Supreme Court just actually  
3       handed down a decision, Nelson, in State v.  
4       Nelson, the last week, or the week before last.  
5       It has not become permanent yet, but it talks  
6       about autopsy pictures.

7               We actually went back, we were going to  
8       offer a one autopsy pictures of the child's leg.  
9       We've taken that out now. We do offer scene  
10      photographs. We have the child that was  
11      actually taken out of the car at the scene, and  
12      on the scene, and that's the only photographs we  
13      have. I'll provide -- hand those up to you, but  
14      scene photographs, you know, even if you look at  
15      State v. Collins, which is a case, in which you  
16      had a actual animal mauling case, in which the  
17      child autopsy pictures were taken, and were  
18      admitted into evidence. This is not --

19             THE COURT:   okay --

20             MR. STONE:   -- a --

21             THE COURT:   There's a similar case out of  
22      Chesterfield?

23             MR. STONE:   Yes, sir, and that, you know,  
24      and even in all those cases they're all  
25      referencing pretty much autopsy pictures.

1           The only photographs we're offering are  
2           scene photographs. This is literally how the  
3           child would have looked in the car, the way the  
4           child was taken out of the car, and then the way  
5           the child was left after she was taken out of  
6           the car.

7           Let me -- there are four photographs, and  
8           I'm going to, at this point, Your Honor, if I  
9           could go ahead and mark those a State's exhibit,  
10          so that you'll have reference to them. I'd like  
11          to do that.

12          THE COURT: All right.

13          MR. STONE: Your Honor, could we look at  
14          those briefly before they're handed up?

15          THE COURT: Sure.

16          MR. STONE: I'll be happy to show this  
17          first to the defense. I'll also hand Your  
18          Honor. What we rely heavily on, this is the  
19          South Carolina Supreme Court case and the crime  
20          scene photos.

21          In that situation, this is a similar case,  
22          it's a 15-year-old girl that was, I believe,  
23          raped and murdered, and then the two defendants  
24          put a pipe bomb in her mouth, and it exploded.  
25          The crime scene photos were taken not

1 immediately afterwards, as they were in this  
2 case, but I believe 46 days later. In fact, the  
3 defense brought up a big objection to the fact  
4 that these are not actual crime scene photos.  
5 This is how the body was found by law  
6 enforcement.

7 South Carolina Supreme Court said this was  
8 proper to allow those into evidence, under the  
9 same analysis that we do on the other ones,  
10 because it shows how the Defendant left, what  
11 Defendant did, how they left the victim, and  
12 that was the very first look that law  
13 enforcement had.

14 In this case, the photographs that we're  
15 offering, and I'll hand these up to you. I  
16 think I've shown them now to the defense. This  
17 is of the very day, within moments after this --  
18 after the child was taken out of the car, and  
19 this is State's Exhibit 1, 2, 3 and 4, and I'll  
20 hand those up to you.

21 THE COURT: Can you make photocopies of  
22 these?

23 CLERK: Yes, sir.

24 THE COURT: The number of photographs you  
25 were referring to?

1           MR. PHILLIPS: Yes, sir, now that we have  
2 identified photographs, specifically, as stated  
3 by Solicitor Stone, under State v. Nelson that  
4 did come out back on August 9th from our South  
5 Carolina Supreme Court.

6           Specifically, our position is that we move  
7 for suppression of the evidence here, based --  
8 that the photos have little to no probative  
9 value, as to any disputed fact, or to an element  
10 of murder. And, again, under our 403 objection  
11 another case that was recently decided by our  
12 Supreme Court, State v. Jones, that was filed on  
13 March 29th, the Courts quoted, "It is well  
14 settled -- or well established that photographs  
15 that are calculated to arouse the sympathies and  
16 prejudice of the jury are excluded, if they're  
17 irrelevant and unnecessary with the issues at  
18 trial.

19           And, of course, you know, the buzz word is,  
20 "Enflame the passions and prejudice of the  
21 jury," specifically, that the jury would make a  
22 decision based on an improper basis , not based  
23 on the evidence.

24           Seeing the photos alone would invoke such a  
25 response, that the jury would not base their

1 decision -- their verdict solely on the  
2 evidence, but based on the graphic nature of the  
3 photographs, that any probative value of those  
4 photographs are substantially outweighed.

5 THE COURT: Do you object to all the  
6 photographs?

7 MR. PHILLIPS: Yes, Your Honor.

8 THE COURT: All right.

9 MR. LOY: With Mr. King we don't have that  
10 objection, Your Honor.

11 THE COURT: All right. We'll address that  
12 issue later.

13 MR. PHILLIPS: Thank you, Your Honor, and  
14 our specific issue is just that a pathologist  
15 will be able to testify, explain the injuries,  
16 that the State will have other means of evidence  
17 that they can present through testimony of the  
18 pathologist through the people that were present  
19 at the scene, to explain what was there that's  
20 not necessary to actually have to show the  
21 photographs, as far as what actual probative  
22 value would be presented by actually having to  
23 publish those to the jury.

24 THE COURT: All right, we'll address that  
25 issue in the course of the trial.

1           Is there anything that needs to be marked  
2           for identification prior to being admitted or  
3           not?

4           What else do we have?

5           MR. PHILLIPS: Thank you, Your Honor, the  
6           Defendant, Pangalangan, moves to prohibit any  
7           inadmissible hearsay testimony regarding  
8           references to any illegal activity that's not  
9           contained within the scope of the indictments,  
10          and that's under the Fifth, Sixth and Fourteenth  
11          Amendments to the United States Constitution,  
12          Article 1, Section 14 of the South Carolina  
13          Constitution.

14          If we look at Rules 801 and 802 of the  
15          South Carolina Rules of Evidence, specifically,  
16          this hearsay evidence that implicates the  
17          Defendant, or infers the Defendant's involvement  
18          in some type of illegal activity, or illegal  
19          doing of, I believe, based on my discussion with  
20          Solicitor Thornton, they plan to call an expert  
21          to testify about drug use from either one or  
22          both of the Defendants.

23          And, specifically, given that our argument  
24          would be that they not be able to present that,  
25          I understand that they now have what was



1           presented to us recently, a CV of a  
2           toxicologist, but wanted to raise that motion,  
3           Your Honor.

4           THE COURT: All right. Yes, sir?

5           MR. STONE: I'm not sure how that's  
6           hearsay, Your Honor. Both Defendants had  
7           methamphetamine in their system from blood  
8           draws. One had 400 nanograms per milliliter,  
9           the other one had 480 milligrams per -- I don't  
10          see how that's hearsay.

11          It was actually blood taken from their  
12          body. It was taken to SLED, it was tested by a  
13          toxicologist at SLED. The child also had her  
14          blood taken as well and tested. That was a  
15          toxicologist by the name of Demi Garvin, who's  
16          also on our witness list, and her CV has been  
17          provided, although Rule 5 doesn't require that.  
18          So from the standpoint of -- I don't plan on  
19          offering any hearsay that's objectionable  
20          throughout any part of this trial, but certainly  
21          blood draws aren't hearsay. I'm not sure how  
22          that's --

23          THE COURT: And the blood was drawn.

24          MR. STONE: Right after the event. There  
25          were actually both that were taken from the

1 crime scene to the hospital and were taken --  
2 and had their blood drawn at the local hospital.

3 MR. PHILLIPS: And, Your Honor, I guess let  
4 me clarify, I had some confusion there. Don't  
5 have any issue, as far as toxicologists, they're  
6 correct, that's not -- and you say whether we  
7 had any law enforcement officers make references  
8 to drug use, or the fact of the toxicology  
9 results, if any of the law enforcement officers  
10 were to discuss that. The other portion of that  
11 would also be an argument.

12 Under Rule 403, that the probative value of  
13 providing that they had allegedly -- this  
14 substance in their system would be substantially  
15 outweighed by its prejudicial effect. And I  
16 understand that all evidence generally presented  
17 by the State is prejudicial, and our position  
18 is, in this case, how it relates to what they  
19 say recklessness.

20 I understand that their argument would be  
21 that that goes to their theme or theory, but our  
22 position is that it -- with the probative value  
23 presented there, it's substantially outweighed  
24 by its prejudicial effect, because there's no  
25 additional evidence that corroborates or

1 supports that somehow that resulted in what  
2 occurred that day.

3 MR. LOY: And I would go in that argument,  
4 as well as object to the introduction of  
5 testimony, or evidence as to any uncharged  
6 crime.

7 I mean they're not charged. Search  
8 warrants were executed at the home, at both  
9 homes, as I understand, on the vehicle,  
10 etcetera. There were no drugs recovered.  
11 They're not charged with possession of any  
12 drugs, and I think the -- again, as was stated  
13 by counsel, that the probative value is far  
14 outweighed by the prejudicial effect.

15 And so I'd ask for a ruling on that at  
16 least before we attempt to unring that bell that  
17 you said we can't unring.

18 THE COURT: So if someone is on a drug  
19 binge, and is accused of committing a crime, are  
20 there -- is there authority out there that  
21 addresses that question?

22 MR. PHILLIPS: And not to jump in, but I  
23 would just say there's no evidence that they  
24 were on a drug binge. If somebody tested  
25 positive, they could have done it three days

1 before.

2 THE COURT: Well --

3 MR. PHILLIPS: Meth stays in your system  
4 for several days.

5 THE COURT: If someone --

6 MR. PHILLIPS: Well --

7 THE COURT: -- is on a drug binge, I'm  
8 sure, as is the case in many, many murders, and  
9 many, many crimes, is there authority that  
10 addresses that issue?

11 MR. PHILLIPS: I'll certainly research it.  
12 Our position, again, for the relevance --

13 THE COURT: That would be impartial for  
14 them to say that they were more focused on using  
15 drugs than tending to the child, and, so,  
16 therefore, the jury should know about that.  
17 Then there should seemingly be some case  
18 authority one way or the other on the issue.

19 MR. PHILLIPS: I think there would have to  
20 be some threshold evidence showing that they're  
21 on a drug binge, because somebody could test  
22 positive --

23 THE COURT: No, I just used drug binge as  
24 an example. The same thing can apply, heavily  
25 under the influence, if they were tested the

1 same -- around the same time and had all these  
2 drugs and the toxicologist would testify as to  
3 the level of drugs in their system and all that.  
4 As you all are using these legal issues that I'm  
5 gonna be asked to rule on, I'm asking -- I'm  
6 posing a question, is their authority that  
7 addresses that issue in general?

8 MR. LOY: Your Honor, I don't have a case  
9 to cite, but as far as a probative value, what  
10 they're accused -- my client is accused of  
11 having done is to be present when a child that  
12 he has no authority over, if he had tried to  
13 take this child, he'd have been arrested for  
14 kidnapping, it's not his child.

15 He's not a guardian, he doesn't pay  
16 support. At most, he's present at the scene,  
17 and so --

18 THE COURT: Well -- and mere presence, it  
19 does not make a person guilty we know that.

20 MR. LOY: Right.

21 THE COURT: But that's a separate issue.

22 MR. LOY: Well, I understand that Your  
23 Honor, but without some threshold -- well, I can  
24 address it when it comes up, but I just don't  
25 think --

1           THE COURT: We don't know the facts, you  
2 know, we're just having a conversation more than  
3 anything. I've no reason to question this.  
4 You'all brought up the issues, and I'm just  
5 asking questions.

6           MR. PHILLIPS: Your Honor, it's close to  
7 knowing the facts, because this is gonna be one  
8 case where I don't think the facts are gonna be  
9 a huge issue. What occurred -- pretty much  
10 occurred, and it's on tape, and we could almost  
11 go to closing argument.

12          THE COURT: Yeah.

13          MR. PHILLIPS: So just to be clear --

14          THE COURT: I'm just -- since you don't  
15 have an actual question about whether or not  
16 there are any cases that address the issues of  
17 evidence of intoxication.

18          MR. PHILLIPS: And --

19          THE COURT: Is there anything out there  
20 that addresses that? And you said --

21          MR. PHILLIPS: Well, if you --

22          THE COURT: If not, I'm gonna ask the  
23 Solicitor.

24          MR. PHILLIPS: Yes, Your Honor, I just  
25 wanted -- so I can -- as I'm looking, if you

1       could clarify, I just want to make sure exactly,  
2       you're saying a case that would say -- that  
3       would allow the State to present toxicology in a  
4       case that doesn't deal with drugs in a murder  
5       case?

6               THE COURT: Cases that deal with the issues  
7       in general. No case, you know, each case is  
8       going to be unique in its own respect, but you  
9       have principles that govern the type of  
10      situations.

11             Mr. Stone?

12             MR. STONE: First of all, Your Honor, I  
13      know of no case that specifically says that if  
14      you're high on meth, or if you're drunk, or if  
15      you are high on crack/cocaine, or whatever, that  
16      you can't introduce that, if they're committing  
17      a crime. I can't come up with a single case  
18      that says no. I think that there is so much  
19      prevalence of drug use and crime in our juris  
20      prudence, that we, literally, have cases that  
21      say, and I'm quoting here, "Voluntary  
22      intoxication or the use of drugs does not  
23      constitute a defense to a crime."

24             So it's the exact opposite of what they're  
25      arguing. It's such a prevalent issue in what we

1 deal with in the courtroom, that the Supreme  
2 Court in State v. Hartfield, 300SC469,  
3 literally, goes to the trouble of saying, by the  
4 way that's not a defense, that you can  
5 voluntarily use drugs, and, therefore, you can  
6 use that as a defense.

7 I think that's an indication of how  
8 prevalent this is throughout our entire juris  
9 prudence. I know of no case that says, if  
10 you're -- that that's not relevant testimony for  
11 a jury to know that you are under the influence  
12 of -- whether it be meth, whether it be cocaine,  
13 whatever, from an illicit drug standpoint,  
14 that --

15 THE COURT: Well, what the --

16 MR. STONE: -- that's not relevant.

17 THE COURT: -- defense seems to be saying  
18 that acknowledging that the Defendants were on  
19 meth to a significant degree, the jury should  
20 not know about it, and that's the essential  
21 question in the case. And the State says, well,  
22 the jury needs to know about it --

23 MR. STONE: I think it goes --

24 THE COURT: -- so --

25 MR. STONE: You know, you're talking about



1 a case, particularly, a murder charge, and what  
2 we're talking about is, somebody that has a  
3 total disregard for the safety and lives of  
4 others. And you're talking about that from the  
5 standpoint of somebody who puts a child in a  
6 car, and leave that child in the car for five  
7 hours and 41 minutes on August the 5th in rural  
8 South Carolina in direct sunlight.

9 The child literally cooks to death inside  
10 the car, and I think it's inevitable that the  
11 jury would say, "What were you thinking?"  
12 Because I promise you, Your Honor, as we're  
13 playing that video, that question will come  
14 through just about everybody's mind that's  
15 watching that video.

16 I know it's come through mine a hundred  
17 times. What are you doing? What are you  
18 thinking? Why don't you get the child out? At  
19 one point they actually find that they locked  
20 the keys in the car, and instead of breaking the  
21 window, they leave and go get a spare key for an  
22 hour.

23 So I think if you look at that situation,  
24 the fact that they are high on meth becomes  
25 extremely relevant, because it answers, what are

1       they thinking? They're not thinking. They're  
2       more focused on -- they are high on meth,  
3       therefore, they're putting that child's life at  
4       risk because of that. Then the question  
5       becomes, does that voluntary intoxication give  
6       them the defense, which is what we have when I  
7       had that case, just to make sure that we weren't  
8       gonna go down that road.

9               It is a crucial part to this case, it is  
10       central, and I can't fathom that there is a case  
11       out there that says that that would not be  
12       relevant.

13              THE COURT: It's not relevant in cases that  
14       says it is relevant. And since you brought your  
15       whole team here, you can have 15 researchers on  
16       that question. Well --

17              MR. STONE: There's no --

18              THE COURT: Any other comment on that  
19       issue?

20              MR. PHILLIPS: There's no connection  
21       between the two. If they put the **Child** in the  
22       car and drove to get methamphetamine, if they  
23       robbed a methamphetamine dealer, if the child  
24       was positive for methamphetamine, but if someone  
25       has used methamphetamine, as counsel has argued,

1       within the last 24 hours or 48 hours, the act of  
2       leaving the child in the car is no more  
3       culpable, it's no more representable, and it's  
4       no less.

5               I can assure you nobody's using voluntary  
6       intoxication as a defense, so I can allay the  
7       Solicitor's concerns on that one, I think I can;  
8       am I correct?

9               MR. LOY:   You're correct.

10              MR. PHILLIPS:  We haven't discussed that,  
11       but I'm pretty sure that's not going to be a  
12       defense at all.  There's just no nexus between  
13       the two.  I mean --

14              THE COURT:  Do we agree that homicide by  
15       child abuse cases are different than regular  
16       cases, or no?

17              MR. STONE:  They --

18              MR. GATCH:  Yes, in the jury's eyes I think  
19       that they are, and I think --

20              THE COURT:  All right.

21              MR. GATCH:  -- anything that --

22              THE COURT:  If they have an interest, they  
23       can --

24              MR. PHILLIPS:  From a --

25              THE COURT:  -- try to prove neglect.

1           MR. GATCH: Well, this is not a homicide by  
2 child abuse case, exactly.

3           THE COURT: It's --

4           MR. LOY: This is a different statute, and  
5 --

6           THE COURT: And it may be a different  
7 statute, but it's still I mean sort of the same  
8 theme, isn't it?

9           MR. PHILLIPS: No, Your Honor, because the  
10 elements of proof that are within the homicide  
11 by child abuse statute are different than what's  
12 present in the murder statute.

13          THE COURT: Okay.

14          MR. PHILLIPS: So, unfortunately, that's --

15          THE COURT: Is that one of the cases that  
16 you handed up --

17          MR. STONE: Yes, sir.

18          THE COURT: -- a homicide by child abuse?

19          MR. STONE: It is, and it describes all of  
20 those issues, including the concern that you  
21 just had -- the comment that you just had about  
22 the difficult nature of charging, and I think  
23 they actually included a footnote -- I mean not  
24 a footnote, but actually a paragraph from former  
25 Chief Justice Toal that talks about that from

1 the fact the Fletcher case, which the defense  
2 actually referenced earlier, so all of that is  
3 in the case, which is the case that I handed up.

4 MR. PHILLIPS: And so, again, our position  
5 with that is, even if there is relevance, even  
6 if Your Honor finds there's probative value, it  
7 still, as Your Honor knows, has to be weighed  
8 against its prejudicial effect.

9 And we argue what substantially will  
10 outweigh by its prejudicial effect, given the  
11 fact that there's no further evidence as far as,  
12 again, exactly how that had -- that's our  
13 position given that it's not a homicide by child  
14 abuse statute.

15 THE COURT: And do you expect that to be  
16 your position?

17 MR. GATCH: Coupled with the fact that they  
18 don't have -- really -- it's on video, as your  
19 Honor must be aware by now. The child is on  
20 video being carried, placed in the car, closed  
21 the doors, walked away, it's not disputed.

22 It's not somehow worse, if someone is  
23 positive for methamphetamine and does that, it's  
24 --

25 THE COURT: Maybe they were --

1 MR. GATCH: -- just prejudicial.

2 THE COURT: -- sleeping inside for six  
3 hours, eight hours.

4 MR. GATCH: Well, not if they're doing  
5 methamphetamine.

6 THE COURT: Well, I know. What kind of  
7 information is the jury entitled to know about  
8 this unexplained death.

9 MR. GATCH: It's explained. I mean we can  
10 stipulate to the cause of death, which is one  
11 more reason we don't need the photographs that  
12 were there earlier. I mean the cause of death  
13 is -- and, again, I speak for counsel without  
14 conferring, but I think it's beyond dispute.

15 THE COURT: Right.

16 MR. GATCH: But as the Solicitor stated,  
17 this child basically cooked in this car.

18 THE COURT: All right, what other issues do  
19 we have?

20 MR. PHILLIPS: Based on the Solicitor  
21 Stone's statement, as far as the statements that  
22 they're planning to seek to admit, I just -- can  
23 we get clarification?

24 Solicitor Stone, so for Defendant  
25 Pangalangan, there's only one statement that the

1 State seeks to admit at trial; is that fair to  
2 say?

3 MR. STONE: The -- Judge, as I told you  
4 earlier, there are two statements. One is by  
5 her at the scene, which says, "I went inside --  
6 I put the child in the car, I went inside to get  
7 cigarettes, I came back out, and we had -- the  
8 keys were locked in the car."

9 The statement from Mr. King was the 911  
10 call that he made, again, at the scene. Neither  
11 one of them were in custody at the time.

12 THE COURT: All right.

13 MR. LOY: I don't have an issue with the  
14 911 call.

15 THE COURT: Any other issues?

16 MR. PHILLIPS: I did have a motion to  
17 prohibit opinion testimony, essentially, where  
18 you have, essentially, someone who's put up, and  
19 they cross that level of testimony from lay  
20 witness testimony, to giving actual expert  
21 opinion without being qualified.

22 So, unfortunately --

23 THE COURT: Are you saying for a particular  
24 witness, or a type --

25 MR. GATCH: No. Well, I believe what we

1       have is with certain witnesses, sometimes they  
2       will be in a position where their testimony  
3       starts to bleed into opinion testimony, and,  
4       again, I know based on Your Honor's prior  
5       ruling, we'll address that once they come up to  
6       testify. I'll make sure to --

7               THE COURT: Yeah.

8               MR. GATCH: -- be extra diligent, so we can  
9       address that.

10              THE COURT: Okay.

11              What else? What else for the day?

12              MR. PHILLIPS: We also had the motion  
13       regarding redaction of evidence; however, based  
14       on the prosecution's position of what evidence  
15       is not coming in regarding interrogation videos,  
16       as well as some other videos, we will confer  
17       with him, regarding what videos they do plan,  
18       which I believe, obviously, is the surveillance  
19       camera. There won't be -- I don't think this  
20       motion is proper at this time, until I speak to  
21       him to know for sure exactly what they seek to  
22       admit, but if it's just the surveillance camera  
23       itself, there shouldn't be any major redactions.

24              We did have some heavy redactions that  
25       would have been necessary for other videos, but



1       it appears that that won't be necessary to be  
2       addressed by the Court.

3               THE COURT: All right. Any other issues  
4       before we come tomorrow morning and start with  
5       opening with the jury, limited instructions?

6               Is there anything else before that?

7               MR. STONE: Not from the State, Your Honor.

8               MR. LOY: No, Your Honor.

9               MR. PHILLIP: No, Your Honor.

10              THE COURT: Okay, very good.

11              9:30 it will be.

12              MR. GATCH: Thank you, Your Honor.

13              (ADJOURNED)

14

15                       (At 4:50 p.m. the proceedings were  
16       continued to the following day without  
17       interruption.)

18                                       \*\*

19                                       **END OF VOLUME I**

20

21

22

23

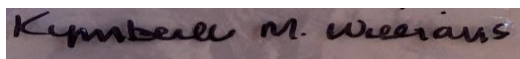
24

**CERTIFICATE OF REPORTER****\*\*\***

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14<sup>th</sup> Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Colleton County, South Carolina on the 28th Day of August 2023.

I do further certify that I am not related, of counsel, or interest to any party hereto.

This, the 1st day of April 2024.



-----  
Kymberlee M. Williams, CSR/RPR

|                         |                                           |
|-------------------------|-------------------------------------------|
| STATE OF SOUTH CAROLINA | IN GENERAL SESSIONS COURT                 |
| COUNTY OF COLLETON      | FOR THE 14 <sup>TH</sup> JUDICIAL CIRCUIT |
|                         | 2019-GS-15-00780, -709                    |
|                         | 2022-GS-15-00710                          |

|                          |   |
|--------------------------|---|
| -----)                   |   |
| State of South Carolina) |   |
| )                        |   |
| )                        |   |
| Plaintiff,               | ) |
| vs.                      | ) |
|                          | ) |
| Rita M. Pangalangan,     | ) |
| And Larry King.          | ) |
| )                        |   |
| Defendants.)             |   |
| -----                    |   |

**TRANSCRIPT OF JURY TRIAL  
VOLUME II  
(PAGES 221 - 458)**

August 29, 2023  
Walterboro, South Carolina

B E F O R E:

The Honorable **Clifton Newman**, Judge Presiding

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Official Circuit Court Reporter III  
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**INDEX**

|                                   |     |
|-----------------------------------|-----|
| PROCEEDINGS                       | 227 |
| OPENING STATEMENT BY MR. STONE    | 246 |
| OPENING STATEMENT BY MR. LOY      | 252 |
| OPENING STATEMENT BY MR. PHILLIPS | 263 |
| WITNESS: HALLEY GODLEY            |     |
| Direct Examination                | 268 |
| Cross-Examination (L)             | 289 |
| Cross-Examination (P)             | 291 |
| WITNESS: CHARLES JONES            |     |
| Direct Examination                | 292 |
| WITNESS: TODD SCHENK              |     |
| Direct Examination                | 295 |
| WITNESS: LINDSAY LEWIS            |     |
| Direct Examination                | 312 |
| Cross-Examination (P)             | 323 |
| Redirect Examination              | 326 |
| WITNESS: BRITTANY HONEYCUTT       |     |
| Direct Examination                | 327 |
| Cross-Examination (P)             | 335 |

**INDEX - CONTINUED**

|          |                       |     |
|----------|-----------------------|-----|
| WITNESS: | KELLY PADGETT         |     |
|          | Direct Examination    | 336 |
| WITNESS: | SPENCER STEVENS       |     |
|          | Direct Examination    | 342 |
|          | Cross-Examination (L) | 345 |
| WITNESS: | BRIAN VARNADOE        |     |
|          | Direct Examination    | 346 |
|          | Cross-Examination (P) | 351 |
| WITNESS: | MATTHEW HOGUE         |     |
|          | Direct Examination    | 354 |
| WITNESS: | BROOKLYNN HOGUE       |     |
|          | Direct Examination    | 357 |
|          | Cross-Examination (L) | 366 |
|          | Cross-Examination (P) | 367 |
| WITNESS: | LINDSAY MITCHELL      |     |
|          | Direct Examination    | 368 |
|          | Cross-Examination (P) | 378 |
|          | Redirect Examination  | 380 |
|          | Recross-Examination   | 380 |
| WITNESS: | ANDREW GRUNDSTEIN     |     |
|          | Direct Examination    | 384 |
|          | Cross-Examination (P) | 412 |
|          | Cross-Examination (L) | 416 |
|          | Redirect Examination  | 414 |

INDEX - CONTINUED

WITNESS: JASON CHAPMAN

|                         |     |
|-------------------------|-----|
| Direct Examination      | 420 |
| Cross-Examination (L)   | 444 |
| Cross-Examination (P)   | 445 |
| Redirect Examination    | 449 |
| Recross-Examination     | 450 |
| PROCEEDINGS CONTINUED   | 457 |
| CERTIFICATE OF REPORTER | 458 |

**EXHIBIT LIST**

| <b>ITEM NUMBER</b> | <b>DESCRIPTION</b> | <b>PAGE</b> |
|--------------------|--------------------|-------------|
| S-1                | Photo              | 285         |
| S-2                | Photo              | 285         |
| S-3                | Photo              | 285         |
| S-4                | Photo              | 285         |
| S-5                | Photo              | 274         |
| S-7                | Aerial Photo       | 270         |
| S-8                | Diagram            | 296         |
| S-9                | Photo              | 301         |
| S-10               | Photo              | 301         |
| S-11               | Photo              | 301         |
| S-12               | Photo              | 301         |
| S-13               | Photo              | 315         |
| S-16               | Poster Board       | 395         |
| S-17               | Greenhouse Chart   | 395         |
| S-20               | Photo              | 422         |
| S-21               | Photo              | 422         |
| S-22               | Photo              | 422         |
| S-25               | Photo              | 309         |
| S-26               | Photo              | 309         |
| S-27 (ID)          | Photo              | 309         |
| S-28 (ID)          | Photo              | 350         |
| S-29               | Photo              | 309         |
| S-30               | Photo              | 309         |
| S-31 (ID)          | Photo              | 309         |
| S-32 (ID)          | Photo              | 309         |
| S-33               | Photo              | 350         |
| S-34               | Photo              | 339         |
| S-40               | Flash drive        | 429         |



**PROCEEDINGS CONTINUED****\*\*****TUESDAY, AUGUST 29, 2023****WALTERBORO, SOUTH CAROLINA**

(The following proceedings were held in open court. All parties were present.)

BAILIFF: All rise, the Court is now in session, Judge Newman presiding.

THE COURT: Please be seated.

THE COURT: Good morning.

MR. STONE: Good morning, Judge.

THE COURT: Yes, sir.

MR. STONE: Your Honor, just a housekeeping matter. We talked about this in the status conference. There's a camera request from a person in our office.

I've shown it to all three defense counsel, and nobody has any objection to it. It was just never signed, and before he started with his camera, I wanted to make sure I had brought that to your Honor's attention.

THE COURT: Okay, it will be allowed.

MR. STONE: Thank you, Your Honor.

MR. PHILLIPS: Good morning, Your Honor.

THE COURT: Good morning.

1 MR. PHILLIPS: May I hand this up to you?

2 THE COURT: Yes, sir.

3 MR. PHILLIPS: Yes, sir. Your Honor, I  
4 sent an email last night outlining --

5 THE COURT: I've reviewed them both.

6 MR. PHILLIPS: Thank you, Your Honor.  
7 Outlining our motion to limit the scope of the  
8 prosecution's opening statement, specifically,  
9 to preclude the following information argument  
10 from being presented during their opening  
11 statement.

12 The issues we addressed yesterday, the  
13 first one references to reckless disregard for  
14 human life, as a misstatement of law. Murder  
15 requires an extreme reckless disregard for human  
16 life.

17 THE COURT: And I'm going to read what you  
18 emailed me and what you just handed me?

19 MR. PHILLIPS: For the record, Your Honor.

20 THE COURT: Well, the record is your  
21 filing. You filed it, so it's in the record.  
22 We talked about this yesterday. You filed it, a  
23 brief, and now you're reading to me what you  
24 filed.

25 MR. PHILLIPS: I have not filed a motion on

1 the motion to preclude or limit the scope of the  
2 prosecution's testimony, I've not done that.

3 THE COURT: But that's what you -- you  
4 emailed it last night. Do you intend to file  
5 it?

6 MR. PHILLIPS: I have marked it as Defense  
7 Exhibit Number 17, which Your Honor has  
8 reviewed.

9 THE COURT: That's all right, you filed it,  
10 you prepared a motion or whatever it's for, you  
11 filed the motion, and then you filed, and then  
12 come read to me what you filed, and you say in  
13 order to make a record. A record is made when  
14 you filed it.

15 MR. PHILLIPS: I have to disagree, Your  
16 Honor.

17 THE COURT: You disagree, but that's -- I'm  
18 the Judge and that's my ruling. I don't need  
19 you to read verbatim something that you have  
20 filed, because it's a part of the record. It's  
21 a waste of time. You submitted it, I read it,  
22 you filed it.

23 MR. PHILLIPS: Respectfully, this hasn't  
24 been filed with the Clerk's Office.

25 THE COURT: Do you intend to file it?

1 MR. PHILLIPS: We can, yes, Your Honor.

2 THE COURT: Well, I thought you said it was  
3 Exhibit 17, or something.

4 MR. PHILLIPS: An exhibit's not what --  
5 again, I'm not trying to belabor the word, but  
6 what's marked as an exhibit is not the same as  
7 being filed with the Clerk's Office. We had  
8 this very issue in another high-profile case in  
9 Columbia about the filing of things, and they  
10 said it's known to a Judge, I'm making sure that  
11 the appellate record is clear, and I haven't  
12 made a motion to limit the scope of the  
13 prosecution's opening.

14 Based on Your Honor's decision if I ask  
15 specific rulings on these matters.

16 THE COURT: When it comes to that point,  
17 then we'll be -- they will be addressed.

18 MR. PHILLIPS: Thank you, Your Honor. What  
19 -- since Your Honor's aware and has reviewed the  
20 document that was sent, my position is I  
21 understand, Your Honor, doesn't want me to  
22 rehash the arguments. I just need specific  
23 rulings for the four matters/issue raised.

24 THE COURT: All right.

25 What says the State?

1           MR. STONE: Your Honor asked whether or not  
2           there was any evidence that there were any case  
3           law talking about drug use at the time of the  
4           crime, and whether or not that was relevant.  
5           I'll hand you three cases, State v. Dickerson,  
6           State v. Adams, and State v. Gilcrist, all of  
7           which it says yes.

8           And, in fact, in all three of these cases,  
9           what they talk about are the -- is drug use at  
10          the time of the crime. And what they all say is  
11          that not only is it admissible under 404(b), but  
12          it's also admissible under res gestae, and all  
13          because of the same point, it kind of goes  
14          through every bit of argument that we've made so  
15          far, which is it's all about the state of mind  
16          of the Defendants in this case.

17          Implied malice, everything from the initial  
18          argument by the defense, that we had to add some  
19          language, to clarify things like this.  
20          Everything goes back to the same amount of the  
21          Defendants. In each one of these cases it says  
22          drug use at the time of the crime is exactly  
23          that.

24          It goes to state of mind, it's not  
25          propensity evidence, and it's admissible. They

1 even actually cited one case in there that talks  
2 about the marijuana use at the time of the  
3 crime, and this is, obviously, methamphetamines,  
4 it's a much more serious drug than marijuana;  
5 but even in that case they talk about the use of  
6 the marijuana is relevant.

7 You've got cocaine, you've got crack use at  
8 an armed robbery. you've got cocaine use for a  
9 murder in which the person -- that the cocaine  
10 was even used in that. So all of these cases  
11 say the same thing. This is admissible  
12 evidence.

13 It's actually not about trying to, as the  
14 defense would say, well, you're trying to argue  
15 that they did something in the past. They were  
16 high the day this happened, and that's  
17 particularly relevant when you're talking about  
18 why did they do what they did?

19 And the defense is gonna argue, unless I'm  
20 missing it, that it was an accident. Well,  
21 that's exactly what 404(b) is for, to prove the  
22 fact that it's not an accident, and it's a  
23 pattern of conduct. It's the same with Brittany  
24 Honeycutt's testimony, it's the same with  
25 Lindsey Lewis' testimony, all they talk about

1       this is how she acts on a regular basis. All of  
2       that is state of mind, all of that goes to why  
3       they did what they did.

4               Unless I'm missing it, I assume the defense  
5       is gonna argue that this was just an accident,  
6       and we're arguing it's much more than that, as  
7       they argued earlier, it's extremely a difference  
8       for the safety and lives of others. And that  
9       extreme different is -- just in the child abuse  
10      case that I handed up to you last night, talks  
11      about that it's admissible not under just under  
12      404(b), but under res gestae as well. Those are  
13      two of the main issues.

14             I don't really plan on going into a whole  
15      lot of other stuff about the legal stuff. I  
16      usually leave that to the Judge until we get to  
17      closing, and you've already -- and you talk less  
18      about your charge, so I don't plan on going into  
19      that; but as far as those two issues, you asked  
20      for specific law on that, I gave that to you.

21             And I would also say this, finally, as far  
22      as the opening statement's concerned, we always  
23      make opening statements when there's gonna be  
24      objections down the line, and we still make  
25      those opening statements. And I recognize that

1 if I tell the jury something that doesn't come  
2 in, then they can make a motion for a mistrial,  
3 so I'm not gonna be very foolish about that, but  
4 I know that stuff that we have I know it's gonna  
5 get admitted into evidence, and I wouldn't be  
6 able to do an opening statement, if it's not  
7 handcuffed to what they want me to say, which,  
8 apparently, is just to introduce myself and sit  
9 down. Thank you.

10 THE COURT: Mr. Phillips?

11 MR. PHILLIPS: Yes, Your Honor, we didn't  
12 address the statement of law. I'd be happy to  
13 start there. I can address the one -- the  
14 other --

15 THE COURT: How are you gonna respond to  
16 these issues he raised.

17 MR. PHILLIPS: Well, the first issue was  
18 under the statement of law --

19 THE COURT: I thought --

20 MR. PHILLIPS: I apologize, Your Honor.  
21 Go ahead.

22 THE COURT: I thought he was going to  
23 respond to the issues you raised in your  
24 pretrial and email that you said you were going  
25 to file, and make a part of the record, 'cause



1       that's what we were talking about. The  
2       Solicitor responded not specifically to the four  
3       things or five things that you raised, and I  
4       thought he was, but go ahead.

5               MR. PHILLIPS: Again, just to outline from  
6       the first issue is, we believe the correct  
7       statement of law, based on the case law is that  
8       murder requires an extreme reckless disregard  
9       for human life as a possible inference of  
10      malice.

11             The second is -- references drug use and  
12      toxicology. We have -- that has not been deemed  
13      admissible, as I argued, under 404(b), when a  
14      prior bad act has not resulted in a conviction,  
15      and it must be proved by clear and convincing  
16      evidence. And then, again, State v. Fletcher  
17      sets out the standard for that. And then when  
18      we look at kind of a backdrop on the State v.  
19      Gore with the testimony from Brittany Honeycutt  
20      and Ms. Lewis, that when you have testimony that  
21      is very similar, it enhances and highlights the  
22      prejudice to the Defendant.

23             And none of this evidence has been deemed  
24      admissible. I've objected to it, and so if Your  
25      Honor says it's coming in, then I think they

1 have the ability to argue it, but until that  
2 point, I think, as far as effective assistance  
3 of counsel, I have to know where the boundaries  
4 are, or at least try to limit the boundaries for  
5 what I believe to be inadmissible evidence. I  
6 understand the prosecution's position about I  
7 can move for a mistrial later -- at a later  
8 point, however, again, as the appellate part, I  
9 know that motions for mistrial are rarely  
10 reversed on appeal.

11 It's a manifested necessity standard. Very  
12 rare for a case to get overturned on appeal on a  
13 mistrial. And so I'm trying to ensure Ms.  
14 Pangalangan's right to a fair trial, and so  
15 that's why I have these motions. The other  
16 issue that wasn't addressed was the deferred  
17 ruling that Your Honor had on our motion to  
18 suppress the untimely prejudicial disclosure of  
19 evidence, and that would be any references to  
20 the workings of the key fob, or about the keys  
21 locking the car.

22 And so that ruling was referred as well, so  
23 we have those four issues that, again, my  
24 position, to ensure her right to a fair trial.  
25 I just need to know the boundaries for where the

1 prosecutor is on this, but I don't know if I  
2 have to object. I would rather not object  
3 during the opening, and then that turns into the  
4 situation we're in now.

5 THE COURT: All right. Well, I'll say  
6 after each party, I don't know how you would  
7 expect to convince the jury you have no respect  
8 for the juror's time. Before we left yesterday,  
9 I inquired as to whether there was anything else  
10 that needs to be addressed before opening  
11 statements, in order to determine the most  
12 opportune time to have the jury come in.

13 And each side says, "No, there's nothing,  
14 we're ready for the jury and opening statements  
15 at 9:30." That's what I am primarily discussing  
16 at the moment, and I hope that kind of doesn't  
17 change throughout the trial.

18 Now, certainly, you have an opportunity to  
19 argue and put on the record whatever it is you  
20 have, but when you represent to the Court that  
21 you have nothing, and then at 2:30 a.m. you  
22 submit a barrage of things that delays the  
23 opening, it's unfair to the jury.

24 It shows a lack of respect for the Court  
25 and the jury in my view.

1 MR. PHILLIPS: And respectfully, Your  
2 Honor --

3 THE COURT: You disagree?

4 MR. PHILLIPS: No, my point is, I wouldn't  
5 raise it, if at the moment I had thought about  
6 it I would. As I drive home, I start thinking  
7 about what I needed to do as far as the opening,  
8 and then, again, obviously, we could have argued  
9 it yesterday; but, again, respectfully, for the  
10 jury's time, Ms. Pangalangan is facing life in  
11 prison.

12 THE COURT: I understand the penalty, and  
13 you don't need to repeat yours again and again  
14 and again. The response by first Mr. Loy.

15 MR. LOY: Your Honor, only with the  
16 exception of the Lyle's/propensity/res gestae  
17 motions, I don't believe we have anything to  
18 add. I would object on the same basis.

19 THE COURT: Yes, sir.

20 MR. STONE: To be specific about his motion  
21 that he filed and before, I don't plan on going  
22 into that. I recognize that you held that under  
23 advisement, I'm good with that.

24 THE COURT: And I grant that motion of the  
25 defense.

1 MR. STONE: Thank you, sir. Number one --  
2 I mean number two of the three cases I handed  
3 you up yesterday was my understanding, when we  
4 left, today your instruction was for us to go do  
5 that research, so that's what I did.

6 And interestingly that applies to not only  
7 two, but also to three, and I do plan on going  
8 into the meth use of the other stuff.

9 As far as extreme recklessness, I do not  
10 plan on going into a great deal about the law in  
11 this case, as I said earlier, so I apologize, I  
12 thought I had addressed those. But, again, it's  
13 an opening statement, I think we need to get to  
14 the opening statement and do them, and it's not  
15 unusual at all that you do opening statements  
16 with evidentiary hearings still pending.

17 THE COURT: With regard to the motion to  
18 preclude the Solicitor from misstating the law,  
19 regarding the question of whether extreme  
20 recklessness is required for malice, based on  
21 the case that worked to include that reckless  
22 homicide is not a less or included offense of  
23 murder.

24 I deny the motion to limit the opening  
25 statements. The opening statements -- and quite

1       frankly, and where the word reckless is used,  
2       where extreme reckless is used, it's not an  
3       obstruction of law to the jury, and I will  
4       expect that the Solicitor would not misstate the  
5       law.

6               And if there is a misstatement of the law,  
7       or if there is an attempt to misstate the law,  
8       then an objection should be made, to dictate  
9       what words should be used, the drug use and the  
10      toxicology. I find that that is admissible  
11      testimony, based on it occurring beyond the res  
12      gestae. That it's admissible to give the jury a  
13      complete picture of things that were going on,  
14      according to the State's theory.

15             As far as the res gestae it also shows --  
16      could show the state of mind of the Defendants.  
17      I find the relevance outweighs any danger of  
18      unfair prejudice, due to the State's burden of  
19      proof and weighing both things that it's  
20      admissible, whether or not the State will  
21      establish that by clear and convincing evidence  
22      under Rule 403 and 404.

23             I can only judge things based on statements  
24      that were received, as stated by the Solicitor  
25      yesterday, and the other young lady, and I find

1       that those -- that prior conduct is likewise  
2       admissible, as part of the res gestae, as it  
3       relates to matters that occurred the week before  
4       the death of the child. At this time, the  
5       motion is denied.

6               MR. PHILLIPS: Thank you, Your Honor. So I  
7       won't have to object during opening, can I get  
8       confirmation of the issues reserved? I'd rather  
9       not do that out of fairness to the prosecution.

10              THE COURT: Can you get what?

11              MR. PHILLIPS: That --

12              THE COURT: Confirmation of what?

13              MR. PHILLIPS: That the ruling is final, so  
14       I don't have to object during his opening  
15       statement, out of respect.

16              THE COURT: Preliminary rulings are  
17       preliminary rulings. Now, you object, and I am  
18       not precluding anyone from objecting as you  
19       might see fit to object --

20              MR. PHILLIPS: Yes, Your Honor, I  
21       understand.

22              THE COURT: -- throughout the trial.  
23       Anything further before the jury comes out?

24              MR. STONE: Not from the State, Your Honor.

25              MR. PHILLIPS: No, Your Honor, thank you.

1 MR. LOY: No, You.

2 THE COURT: All right, we will bring the  
3 jury in.

4 (Jury enters the courtroom.)

5 THE COURT: Good morning.

6 JURORS: Good morning.

7 THE COURT: Welcome back. Ladies and  
8 gentlemen, if you'all would stand to be sworn.

9 CLERK: Raise your right hand.

10 (Jury sworn and empaneled.)

11 THE COURT: Well, ladies and gentlemen,  
12 you've received a summons that I think came two  
13 to three weeks, a month or so ago, by informing  
14 you that you have to report for jury duty here  
15 yesterday, and you'all responded to that summons  
16 by showing up yesterday.

17 Then we went through a process called jury  
18 qualifications process, and each of you were  
19 qualified, or are qualified to serve on jury  
20 duty.

21 Then we went through a voir dire process,  
22 where we asked each of you whether or not there  
23 is any reason why you cannot serve on the jury,  
24 and give each side and fair and impartial trial,  
25 and all of you indicated that you could be fair



1 and impartial. You were then selected by the  
2 State and the defense to be the jury in this  
3 case.

4 Now you've just taken an oath, and the oath  
5 is to well and duly try this case, and to render  
6 a true verdict according to the law and  
7 according to the evidence so help you God, and  
8 that's the oath you just took. And if you hold  
9 firm to that oath, then at the end of the  
10 process you will have fulfilled your duty on the  
11 jury, and no one will have any right to complain  
12 of the verdict that you rendered.

13 And so we look forward to working with you  
14 in this case, and to having you go fulfill your  
15 responsibility as jurors.

16 Now, the Defendants in this case have been  
17 charged with murder, causing great bodily injury  
18 on a child, and criminal conspiracy. As to each  
19 of those charges each Defendant has pled not  
20 guilty, and they are presumed to be not guilty.  
21 And they cannot be found guilty unless the State  
22 presents evidence that convinces each of you of  
23 their guilt beyond a reasonable doubt, and that  
24 is the purpose of the trial.

25 Now, you will, at the end of the process,

1 be asked to go back, and to deliberate and to  
2 reach a verdict of guilty or not guilty on each  
3 charge, and each indictment, as to each  
4 Defendant.

5 In order to be in a position to go back and  
6 to deliberate, you must receive the evidence,  
7 you must listen, and you must pay attention to  
8 the evidence. And the evidence generally comes  
9 from testimony that takes place at this witness  
10 stand, together with any exhibits which have  
11 been made a part of the record, and exhibits  
12 might include photographs, or various other  
13 things, something other than testimony. Where  
14 you will listen to testimony, and you will  
15 receive any other evidence, and you will  
16 evaluate that evidence.

17 And out of all the folks who were summoned  
18 to come here for jury duty, and there was a lot  
19 of people, out of all the people who were  
20 summoned to appear for jury duty, out of all the  
21 people who live here in Colleton County, out of  
22 all the people who live in the State of South  
23 Carolina, and, in fact, out of all the people  
24 that live in the United States, even the world,  
25 only the 12 of you will deliberate and decide

1       whether the Defendant or Defendants are either  
2       guilty or not guilty, so you play a very  
3       important role in the court process.

4               I want to make sure that you remain as  
5       fresh and focused as possible by taking breaks  
6       as is necessary. If at any time you need a  
7       break for a special reason, get my attention,  
8       and we will have a break.

9               As I stated to you earlier or yesterday,  
10       once you are selected on jury you cannot discuss  
11       the case with anyone. You can't talk with your  
12       fellow-jurors about it, you can't talk with any  
13       family members about it, you can't talk to  
14       anyone who works here in the courthouse about  
15       it, you can't talk with anybody about the facts  
16       of this case until you have received all of the  
17       evidence.

18              And as I've said, out of all the people  
19       who've been summoned, only you can decide the  
20       facts of this case. Now, just as only you can  
21       decide the facts of the case, as the Presiding  
22       Judge, I am the sole judge of the law, and you  
23       must accept as correct the law as I state it to  
24       you at this time, during the trial, and in  
25       greater detail at the end of the trial.

1           Each party is represented by counsel, and  
2           certainly the lawyers play a very important  
3           role in the process but remember what a lawyer  
4           says is not evidence.

5           The evidence is testimony, the exhibits.  
6           They certainly will argue their positions to you  
7           and play their critical role in dealing with  
8           witnesses who testify.

9           Later in the process I will appoint one of  
10          you to serve as the Foreperson of the jury. And  
11          the Foreperson would then act as the  
12          spokesperson of the jury. The Foreperson will  
13          have the responsibility under the condition to  
14          serve as the spokesperson of the jury, and  
15          communicating with me, as necessary.

16          The Foreperson will preside over the jury  
17          deliberations, and complete the jury verdict  
18          form, and the verdict has to be unanimous.

19          We look forward to working with you on this  
20          case, and we will proceed now with opening  
21          statements first from the State.

22               MR. STONE: May it please the Court?

23               THE COURT: Yes, sir.

24                       **OPENING STATEMENT BY MR. STONE**

25               MR. STONE: A very hot August the 5th,

1       2019, these two people over here, Larry King and  
2       Rita Pangalangan put a child in the back of a  
3       car, and left it there for five hours and 41  
4       minutes. I said it was a hot day, at 11:15 when  
5       this all started, the heat index was already 89  
6       degrees.

7               It would get close to 100 by the time they  
8       ever got that child out of the car, and that was  
9       outside of the car. That was out -- air  
10      temperature outside. Inside the cabin of the  
11      car would reach a minimum of 118 degrees, with a  
12      heat index of 135.

13             So what happens when you put a child in the  
14      backseat of the car and leave them there for  
15      five hours and 41 minutes? They cook to death.  
16      They are tortured, and they are cooked to death.

17             The child's internal temperature, when  
18      checked by the Coroner, was 109.9 degrees, and  
19      that's what we only -- that's what we know,  
20      because the thermometer doesn't go any higher  
21      than that. The child's brain gave up. The  
22      organs shut down. She had blisters all over her  
23      body, and she died in the backseat of that car.  
24      She died the technical way, the scientific  
25      answer to that was hypothermia.

1           You'll hear expert testimony telling you  
2 the child died of hypothermia, but that's not  
3 why you're here, because she didn't actually die  
4 of hypothermia, she died because those two  
5 people there treated that little girl like  
6 baggage. They didn't forget her. They didn't  
7 put her in the car and forget her. They put her  
8 in the car because to them she was baggage.

9           You see the little girl wasn't like every  
10 other 13-year-old girl. She suffered from  
11 cerebral palsy. She couldn't walk, she couldn't  
12 talk. Her hands barely worked. She could not  
13 reach the car door to open it to free herself.  
14 She couldn't even scream for help, not that they  
15 would have cared.

16           She was totally dependent on other people  
17 for her safety. The other thing about her,  
18 again, not like a normal 13-year-old teenager,  
19 she couldn't be shipped off to go with her  
20 friends to the mall, or something, when Rita and  
21 Larry wanted to be alone, or they wanted to do  
22 the things they were interested in.

23           She had to be taken care of. She had to be  
24 watched and cared for, or she had to be put  
25 somewhere out of the way. And on August the

1 5th, 2019 that place was the backseat of the car  
2 in direct sunlight. And what were they doing?  
3 They were high on meth.

4 MR. PHILLIPS: Objection, Your Honor.

5 MR. LOY: Join.

6 THE COURT: Objection overruled.

7 MR. STONE: Not only were they high on  
8 meth, they were standing right at the car.

9 They were swinging on the swing, they were  
10 hugging, they were kissing, all of which you'll  
11 see.

12 And then they would go inside the house and  
13 stay there for hours. They would come out,  
14 where they would smoke cigarettes. They would  
15 hug and they would kiss, and they'd go back in  
16 the house.

17 All the time the child is literally cooking  
18 to death in the car. She was to them baggage,  
19 and they needed to get her out of the way, so  
20 they could do what they needed to do.

21 The decisions we all make every day, we all  
22 -- most of us, most of us have choices, most of  
23 us have the ability to make decisions, how we  
24 act, what we do, and those choices have  
25 consequences.

1 Rita Pangalangan had chosen to put that  
2 child in that car. She chose to her focus her  
3 attention on Larry, to talk to him, to kiss him,  
4 to hug him and go inside with him. She chose to  
5 do meth.

6 Larry, same thing, he chose to put that  
7 child in the car, and I say put, that's  
8 gracious. You'll watch it on the video, see how  
9 he puts that child in the car, just like you  
10 would a suitcase and he chose to spend his time  
11 outside the car and inside the house with Rita  
12 hugging and kissing and doing drugs. Those were  
13 choices that they made, and those choices have  
14 consequences.

15 The only person in this case that didn't  
16 have a choice was **Child**, she had no choice,  
17 none. She was totally dependent on somebody  
18 else for her safety, and they didn't care, and  
19 that's what this case is about.

20 Now, my job is to prove to you this case  
21 beyond a reasonable doubt that what I've told  
22 you. If I don't do that, your job is to come  
23 back here and find them all guilty.

24 Ladies and gentlemen, I'm gonna ask you,  
25 after you hear the testimony, after you see the



1 video of the case, after you see what happens  
2 with this child, to come back in and give us a  
3 verdict that speaks the truth, that this child  
4 died because --

5 MR. PHILLIPS: Objection, Your Honor.

6 MR. STONE: -- died not because --

7 THE COURT: Hold on.

8 MR. STONE: -- of any other reason. I'm  
9 sorry, Your Honor.

10 MR. PHILLIPS: We have a matter of law at  
11 the appropriate time.

12 THE COURT: Okay, the objection is  
13 sustained, as to the Solicitor's reference to  
14 speak the truth, and you are to disregard that  
15 evidence.

16 MR. STONE: When this is over, I'm gonna  
17 ask you to come back and give us a verdict that  
18 says, this child died because she was forgotten,  
19 because they didn't care. Thank you.

20 THE COURT: Mr. Loy?

21 MR. LOY: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 MR. LOY: Good morning.

24 JURORS: Good morning.

25

1                   **OPENING STATEMENT BY MR. LOY**

2                   MR. LOY:   You'all 14 folks have been  
3                   selected in this case to be our jurors in the  
4                   case, which I'll tell you now is both one of the  
5                   easiest cases you could have been picked for;  
6                   and in a second breath one of the hardest cases.

7                   It's one of the easiest cases, because of  
8                   the lack of evidence that you will probably hear  
9                   about throughout the course of this trial.

10                  You, as jurors, are what we call the  
11                  finders of the fact, or the judges of the facts.  
12                  And during the course of the trial it's your  
13                  job, it's your primary duty during the course of  
14                  the trial to determine what the facts are.

15                  Your Honor is referred to as the judge of  
16                  the law.   At the appropriate time he will tell  
17                  you what the law is, and you will finally have  
18                  the facts that you figured out.   That part's not  
19                  gonna be hard, okay?

20                  You'all will come to an agreement, as far  
21                  as facts, and the sequence of actions that took  
22                  place, that part won't be hard, it'll be easy.  
23                  On the other hand, you'all got picked for a  
24                  really hard case, because this child did expire,  
25                  she died, roughly, by the manner of death that

1 the Solicitor described, and it's hard to listen  
2 to, it's hard to know.

3 You've probably seen a newspaper article,  
4 or a news story sometime about this happening in  
5 the past, if it has happened in the past. It's  
6 a lot easier if you can turn the page of it and  
7 get to the end. Here, there's no way to show  
8 that. Just listen to what's being said and how  
9 it's being said.

10 Secondly, the other part of your duty  
11 that's gonna be hard is that you are required to  
12 keep an open mind throughout this entire  
13 procedure. That is, you don't keep a score,  
14 here's a point, there's a point, there's a  
15 point, here's a point.

16 You listen to the testimony as it comes,  
17 you look at any exhibits or evidence that is  
18 introduced, and you file it away. You get the  
19 complete picture, and at the end of the case,  
20 when the Judge has given you the law, and told  
21 you take it back, and will give you the  
22 indictments, and put the case in your lap, and  
23 he says, "Go on back to the jury room and  
24 deliberate," that's when you get to decide guilt  
25 or innocence.

1           Until then you just don't have the rules to  
2           do it, the rules by having at least all the  
3           rules of the game. So you're required to keep  
4           an open mind.

5           And I can see, sometimes that's hard,  
6           because you -- it may have been hard to keep an  
7           open mind, just having heard that from my  
8           statement, but you've got to put that aside,  
9           walk it off, and once the Judge gives the case  
10          to you, you apply the law and you decide.

11          Now, in this case, the facts are going to  
12          substantially not be in dispute, I don't  
13          believe. Back to the evidence in this case will  
14          show you that Mr. King and Ms. Pangalangan had  
15          in the past some years ago, been involved in a  
16          relationship, a romantic relationship.

17          It didn't work out and they split up, and  
18          maybe a month, five weeks, a month, before this  
19          tragedy occurred, they had gotten back together.  
20          And that, ladies and gentlemen, is one of the  
21          worst decisions that Mr. King ever made.

22          They got back together. They didn't live  
23          together; it wasn't like that. She had a house  
24          over on the other side of town, he had his  
25          place, but they were dating and they had

1           rekindled their relationship.

2           And on this particular evening, the night  
3 before this child died, Ms. Pangalangan and her  
4 child had spent the night at Mr. King's house,  
5 over at his house. And in the morning Mr. King,  
6 he had reason to believe that Ms. Pangalangan  
7 had been unfaithful, had messed around with  
8 another guy, or something like that during the  
9 time that they had gotten back together.

10           And he confronted her on that, and they  
11 went back and forth a little bit, she said, yes,  
12 this had happened. And at that point, he told -  
13 - now, he's not here, any of that stuff, but she  
14 said, yes, it had, and he said, "You've got to  
15 go. I can't deal with this right now, I'll talk  
16 to you later, but you'all have to go."

17           And they went back and forth a little, and  
18 Ms. Pangalangan said, "Okay, but I can't carry  
19 **Child**," as you've heard, "that I can't carry  
20 her, my back is hurt, I've got a kidney issue."  
21 And Larry said, "I'll carry her for you."

22           And I wouldn't -- well, you will have a  
23 chance to review this video today. And what the  
24 video tape will show you is, that Mr. King came  
25 out of the door, cradling this child in his

1 arms, completely appropriate and properly,  
2 nothing abusive or disrespectful about that  
3 behavior. He carried her in style.

4 He's not fighting with Ms. Pangalangan,  
5 he's not looking angry, mean, malicious or  
6 hateful towards this child. He carries the  
7 child to the car appropriately, and you will see  
8 the tape. The back door is open. When he gets  
9 there he has to turn the child, because she goes  
10 in feet first. He does that, turns her in his  
11 arms and he places her in the car, and he backs  
12 up, and tells mom, "Go over and do what you need  
13 to do to prepare the child to drive.

14 Put the seatbelt on, do what she does, and  
15 you'll see mom in the backseat messing with the  
16 child. Mom steps away, because at this point,  
17 Mr. King's out of the picture. He's gone into  
18 his house. His door is closed, they're about to  
19 leave, you'all are on your own.

20 It's not his child. It's not his adopted  
21 child. He doesn't pay support, he doesn't pay  
22 anyone to watch her, he doesn't feed her, he's  
23 not financially responsible for her.

24 Mom's out, he put her in the car, and he  
25 said, "You'all need to go." Ms. Pangalangan

1 turns around.

2 The video the Solicitor referenced doesn't  
3 have audio, but it's pretty easy to follow the  
4 conversation that ensues. And you'all will see  
5 that Ms. Pangalangan is pleading her case, "I'm  
6 sorry, let's get past this." And Larry's  
7 telling her, "You need to go," and they go back  
8 and forth for a while.

9 Now, the car's running. Larry for some  
10 reason believed the air conditioner's on. The  
11 child was in the custody of her mother, who has  
12 raised her up to this point, and mama's got this  
13 child.

14 He turns and he walks into his house, and  
15 mom walks behind him. Sometime later mom comes  
16 out, goes to the car, it looks like she opens  
17 the back door, perhaps checks on the child,  
18 makes sure everything's okay. Gets in the front  
19 seat momentarily and gets back out. Comes out  
20 another time, there's two times, checks on the  
21 child, goes back in the house.

22 And after approximately two hours after the  
23 child is left, left alone, the two of them come  
24 out, and the tape is obvious, they can't get in  
25 the car. The car's locked, it's running, it's

1       locked. Now, whether the key fob is in the car,  
2       or lost under the hood, in the house, or the dog  
3       ran off with it, it really doesn't make any  
4       difference. It's obvious they are trying to get  
5       into the car.

6               Now, Mr. King, at this point, he's  
7       volunteered, he's trying to help. I mean he --  
8       because it's a legal obligation here perhaps,  
9       but he says -- he goes to the shed, he gets a  
10      wedge, and he tries to break the window and get  
11      the car door open, and he can't get it open.

12             I mean he can't get it open. And he  
13      offers, "Can I break a window? You can just  
14      bust out a window," and now, look, it doesn't  
15      seem like an emergency at this point, and he  
16      just wants to bust out the window.

17             Mom says, "No, it'll be cheaper for us to  
18      just run to my house, and I'll pick up the other  
19      key fob and we'll come back." He says, "Okay."

20             And, again, I'm sure -- yeah, he got his  
21      feelings hurt earlier, but he's trying to help.  
22      And they get in the car and he drives mom over  
23      to her house, and she gets the key fob, and they  
24      come back, and you'll watch the video again.  
25      And there's a little bit of issues, they have



1 trouble getting the car unlocked.

2 They do get the car door open eventually,  
3 and mom opens the door and they find that the  
4 child has deceased.

5 There's two things that the State has to  
6 every time they call a case for trial, they need  
7 an indictment. If they do those two things,  
8 those two things, they win every time. And if  
9 they fail either one of those two things, they  
10 lose their case.

11 First, they have to prove that the crime  
12 alleged in the indictment, the charges they  
13 bring, that you'll have in your jury room, the  
14 crime alleged in the indictment. You always  
15 have to prove the crime. If they can't prove  
16 the crime, they sure can't convict either one of  
17 them.

18 So it's a double burden. They have to  
19 prove that somebody got robbed. If they're  
20 stealing a car, they have to prove a car got  
21 stolen. They have to prove that the crime.

22 And, second, they have to prove that the  
23 Defendant, the person charged, is the one who  
24 committed the crime.

25 In this case, Mr. King -- and I'm only

1 concerned with Mr. King. Ms. Pangalangan has  
2 her own attorney. She's not on my plate. I'm  
3 not here to shoot at her or defend her, I'm here  
4 on Mr. King's behalf, and he has three  
5 indictments. He has an indictment for murder.  
6 Murder is a very specific crime, it's a very  
7 specific term of art, and the Judge will  
8 instruct you on what it means at the close of  
9 this case; but when you apply the law as the  
10 Judge instructs you to, to the facts as you have  
11 found, which will be substantially as I have  
12 described, you will find at least as it pertains  
13 to Mr. King, there is no grounds, there is no  
14 basis, there's no way that he is guilty of a  
15 murder.

16       Whatever happened there, as it relates to  
17 Mr. King, is not murder. It's a tragedy, it's a  
18 heartbreaking situation, but it's not murder.

19       Secondly, he has a crime of causing great  
20 bodily injury to a child. And as you watch this  
21 video, you'll see that what he does is, bring  
22 this child out of the house, place the child in  
23 the backseat of the car, relinquish any control,  
24 custody, claim, obligation, right to this child  
25 to her mother, and step away, and say, "You'all

1 go.”

2 And there’s nothing about his involvement  
3 when he carries this child, he puts this child  
4 in the car, in any way injured her.

5 First, you will hear under the law, there  
6 is the statute.

7 Last, there’s an indictment for conspiracy,  
8 and you’ll have that indictment with you in your  
9 jury room also. And I will tell you now, excuse  
10 me, I will tell you unapologetically that  
11 indictment is a garnished indictment.

12 It’s the last straw, it’s the throw it in  
13 there and see what happens. There’s nothing to  
14 this. Read this indictment, it says the two of  
15 them conspire to do something. It doesn’t say  
16 what. I don’t believe for a minute the  
17 Solicitor is gonna have the audacity at the  
18 close of this case to get up and tell you that  
19 Mr. King conspired to perform the murder of this  
20 child. Conspiracy means two people come  
21 together with a plan to commit a criminal act to  
22 accomplish some criminal intent.

23 If they got together and said, “How will we  
24 kill this child?”

25 MR. STONE: Objection. It’s not a

1 conspiracy. There is no conspiracy language.

2 MR. LOY: The Judge will instruct you --  
3 proceed?

4 THE COURT: The Judge will instruct you --

5 MR. LOY: The Judge will instruct you as to  
6 the law. So they may have conspired to murder  
7 this child, they may have gotten together some  
8 wicked plan, "How can we hurt this child," or  
9 conceivably it could be a conspiracy to cover up  
10 what happened after they discovered that the  
11 child was deceased, and they might be in  
12 trouble.

13 And in support of that, the State's  
14 probably gonna show that when the law  
15 enforcement was called, when they responded, Mr.  
16 King was as honest, as helpful and  
17 straightforward as he could be. He told them  
18 what happened. He said, "We were in the yard, I  
19 put her in the car.

20 I thought the air conditioning was running,  
21 everything seemed okay, mom went back outside.  
22 Two hours went by, 'Oh, my God, I can't believe  
23 this."

24 Ms. Pangalangan's story was not aligning  
25 with that. Her presentation was something

1 different. And if you hear those, it's obvious  
2 they are different stories. They are miles  
3 apart.

4 Most of what you need to know about Mr.  
5 King, evil heart, evil intent, desire to hurt  
6 someone vulnerable, he'll reveal to you, when  
7 you listen to a 911 call that he made, there was  
8 no malicious intent.

9 If I talked too long, I'm sorry, it's a  
10 very important day. And if nothing else, please  
11 try to listen very closely to the evidence and  
12 keep an open mind until the end of this case and  
13 decide it when the Judge gives it to you, okay?

14 If you do that, even though I know it's  
15 hard, and I know that people have a tendency to  
16 prejudge.

17 You are called to judge your fellow man in  
18 something very serious. We look forward to  
19 speaking with you again, and I would ask that  
20 you find my client not guilty.

21 THE COURT: Mr. Phillips?

22 \*\*

23 **OPENING STATEMENT BY MR. PHILLIPS**

24 MR. PHILLIPS: As a father of two girls and  
25 a baby boy, I know a parent's worst nightmare is

1 the loss of a child. That death is  
2 unimaginable. This case, what happened that  
3 day, is an absolute tragedy.

4 Let me say that again, what happened that  
5 day was an absolute tragedy. We know and accept  
6 mistakes were made. That things should have  
7 been done differently. There's a lot that  
8 happened in this case.

9 There are a lot of things that you're gonna  
10 see and hear that invoke raw emotion, raw  
11 emotion. And you swore before God to ensure  
12 that you hold the government to that burden, to  
13 prove that this case was murder.

14 This case is about a lot of things, but  
15 it's not murder. All the evidence from which  
16 your decision has to come directly from that  
17 witness stand. When you took that sworn oath,  
18 if after you heard the government's opening, you  
19 felt like you kinda had made your mind up, you  
20 violated that oath.

21 And I'm not saying that to attack you, I'm  
22 saying that, because we haven't heard any  
23 evidence yet, and you have a chance to take a  
24 step back, and do this the right way, the way  
25 you swore an oath to do, to listen to what

1 actually occurred.

2 We wouldn't be here if the government  
3 wasn't seeking to convict Rita of murder. She's  
4 not guilty of murder. We accept responsibility  
5 that mistakes were made. She should have done  
6 things differently.

7 In having that ability, it is her living  
8 nightmare. Wake up in the morning and go to  
9 bed, and that's all she thinks about is, what  
10 she could have done differently.

11 If anybody has made a mistake, and they've  
12 had that opportunity where they think a thousand  
13 times in their head, I should have done this, I  
14 should have done that, I should have broken the  
15 window, I should have been more urgent, I  
16 shouldn't have left her in the car, she owns  
17 this, it's on her soul, but this is not a murder  
18 case. This is not a murder case, but it's a lot  
19 of things. One, that she'll have to pay for.  
20 She'll have to price.

21 That's right, there are consequences for  
22 your actions, but it's not murder. I don't want  
23 to minimize that. We're not gonna make any  
24 excuses in this trial for what happened. Like I  
25 said, it's gonna invoke raw emotion. It invokes

1 raw emotion for me. Nobody's gonna downplay  
2 that.

3 Now, again, the government has to try to  
4 show that she's guilty of murder beyond a  
5 reasonable doubt. Now, how -- well, you can ask  
6 yourself why do we believe she's not guilty of  
7 murder?

8 Well, I contend and, certainly, you can ask  
9 yourself this, if the government believes she's  
10 guilty of murder, why three years later do they  
11 charge her with great bodily injury, or  
12 infliction of great bodily injury to a child?  
13 If they believed she was truly guilty of murder,  
14 why hedge the bet? Why charge her with  
15 something else if they were solely based on  
16 that.

17 And I contend there is zero evidence of a  
18 conspiracy, zero, absolutely none. This case is  
19 on video. There's a surveillance cam from Mr.  
20 King's residence. There's no smoke and mirrors  
21 here. It's all there for you to see, all there  
22 for you to evaluate. We're not running from it.  
23 And the only reason you're here is because they  
24 want to allege it's murder, and that's not what  
25 happened, period.



1           And in this case, again, you will have to  
2           deal with some very difficult things. You'll  
3           have to make difficult decisions, but you have  
4           sworn to set aside that emotion. I know it  
5           won't be easy, but, again, you've got to make  
6           your decision based on the actual evidence  
7           presented, and not on the grave emotion of what  
8           pulls up in you when you watch the video,  
9           because it does hurt. Nobody's gonna deny that.

10           The person who hurts the most is Rita.  
11           Rita has two adult daughters. Rita served this  
12           community as a teacher for 25 years, she was  
13           Teacher of the Year twice. She has a master's  
14           degree, she's highly educated. You're gonna  
15           hear them say that she should have known better,  
16           she should have.

17           We own it 100 percent, but it's not murder.  
18           Again, this is an absolute tragedy, no denying  
19           it, but don't compound that tragedy by giving  
20           into what the government wants. The Solicitor's  
21           Office, again, in these type of filed cases, you  
22           have the cameras, the lights, when they're  
23           seeking conviction for murder, this case is not  
24           murder.

25           When you hear all the evidence, we are

1       gonna be confident, when we come in in closing,  
2       to come before you and say, "Find Rita  
3       Pangalangan not guilty of murder," because that  
4       is justice in this case.

5               Justice will come for Rita, but it's not  
6       murder. Thank you.

7               MR. STONE: The State calls Halley Godley  
8       to the stand.

9               THE COURT: Stand and stretch for just a  
10       moment, make sure everyone is comfortable. If  
11       everybody will stand for a moment. Okay.

12                               \*\*\*

13                               **HALLEY GODLEY,**

14                               **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

15                               \*\*\*

16                               **DIRECT EXAMINATION**

17               BY MR. STONE:

18               Q. Agent Godley, if you could, tell the  
19       jury your name, please, and what you do?

20               A. My name is Special Agent Hadley Godley,  
21       and I work for SLED Narcotics currently.

22               Q. How long have you been with SLED?

23               A. Going on five and-a-half years.

24               Q. And I know we call it SLED, but what's  
25       the full title?

1           It's the State Law Enforcement Division?

2           A.   Correct.

3           Q.   Okay, so you've been with them for how  
4 long?

5           A.   About five and-a-half years.

6           Q.   In your capacity with SLED, what do you  
7 do?

8           A.   I investigate narcotic cases.

9           Q.   Prior to this, back in 2019, what did  
10 you do?

11          A.   I was with SLED at the time.

12          Q.   Okay, and what, specifically, were your  
13 job duties then?

14          A.   A Narcotics Investigator.

15          Q.   Okay. How did you get involved in this  
16 case as a Narcotics Investigator?

17          A.   I was returning from a training class  
18 in Jasper County that day, so I was traveling  
19 back northbound on 95.

20               And when this call came out over the  
21 Colleton County dispatch radio channel, I was at  
22 Exit 42 on 95, and this incident location was  
23 right down the road from where I was at. And  
24 when the call came out as a 12-year-old locked  
25 in a car unresponsive, my first thought was --

1 at the time my daughter was six, and she knew  
2 how to get out of a locked car, so --

3 MR. PHILLIPS: Objection.

4 MR. LOY: Objection, Your Honor.

5 THE COURT: Objection's overruled.

6 BY WITNESS:

7 A. So it immediately sounded suspicious to  
8 me.

9 Q. Let me ask you -- let me stop you there  
10 just briefly. Because you had mentioned 95, I  
11 want to give the jury some idea about where  
12 we're talking about.

13 MR. STONE: Your Honor, this is State's  
14 Exhibit 7, that we've already shown to the  
15 Defendants.

16 THE COURT: Any objection to it being  
17 admitted?

18 MR. LOY: Not from Mr. King, Your Honor.

19 MR. PHILLIPS: None, Your Honor,

20 THE COURT: It's admitted.

21 (State's Exhibit 7 was admitted into  
22 evidence.)

23 MR. STONE: Your Honor, if this gets in  
24 anybody's way, I'll move it.

25 BY MR. STONE:

1 Q. All right, let me show you, this is  
2 State's Exhibit Number 7. Can you identify that  
3 for us?

4 A. Yes, sir. That's an aerial map of  
5 Colleton County --

6 Q. Okay.

7 A. -- with --

8 Q. I'm sorry, go ahead.

9 A. With two addresses identified.

10 Q. All right. Now, on this map, if you  
11 could, just give us -- if you -- can you still  
12 see it?

13 A. Yes, sir.

14 Q. Okay. Give us some idea about the  
15 proximity of this. This is -- first of all, is  
16 all of this in Colleton County?

17 A. Yes, sir.

18 Q. All right. And so you were traveling,  
19 I believe, on Interstate 95 at the time?

20 A. Correct.

21 Q. All right. Give me, if you could, the  
22 addresses on that, and tell me about this area,  
23 please?

24 A. Can I stand?

25 THE COURT: Yes.

1 BY MR. STONE:

2 Q. As long as you keep your voice up.

3 A. Okay.

4 Q. Thank you.

5 A. So this top right address is [REDACTED]  
6 [REDACTED] Road, in Walterboro, South Carolina.

7 I'm familiar with this address being the home  
8 address of Rita Pangalangan.

9 Q. Okay, and the lower address?

10 A. The lower address is [REDACTED] [REDACTED]  
11 Highway in Ruffin, South Carolina, and that is  
12 the incident location for this investigation.

13 Q. All right, and so that is where you  
14 responded to?

15 A. Correct.

16 Q. Okay. When you arrived on-the-scene --  
17 and let me make sure I get this exactly right,  
18 the [REDACTED] [REDACTED] Highway, can you describe  
19 what you find once you get there?

20 A. Initially, as I was describing,  
21 initially, I was past the residence, and as I  
22 passed it, I saw two legs sticking up out of the  
23 tall grass in the yard. And in my mind it  
24 reminded me immediately of -- at the time, my  
25 daughter had been the same age --

1 MR. PHILLIPS: Objection, Your Honor.

2 MR. STONE: Okay.

3 BY MR. STONE:

4 Q. Just tell me what you saw, just hit  
5 that.

6 A. So as I returned back to the yard and  
7 got out of my vehicle, I saw **Child** on the  
8 ground, face-down in the tall grass, and Larry  
9 was walking around the front yard.

10 Q. All right, and when you say Larry, who  
11 are you talking about?

12 A. The individual in the button-up shirt,  
13 light blue and white, dark brown beard, with  
14 glasses and a bald head.

15 Q. Okay, and do you know his full name?

16 A. Larry King.

17 MR. STONE: And, Your Honor, for the  
18 record, she identified the Defendant, Larry  
19 King.

20 THE COURT: So noted.

21 BY MR. STONE:

22 Q. And Larry King, what is he doing when  
23 you get there?

24 A. He's walking around, and I believe he  
25 was still on the phone with 911.

1 Q. Okay. Did you see Rita Pangalangan?

2 A. Not initially.

3 Q. So tell me when you walked up on the  
4 scene exactly what you see.

5 A. I see **Child** laying in the tall grass  
6 facedown, Larry walking around in the front  
7 yard, and the front door of the residence was  
8 open.

9 Q. I'll show you what has been marked as  
10 State's Exhibit 5. I'll ask if you can identify  
11 this, please.

12 A. Yes, sir, this is an accurate depiction  
13 of the scene when I arrived with the Volkswagen  
14 parked in the front yard that was open.

15 Q. That's a fair and accurate depiction of  
16 how the scene looked when you arrived?

17 A. Yes, sir.

18 MR. STONE: Your Honor, at this time we move  
19 State's Exhibit Number 5 into evidence.

20 MR. LOY: No objection.

21 MR. PHILLIPS: No objection, Your Honor.

22 (State's Exhibit Number 5 was entered into  
23 evidence.)

24 MR. STONE: And, Your Honor, we're going to  
25 publish this. This is here and a hard copy, and



1 we'll publish it on the ELMO.

2 THE COURT: Solicitor, it's a great  
3 disadvantage to rule on the admissibility of  
4 evidence not seen by the Court.

5 MR. STONE: I'm sorry, Your Honor.

6 THE COURT: Do you have copies of these  
7 exhibits?

8 MR. STONE: Yes, sir.

9 THE COURT: I can't see it.

10 Do you'all have copies of the exhibits?

11 MR. PHILLIPS: I do.

12 THE COURT: We can get copies later, but I  
13 would like a copy of the exhibits.

14 MR. STONE: This is a copy of the first  
15 two, State's Exhibit 7 and State's Exhibit 5.

16 THE COURT: And Number 5 is admitted, as  
17 well as Number 7.

18 BY MR. STONE:

19 Q. Tell me what this is depicting, and  
20 this is State's Exhibit 5 up on the monitor.

21 A. This is right when I got on-scene that  
22 day.

23 Q. All right, and so this is you in the  
24 blue shirt?

25 A. Yes, sir.

1 Q. Is that a blue shirt, by the way --

2 A. It is.

3 Q. -- it looks like it to me, okay. And  
4 who is that standing beside you?

5 A. Larry King.

6 Q. Okay, and where is **Child**?

7 A. She would have been off the rear  
8 driver's side bumper of the car.

9 Q. Okay, so you can't see her. She's on  
10 the other side?

11 A. Correct.

12 Q. All right. And, again, where is Rita  
13 Pangalangan at this point?

14 A. Inside the residence.

15 MR. PHILLIPS: Your Honor, we have a matter  
16 of law.

17 THE COURT: Ladies and gentlemen, we will  
18 take a break. Please do not discuss the case.

19 (Jury exits the courtroom.)

20 THE COURT: Yes, sir.

21 MR. PHILLIPS: Your Honor, as we had in  
22 pretrial, the objection to the photographs of  
23 the -- before that remark, since we know that  
24 it's not a final ruling, we need -- I think the  
25 State seeks to admit all of these into evidence

1 at this time.

2 And so renewing our prior pretrial  
3 objection to those photographs with those  
4 arguments, under Rule 403, going through the  
5 case law as we cited, even with the new case  
6 that recently came out from our Supreme Court on  
7 August 9th, Nelson.

8 Specifically, Your Honor, again, I'm not  
9 going to rehash, I know we went through that  
10 thoroughly in the argument at pretrial, but we'd  
11 renew that objection. We don't need to hash  
12 that out now.

13 THE COURT: Mr. Loy?

14 MR. LOY: Likewise, Your Honor, I believe  
15 under Nelson what they've described in that  
16 case, as well to suppress the pictures, which  
17 don't make any issue, the contention more or  
18 less likely it's just not probative.

19 We have conceded what the Solicitor said,  
20 this child was in the car, it got so hot she  
21 basically baked to death, she was pulled out.  
22 The pictures don't demonstrate that any more  
23 than the words themselves do, plus, these  
24 pictures have other prejudicial effect, and that  
25 this is a disabled child, and that's not the

1       fault of either one of the Defendants, but they  
2       are even more pathetic or emotional and that the  
3       child looks emaciated.

4             The child is wearing a diaper. I mean the  
5       child -- and those have nothing to do with this,  
6       and they don't make it any more or less likely  
7       that there was malice involved. The actions are  
8       pretty much what we have conceded they were.  
9       The State this happened, we said this happened.

10            What do these prove, and what do they go to  
11       show, and that is being contested, and I believe  
12       the answer is nothing.

13            MR. GATCH: I don't believe that was the  
14       answer.

15            MR. STONE: Let me hand you, Your Honor,  
16       first of all the Court photographs. Those are  
17       -- and, obviously, you'll have the facility to  
18       authenticate those through the witness.

19            Nelson was an autopsy case, Your Honor.  
20       These are not autopsy pictures, these are crime  
21       scene pictures, which is why I handed you up  
22       State v. Kelsey yesterday, but even under the  
23       analysis of autopsy pictures, specifically, the  
24       Supreme Court has routinely said that the  
25       photographs are probative, if they tend to shed

1 light on any issue, if they corroborate  
2 testimony, if they are -- enabled the jury to  
3 better understand testimony, including showing  
4 the condition of the victim's bodies, the  
5 probable type or location of the injuries, the  
6 position in which the bodies were discovered.

7 Again, these are discovered as Agent Godley  
8 testified, this is right after this event has  
9 taken place. In fact, Larry King is still on  
10 the phone with 911 when it happens. This is  
11 also -- you will see for the five hours and 41  
12 minutes that the child is in the car, both Larry  
13 King and Rita Pangalangan approach that car at  
14 various times, and actually look in the window.

15 So at some point they're seeing exactly  
16 what this is, and these blisters and things that  
17 you're seeing. What's also I think important,  
18 and she just testified to this, at least part of  
19 it is, that when she gets there the child is  
20 laying by herself in the grass.

21 Rita Pangalangan, the mother, is nowhere  
22 near, and that's exactly how they found the  
23 child, and that was the condition that child was  
24 in throughout the entire event.

25 THE COURT: Okay. Exhibits Number 2 and 4

1 are admitted over objection, that depict the  
2 scene at the time the officers arrived, and  
3 being further described through testimony, and  
4 that the pictures are not of such a nature the  
5 prejudice exceeds probative value.

6 With regard to Number 1 and Number 3, these  
7 pictures purport to show --

8 MR. STONE: On State's Exhibit 3, these are  
9 -- that's actually the same photograph. This is  
10 the bottom half, and this is the full body shot.

11 Again, not only is it how the child was  
12 found, you can see the blisters that were on the  
13 child's body. Again, as --

14 THE COURT: You can see it on both  
15 photographs or can you?

16 MR. STONE: Yes, you can.

17 THE COURT: So they show the same injuries?

18 MR. STONE: They do, the only difference is  
19 you can see the child's face, which I believe  
20 that both King and Pangalangan would have been  
21 able to see, if they looked in the car.

22 And there is -- there's no way for me to  
23 tell you, other than to tell you on the video  
24 they are looking in the car at various times,  
25 sometimes to look at -- supposedly, looking to

1 see how to get the car unlocked; but there were  
2 various times in the video in which they're  
3 looking in.

4 This is how -- this is what they would see  
5 with that child.

6 MR. PHILLIPS: And, Your Honor, our  
7 position --

8 THE COURT: I'll get back to you, I'm  
9 talking to the Solicitor.

10 MR. PHILLIPS: Yes, sir.

11 THE COURT: And the tag on the feet of the  
12 child?

13 MR. STONE: That is -- they had to -- I  
14 think at the corner put the tag on that.

15 THE COURT: So is this at the scene or a  
16 different location?

17 MR. STONE: No, it's at the scene. It's  
18 right there, yes, sir. And I think you can see  
19 the grass around it, although they had to --  
20 they got a sheet to try to cover the body.

21 THE COURT: All right, Mr. Phillips?

22 MR. PHILLIPS: Thank you, Your Honor.  
23 Based on Your Honor's ruling to admit the two  
24 photographs as --

25 THE COURT: I haven't excluded the other

1 two, but --

2 MR. PHILLIPS: That's right, but I mean --  
3 and that's where I'm going.

4 THE COURT: All right.

5 MR. PHILLIPS: Based on Your Honor's  
6 decision to admit those two, our argument would  
7 be, again, that there's nothing that testimony  
8 can't provide that's not already contained  
9 within those two photographs that would be  
10 highlighted by those.

11 That is not how she was found at the scene.  
12 As the Coroner's tag has a sheet behind her,  
13 one's, obviously, an enhanced photograph with  
14 the injuries. These photos are nothing more  
15 than to inflame the passion and prejudice of the  
16 jury, to have them make a decision based on an  
17 improper basis, not the evidence themselves, and  
18 Your Honor has decided to admit those two  
19 photographs with that.

20 And to me those additional two photographs  
21 -- I mean the probative value would be  
22 substantially outweighed by its prejudicial  
23 effect.

24 THE COURT: And, Mr. Loy?

25 MR. LOY: Your Honor, I don't believe that



1       those photographs show anything that is not --  
2       can be described by the witness on the stand  
3       adequately, and it's not adequately shown in the  
4       picture that are there. I would note that on --  
5       in Nelson, on page three, the part that's  
6       indented, they do what we did. And the Supreme  
7       Court seems to think it's important, where in  
8       the opening statement counsel said, "We agree  
9       that the victim was brutally murdered, we agree  
10      she had at least nine wounds to her body, we  
11      agree with the prosecutor about the cause of her  
12      death, and we agree about where she was killed,  
13      we agree in general with what the murder weapon  
14      was, and we agree that these people were there."

15             So we're in the same -- and the Supreme  
16      Court seems to think that's an important point,  
17      because they quote it, they indent it, and then  
18      they go further and say, "We agree with that,"  
19      and I think that negates a lot of the necessity  
20      to bring this in, it just makes it inflammatory.

21             At this point, I think it's also  
22      cumulative, and inflammatory as well as  
23      cumulative.

24             THE COURT: Last word, Solicitor.

25             MR. STONE:

1           The testimony, and, again, everything in  
2           here goes to the state of mind of these two  
3           people. These two people were able to see that  
4           child in the car, when they looked in the car,  
5           and that's what they saw, and that's what --  
6           that's one area that makes it particularly, I  
7           think, important.

8           MR. LOY: If I could, there's no  
9           foundation --

10          THE COURT: That's the last word --

11          MR. LOY: Yes, sir.

12          THE COURT: -- for -- go ahead, sir.

13          MR. LOY: The windows are tinted. No one's  
14          testified you can look through that car, when  
15          the door's closed, and see what's in it, so  
16          there's no foundation based on that.

17          THE COURT: These two photographs 1 and 2  
18          are admitted, over objection, to show the  
19          bruising on the child, and it further shows the  
20          condition at the time.

21          They will be admitted over objection.

22          MR. STONE: Thank you, Your Honor.

23          THE COURT: And we'll take five minutes --

24          MR. STONE: Yes, sir.

25          THE COURT: -- and we will proceed. You may

1 step down. Do not discuss your testimony.

2 WITNESS: Yes, sir.

3 BAILIFF: All rise.

4 (RECESS)

5 (Jury enters the courtroom.)

6 THE COURT: You may proceed.

7 MR. STONE: Thank you, Your Honor.

8 BY MR. STONE:

9 Q. Agent Godley, let me hand you what has  
10 been marked as State's Exhibit 2, 3, 4 and 1.  
11 First of all, let me just ask if you recognize  
12 those photographs?

13 A. Yes, sir.

14 Q. Are those fair and accurate depictions  
15 of the scene as you saw them that day?

16 A. Yes, sir.

17 MR. STONE: At this time, Your Honor, we  
18 move State's Exhibits 1, 2, 3 and 4 into  
19 evidence.

20 MR. PHILLIPS: Subject to our prior  
21 objection.

22 THE COURT: Admitted over objection.

23 (State's Exhibits 1 through 4 admitted into  
24 evidence.)

25 MR. STONE: Thank you.

1 BY MR. STONE:

2 Q. I'll first call your attention to the  
3 monitor.

4 MR. STONE: Your Honor, I've got these  
5 marked, but I also have them on the monitor.

6 BY MR. STONE:

7 Q. Let me first go to State's Exhibit 2,  
8 and I think I have it so everybody can see it.  
9 Tell me what this photograph is depicting.

10 A. This what I saw when I got on-scene, as  
11 far as where **Child** was, also the vehicle, the  
12 what -- as far as parked just as it is there.

13 Q. Now, when you say **Child** did you  
14 know her?

15 A. I --

16 Q. Or you saw her name later, or did you  
17 know her name at the time?

18 A. I knew of her previously.

19 Q. Okay, so you knew of her.

20 MR. PHILLIPS: Objection, Your Honor.

21 BY MR. STONE:

22 Q. So when you --

23 THE COURT: All right.

24 MR. PHILLIPS: Objection.

25 THE COURT: The basis for the objection?

1 MR. PHILLIPS: There's no foundation for  
2 that.

3 THE COURT: The objection is overruled.

4 MR. STONE: Thank you.

5 BY MR. STONE:

6 Q. So when you say **Child**, you know  
7 that's who that is?

8 A. Yes, sir.

9 Q. Okay. Let me go now to State's Exhibit  
10 4. Tell me what's depicted in that.

11 A. Again, it's another picture of **Child**  
12 laying in the overgrown grass.

13 Q. State's Exhibit 1, is that a fair and  
14 accurate depiction as you saw it that day?

15 A. It is.

16 Q. And tell me what that depicts.

17 A. Also **Child's** body after it had been  
18 rolled over.

19 Q. And then State's Exhibit 3? Tell us  
20 what those are.

21 A. Blisters on her skin, which it is  
22 showing down to the bone.

23 Q. Okay. Let me go back, if I could, to  
24 State's Exhibit 2.

25 Now, where are you -- when you walk up on

1       this scene, and I know we had a photograph  
2       earlier that we put in for the overall scene as  
3       you were walking up, where are you standing at  
4       on this part?

5             A.   As I walk onto the scene?

6             Q.   Yes.

7             A.   It would have been in the direction of  
8       the jury box.

9             Q.   Okay, and where is Larry King?

10            A.   To the left.

11            Q.   Okay, and where is Rita Pangalangan at  
12       this time?

13            A.   Inside the residence.

14            Q.   All right.  At some point then did you  
15       go and get Rita Pangalangan out of the house?

16            A.   I did.

17            Q.   And where was she when you went in?

18            A.   She was just beyond the living room  
19       pacing around inside the house.

20            Q.   Did you bring her outside?

21            A.   I did.

22            Q.   Did she tell you what happened?

23            A.   She did.

24            Q.   What did she say -- or, excuse me, did  
25       she tell you -- what did she tell you happened?

1                   A.    She told me that she put **Child** in  
2                   the car, went back inside to get cigarettes,  
3                   when she came back the door was locked.

|          |                            |
|----------|----------------------------|
| <b>4</b> | Q. The doors locked where? |
|----------|----------------------------|

5 A. On the vehicle that **Child** was in.

6 Q. Let me ask you one other thing too.

7 When you got to the scene, what was it like  
8 outside? What was the temperature?

9                   A. I don't know the exact temperature, it  
10                   was extremely hot, it was August in South  
11                   Carolina.

12 Q. The car itself, and I think we have  
13 that in State's Exhibit -- let me see if I can  
14 those. State's Exhibit 5, put that up on the  
15 monitor.

16           Where is the car located as to any type of  
17           shade, anything like that.

18           A. It was not in any type of shade when I  
19 arrived on-scene. It was in the open sun  
20 exposure.

21 Q. I don't have any further questions.

22 Answer any questions the defense may have.

23 A. Yes, sir.

**\*\***

**CROSS-EXAMINATION**

1

2

BY MR. LOY:

3

Q. What is your last name?

4

A. Halley Godley.

5

Q. Godley?

6

A. Yes, sir.

7

Q. Halley Godley?

8

A. Yes, sir.

9

Q. Agent Godley, did you also have the  
10 opportunity to speak with --

11

A. I --

12

Q. -- Mr. King on the scene that day?

13

A. I did.

14

Q. And how would you describe his  
15 emotional state when you spoke to him?

16

A. He seemed a little panicked.

17

Q. Was he upset?

18

A. I took it more as a panic, more so than  
19 being upset.

20

Q. Was he still on the phone with 911 when  
21 you spoke with him?

22

A. Yes, sir.

23

Q. 911 calls are recorded, you know that  
24 in your work, right?

25

A. Yes, sir.



1 Q. Did you ask him what had happened?

2 A. I don't recall.

3 Q. Okay.

4 A. Yes, sir.

5 MR. LOY: Thank you, Your Honor.

6 \*\*

7 **CROSS-EXAMINATION**

8 BY MR. PHILLIPS:

9 Q. Agent Godley, you said when you  
10 arrived, Rita was inside?

11 A. Yes, sir.

12 Q. Were you aware that Rita is the one who  
13 got her out of the car?

14 A. At that time, no, sir.

15 Q. But you do know that to be true?

16 A. Correct.

17 Q. Right. And as far as that point, you  
18 weren't there after she gets her out of the car,  
19 and you didn't observe the way she acted after  
20 finding the body; is that correct?

21 A. That's correct.

22 MR. PHILLIPS: No further questions, Your  
23 Honor.

24 MR. STONE: That's all at this time, Your  
25 Honor. The State calls Charles Jones.

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**CHARLES JONES,**  
**BEING DULY SWORN TESTIFIED AS FOLLOWS:**

**\*\*\***

**DIRECT EXAMINATION**

BY MR. STONE:

Q. Mr. Jones, what do you do, sir?

A. I'm a firefighter/paramedic for  
Colleton County Fire Rescue.

Q. Okay, and how long have you been a  
firefighter/paramedic? Is that -- by the way,  
is that a combined job?

A. Yes, sir.

Q. Okay, so how long have you been at that  
job?

A. This November will make six years that  
I've worked.

Q. Now, when you -- as a paramedic, what  
are your job responsibilities?

A. You've got your EMT basic, your  
advanced EMT, and your paramedic.

Q. So as a paramedic, can you assess  
whether or not somebody's alive or dead?

A. Yes.

Q. And you have some equipment and things  
like this to use?

1 A. Yes.

2 Q. You were called to [REDACTED] [REDACTED]  
3 Highway on August the 5th, 2019; were you not?

4 A. Yes.

5 Q. Tell me what you found when you got  
6 there.

7 A. The child laying prone with her legs  
8 kind of extending a little bit, a few feet from  
9 the rear passenger side of the vehicle on the  
10 ground. Didn't appear to be breathing --

11 Q. Okay.

12 A. -- no pulse.

13 Q. I'm sorry, I didn't understand you.

14 A. Didn't appear to be breathing or have a  
15 pulse.

16 Q. Okay. Did you check for any of that?

17 A. Yes.

18 Q. And --

19 A. We have a heart, cardiac monitor, which  
20 shows what's called an asystole rhythm, which we  
21 get no heartbeat at that time.

22 Q. All right, so when you apply cardiac,  
23 how do you do that?

24 A. We apply four leads on the person's  
25 body.

1 Q. Are these the little white things?

2 A. Yes.

3 Q. So did you apply these four leads on

4 **Child's** --

5 A. Yes.

6 Q. -- body?

7 A. Yes.

8 Q. And did you check that with the  
9 monitor?

10 A. Yes.

11 Q. And what were the results of that?

12 A. It showed an asystole rhythm, where  
13 there's no registered heartbeat.

14 Q. So what does that mean?

15 A. That the party is deceased.

16 MR. STONE: No further questions at this  
17 time, Your Honor.

18 MR. LOY: No, Your Honor, thank you.

19 MR. PHILLIPS: No questions.

20 THE COURT: Thank you, sir.

21 WITNESS: Thank you.

22 MR. STONE: The State calls Todd Schenk.

23 \*\*\*

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**TODD SCHENK,**  
**BEING DULY SWORN TESTIFIED AS FOLLOWS:**

**\*\*\***

**DIRECT EXAMINATION**

BY MR. STONE:

Q. Mr. Schenk, what do you do, sir?

A. I'm a Crime Scene Investigator for the  
South Carolina Law Enforcement Division.

Q. And how long have you been doing that?

MR. PHILLIPS: I'm sorry, what kind of  
investigator?

THE COURT: Crime Scene Investigator.

MR. PHILLIPS: Thank you, I'm sorry.

BY WITNESS:

Q. I've been doing crime scene  
investigations for almost ten years now.

Q. And all that time with SLED, with the  
State Law Enforcement Division?

A. Yes, sir.

Q. Okay. And so in your capacity as a  
Crime Scene Investigator, what do you do?

A. So our job at SLED is to respond and  
give forensic expertise to our counterparts at  
the local county or municipality level. So we  
show up, we'll document the crime scene with

1        photos, collect evidence, give any type of  
2        scientific help we can in the forensics field to  
3        our local counterparts.

4            Q.    All right, and so you are collecting  
5        evidence both at the scene and throughout the  
6        case?

7            A.    We are, yes, sir.

8            Q.    Let me first go to State's Exhibit 8.

9            MR. STONE:    Your Honor, I believe I've  
10       marked it on the back of that copy that is a  
11       State's exhibit, and it's the crime scene  
12       sketch.

13            BY MR. STONE:

14            Q.    All right, let me show you what's been  
15       marked as State's Exhibit 8. Is this your crime  
16       scene diagram?

17            A.    It is.

18            Q.    All right, and this is the one you  
19       prepared after responding to the scene?

20            A.    Yes.

21            Q.    Okay.

22            MR. STONE:    At this time, Your Honor, we  
23       move State's Exhibit 8 into evidence.

24            MR. LOY:    No objection, Your Honor.

25            MR. PHILLIPS:    No objection.

1 THE COURT: Submitted without objection.

2 (State's Exhibit Number 8 was admitted into  
3 evidence.)

4 MR. STONE: And I know it's difficult for  
5 Your Honor to see the copy.

6 BY MR. STONE:

7 Q. If you would, show the jury, and can  
8 you see it from there? I'm trying to find a  
9 place, so I can locate it, so I don't block  
10 defense counsel, but can you see it from there?

11 A. Yes, sir, I can.

12 Q. All right. Can you explain to the jury  
13 what that is, please?

14 A. Yes, sir. So this is the residence at  
15 [REDACTED], excuse me, [REDACTED] Highway. The  
16 residence right here is -- may I step down?

17 THE COURT: Yes, sir.

18 BY WITNESS:

19 A. So this box right here is the actual  
20 residence itself. This would be the front door.  
21 This next box is just the porch, a very basic  
22 version of it with columns. This is the Jetta  
23 -- Volkswagen Jetta that was parked out front.  
24 The victim was located here, there's a small  
25 sidewalk, and then this was the blue Chevy

1 pickup truck that was out front. The main road  
2 would be down here.

3 Q. And so that corresponds actually with  
4 -- this corresponds basically with State's  
5 Exhibit 5; is that correct? And that's already  
6 been admitted into evidence.

7 A. Yes, sir, it does.

8 Q. All right. As you go through this, did  
9 you -- as you see, not only did you do this  
10 graph, did you also inventory the car, the  
11 automobile?

12 A. We did search it, yes, sir, we did.

13 Q. And as you inventoried the car, do you  
14 ever move things around, or you just -- you  
15 report it, photographs it? How do you, I guess,  
16 document the scene so to speak?

17 A. So first thing is photographs, our  
18 biggest documentation tool. My partner in this  
19 instance documented the scene with our  
20 photographs. We take overall closeup  
21 photographs to establish where things are on-  
22 the-scene. I'll also handwrite notes and take  
23 measurements of visible -- which we have at the  
24 crime scene, but photos being the number one.

25 Q. Let me show you one other exhibit too,



1           this is State's Exhibit 6.

2           MR. STONE: And, Your Honor, I do not  
3 believe I have a copy on that one, but this is  
4 an ariel view photo.

5           THE COURT: Okay.

6           BY MR. STONE:

7           Q. Let me show you on State's Exhibit 6,  
8 if this is a fair and accurate depiction of how  
9 the car was located on that day?

10          A. Yes, sir.

11          Q. Okay.

12          MR. STONE: And, Your Honor, at this time  
13 we'd move State's Exhibit 6 into evidence.

14          MR. LOY: No objection, Your Honor.

15          MR. PHILLIPS: No objection.

16          THE COURT: It's admitted.

17          (State's Exhibit 8 was admitted into  
18 evidence.)

19          MR. STONE: Okay, Mr. Hightower, can you  
20 show that on the monitor?

21          BY MR. STONE:

22          Q. All right, and that is where the car  
23 was located? That's sort of an ariel view of,  
24 basically, of your crime scene chart?

25          A. Yes, sir.

1 Q. Okay, all right.

2 MR. LOY: Your Honor, may we approach?

3 THE COURT: Yes, sir.

4 (Bench conference.)

5 BY MR. STONE:

6 Q. All right, let me show you first what's  
7 been marked as State's Exhibit Number 9, State's  
8 Exhibit Number 10, 11 and 12.

9 First, if you could tell me, can you  
10 identify those photographs?

11 A. Yes, sir, I can.

12 Q. And are those fair and accurate  
13 depictions of how the backseat of that car  
14 looked when you and your team inventoried it?

15 A. Yes, sir.

16 Q. And those are fair and accurate  
17 depictions of what's in that bag, and the bag  
18 being, the whole bit?

19 A. Yes, sir.

20 Q. Okay.

21 MR. STONE: At this time, Your Honor, we  
22 move State's Exhibits 9, 10, 11 and 12 into  
23 evidence.

24 THE COURT: Then they're admitted over  
25 objection.

1 MR. STONE: Thank you, Your Honor.

2 (State's Exhibits 9, 10, 11 and 12 were  
3 admitted into evidence.)

4 BY MR. STONE:

5 Q. Let me first show you on the monitor  
6 State's Exhibit Number 9.

7 Now, can you describe for us what that is?  
8 I know it might be kind of hard to see from  
9 here. Can you see it all right?

10 A. Yes, sir.

11 Q. Okay, if you could describe for the  
12 jury what that is?

13 A. So this is looking in the rear  
14 passenger door of the Jetta, so the front  
15 passenger is the seat on the top right of the  
16 photo.

17 Q. And I'm gonna stop you there. This  
18 bright spot right here what is that?

19 A. That is the open door on the driver's  
20 side of the back.

21 Q. All right, and so that is in the same  
22 condition as the crime scene that we showed  
23 earlier, which is State's Exhibit 5 with the  
24 doors open?

25 A. Yes, sir, it is.

1           Q. Okay. So you're now on the other side  
2 of this car, which would be the -- other side,  
3 back over here?

4           A. Correct.

5           Q. Is that correct?

6           A. Yes, sir.

7           Q. Okay, all right. And if you go back to  
8 State's Exhibit 9, all right, so in that  
9 backseat tell us what you -- what that is.

10          A. So there's a blue duffle bag, some kind  
11 of gym bag sitting on the rear passenger seat.  
12 There's a pink sippy cup in the middle of the  
13 car, or in the middle of the seat, and then some  
14 other items down there on the floorboards.

15          Q. And the bag, is that in the condition  
16 that you saw it when you got there?

17          A. It is.

18          Q. All right. Let me go to State's  
19 Exhibit 10. Describe what that is, please.

20          A. That is a .9mm handgun that had two  
21 different barrels on it.

22          Q. And that was in the top of that bag?

23          A. It was.

24          Q. The hand on the left, is that one of  
25 your team members of your team?

1           A. That's my photographer spreading it on  
2 the backseat so you could see the handgun.

3           Q. And then let me show you State's  
4 Exhibit Number 11. Tell us what that is.

5           A. That's showing that there were two  
6 cartridges in each -- or a cartridge in each  
7 chamber of the handgun.

8           Q. Okay, and when you say cartridge, what  
9 do you mean?

10          A. It's the unfired bullet.

11          Q. Okay.

12          A. So, yes.

13          Q. And then, finally, let me show you  
14 State's Exhibit 12. What's that?

15          A. That was a Tupperware full of  
16 cigarettes in the bag.

17          Q. Okay. And that's all in the back seat  
18 of the car?

19          A. Correct.

20          MR. STONE: If I may approach, Your Honor,  
21 as I hand this up.

22          THE COURT: Yes.

23          BY MR. STONE:

24          Q. All right, let me show you what's been  
25 marked as State's Exhibit 29.

1 I'll hand these to you now for  
2 identification only, and I'll ask you to hold  
3 onto them for right now, please, 30, 31, 32, 25,  
4 26, 27 and 28.

5 Are those fair and accurate depictions of  
6 what is shown in those photographs?

7 A. It is.

8 Q. And what are those?

9 A. These are tubes of blood that I  
10 collected via chain of custody from the Colleton  
11 County Sheriff's Office.

12 Q. Okay, and what did you do with it, and  
13 before you get into that, these other tubes,  
14 tubes of blood would be referenced in 27 and 28.  
15 What about these other photographs?

16 A. These are photographs showing the  
17 container, and how I sealed them and submitted  
18 them into the lab.

19 Q. Okay.

20 MR. STONE: At this time, Your Honor, we  
21 introduce these photographs into evidence,  
22 State's Exhibit 28, excuse me, 29, 30, 31, 32,  
23 25, 26, 27 and 28.

24 THE COURT: They will be marked for ID  
25 purposes at this time.

1 (State's Exhibit Numbers 29, 30, 31, 32,  
2 25, 26, 27 and 28 were marked for ID purposes.)

3 BY MR. STONE:

4 Q. Okay, so let me ask you, first of all,  
5 when you took the blood, what did you do with  
6 it? First of all, the blood vials, where did  
7 the blood vials come from?

8 A. I believe it was Investigator Kelly  
9 Padgett, or an investigator with the Colleton  
10 County Sheriff's Office.

11 Q. Okay, from the Sheriff's Office?

12 A. Correct.

13 Q. Okay. And did you get all of the blood  
14 vials from her?

15 A. I did.

16 Q. All right, when you received those, did  
17 those blood vials concerning -- and I think  
18 we've got -- I want to read them, do you know  
19 where the blood came from?

20 A. They came from our two suspects.

21 Q. Okay, Larry King and Rita Pangalangan?

22 A. Yes, sir.

23 Q. All right, and these blood vials, what  
24 did you do with them once you received them?

25 A. So once I get them, I transport them

1 back to Columbia to the forensics lab. I seal  
2 them in a heat-sealed pouch, log them in, and  
3 submit them to evidence.

4 Q. So you actually put them in the best  
5 evidence bag at SLED?

6 A. The heat sealed, yes, sir, I did.

7 Q. Okay. How did you receive them?

8 Did you receive them as is depicted in I  
9 guess it's State's Exhibit 27?

10 A. Yes, sir, I got like a -- it was a  
11 sandwich bag, or some type of Ziplock bag.

12 Q. Okay, and these numbers on there, what  
13 do those numbers indicate?

14 A. That's a lab number, item number and my  
15 initials.

16 Q. Okay, and so these are your initials  
17 there?

18 A. Correct.

19 Q. All right, sir. And then this other  
20 paperwork, what I just referred to as the best  
21 evidence bags, this is what you actually  
22 produced; is that correct?

23 A. It is.

24 Q. All right, and what's the purpose of  
25 those? And I -- and, specifically, that is in



1 State's Exhibit Number and State's Exhibit  
2 Number 29, what's --

3 A. They're --

4 Q. -- the purpose of that?

5 A. -- tampered evidence bags, where it's a  
6 plastic bag, that we use a heat sealer, it's  
7 sealed at the top, and we initial, date and  
8 seal. And that just shows that if someone were  
9 to try to access that evidence, they would have  
10 to destroy the seal to get to it, so it's a way  
11 to .

12 Q. Okay, so you're taking of the blood,  
13 did you change or alter the blood of either Rita  
14 Pangalangan or Larry King in any way?

15 A. No, sir.

16 Q. Your process was -- is the chain of  
17 custody, which takes it from one person to  
18 another?

19 A. Yes, sir.

20 Q. And in that process, you put them in  
21 these best evidence bags, which you're  
22 indicating in these photographs.

23 A. Yes, sir.

24 Q. Did you change or alter what was inside  
25 of that in any way, shape or form?

1           A.   No.

2           Q.   And the writing on State's Exhibit 25,  
3   26, actually, 31 as well, 29, 30 and 27, all of  
4   that writing on there indicated on that is stuff  
5   that you did, you prepared --

6           A.   I did.

7           Q.   -- as a part of the chain of custody?

8           A.   I did.

9           Q.   Okay. And, again, you did not alter it  
10   or change it in any way?

11          A.   No.

12          MR. STONE: Your Honor, at this time we'd  
13   move those exhibits into evidence.

14          MR. LOY: Your Honor, the same objection,  
15   there's no foundation.

16          THE COURT: I can rule on each  
17   individually, if you'd prefer.

18          MR. PHILLIPS: Subject to the prior  
19   objections that we had at pretrial.

20          THE COURT: Number 25 is admitted. Number  
21   26 is admitted. Number 27 is for ID purposes  
22   only at this time, and so is 28. 29 is  
23   admitted, 30 is admitted, 31 and 32 are for ID  
24   purposes only at this time.

25          MR. STONE: So ID purposes only, 27 and 32,

1 31; is that correct, and 28 are also for ID.

2 THE COURT: 27, 28, 31 and 32 are for ID  
3 purposes only at this time.

4 (State's Exhibits Number 27, 28, 31 and 32  
5 were admitted for ID purposes.)

6 (State's Exhibits 25, 26, 29, 30 were  
7 admitted into evidence.)

8 BY MR. STONE:

9 Q. Let me go to State's Exhibit 30,  
10 please. And this is the best evidence bag you  
11 were describing?

12 A. It's our heat-sealed pouch, yes, sir.

13 Q. All right. And, again, what is the  
14 purpose of that?

15 A. This is a plastic bag that we heat seal  
16 at the top, and it is a tampered evidence bag,  
17 where if someone were to rip it open, or try to  
18 gain access to the evidence, it would be readily  
19 visible, so it's just a way of protecting the  
20 evidence as it's being transported.

21 Q. And the handwriting on that, that is  
22 yours?

23 A. It is.

24 Q. Let's go to State's Exhibit 29. Again,  
25 what is that?

1           A. This is the other -- or this is the  
2 item four, heat-sealed pouch. At the top you  
3 can see where I've initialed and dated the seal,  
4 and you can see the crease in the plastic.

5           Q. Now, the yellow sticker, what is that?

6           A. That is our barcode system, that's how  
7 we can electronically transfer evidence  
8 throughout the lab, so it's an electronic chain  
9 of custody.

10          Q. Okay. And then State's Exhibit 26?

11          A. This is item six, heat-sealed pouch.

12          Q. And State's Exhibit 25?

13          A. This is showing those initials and date  
14 on the actual seal, where I sealed in item six.

15          Q. Okay, and the purpose of you sealing  
16 it, like that one, once you seal it, like what  
17 do you do with it?

18          A. I then submit it to our Evidence -- or  
19 Evidence Control, who will then disseminate it  
20 throughout the lab where it needs to go.

21          Q. Okay. In your lab, and, you know, we  
22 talked about being at the crime scene,  
23 Investigator, tell me about what type of lab are  
24 you talking about when you say lab?

25          A. It's a forensics, so our -- the South

1 Carolina Law Enforcement Forensics Services  
2 Laboratory, so we test evidence from the crime  
3 scenes, to firearms, prints, DNA, trace, tox,  
4 any forensic evidence, any kind of forensic  
5 science we need to do, we do.

6 Q. And when you say tox, what do you mean?

7 A. Our Toxicology Department they can look  
8 at blood, and it's best for getting toxicology  
9 results. They're -- we have scientists that  
10 work in the building and can work in their  
11 discipline.

12 Q. Okay, and so this -- all these items  
13 here you took that to the lab and turned it over  
14 to them; is that correct?

15 A. I did.

16 Q. And, again, did you change or alter it  
17 in any way before you did that?

18 A. No.

19 MR. STONE: Thank you, Your Honor, I don't  
20 have any further questions at this time.

21 THE COURT: From the defense?

22 MR. GATCH: Thank you. No questions.

23 MR. STONE: No further questions.

24 THE COURT: Thank you.

25 WITNESS: Thanks.

1 MR. STONE: The State calls Lindsey Lewis  
2 to the stand. Your Honor.

3 THE COURT: Yes, sir.

4 \*\*\*

5 LINDSEY LEWIS,  
6 BEING DULY SWORN TESTIFIED AS FOLLOWS:

7 \*\*\*

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q. All right, let's get you to pull the  
11 microphone close to you, please, ma'am. All  
12 right, and go ahead and tell the jury your name  
13 again.

14 A. Lindsey.

15 Q. And last name?

16 A. Lewis, L-E-W-I-S.

17 Q. Okay, and where do you live, Ms. Lewis?

18 A. St. George, Maryland.

19 Q. Okay. How long have you lived in St.  
20 George?

21 A. About a year.

22 Q. Where did you live prior to that?

23 A. Walterboro.

24 Q. And how long did you live in  
25 Walterboro?

1 A. For a while.

2 Q. Okay, how old are you now?

3 A. I am 22.

4 Q. Let me ask you to go back to August the  
5 2nd, 2019. How old were you on August the 2nd,  
6 2019?

7 A. 18.

8 Q. Okay. Did you know Rita Pangalangan?

9 A. Yes, sir.

10 Q. And how did you know her?

11 A. She was my child's development teacher.

12 Q. And what school was that?

13 A. Colleton.

14 Q. Now, on August the 2nd did you have a  
15 reason to go to Rita Pangalangan's home?

16 A. Yes, sir.

17 Q. And what was that reason?

18 A. To meet and go over her daughter,

19 **Child's** routine.

20 Q. Why did you do that?

21 A. Because I was going to be watching

22 **Child**. I was supposed to watch **Child**.

23 Q. Did you have any particular interest,  
24 and how did this come about?

25 A. Because I was going to be a nurse, so

1       they thought it would be best for me to, you  
2       know, kind of get the hang of her routine and  
3       all that, it might help me out, so I agreed and  
4       that's why --

5             Q.   When you say they, who are you talking  
6       about?

7             A.   Rita.

8             Q.   Okay.

9             A.   And I think she spoke to her mother  
10       about it.

11            Q.   Okay.   And so did you go over to Rita's  
12       house for the purpose of learning how to take  
13       care of **Child**?

14            A.   Yes, sir.

15            MR. STONE:   Your Honor, this is Number 13.

16            BY MR. STONE:

17            Q.   Let me show you a picture -- excuse me,  
18       State's Exhibit 13.   First, I'll ask if you can  
19       identify that?

20            Is that a fair and accurate depiction of  
21       how **Child** looked?

22            A.   Yes, ma'am.   Yes, sir.

23            Q.   And that was when you knew her when you  
24       were 18; is that correct?

25            A.   Yes, sir.



1 Q. And, again, that is August the -- we're  
2 talking about August the 2nd, 2019?

3 A. Yes, sir.

4 MR. STONE: At this point, Your Honor,  
5 we're moving in State's Exhibit 13.

6 MR. LOY: No objection, Your Honor.

7 MR. PHILLIPS: No objection.

8 THE COURT: Admitted.

9 (State's Exhibit 13 was admitted into  
10 evidence.)

11 BY MR. STONE:

12 Q. Let me show you -- if you could go to  
13 State's Exhibit 13. All right, now, as you and  
14 **Child** -- first of all, tell me about her. She  
15 appears to be in a wheelchair. When you were  
16 dealing with her at the house, tell me about her,  
17 could she walk?

18 A. No, sir.

19 Q. How did she get around?

20 A. She would crawl on her knees --

21 Q. Okay.

22 A. -- or either on her hands --

23 Q. I'd like --

24 A. -- like a baby.

25 Q. I apologize, I didn't mean to interrupt

1       you. Go ahead, I'm sorry.

2               A. Kind of like a baby sort of.

3               Q. Okay, and her hands, especially on the  
4 right, it looks like -- can she fully grasp  
5 things?

6               A. No, sir.

7               Q. Okay. What about her ability to talk,  
8 was she verbal?

9               A. No, sir.

10              Q. Let me ask you --

11              A. She would --

12              Q. Go ahead.

13              A. -- gaggle like a baby, but she couldn't  
14 speak full words like, you know, we can.

15              Q. And tell me, from the standpoint, it  
16 looks like she's actually smiling in that  
17 picture. Could she show emotion?

18              A. Yes, sir.

19              Q. And this is -- and you went over there  
20 on August the 2nd to learn how to take care of  
21 her?

22              A. Yes, sir, pretty much.

23              Q. What was involved in that, in taking  
24 care of **Child**?

25              A. She has to get, you know, starting

1 baths, and you have to change her, and, you know,  
2 stuff like that.

3 Q. When you say change her --

4 A. Uh-huh.

5 Q. -- what do you mean?

6 A. Like she -- her diapers.

7 Q. Okay, on August the 5th, there's  
8 actually a photograph of her with a diaper, is  
9 that the condition she was always in?

10 A. Uh-huh.

11 Q. And I need you to say yes or no.

12 A. Yes, sir.

13 Q. Okay, and so you had to change her  
14 diaper. What type of food did you give her?

15 A. I was told to give her Ensure nutrition  
16 drinks.

17 Q. Okay. Anything else other than that?

18 A. No, not at the time.

19 Q. Okay. All right, so you go over there  
20 on the 2nd with an idea of learning how to take  
21 care of her.

22 What happens after that? And about what  
23 time do you get there by the way?

24 A. It was about noon. I mean noon, 1  
25 o'clock, maybe.

1 Q. All right, so what happens after that?

2 A. Well, I just got there, we went over  
3 the routine pretty much, and then she asked me --  
4 Rita asked me if I'd watch **Child** while she  
5 went on a date with Larry.

6 Q. Okay, was --

7 A. And she --

8 Q. -- that Larry King?

9 A. Yes, sir, her boyfriend.

10 Q. Okay. All right, and --

11 A. yes --

12 Q. -- what time did she ask you to go --  
13 if you would watch her?

14 A. What time?

15 Q. Yes. In other words, you got there  
16 about noon, you went through the care, about what  
17 time did she ask you, if you could watch her?

18 A. I mean it was like around 5:00,  
19 6 o'clock.

20 Q. Okay, and did you?

21 A. Yes, sir.

22 Q. Okay, and tell me about that. She left  
23 the house, I'm assuming, sometime around that  
24 afternoon?

25 A. Yes, sir, she left I would say around

1 5:00, 6 o'clock, that afternoon she left.

2 Q. Was anybody else there to take care of  
3 **Child** ?

4 A. No, sir.

5 Q. It was just you?

6 A. Uh-huh.

7 Q. Had you taken care of **Child** before?

8 A. No, sir.

9 Q. Okay. This was on what date?

10 A. This -- the -- the 2nd.

11 Q. August the 2nd?

12 A. Yes, sir.

13 Q. What day was that?

14 A. A Friday.

15 Q. Did you see Rita Pangalangan again?

16 A. Not until Sunday afternoon.

17 Q. After she went on a date with Larry,  
18 did she say, "I'm going, and I'll be back  
19 Monday," or anything like that?

20 A. She said that -- she texted me later  
21 that night to check on **Child** I would say  
22 about 9:30, 10 o'clock. And that she said she  
23 would be back the next morning on Saturday to go  
24 grocery shopping, and stuff like that, but she  
25 never came, and --

1 Q. Were there groceries in the house?

2 A. No, sir.

3 Q. Just the Ensure drinks?

4 A. Uh-huh. And also a pitcher of Kool-Aid  
5 in the frig.

6 Q. Okay, all right. So did she come back  
7 the next day?

8 A. No.

9 Q. That would be, I guess, the 3rd --

10 A. Saturday.

11 Q. -- on Saturday, correct?

12 A. Uh-huh, Saturday.

13 Q. Did she come back Saturday?

14 A. Uh-uh, no, sir.

15 Q. Did she call in?

16 A. No, sir.

17 Q. Were you able to get in touch with her?

18 A. Through Facebook, I think it was.

19 Q. I'm sorry?

20 A. Through Facebook, I think it was.

21 Q. Did you talk to her again after that?

22 A. After Saturday?

23 Q. Yes.

24 A. Not until Sunday. When she said that  
25 she would be -- that Larry would drive her back

1 to the house, because she did not know how to  
2 drive his truck, and he was sick, so that's why  
3 she was gone, taking care of him.

4 Q. At any point in time did she call to  
5 tell -- ask if it was okay if you took care of  
6 the child?

7 A. Not -- no, sir.

8 Q. Did you hear from her after she called  
9 to check in Friday night?

10 A. No, sir.

11 Q. Did you ever -- by the way, did you see  
12 Larry later on?

13 A. Later on, when?

14 Q. The next day?

15 A. Uh-uh. On Saturday?

16 Q. Yes.

17 A. No, sir.

18 Q. On Sunday?

19 A. Sunday, no, sir.

20 Q. Okay.

21 A. I knew he was out there; I could hear  
22 music or something, I knew somebody was out  
23 there, and I'm guessing it was him.

24 MR. LOY: Objection, Your Honor.

25 MR. STONE: Okay, that's fine. I'll

1 withdraw that.

2 BY MR. STONE:

3 Q. My next question was, did you ever find  
4 out if he was actually sick?

5 A. Sick, no.

6 Q. Say it again?

7 A. No, sir, I did not find out he was  
8 actually sick.

9 Q. Okay. And then when did you, in fact,  
10 see Rita again?

11 A. Again, when? Oh, that would be Sunday.

12 Q. Okay, Sunday, about what time was that?

13 A. In the afternoon. I would say 5, 6  
14 o'clock maybe.

15 Q. Tell me also, did you also put the  
16 child to bed? Did you also put **Child** to bed?

17 A. Uh-huh, yes, sir.

18 Q. Did you see anything unusual?

19 A. Yes, sir, I did.

20 Q. What was that?

21 A. I can't remember -- it was bed bugs.

22 MR. PHILLIPS: Objection, Your Honor. 401,  
23 403, 404(b), all previously given to Your Honor.

24 THE COURT: Solicitor.

25 MR. PHILLIPS: All that was addressed, and



1 all of that was previously discussed and argued.

2 THE COURT: I'll overrule the objection.

3 MR. STONE: Thank you.

4 BY MR. STONE:

5 Q. Please answer any questions the defense  
6 has. Thank you.

7 MR. LOY: None, thank you for coming.

8 THE COURT: Anything further?

9 THE COURT: Pardon?

10 WITNESS: Sorry, I didn't know what you  
11 were saying.

12 \*\*

13 **CROSS-EXAMINATION**

14 BY MR. PHILLIPS:

15 Q. Good morning.

16 A. Good morning.

17 Q. You knew **Child** from before, correct?

18 A. Yes, from the classroom.

19 Q. Right. Rita would bring **Child** to  
20 the classroom?

21 A. Yes, sir.

22 Q. And when they're in the classroom, you  
23 had fun in the classroom?

24 A. I guess so, yeah.

25 Q. And everybody seems safe in the

1 classroom?

2 A. Yeah.

3 Q. There was no concern when she would  
4 bring **Child** with her to school?

5 A. No, sir. I'm not sure.

6 Q. And she taught you, Rita did?

7 A. Yeah.

8 Q. And you felt comfortable enough with  
9 her as your teacher, that you wanted to help,  
10 potentially, in becoming a nurse to help take  
11 care of her child?

12 A. Yes, at the time.

13 Q. And were you aware that through her  
14 condition with -- as far as the pediatrician,  
15 that she had a choking hazard, that she had to  
16 drink the Ensure or pureed food; did you know  
17 that?

18 A. That she has a choking hazard?

19 Q. In other words, she couldn't eat whole  
20 food.

21 A. No, I did not know that at the time. I  
22 was just told she was supposed to drink Ensures.

23 Q. And there were boxes of those in the  
24 home?

25 A. In the pantry.

1 Q. Right, there were plenty of those?

2 A. Yeah, there was a few.

3 Q. At that point, Rita texted you to say  
4 that she was checking in, but you said you didn't  
5 hear back from her?

6 A. At what point?

7 Q. Did you call anyone about that?

8 A. Call anyone?

9 Q. Yes.

10 A. No, sir.

11 Q. Did you call anyone about not hearing  
12 from Rita?

13 A. No. Did I call anyone about not  
14 hearing from her? No.

15 Q. And why is that?

16 A. I just figured she'd be back, I don't  
17 know.

18 Q. Because you felt comfortable, you had  
19 control of the situation.

20 A. At the time.

21 Q. You did, didn't you?

22 A. I was a little confused, but, yeah.

23 Q. I mean you were taking good care of

24 **Child**?

25 A. Yeah.

1 MR. PHILLIPS: No further questions, Your  
2 Honor.

3 THE COURT: All right.

4 MR. STONE: Just one very briefly.

5 \*\*

6 **REDIRECT EXAMINATION**

7 BY MR. STONE:

8 Q. Did Rita tell you, by the way, that she  
9 couldn't be given solid foods, because she'd  
10 choke to death?

11 A. She did not tell me that. All she told  
12 me was not to give her -- to give her Ensure,  
13 that's what she told me.

14 MR. STONE: Nothing else, Your Honor.

15 THE COURT: Thank you.

16 MR. PHILLIPS: Thank you.

17 MR STONE: The State calls Brittany  
18 Honeycutt.

19 THE COURT: Okay.

20 MR. PHILLIPS: And, Your Honor, I guess  
21 before we go down that road, I guess we can do  
22 that, and I'll have --

23 THE COURT: Do you have any additional  
24 questions of this witness?

25 MR. PHILLIPS: No, Your Honor.

1 THE COURT: All right, you may step down.

2 MR. STONE: The State calls Brittany  
3 Honeycutt.

4 \*\*\*

5 BRITTANY HONEYCUTT,  
6 BEING DULY SWORN TESTIFIED AS FOLLOWS:

7 \*\*\*

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q. Ms. Honeycutt, where do you live,  
11 ma'am?

12 A. I live in Texas.

13 Q. And what do you do?

14 A. I am in Administration for Chevron.

15 Q. How long have you been doing that?

16 A. A couple months.

17 Q. Let me ask you to go back now to  
18 August, and a few months prior to that in 2019.

19 Did you know Rita Pangalangan?

20 A. I do.

21 Q. Okay, and so did you have an occasion  
22 to come in contact with her on a regular basis?

23 A. Yes.

24 Q. Okay, well, tell me about moving in.

25 A. When I knew what the agreement was, I

1 was paying some rent.

2 Q. All right, let me back you up just a  
3 second.

4 A. Sorry.

5 Q. So who were you moving in with?

6 A. Oh, it was me and my two kids.

7 Q. Okay, and where were you moving your  
8 two kids in?

9 A. Into Rita Pangalangan's house on  
10 [REDACTED] Road.

11 Q. And that's [REDACTED] Road?

12 A. Yes.

13 Q. All right, great, so what was the  
14 rental agreement on that?

15 A. I would pay her some rent just to stay  
16 there, because it was supposed to be a temporary  
17 situation.

18 Q. Okay. How long did you stay -- how  
19 long did you rent from Rita at her house?

20 A. From May of 2019 until August 1st of  
21 2019.

22 Q. Until August 1st, 2019, so on the  
23 Thursday before this happened?

24 A. Yes.

25 Q. All right. All right, during that time

1 did you come in contact with **Child**?

2 A. Yes, I did.

3 Q. Tell me about **Child** how would you  
4 describe **Child**?

5 A. **Child** was, obviously, disabled, but  
6 she was a sweet girl. She was quiet, she kind of  
7 watched TV, she played with her toys. She didn't  
8 really bother anybody. I mean you knew she was  
9 there, but she was just really quiet.

10 Q. Tell me, could she walk?

11 A. She could not walk.

12 Q. Could she talk?

13 A. She could not talk.

14 Q. But you could see emotions I guess from  
15 her?

16 A. Oh, yeah, she definitely showed  
17 emotions.

18 Q. Okay. All right, did you ever take of  
19 **Child**?

20 A. There were a couple times when I was  
21 asked to watch her for a little bit.

22 Q. All right, so when you say you were  
23 asked, who asked you?

24 A. Rita asked me.

25 Q. Okay, asked you to watch her?

1 A. To watch her, yes.

2 Q. And how many times was that?

3 A. By myself a couple.

4 MR. PHILLIPS: And, Your Honor, this is  
5 subject to our prior objection.

6 THE COURT: Yes, proceed.

7 MR. STONE: Thank you.

8 BY MR. STONE:

9 Q. All right, and so over the time that  
10 you stated you watched her by yourself a couple  
11 of times?

12 A. Yes.

13 Q. Okay. And what did you have to do to  
14 take care of her?

15 A. Since it was just a few hours, when I  
16 had to do it by myself, and it was just,  
17 basically, making sure her bedroom was clean,  
18 made sure she had Kool-Aid in her cup, and that  
19 was pretty much it.

20 Q. Did Rita Pangalangan ever just leave  
21 the child with you without asking you to take  
22 care of her?

23 A. Yes.

24 Q. And how did that happen?

25 A. So there was an incident where there



1 was a Sunday night in July, where she had asked  
2 me to watch her for just overnight, and I said  
3 that was fine. So -- I'm sorry, that was also on  
4 Monday.

5 Q. Okay.

6 A. And she came back the next day, because  
7 I had told her I had to work. So she did come  
8 back home that morning, and she told me was gonna  
9 be home all day.

10 And when I was ready to go to work, or,  
11 sorry, I am so sorry, I got my days mixed up. So  
12 when the -- when I first watched her the first  
13 night, that was an agreement. The next day it  
14 was she wasn't going anywhere, and then it was  
15 she gave her -- I remember her giving her a bath,  
16 I remember her getting ready for bed, and she  
17 would close her door, and she did the normal  
18 routine.

19 And then I went to bed with my kids,  
20 because I had to work the next day, and next  
21 thing I know, the next morning I woke up **Child**  
22 was in her room, trying to get out of the bed.

23 Q. So she -- when **Child's** in the room,  
24 is she locked in the room?

25 A. I don't know if the door was locked,

1 but I know she could not open the door.

2 Q. Because of the hands?

3 A. Yes.

4 Q. Did **Child** -- Rita -- and let me go  
5 -- now we're gonna go right up until August when  
6 you left.

7 A. Uh-huh.

8 Q. You ended up leaving the Thursday  
9 before this event --

10 A. Yes.

11 Q. -- took place; is that correct?

12 A. Yes.

13 Q. Okay. Leading up close to that time  
14 did you have a discussion with Rita about you  
15 babysitting **Child**, and whether or not you were  
16 able to do that?

17 A. Yes.

18 Q. Okay. Please tell us about that.

19 A. So she had asked me --

20 Q. All right, I'm gonna stop you, when you  
21 say, she?

22 A. I'm sorry. Then should I just say her  
23 name?

24 Q. Please.

25 A. Sorry. Rita came up to me and had

1 asked me if I could watch her. I had let her  
2 know I had to go into work for a few hours, and  
3 she kept asking me over and over.

4 And, finally, when the answer didn't change  
5 it was no, obviously, she told me to leave

6 **Child** in my car with the windows down, because  
7 she does it all the time.

8 MR. PHILLIPS: Same as our objection. Your  
9 Honor.

10 THE COURT: Objection is overruled.

11 MR. STONE: Thank you, Your Honor.

12 BY MR. STONE:

13 Q. And, I'm sorry, I keep interrupting  
14 you, could you -- she -- you said you couldn't,  
15 because you had to go to work?

16 A. Yes.

17 Q. Pick it up from there.

18 A. So when I told her the first time, she  
19 kept asking me over and over again. And when she  
20 realized that the answer was not gonna change  
21 from no, she had told me that I could still take  
22 her, and leave her in my car with the windows  
23 down, and -- because she does it all the time,  
24 because she does it all the time.

25 Q. She being?

2 Q. Do you see Rita Pangalangan in the  
3 courtroom?

5 MR. STONE: Your Honor, let the record  
6 reflect she's identified the Defendant, Rita  
7 Pangalangan.

9 BY MR. STONE:

12 A. Oh, right over here, in the white --

14                   A.  It looks like a blue jacket and a white  
15           shirt.

17 MR. STONE: Thank you, Your Honor, no  
18 further questions.

20 Q. Thank you, Ms. Honeycutt.

22 THE COURT: Mr. Phillips?

24 \*\*

25

**CROSS-EXAMINATION**

BY MR. PHILLIPS:

Q. Ms. Honeycutt, Rita kicked you out of the house right before all this happened; is that right?

A. It was more that I was moving out of the house.

Q. That's your opinion. She kicked you out of the house, because you weren't paying rent, and you brought bed bugs into her home; is that fair to say?

A. No, sir.

Q. And you also moved your boyfriend into the home with his whole family? You'all had a very toxic relationship, and you were in her home not paying rent, correct?

A. I do not agree with that, no.

MR. PHILLIPS: Nothing else, Your Honor.

THE COURT: Thank you, you may step down.

WITNESS: Thank you.

MR. STONE: The State calls Kelly Padgett.

MR. PHILLIPS: Your Honor, I have a matter of law.

THE COURT: We'll address it later.

MR. PHILLIPS: Thank you, Your Honor.

1 \*\*\*

2 KELLY PADGETT,

3 BEING DULY SWORN TESTIFIED AS FOLLOWS:

4 \*\*\*

5 DIRECT EXAMINATION

6 BY MR. STONE:

7 Q. Ms. Padgett, who do you work for?

8 A. The Colleton County Sheriff's Office.

9 Q. All right, so would it be proper to say  
10 Deputy Padgett?

11 A. Yes, sir.

12 Q. Deputy Padgett, were you working for  
13 the Colleton County Sheriff's Office on or about  
14 August the 5th, 2019?

15 A. Yes, I was.

16 Q. All right, and did you have an occasion  
17 to come into contact with Rita Pangalangan?

18 A. Yes, I did.

19 Q. And at some point, did you take her to  
20 the Colleton County -- what's the hospital here  
21 in Walterboro, is that Colleton Memorial?

22 A. Colleton Regional Center was what it  
23 was once called.

24 Q. All right, so did you take her to the  
25 hospital?

1           A. Yes, I did.

2           Q. And were you present when blood was  
3 collected from Rita Pangalangan?

4           A. Yes, I was.

5           Q. And I'm gonna show you what's been  
6 marked, three photographs that have been marked  
7 for identification, and they are State's 31, 32  
8 and 34. So first I'm gonna hand you State's 31  
9 and 32, and if you would look at those two  
10 photographs, I realize that there's some writing  
11 on that bag that you did not do, but do you  
12 recognize the vials in those photographs?

13          A. Yes, I do.

14          Q. And what are those vials of?

15          A. This would have been the blood that was  
16 collected from Ms. Pangalangan on the night when  
17 I took her to the hospital.

18          Q. All right, and when you got that blood,  
19 is it -- did you have it in this -- I'll call it  
20 a plastic bag, or a Ziplock appearing bag, did  
21 you have it in that container?

22          A. Yes, it was placed in that container by  
23 the nurse at the hospital.

24          Q. And was that done in your presence?

25          A. Yes, it was.

1 Q. And what did you do with it that day?

2 A. It was -- I transported it back to the  
3 Sheriff's Office, and it was handed over to the  
4 SLED Crime Scene Unit that I met at the office.

5 Q. All right, and is that Agent Schenk?

6 A. Yes.

7 Q. I'm sorry?

8 A. Agent Schenk, yes, sir.

9 Q. While you had the blood in your custody  
10 inside the Ziplock bag, did you alter it or  
11 change it in any way?

12 A. No, not at all.

13 Q. And was it in the same condition as it  
14 was when the nurse took it and handed it to you?

15 A. Yes.

16 Q. All right. I'm now gonna hand you  
17 what's been marked as State's Exhibit 34 and ask  
18 if you can identify that photograph.

19 A. Yes, I can.

20 Q. And what is that a photograph of?

21 A. This is a picture of myself and Ms.  
22 Pangalangan, and it's still at the hospital.

23 I'm holding a form and the Ziplock bag with  
24 the vials of blood in it.

25 Q. And is that the same vials of blood



1           that appears in State's 31 and 32?

2           A. Yes, it is.

3           Q. And is that the same blood that was  
4 collected at the hospital here in Walterboro?

5           A. Yes, it was.

6           MR. STONE: At this time I'd ask that  
7 State's 31, 32 and 34 be admitted into evidence.

8           MR. PHILLIPS: Subject to prior objection.

9           MR. LOY: No objection, Your Honor.

10          BY THE COURT:

11          Q. Ma'am, were you there when the blood  
12 was drawn?

13          A. Yes, sir.

14          Q. And did you see the blood being drawn?

15          A. Yes, sir.

16          THE COURT: Any further questions from  
17 either side?

18          MR. STONE: No, Your Honor, thank you.

19          THE COURT: It's admitted over objection.

20          (State's Exhibits 31, 32 and 34 were  
21 admitted into evidence.)

22          MR. STONE: Thank you, Your Honor. If we  
23 could -- if you could put up State's 34, so that  
24 the jury can see?

25          BY MR. STONE:

1           Q. And as you described it, and, Deputy  
2 Padgett, it's a silly question, but is that you  
3 in uniform?

4           A. Yes, sir.

5           Q. And that's you, and is that Ms.  
6 Pangalangan?

7           A. Yes, it is.

8           Q. And then as you described earlier in  
9 your testimony, was that the bag? And I will now  
10 move to 31. So those are the vials of blood that  
11 you mentioned earlier?

12          A. Yes, sir.

13          Q. And 32. And those you can actually see  
14 the writing that indicates the printed label  
15 whose blood it is, etcetera?

16          A. Yes.

17          Q. And did you also receive blood from  
18 another Deputy?

19          A. Yes.

20          Q. And did -- whose blood was that, as far  
21 as you know?

22          A. Taken from Mr. Larry King.

23          Q. All right, and did -- what Deputy gave  
24 that to you?

25          A. Brian Varnadoe.

1 Q. And what did you do with Larry King's  
2 blood that you got from Brian Varnadoe?

3                   A. It was also handed over to SLED Agent  
4       Schenk.

5 Q. And were they the same vials, or same  
6 type of vials that we have just seen in these  
7 other photographs?

8 A. Yes, sir.

9 Q. All right.

10 MR. STONE: The Court's indulgence, please,  
11 Your Honor.

12 BY MR. STONE:

13 Q. I don't have any other questions.  
14 Please answer any questions that defense counsel  
15 has.

16 MR. LOY: I have none, thank you.

17 MR. PHILLIPS: No questions, Your Honor.

18 THE COURT: Thank you.

19 WITNESS: Thank you.

20 MR. STONE: The State calls Brian Varnadoe  
21 -- I'm sorry, I apologize, Judge, the State calls  
22 Spencer Stevens.

23 THE COURT: If you'all will stand for a  
24 moment. Okay.

**\* \* \***

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**SPENCER STEVENS,**  
**BEING DULY SWORN TESTIFIED AS FOLLOWS:**

**\*\*\***

MR. STONE: Your Honor, I apologize, the Court's indulgence just one moment. Your Honor, if I could -- I apologize I didn't pass the other one up. I'll pass up copies now. Thank you, sir.

**\*\***

**DIRECT EXAMINATION**

BY MR. STONE:

Q. Mr. Stevens, where do you work, sir?

A. Right now I work at Roper St. Francis.

Q. All right, and back in August the 5th of 2019 were you working at Roper St. Francis, or somewhere different?

A. I worked at Colleton Medical Center at that time.

Q. All right, sir, and what position were you working?

A. I'm a nurse in the Emergency Department.

Q. On or about August the 5th of 2019 did you draw blood from Larry King?

A. Yes.

1           Q. I'm gonna hand you what's been marked  
2 for identification as State's 27 and 28 and ask  
3 you if you can identify what's in those  
4 photographs, specifically, the vials we talked  
5 about.

6           A. They're different vials we use for  
7 different lab studies.

8           Q. All right, and is -- do those have  
9 markings on them that allow you to identify them?

10          A. Correct. When a patient comes into the  
11 Emergency Department, they're registered either  
12 based off of their Social or their name and  
13 birthdate. That generates a sheet of stickers  
14 for that individual, and on those stickers they  
15 call them a label, what we call our 34, which is  
16 a specific identifier and the time we created the  
17 specimen on them.

18          Q. All right, and does it also have a  
19 number on there that indicates who drew it?

20          A. Correct. My specific number was  
21 MX07175, and that's my specific identifier to --  
22 for the lab to know that I drew those results.

23          Q. And whose blood -- is that the blood  
24 that you drew from Larry King on August the 5th?

25          A. Correct.

1 Q. I'm sorry, August the 5th of 2019?

2 A. Yes.

3 Q. And once you draw the blood, do you --  
4 who -- did you give it to a member of law  
5 enforcement?

6 A. Yes.

7 Q. All right, and do you actually put it  
8 in the Ziplock bag, and seal it, or do they do  
9 that, how does that work, or you'all do that  
10 together?

11 A. I don't recall how it was done in this  
12 instance. Most of the time it's under their  
13 supervision.

14 Q. Right, and did you -- do you put the  
15 stoppers in all of the tubes?

16 A. So the tubes that could come with a  
17 transfer device, and there's a transfer needle  
18 inside of it that the blood goes into. We don't  
19 have any actual contact with it.

20 Q. All right. Thank you, sir.

21 Now, once you handed over to law  
22 enforcement, or previous to you drawing -- I mean  
23 previous to you handing over to law enforcement,  
24 did you alter it, or change it, or do anything to  
25 it in any way?

|   |             |
|---|-------------|
| 1 | A. No, sir. |
|---|-------------|

2 Q. All right. And once you handed it over  
3 to law enforcement, did you have anything else to  
4 do with it?

|   |             |
|---|-------------|
| 5 | A. No, sir. |
|---|-------------|

6 Q. All right, I don't have any further  
7 questions, just please answer any questions that  
8 defense has.

9 THE COURT: Questions?

10

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|    |                   |
|----|-------------------|
| 11 | CROSS-EXAMINATION |
|----|-------------------|

12 BY MR. LOY:

13 Q. Do you remember the name of the law  
14 enforcement officer you gave this to?

|    |              |
|----|--------------|
| 15 | A. I do not. |
|----|--------------|

|    |               |
|----|---------------|
| 16 | Q. Thank you. |
|----|---------------|

17 MR. LOY: No further questions.

**18** THE COURT: Anything further?

19 MR. STONE: Nothing further from the State.

20 THE COURT: Thank you, you may step down.

21 MR. STONE: Thank you.

22 The State calls Brian Varnadoe.

23           Your Honor, I'd ask that -- I did not ask  
24       this, I apologize, I would ask that Mr. Stevens  
25       be excused, unless defense counsel has any

1 objection.

2 MR. LOY: None, Your Honor.

3 MR. PHILLIPS: No, Your Honor.

4 THE COURT: All witnesses are excused once  
5 they step down.

6 MR. STONE: Thank you, Your Honor.

7 \*\*\*

8 BRIAN VARNADOE,

9 BEING DULY SWORN TESTIFIED AS FOLLOWS:

10 \*\*\*

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Mr. Varnadoe, who do you work for?

14 A. Colleton County Sheriff's Office.

15 Q. All right, Deputy Varnadoe, did you  
16 work for the Colleton County Sheriff's Office on  
17 or about August the 9th -- I'm sorry, on or about  
18 August the 5th of 2019?

19 A. Yes.

20 Q. Deputy Varnadoe, did you have occasion  
21 to meet with Larry King on August the 5th of  
22 2019?

23 A. Yes.

24 Q. And did you take him to the Colleton  
25 County Medical Center, the Walterboro Hospital?



1           A. I did.

2           Q. And did you -- was that for purposes of  
3 a blood draw?

4           A. Yes.

5           Q. And were you present when blood was  
6 drawn from him by Nurse Stevens?

7           A. Yes.

8           Q. I'm gonna show you --

9           MR. STONE: I apologize, Judge.

10          BY MR. STONE:

11          Q. I'm gonna show you what's been marked  
12 as 27 and 28 and 33. If you would -- actually,  
13 first, let's just start with 27 and 28.

14          If you could, can you look at those vials,  
15 and 28's a little bit close up, can you identify  
16 what's the vials in State's 27 and 28 for  
17 identification?

18          A. Yeah, those are the vials drawn from  
19 Mr. King.

20          Q. And were you present when those vials  
21 were drawn?

22          A. Yes, I was.

23          Q. And did the nurse hand those vials to  
24 you?

25          A. They did.

1           Q. All right. While they were in your  
2 custody, were they also placed in a plastic bag  
3 that's shown there in 27?

4           A. Yes.

5           Q. Did you alter that or change it in any  
6 way?

7           A. I did not.

8           Q. What did you do with the blood once you  
9 got it?

10          A. Once I got it from the hospital staff,  
11 I turned it over to at the time Detective Kelly  
12 Padgett, she was a Sergeant, a Detective with the  
13 Sheriff's Office.

14          Q. And is it your understanding from there  
15 it went to Agent Schenk?

16          A. That's correct.

17          Q. I'm now gonna show you for  
18 identification State's 33. Can you identify that  
19 photograph for me?

20          A. Yes, sir, that's me holding up the  
21 vials and the paperwork.

22          Q. And is that -- you said the vials,  
23 meaning the vials that were drawn from --

24          A. Yes.

25          Q. -- Larry King?

1           A. That's correct.

2           Q. And all these are fair and accurate  
3 representations of the vials you got, and I  
4 realize there's excess writing that was already  
5 testified to --

6           A. Right.

7           Q. -- that was put there by Agent Schenk.  
8 Other than the writing and the label, is that  
9 accurate and a fair representation of what you  
10 bring?

11          A. Yes, sir, it is.

12          Q. And is State's 33 a fair and accurate  
13 representation of you, basically, holding these  
14 bags in the hospital on August the 5th of 2019?

15          A. Yes, it is.

16          Q. And, again, did you alter or change  
17 anything in any way?

18          A. No, I did not.

19          MR. STONE: Your Honor, at this time I'd  
20 ask that State's 27, 28 and 33 be moved into  
21 evidence.

22          MR. LOY: No objection, Your Honor.

23          MR. PHILLIPS: None.

24          THE COURT: they're admitted.

25          (State's Exhibits 27, 28, 33 were admitted

2 MR. STONE: Thank you, Your Honor. And,  
3 Mr. Hightower, if you would, please, go ahead  
4 and show 33.

6 Q. That's you holding the vials?

8 MR. STONE: And then let's go 27 and 28.

10 Q. And we referenced this, and I probably  
11 should have asked you this earlier, it says,  
12 "Larry King," and I kind of gestured over that  
13 way, but do you see Larry King that that blood  
14 was drawn from in the courtroom?

17 Q. I have nothing further. Thank you very  
18 much. Answer any questions the defense has.

20 MR. LOY: None, thank you for coming.

22 THE COURT: Anything Mr. Phillips?

24

25

**CROSS-EXAMINATION**

BY MR. PHILLIPS:

Q. Mr. Varnadoe, you spoke with Mr. King?

A. Have I spoken to Mr. King? That day, yes.

Q. And he said that Rita would never hurt her daughter intentionally?

A. I'm sorry?

Q. And he said that Rita would never intentionally hurt her daughter?

A. He may have said that. I don't recall him exactly saying that. That's a possibility.

MR. PHILLIPS: No further questions, Your Honor.

THE COURT: Anything further?

MR. STONE: I don't have anything further, Judge.

THE COURT: All right, thank you.

WITNESS: Yes, sir.

MR. STONE: Your Honor, may I approach, or may --

THE COURT: Yes, sir.

MR. STONE: -- we approach?

THE COURT: Well, we'll send you to the jury room for a few minutes. Please do not

1 discuss the case.

2 MR. STONE: You read my mind, Judge, I was  
3 just gonna ask you if I could have about ten to  
4 15 minutes --

5 THE COURT: Okay.

6 MR. STONE: -- for a break. I need to get  
7 to my next group of witnesses organized.

8 THE COURT: All right.

9 MR. PHILLIPS: And, Your Honor, can I put  
10 the matter of law on record?

11 THE COURT: Yes, sir.

12 MR. PHILLIPS: Based on the prior  
13 objections, now the testimony from Brittany  
14 Honeycutt and Lindsey Lewis, we believe it would  
15 be appropriate to move for a mistrial,  
16 specifically, under the objections that we had  
17 under Rule 404(b), as well as Rule 403. I  
18 believe at this point the prejudice has  
19 manifested a necessity that this has now denied  
20 Rita the right to a fair trial.

21 This case has become about her mothering,  
22 all these other things, and not even relevant to  
23 the day it occurred; and with that, this is,  
24 again, evidence all about things that happened  
25 previously, not even some of them being very

1 relevant, in my opinion, and very -- not  
2 related, other than just unduly prejudicial.  
3 From that we believe it to be a manifested  
4 necessity based on that to move for a mistrial.

5 THE COURT: A response?

6 MR. STONE: Your Honor, we covered all the  
7 issues as far as relevancy. I believe what's  
8 wrong with the testimony and her state-of-mind  
9 and the treatment of her child I think is very  
10 much at issue in this case, and it was all  
11 relevant testimony.

12 THE COURT: All right. I'll deny the  
13 motion. So scheduling-wise, we've ordered lunch  
14 for the jury, and it's anticipated to be here at  
15 12:45, so to the extent we can, we're gonna go  
16 -- want to go to 12:45, and then break for about  
17 an hour.

18 MR. STONE: Yes, sir.

19 MR. PHILLIPS: Yes, sir.

20 MR. STONE: Thank you.

21 THE COURT: All right, so we'll take a few,  
22 and let -- sir?

23 MR. STONE: Can we have about ten minutes  
24 or so?

25 THE COURT: How much time do you need?

1 MR. STONE: No more than ten. I can get it  
2 done in ten minutes.

3 THE COURT: All right, ten minutes, yes,  
4 sir.

5 MR. STONE: Thank you.

6 BAILIFF: All rise.

7 (RECESS)

8 (Jury enters the courtroom.)

9 \*\*

10 **PROCEEDINGS CONTINUED**

11 THE COURT: Your next witness.

12 MR. STONE: Thank you, Your Honor. The  
13 State calls Matthew Hogue.

14 \*\*\*

15 **MATTHEW HOGUE,**

16 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

17 \*\*\*

18 **DIRECT EXAMINATION**

19 BY MR. STONE:

20 Q. Agent Hogue, who do you work for?

21 A. I work for SLED, South Carolina Law  
22 Enforcement Division.

23 Q. And what do you do for SLED?

24 A. Currently I'm a Special Agent in the  
25 Vice Unit for SLED.



1           Q. All right, and back in August of 2019,  
2 what were you doing for SLED?

3           A. I was a Forensic Technician in SLED's  
4 Toxicology Department.

5           Q. All right. Sir, I'm going to hand you  
6 -- we'll do this in two batches, so first I'm  
7 going to hand you -- these have already been  
8 entered into evidence, 29, 30, 31 and 32. I  
9 believe it is listed as SLED Item Number 4.

10          So can you tell me if you recognize the  
11 items in those photographs?

12          A. Yes, I do recognize them.

13          Q. All right, and did you -- are you the  
14 one who took these pictures?

15          A. Yes, these pictures of the evidence  
16 bag, and what was inside of them are pictures I  
17 took, as part of my duties as a Forensic  
18 Technician.

19          Q. All right, so did you, upon this being  
20 logged into SLED, at some point did you open  
21 these bags to inventory or take photographs of  
22 what was inside the bag?

23          A. Yes, that's correct.

24          Q. And did you alter them or change them  
25 in any way?

1           A. No, I didn't.

2           Q. All right, and once you were done with  
3 taking these photographs, did you perform --  
4 yourself as a technician, did you perform any  
5 test on them?

6           A. No, resealed them, and they were stored  
7 in our refrigerator until further testing is  
8 needed.

9           Q. I'm going to ask you the same thing for  
10 State's 25, six, seven and eight, and I believe  
11 that SLED Item 6. Same question, do you  
12 recognize the blood vials in those photographs?

13          A. Yes, I do.

14          Q. And are you the one that took these  
15 photographs to document them with SLED evidence?

16          A. Yes, I did.

17          Q. And did you alter them, or change them  
18 in any way?

19          A. No.

20          Q. And other than to open up the bag and  
21 catalog it and reseal it, did you have anything  
22 to do with them beyond that?

23          A. No, I did not.

24          Q. And I will also ask you, if you can, as  
25 to SLED Item 6, can you, by looking at the

1 listing on the vials, can you tell me whose  
2 blood sample that is?

3 A. The blood vials say Larry Eugene King,  
4 Jr.

5 Q. All right. And as to SLED Item Number  
6 4, I'd ask you the same question?

7 A. Rita Marie Pangalangan.

8 Q. Thank you, sir. I don't have any  
9 further questions. Please answer any questions  
10 that defense has.

11 MR. LOY: None, thank you for coming.

12 WITNESS: Thank you.

13 MR. PHILLIPS: No, Your Honor.

14 THE COURT: All right, thank you, sir.

15 MR. STONE: I'll ask that he be excused,  
16 Your Honor.

17 THE COURT: Yes.

18 MR. STONE: Brooklynn Gonzalez.

19 \*\*\*

20 **BROOKLYNN MOLINA,**

21 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

22 \*\*\*

23 **DIRECT EXAMINATION**

24 BY MR. STONE:

25 Q. And I messed that up and said Brooklynn

1 Gonzalez. I had both names written down, I'm  
2 sorry, I couldn't remember which one.

3 So you're married name now is Brooklynn  
4 Molina?

5 A. Yes, that's correct.

6 Q. Agent Molina, who do you work for?

7 A. I'm employed by the South Carolina Law  
8 Enforcement Division, commonly known as SLED.

9 Q. And what do you do for SLED?

10 A. I am a Forensic Toxicologist in our  
11 Toxicology Department.

12 Q. I'm going to hand you a couple sets of  
13 photographs that have been testified to and are  
14 already in evidence. So I'd like to start with  
15 what is referred to as SLED Item Number 4, which  
16 is a collection of four photographs, State's  
17 Exhibits 29, 30, 31 and 32.

18 If you would, look at those and let me  
19 know, did you have anything to do with the blood  
20 vials of Rita Pangalangan in SLED Item 4?

21 A. I had taken the photos, taking these  
22 photos.

23 Q. You actually assisted -- is that  
24 Agent Hogue?

25 A. Yes, Matthew Hogue.

1           Q. All right. And there's a yellow  
2 sticker, and I think this was testified to  
3 earlier, but there's a yellow sticker on those.

4           MR. STONE: Mr. Hightower, can you bring up  
5 25, please?

6           BY MR. STONE:

7           Q. So this yellow sticker, can you tell me  
8 what that yellow sticker signifies?

9           A. Yes, that is the unique SLED  
10 identification number, that was given to this  
11 case, and Number 6 represents Item Number 6 that  
12 was submitted to us.

13          Q. So if I could borrow those real quick  
14 again.

15          MR. STONE: Mr. Hightower, could you please  
16 bring up 29?

17          BY MR. STONE:

18          Q. So is that what I was just referring to  
19 the SLED Item Number 4?

20          A. Yes.

21          Q. Blood for Rita Pangalangan. And would  
22 you tell me about SLED Item Number 6, whose  
23 blood that is?

24          A. These vials are labeled King, Larry  
25 King, Jr.

1           Q. All right, and do you perform any --  
2           you said you assisted in taking the pictures.  
3           Did you do anything else with SLED Item 4 and  
4           SLED Item 6, the blood vials from the  
5           Defendants?

6           A. Yes. I performed the blood alcohol  
7           analysis, as well as the preliminary drug  
8           screen.

9           Q. All right, and your blood alcohol  
10          analysis, is that like ethanol, or --

11          A. Yes.

12          Q. And did you find any ethanol, and we'll  
13          just do them one at a time, in SLED Item 4,  
14          which is Rita Pangalangan's blood?

15          A. No.

16          Q. All right. And did you find any  
17          ethanol for SLED Item 6, Mr. King's blood?

18          A. No.

19          Q. You said you did a preliminary -- what  
20          was the --

21          A. A preliminary drug screen.

22          Q. All right, and let me ask you this, as  
23          part of your job at SLED, and what you do at  
24          SLED, what kind of qualifications and things do  
25          you have to have to have the job that you

1 currently have at SLED?

2 A. So education-wise, I have a Bachelor of  
3 Science in Forensic Chemistry from Ohio  
4 University, and I have a Master of Science from  
5 the University of Florida in Forensic  
6 Toxicology. Education aside, we undergo  
7 extensive in-house training for blood/tissue  
8 analysis, that consists of analyzing 500  
9 previously analyzed samples, and comparing those  
10 to the known values, as well as completing -- we  
11 have multiple lectures, each followed by an  
12 exam, and then a comprehensive exam.

13 We are competency tested, which is an  
14 internal test to determine that we are competent  
15 in that analysis. And then we are proficiency  
16 tested each year by an external vendor in each  
17 discipline that we are deemed competent in.

18 For drug screens my training consisted of  
19 assisting in 100 case samples and the operation  
20 of the instrument. Again, we were competency  
21 tested, and are proficiently tested by an  
22 external vendor each year for that.

23 Q. All right, and just -- and not about  
24 this case, specifically, but this case and other  
25 cases you would do, what is the procedure of --

1           that you follow, once you have a -- once you do  
2           your preliminary tox screen? If it's positive,  
3           what would you do with it?

4           A. So once a case is positive on either  
5           preliminary drug screen, those results all have  
6           to be confirmed, so they are then assigned to  
7           another analyst in our lab.

8           Q. And does that -- let me back up for a  
9           second. So you talked about your undergrad  
10          degrees and what is it?

11          A. Forensic chemistry.

12          Q. All right, and how long have you worked  
13          for SLED?

14          A. I have worked for SLED approximately  
15          five years.

16          Q. And you said -- you talked about some  
17          proficiency exams. How often do you have to do  
18          those?

19          A. Yearly.

20          Q. All right, so have you passed them  
21          every year?

22          A. Yes.

23          Q. Have you ever been qualified as an  
24          expert before?

25          A. One time.



1 Q. And what would your expertise be in, if  
2 I was to ask the Court now to have you declared  
3 as an expert? Would it be forensic toxicology?

4 A. Correct.

5 MR. STONE: Your Honor, at this time, I'd  
6 ask that Agent Molina be qualified as an expert  
7 in forensic toxicology.

8 THE COURT: Says the defense?

9 MR. LOY: I think she's an expert, Your  
10 Honor.

11 MR. PHILLIPS: Just subject to the prior  
12 pretrial objections.

13 THE COURT: All right, she's so qualified.

14 MR. STONE: Thank you, Your Honor.

15 BY MR. STONE:

16 Q. Ma'am, we talked about doing different  
17 tests, the fact that you did a preliminary  
18 toxicology. So if we could, just take them one  
19 at a time. As to SLED Item 4, which is the  
20 blood of Rita Pangalangan, did you -- were you  
21 able to run a preliminary toxicology screen on  
22 that?

23 A. Yes, I completed a preliminary drug  
24 screen.

25 Q. I'm sorry, I used the wrong language, a

1 preliminary drug screen.

2 A. Right.

3 Q. Did you get a preliminary hit on any  
4 drugs?

5 A. Yes, that item number was positive for  
6 methamphetamine and amphetamine.

7 Q. Now --

8 THE COURT: Ladies and gentlemen, once a  
9 witness is qualified as an expert witness, they  
10 are then allowed to offer opinions in the area  
11 of their expertise, subject to the rules of  
12 evidence.

13 MR. STONE: Thank you, Your Honor.

14 BY MR. STONE:

15 Q. As to SLED Item Six, Agent Molina, were  
16 you able to -- or did you run a drug screen on  
17 that?

18 A. Yes, I did.

19 Q. And that's the blood of Larry King?  
20 What results did you get, as far as a  
21 preliminary result?

22 A. Do you have a copy of the report  
23 actually? I just want to make sure I tell you  
24 the correct -- thank you.

25 Q. Just after reviewing that, see if that

1 refreshes your memory.

2 A. Yes, so I did perform a preliminary  
3 drug screen, and that would have been positive,  
4 again, for methamphetamine and amphetamine.

5 Q. All right, so both were -- both had a  
6 preliminary result for the methamphetamine and  
7 amphetamine?

8 A. Correct.

9 Q. And what did you say the procedure was  
10 once you do that?

11 A. Then that case is assigned to an  
12 analyst to confirm those results.

13 Q. And who would the analyst be in this  
14 case?

15 A. Lindsay Mitchell.

16 Q. All right. And other than what you  
17 testified to, did you have anything else to do  
18 with this case?

19 A. No, I did not.

20 Q. All right, thank you very much, ma'am.  
21 I have no further questions for you.

22 Please answer any questions the defense  
23 has.

24 THE COURT: From the defense?

25 MR. LOY: Just a couple.

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**CROSS-EXAMINATION**

BY MR. LOY:

Q. So I think I understand the process. You said you do a preliminary screen, and I assume if it's negative, then that substance is discarded, that's the end of the investigation for that substance; is that right?

A. For that substance, correct.

Q. And when you said it's positive and sent to someone else for a confirmation --

A. Correct.

Q. -- is that right? My question is, when it goes to someone else, is that like a higher echelon of testing, or is that something that is more specific, or is it someone else who is, if you will, on your same level within SLED, and you'll just check behind each other?

A. No, it would go to confirmatory testing, which is going to go to a class specific combination.

Q. Okay, and would it be fair, it's a higher testing --

A. Yes.

Q. -- than that?

A. Yes.

1 Q. Thank you.

2 MR. PHILLIPS: Thank you, Your Honor.

3 \*\*

4 **CROSS-EXAMINATION**

5 BY MR. PHILLIPS:

6 Q. Agent Gonazlez, good afternoon. Based  
7 on your training and experience, you can't tell  
8 when a substance was ingested, right?

9 A. No.

10 Q. And so the preliminary report, it could  
11 have happened several days before blood was  
12 actually taken; is that fair to say?

13 A. Well, if it's in the blood stream  
14 currently, it is acting on the individual.

15 Q. Well, now, as far as your expertise,  
16 your training and experience, I don't want you  
17 to go outside the scope of what you have, but as  
18 far as whether somebody tested positive, they  
19 could have ingested it days before, and still  
20 test positive, that's true?

21 A. Yeah.

22 Q. Because you can't tell from the  
23 preliminary report when somebody may have  
24 ingested the substance?

25 A. Right, just what is currently in the

1           bloodstream.

2           Q.    Thank you.

3           MR. PHILLIPS:  No further questions.

4           THE COURT:  anything further?

5           MR. STONE:  Nothing further.  I ask that  
6           she be excused.

7           THE COURT:  All right.  Now, every witness  
8           is excused once they step down, and you're  
9           excused.

10                  MR. STONE:  The State call Lindsay  
11                               Mitchell.

12                               \*\*\*

13                               **LINDSAY MITCHELL,**

14                               **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

15                               \*\*\*

16                               **DIRECT EXAMINATION**

17                  BY MR. STONE:

18                  Q.  Agent Mitchell, who do you work for?

19                  A.  I work for the South Carolina Law  
20                  Enforcement Division.

21                  Q.  And did you work for -- is that also  
22                  commonly known as SLED?

23                  A.  Yes.

24                  Q.  All right.  Did you also work for SLED  
25                  back in August of 2019?

1           A. Yes, I did.

2           Q. These are already evidence that have  
3 been testified to, but let me just call out, as  
4 to SLED Lab Number 19-14197, Items Number 4 and  
5 6, did you perform any -- well, let me back up  
6 for a second.

7           Did you have anything to do with those  
8 items, or now assist on those items?

9           A. Yes, we performed testing on these  
10 evidence items.

11          Q. There was earlier testimony, ma'am,  
12 from Ms. Molina, dealing with kind of what a  
13 preliminary tox screen is. Can you kind of  
14 describe the process of what occurs when there  
15 is a positive, for lack of a better word, a  
16 positive hit on a drug screen?

17          A. Yeah, if our drug screen results in a  
18 preliminary positive, that has to be confirmed  
19 by another tech analysis before we can report  
20 it.

21          Q. So let me ask you a little bit about  
22 your background. What -- are you -- is Forensic  
23 Toxicologist the right word?

24          A. Yes.

25          Q. All right. So to be a Forensic

1 Toxicologist, what kind of undergrad degree or  
2 training and education do you have?

3 A. I have a double major Bachelor's in  
4 Forensic Science and Chemistry from Ace  
5 University. I also have a Master's in human  
6 Studies from Pennsylvania State University.

7 Q. All right, and what sort of -- and I  
8 may have asked you this already, and I apologize  
9 if I did, how long have you been with SLED?

10 A. For eight years and-a-half.

11 Q. All right, so did you have any job in  
12 forensics or chemical analysis prior to working  
13 at SLED?

14 A. No.

15 Q. Okay, so you've been there now eight  
16 years?

17 A. Yes.

18 Q. All right. So tell me a little bit  
19 about the certification process, what do you  
20 have to do, or what types of certifications do  
21 you have to go through, or testing, to maintain  
22 your job as a Forensic Toxicologist?

23 A. We undergo extensive in-house training  
24 for blood alcohols, and for drugs for analysis  
25 interpretation.



1           We have lectures and hands-on training that  
2 we do. We have to analyze previously analyzed  
3 samples, before we can take a competency test,  
4 which is supposed to mimic a real-life case  
5 sample. We also do oral training, like test  
6 cases and stuff like that, before we are signed  
7 off as being competent.

8           Since that time, we have the opportunity to  
9 do extra training, extra courses that we get to  
10 go to, such as the alcohol course, as well as a  
11 drug course. And we annually do proficiency  
12 tests in all of the subjects that we perform  
13 analysis in.

14           Q. And you said annually, so do you have  
15 to do that every year then?

16           A. Yes.

17           Q. And have you failed any of those  
18 proficiency attempts?

19           A. No.

20           Q. All right. How many samples do you  
21 think, including all the testing that you did,  
22 as well as actual cases, how many analyses, I  
23 guess would be the word for that, how many times  
24 have you looked at this kind of stuff?

25           A. Probably into the thousands.

1           Q. Have you ever been declared an expert  
2 in the State of South Carolina or in Federal  
3 Court?

4           A. Yes, I have.

5           Q. How many times?

6           A. Probably about four or five.

7           MR. STONE: Your Honor, at this time I'd as  
8 that Agent Mitchell be declared an expert in  
9 forensic toxicology.

10          MR. LOY: No objection, Your Honor.

11          MR. PHILLIPS: No objection to the  
12 qualification, just renew or prior objection  
13 regarding toxicology.

14          THE COURT: She's so qualified.

15          MR. STONE: Thank you Your Honor.

16          BY MR. STONE:

17          Q. Agent Mitchell, in this case, and,  
18 obviously, I've already referenced the lab  
19 number, there was testimony earlier from Agent  
20 Molina that the preliminary tox screen was done,  
21 and it was positive for methamphetamine and  
22 amphetamine.

23          Was that sent to you for confirmatory  
24 testing?

25          A. Yes, it was.

1           Q. All right, and was that confirmatory  
2 testing done?

3           A. Yes.

4           Q. And can you just kind of explain the  
5 process of how that works?

6           A. So a sample is taken from the evidence.  
7 It is run on a GSMS, that gives us the ability  
8 to separate and identify things that might be in  
9 that sample.

10          So in this case it was run on a specific  
11 test, which is the drug class that includes  
12 methamphetamine and amphetamine.

13          Q. And let me ask this, it was asked  
14 earlier, would you call this a higher level of  
15 testing, or just a more specific testing?

16          A. I guess both. It is more specific, but  
17 it also gives us a quantitative value, as well  
18 as the confirmation of the presence.

19          Q. And were you able to analyze that  
20 information on -- and, I'm sorry, I didn't  
21 forget, but if I try to pronounce it, I'll mess  
22 it up, what's the machine that you guys use  
23 again?

24          A. GSMS.

25          Q. All right, well, I can remember that.

1 So on the GSMS, were you able to analyze this?

2 A. Yes.

3 Q. All right, so as to SLED Item Number 4,  
4 which is the blood of Rita Pangalangan, were you  
5 able to reach a confirmatory analysis?

6 A. We did.

7 Q. And what was that confirmation?

8 A. I know that it confirmed for the  
9 methamphetamine --

10 Q. All right.

11 A. -- and the amphetamine.

12 Q. Did you do a report on that?

13 A. Yes.

14 Q. All right, I'm gonna hand you what's  
15 been marked as State's Exhibit 15 for  
16 identification. Can you identify that?

17 A. Yes, this is my report.

18 Q. And is that your name that appears on  
19 the bottom?

20 A. Yes.

21 Q. On the second page I believe, all  
22 right. And if you'll go to the second page,  
23 what are your results, as to Rita Pangalangan in  
24 SLED Item 4?

25 A. We found methamphetamine at a level of

1 400 nanograms per mil, as well as amphetamine at  
2 a level of 160 nanograms per mil.

3 Q. And is that report an accurate  
4 reflection of your results?

5 A. Yes.

6 Q. All right. Other than that I stapled  
7 it, has it been altered or changed in any way?

8 A. No.

9 MR. STONE: Judge, I'd ask that State's  
10 Exhibit 15 be entered into evidence.

11 THE COURT: Says the defense?

12 MR. PHILLIPS: The document itself is a  
13 hearsay document. It could be referenced, and  
14 it now has been testified to on the record, and  
15 subject to the prior pretrial.

16 THE COURT: Any response?

17 MR. STONE: Judge, I apologize, were you  
18 asking me a question?

19 THE COURT: Yes, sir.

20 MR. STONE: Yes, sir. It's not a hearsay  
21 document. The agent who wrote it is here to  
22 testify.

23 If she wasn't here to testify, then it  
24 would be a hearsay document.

25 THE COURT: The document itself is

1 cumulative to the testimony, so the objection is  
2 sustained.

3 BY MR. STONE:

4 Q. I'm gonna hand you what's been marked  
5 as State's Exhibit 14. And was that also the  
6 report that -- in this case?

7 A. Yes.

8 Q. And what's SLED Item Number is that in  
9 reference to?

10 A. Item Number 6.

11 Q. All right, and as to SLED Item Number  
12 6, were you able to reach the same conclusion as  
13 to the levels?

14 A. For levels, methamphetamine was  
15 reported at 480 nanograms per mil, and  
16 amphetamine at 88 nanograms per mil.

17 Q. And who is that in reference to, that  
18 SLED Item Number?

19 A. Larry Eugene King, Jr.

20 Q. And is that a correct and accurate  
21 reflection of your results?

22 A. Yes.

23 MR. STONE: Your Honor, the Court's  
24 indulgence, please?

25

1 BY MR. STONE:

2 Q. A couple of questions, there was a  
3 question earlier about metabolites in the blood.  
4 If you see amphetamine and methamphetamine both,  
5 can you explain to the jury what a metabolite  
6 is?

7 A. Sure. So when you consume some type of  
8 drug, your body can break it down further into  
9 what we would call a metabolite.

10 Q. All right, and so can you answer the  
11 question as to this case is, is amphetamine a  
12 metabolite of methamphetamine?

13 A. Yeah, so in this case when someone  
14 consumes methamphetamine, it is broken down to  
15 amphetamine in the body.

16 Q. So is that a natural body process, as  
17 the body is processing the methamphetamine, it  
18 converts some of that into amphetamine?

19 A. Yes.

20 Q. All right. And if someone has these  
21 sorts of levels, and if you need this, I can  
22 give it back to you, but I think your testimony  
23 was in excess of -- I think for Rita Pangalangan  
24 it was 400 nanograms per milliliter of  
25 methamphetamine, and for Larry King, it was 480

1 nanograms per milliliter of methamphetamine.

2 Can you tell me anything about how that would  
3 act on the body?

4 A. Yeah, so methamphetamine is -- some of  
5 the physical side affects you, you could have  
6 are rapid or irregular heartbeat, labored -- or  
7 not labored breathing, but irregular breathing.  
8 You could experience agitation, anxiety,  
9 confusion, euphoria, you know, it's different  
10 person-to-person, but those are the general  
11 effects that you might see.

12 Q. All right, and at that level would you  
13 consider that person to be under the influence  
14 of methamphetamine?

15 A. To some extent, yes.

16 Q. I don't have any further questions.  
17 Please answer any questions defense has.

18 MR. LOY: None, Your Honor.

19 THE COURT: Mr. Phillips?

20 \*\*

21 **CROSS-EXAMINATION**

22 BY MR. PHILLIPS:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. I just want to make sure, through the



1 metabolites, as far as you testified, you're not  
2 able to tell when a substance was ingested?

3 A. Correct.

4 Q. And it could have been ingested up to  
5 -- specifically, with methamphetamine, up to  
6 three days prior to when a sample was taken  
7 generally?

8 A. Yeah, probably.

9 Q. And a higher threshold would take you  
10 to 500, right? That would be a greater  
11 indicator that it was taken within that three-  
12 day period?

13 A. No, I wouldn't necessarily say that  
14 just seeing greater than 500 nanograms per  
15 milliliter indicates that it was taken --

16 Q. As far as literature that's out there?

17 A. Not that I'm aware of.

18 Q. But you do agree it could have been  
19 ingested up to three days prior, because there's  
20 no way for you to know?

21 A. Yes, that would be possible.

22 Q. Thank you.

23 MR. PHILLIPS: No further questions.

24 THE COURT: Anything further?

25 MR. STONE: One question, Judge.

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**REDIRECT EXAMINATION**

BY MR. STONE:

Q. Ma'am, is there any question thought that the body is still acting on the body at that time?

A. Yeah. The fact that it's in the blood shows that it was active in the blood stream and in the body at the time of the test, and the blood draw.

Q. Thank you.

\*\*

**RECROSS-EXAMINATION**

BY MR. PHILLIPS:

Q. I hate to do the ping pong, but you don't know how it would affect that person, specifically? You're saying it's active in the blood, but you don't know how it's affecting that person in any way, shape or form? You can't testify to that?

A. To like what specific effects they might be feeling at that time? No, not specifically.

Q. Right, because they might have done it three days prior?

A. Correct.

1 Q. Thank you.

2 THE COURT: All right, you may step down.  
3 And, ladies and gentlemen, we are going to break  
4 for lunch now. We're gonna start back at 2:15.  
5 Please go to the jury room, and please do not  
6 discuss the case.

7 (Jury exits the courtroom.)

8 THE COURT: Anything further from counsel  
9 before we break for lunch?

10 MR. STONE: Nothing from the State, Your  
11 Honor.

12 MR. LOY: Thank you, no, Your Honor.

13 MR. PHILLIPS: No, Your Honor.

14 THE COURT: All right, 2:15.

15 (Luncheon recess.)

16 BAILIFF: All rise. Please be seated.

17 \*\*

18 **PROCEEDINGS CONTINUED**

19 THE COURT: I'm told that the -- due to the  
20 impending weather the Court will close at noon  
21 tomorrow, and not resume until Friday, so that  
22 means that we will probably need to work late  
23 today and start early tomorrow, because the case  
24 cannot go into next week.

25 So I'm not sure of the schedule of a number

1 of witnesses and all that, but --

2 MR. STONE: Well, Your Honor, if I may?

3 THE COURT: Yes.

4 MR. STONE: We have the video, which we  
5 anticipate playing, and that's gonna take up to  
6 roughly six hours, so we can run that for  
7 however long you want to this afternoon, and  
8 we'll finish up one way or the other, so whether  
9 we get one witness before the video, and then  
10 I'm gonna do the video. So that will be a time  
11 that we'll continuously run it, until you tell  
12 us to stop.

13 THE COURT: Okay. Yes, sir?

14 MR. LOY: No, I don't have a problem with  
15 it. If they play the whole video, we'll stay  
16 until 8 o'clock this evening.

17 THE COURT: All right.

18 MR. LOY: That's fine.

19 THE COURT: All right.

20 MR. PHILIPS: That's okay.

21 THE COURT: But when the State rests, will  
22 the defense be ready to proceed, if that's  
23 tomorrow morning?

24 MR. PHILLIPS: Tomorrow morning?

25 THE COURT: Yes.

1 MR. PHILLIPS: We can certainly do that.

2 THE COURT: If you'll bring in the jury.

3 MR. STONE: Just --

4 THE COURT: Yes, sir?

5 MR. STONE: Just to be clear, we won't rest  
6 after the video, we still have other witnesses.

7 THE COURT: I understand. We'll start at  
8 8:00 a.m. -- go tonight and start at 8:00 a.m.  
9 in the morning. You know, the -- at one time  
10 the Judges controlled the schedule of when Court  
11 was in, or Court resumed, but now it's been  
12 turned over to the local County authorities,  
13 which presents a problem from time-to-time.

14 MR. LOY: I thought we were under your  
15 ruling.

16 THE COURT: Pardon?

17 MR. LOY: I thought we were under your  
18 ruling, Your Honor, about closing.

19 THE COURT: No.

20 MR. LOY: If the county closes, will we be  
21 able to have court?.

22 THE COURT: Yeah. If the County closes up,  
23 we have to leave.

24 (Jury enters the courtroom.)

25 THE COURT: All right, the jury's back, you

1 may proceed.

2 MR. STONE: The State calls Dr. Andrew  
3 Grundstein to the stand.

4 \*\*\*

5 DR. ANDREW GRUNDSTEIN,  
6 BEING DULY SWORN TESTIFIED AS FOLLOWS:

7 \*\*\*

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q. Okay, let me get you to pull that  
11 microphone a little bit closer to you, Doctor.

12 A. Okay.

13 Q. Doctor, tell us what are you a doctor  
14 of?

15 A. I am a doctor of climatology, the study  
16 of weather and climate.

17 Q. And what do you currently do? What is  
18 your occupation?

19 A. I'm a professor at the University of  
20 Georgia, been there for about 20 years -- or  
21 over 20 years, and I teach weather and climate  
22 there.

23 Q. All right, and in the context of  
24 climatology, what kind of encompasses that?

25 A. So in the field of climatology it looks

1 at, you know, longer term weather patterns, and  
2 similar to meteorology, which looks at day-to-  
3 day weather, but we look at longer term weather.  
4 One of the things in climatology is really good  
5 at is looking at past weather, so we can dig up  
6 old records and reconstruct what past, you know,  
7 conditions were like.

8 Q. And in the context of studying  
9 climatology and teaching actual climatology,  
10 does that also affect temperature, heat, heat  
11 index, that type of thing as well?

12 A. Yeah, my field is sort of in like  
13 medicine, people specializing in things, where  
14 you have dermatology, allergists and so forth.  
15 In my field people specialize in climate. I  
16 specialize in how climate affects people in  
17 human health, and I especially focus in heat as  
18 it relates to health.

19 Q. I'm sorry, you specialize in what?

20 A. In how heat affects people's health.

21 Q. Okay. In the context of -- and you  
22 teach that as well?

23 A. Correct.

24 Q. All right. In the context of studying  
25 that and teaching that, have you done research

1 or been published on the effects of heat on  
2 people in a car?

3 A. Yeah. Yeah, I have multiple research  
4 publications on the conditions in the car when  
5 it's left out in the sun.

6 Q. And how did you come about being  
7 published? Is that something that's published  
8 in a national survey? How does that work?

9 A. Yeah, these are published in what we  
10 call peer review journals. And typical  
11 scientific journals, they get reviewed by  
12 outside experts, to make sure that they meet the  
13 standards of quality, and that they're good  
14 science.

15 Q. And in the context of those -- how many  
16 of those have you done?

17 I mean, first of all, how many of the  
18 research projects have you done?

19 A. Specific to hot cars?

20 Q. Yes.

21 A. I believe six or seven.

22 Q. Okay, and then in the context of  
23 writing and publishing all those?

24 A. In terms of how many papers?

25 Q. Yes.



1           A. Right, so I've got six or seven peer-  
2 reviewed scientific journal articles on that.

3           Q. And have you testified in Court  
4 concerning heat in cars?

5           A. I have not testified in Court with  
6 heated cars.

7           Q. All right, have you ever been qualified  
8 as an expert in heat in cars, and that type of  
9 thing?

10          A. No.

11          Q. Okay. How about from the standpoint of  
12 -- actually evidence as to heat in cars, and  
13 that type of thing?

14          A. I haven't testified in Court about  
15 heated cars, but like I said I publish on this,  
16 I believe I'm an expert in understanding how hot  
17 cars can get in circumstances where they occur.

18          Q. Okay. Let me back up and ask you this  
19 specifically. In the context of temperature,  
20 like outdoor temperature, first of all, what is  
21 that called?

22               I just say it's hot outside, I don't know -  
23 -

24          A. Yeah.

25          Q. -- what that means. So what are we

1 talking about with outdoor temperatures?

2 A. Sure. We usually refer to that as the  
3 ambient air temperature.

4 Q. Okay, and then from ambient air  
5 temperature, what else goes into a factor of  
6 heat, and how that affects the body?

7 A. Right, so there's, you know, when it's  
8 hot outside, like, you know if it's hot, it's in  
9 the 90s, but other factors can influence how you  
10 feel when you're heat stressed. Humidity plays  
11 a very big role.

12 Those of us living in the south know that  
13 humidity can make it feel hotter, and I can  
14 explain the reason for that, if that's helpful.

15 Q. Yeah, go ahead.

16 A. Sure. One of the reasons it makes us  
17 feel so hot is because it makes it hard for  
18 sweat to evaporate, and sweat is part of our  
19 personal air conditioning system, so when that  
20 doesn't work so well, we feel more heat stress.  
21 So the temperature, humidity, sunlight can also  
22 increase your heat stress, if you're out in the  
23 sun.

24 Q. Now, when I see the news and the  
25 weather report, they're always talking about a

1 heat index, and I get that on my phone from a  
2 weather source, where does the heat index come  
3 from?

4 A. Right. The heat index tries to account  
5 for the fact that it's not just air temperature,  
6 other factors can affect heat stress, and so  
7 when it combines the air temperature and  
8 humidity values.

9 Q. Now, how does that relate to a car,  
10 and, specifically, a person inside of a car?

11 A. Right, so inside a car it has a very  
12 different environment than outside the car, and  
13 I think we'll talk about that a little bit  
14 later, but you could also combine the role of  
15 humidity in the car, to show that the combined  
16 heat stress for both the temperature and the  
17 humidity.

18 Q. And so there is a totally different  
19 temperature that you get inside --

20 A. Well --

21 Q. -- the car.

22 MR. LOY: Objection.

23 MR. STONE: And I'm just establishing the  
24 factor, Your Honor.

25 MR. LOY: No, he's eliciting opinions, he's

1 not exploring the background that's relevant.

2 THE COURT: The question is, is there a  
3 difference between the heat in the car and the  
4 heat out of the car?

5 Is that an effective question?

6 MR. STONE: Yes, sir.

7 THE COURT: That's not an expert opinion.

8 MR. STONE: No.

9 THE COURT: All right, overrule the  
10 objection.

11 BY MR. STONE:

12 Q. All right, so heat inside a car that's  
13 different there. You've got ambient temperature  
14 as you testified and the outside temperature; is  
15 that correct?

16 A. Correct. So ambient is outside the  
17 car, inside the car we sometimes call it the  
18 cabin temperature.

19 Q. Okay, and you have done studies on this  
20 as well?

21 A. Yes.

22 Q. And you've been published on peer  
23 review articles on this as well?

24 A. Yes.

25 Q. And then you work with other people

1           when you publish and when you researched?

2           A.   Yes, I've worked with other experts in  
3           this area too.

4           Q.   And they're also experts in this field?

5           A.   Yes.

6           Q.   And your specific expertise, from the  
7           standpoint of testifying, is climatology, as it  
8           relates to the effect of weather on people?

9           A.   Correct.

10          Q.   Okay.

11          MR. PHILLIPS:  Objection, Your Honor, he  
12          has not been qualified as an expert.

13          MR. STONE:  But I'd ask the question, Your  
14          Honor, at this time I'd offer him as an expert  
15          in climatology, and, specifically, in the  
16          effects of heat on people.

17          THE COURT:  What says the defense?  Do you  
18          wish to voir dire the witness?

19          Do you object?  What say the defense.

20          MR. LOY:  Yeah, I don't object.  I don't  
21          need to voir dire the witness.

22          THE COURT:  All right, yes, sir?

23          MR. PHILLIPS:  I'll ask cross questions at  
24          the appropriate time.

25          THE COURT:  Do you object to him being

1 qualified as an expert?

2 MR. PHILLIPS: I'll be quick.

3 \*\*

4 **VOIR DIRE EXAMINATION**

5 BY MR. PHILLIPS:

6 Q. You said you've never testified in  
7 Court before?

8 A. I have testified in Court, just not  
9 specifically about vehicle hyperthermia, hot  
10 temperatures in a car. I have testified though.

11 Q. But you've never been qualified as an  
12 expert?

13 A. I have been qualified as an expert in  
14 weather and climate, but, specifically, as an  
15 expert in car heating in a court, no.

16 Q. All right, well, I guess drill on that.  
17 So you've been qualified as an expert in  
18 climate, tell me what that means.

19 A. Sure. In the cases that I've testified  
20 in court, I was dealing with heat as it affected  
21 human health, that people had suffered from heat  
22 stress, so that was the cascade I was qualified  
23 in.

24 Q. So this is the first case that you've  
25 been trying to get qualified, as it relates to a

1 vehicle?

2 A. Hyperthermia in a vehicle, but I, you  
3 know, have testified other times about how heat  
4 affected other people, but not in a car.

5 Q. But never in a car?

6 A. Yes.

7 Q. And your specific training and  
8 experience goes directly to how people are  
9 affected in a car?

10 A. My research has specifically looked at  
11 heating in a car, and how it could potentially  
12 affect people's health.

13 Q. Okay, so you do have that background?

14 A. Correct.

15 Q. It's not just purely weather and  
16 climate?

17 A. No, I have an expertise, and I've been  
18 studying it and published in vehicles and how  
19 the temperature changes in a vehicle.

20 MR. PHILLIPS: No objection as far as his  
21 qualifications.

22 THE COURT: So qualified.

23 MR. STONE: Your Honor, I've handed you a  
24 copy of the report all except for this one,  
25 which I will hand up later.

1 THE COURT: Okay.

2 BY MR. STONE:

3 Q. Let me show you, Doctor, if I could,  
4 and I'll get you to come down in just a second.  
5 Let me go ahead and cover this right now.

6 State's Exhibit 16 and State's Exhibit 17.  
7 Would these aid in your testimony today, in  
8 explaining your findings in this courtroom?

9 A. Yes.

10 Q. Okay, and, in fact, I think the bottom  
11 of State's Exhibit 16 has already been entered  
12 into evidence. What is the top of State's  
13 Exhibit 16?

14 A. This is an illustration of how cars can  
15 get so hot -- how the cabin can get so hot in a  
16 car.

17 Q. This is actually part of your report?

18 A. Correct.

19 Q. And then these two charts here, these  
20 are charts that you created?

21 A. Yes, I created them.

22 Q. And that's State's Exhibit 17?

23 A. Yes.

24 Q. Okay.

25 MR. STONE: At this time, Your Honor, I



1 move in State's Exhibit 16 and State's Exhibit  
2 17.

3 THE COURT: Says the defense.

4 MR. LOY: No objection, Your Honor.

5 MR. PHILLIPS: No objection.

6 THE COURT: They're admitted.

7 (State's Exhibits 16 and 17 were admitted  
8 into evidence.)

9 BY MR. STONE:

10 Q. Now this one, Doctor, I'm going to ask  
11 you to identify, but we're going to need you to  
12 mark on this.

13 A. Okay.

14 MR. STONE: So I won't introduce quite yet,  
15 Your Honor, but I would like to use it at least,  
16 initially, as a demonstrative, before we put it  
17 into evidence.

18 BY MR. STONE?

19 Q. This is State's Exhibit Number 19 I  
20 believe. Can you tell me what this is?

21 A. Sure. It's a chart that helps us  
22 calculate the heat index.

23 Q. Okay. So this is -- it's got at the  
24 very top dew point, what -- and we'll cover that  
25 in a few minutes, what else?

1           A. It has air temperature and dew point  
2           that measures humidity, and those combine to  
3           create the heat index.

4           Q. Okay, which is what you've done in your  
5           report; is that right?

6           A. Yes.

7           Q. And would this chart help you in your  
8           explanation of your testimony?

9           A. It will.

10          Q. Okay.

11          MR. STONE: Your Honor, I'd like to be able  
12          to use this right now as a demonstrative, and  
13          I'm going to ask him to mark on it, and so ask  
14          that, and I would offer it into evidence.

15          THE COURT: Okay.

16          BY MR. STONE:

17          Q. All right, Doctor, if I could, and I  
18          know that -- I'm gonna put up State's Exhibit  
19          16. Can you see that?

20          A. No, should I -- do you want me to  
21          visualize that?

22          Q. Yeah, if you find --

23          MR. STONE: Your Honor, could he come off  
24          the stand, as long as he keeps his voice up?

25          THE COURT: Yes.

1

2

BY WITNESS:

3

A. Okay.

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Q. All right, if you will, explain -- first of all at the very bottom of that is a photograph of the car that's already been put into evidence. Explain to the jury what the top is supposed to signify.

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A. Sure, this is an illustration of how cars get so hot. And I think, you know, all of us who -- especially in the south, leave our cars outside, you know, and when you get in there it's often a lot hotter than outside, and this is why.

15

16

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20

First off, it's kind of like a green house. You know, there's structures with the glass panels that light can grow things in the winter when it's cold. Well, cars operate the same way. The yellow arrows here are the sunlight coming through the windows of the car.

21

22

23

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They heat up the inside of the car, and when that heat's produced, if the windows are closed, it can't go anywhere and it builds up, and you end up with having just the inside temperature in the car much hotter at times than

1 outside the car, the ambient air temperature.

2 Q. Now, on this particular car, this is --  
3 what type of car is this actually?

4 A. All right, well, this looks like a gray  
5 four-door sedan.

6 Q. All right, and this is what you used  
7 for your display, similar I guess to the car at  
8 the bottom. What about the sunroof, is that  
9 affected one way or the other?

10 A. If the sunroof was open completely, and  
11 had ventilation that could change things, but if  
12 it was closed and the air couldn't get out, then  
13 you would -- the heat would continue to build up  
14 in there.

15 Q. All right, so on the one at the very  
16 bottom of this exhibit, where it shows the --  
17 where you can see the sunroof. Can you tell if  
18 that's open or closed?

19 A. It looks like it's propped open a  
20 little bit, but I was told there was a fabric  
21 covering that closed it, that would be a  
22 covering sorts.

23 Q. Okay, so that's not going to really let  
24 sun in or let heat out --

25 A. Right.

1           Q. Okay. That's basically the same thing  
2 as the top?

3           A. Correct.

4           Q. Okay. Now, let me ask you this, on  
5 State's Exhibit 17, which I believe you also  
6 used, if you could walk us through it. The top  
7 of this I'm assuming is something you charted  
8 separately from this?

9           A. Yes. This is a figure of one of my  
10 scientific publications, and I had parked a car  
11 in Georgia, so similar in the southeast, and I  
12 put a thermometer in the car, and I wanted to  
13 measure what the air temperature was like.

14           So we walked it through all these different  
15 lines on here. I should also mention it's on  
16 the Celsius scale, I published in some of these  
17 journals, that people outside the United States  
18 with Celsius they asked us to supply the  
19 Celsius, so the numbers will look a little  
20 different than the bottom chart; but I plotted  
21 out here about the time of this incident of it  
22 in military time, 24-hour time.

23           The black line here is the cabin  
24 temperature, so that's the temperature inside  
25 the car. The dotted line here is the ambient

1 air temperature, that's the temperature outside  
2 the car. So this car was a gray sedan parked  
3 out in the sun, it was in June, and you can see  
4 at the start in the morning the temperatures are  
5 pretty similar inside and outside the car, and  
6 I've got the sun up here.

7 And as the sunlight started coming into the  
8 car, you could see the air temperature in the  
9 car rapidly increasing, while the temperature  
10 outside goes up, but not as much.

11 Q. Let me back you up just a little bit --

12 A. Yes.

13 Q. -- because I'm not very good at  
14 military time, but let me get you at the very  
15 bottom. When it starts -- that's sort of a  
16 flatline where it looks like it's pretty much  
17 even with the ambient out temperature, what time  
18 is that?

19 A. So we're looking at the morning here,  
20 so if we narrow it about the same, you know,  
21 10:00, 10:30, 11:00.

22 Q. In the morning?

23 A. In the morning.

24 Q. Okay. So right at -- what time does it  
25 start jumping?

1           A. About 11 o'clock you start seeing that  
2 big jump in the cabin temperature.

3           Q. Okay, go ahead, I'm sorry to interrupt  
4 you.

5           A. Oh, sure. So it ends up getting up to  
6 a temperature of 165 degrees. The outside  
7 temperature is still pretty hot, it gets up to  
8 95, but you get this very big difference, and  
9 that is that greenhouse warming.

10           That's that warming from that air getting  
11 trapped in the car and heated by the sun, that's  
12 the difference between inside the car and  
13 outside the car.

14           Q. Now, how does that affect -- you talked  
15 earlier about on the affect of health. How does  
16 that affect people inside?

17           A. Right. So inside the car can be really  
18 dangerous, because a) it can get really hot, in  
19 this case it was 165 degrees, but other cars can  
20 get hot, which allows heat towards your body.

21           And the other thing that can happen is that  
22 inside the car you don't get a lot of air  
23 movement, and that air -- and that's why you  
24 sweat, right, that's your air conditioning, your  
25 personal air conditioning system.

1           And when that doesn't work well, you gain a  
2           lot of heat, but you can't get rid of it and  
3           your body temperature can rise. And if it rises  
4           enough, you could have health problems or even  
5           death.

6           Q. Okay, all right. Now, in this case,  
7           did you also study a recreation?

8           A. A recreation of a person?

9           Q. No, a recreation of the actual car.

10          A. Oh, the second chart here.

11          Q. Yeah.

12          A. Yes. So the bottom chart is a  
13          recreation of the scenario we're all here for.  
14          And this was -- this is what the test cabin  
15          temperature, it's this black line here, it's the  
16          temperature inside the vehicle on this test day.  
17          The dotted line is the temperature at a nearby  
18          weather station.

19          And you can see that just like in the top  
20          chart here, as the sun enters the car the  
21          temperature rapidly rises, and it keeps at about  
22          130 degrees. The outside temperature stays in  
23          the low 90s.

24          So, again, you have that big difference  
25          between what's inside the car and what's outside



1 the car, very similar to what I have up here.

2 Q. Now, the ambient air temperature, where  
3 exactly did you get that temperature?

4 A. Right, so this ambient air temperature,  
5 again, here I got from a nearby weather station  
6 in Walterboro near the airport.

7 Q. Okay, so that's pretty close?

8 A. Yes.

9 Q. All right, and that is what you charted  
10 at the bottom. Now, the difference between the  
11 test, because the test was done I think a few  
12 days later, or 20 days later, something like  
13 that. It was actually hotter on the test day,  
14 but the humidity was lower; is that correct?

15 A. Well -- right, so that the -- they  
16 tried to replicate as much as possible, same  
17 car, same location, they opened and closed the  
18 doors at the same time.

19 What they couldn't control was the weather,  
20 and that's kind of why they brought me in to  
21 help explain things, and adjusting, so I can  
22 identify what the temperatures were like on the  
23 5th. The day that they did the test it was a  
24 few degrees hotter, and it was also clear.

25 And car heating is related to both air

1 temperature and the amount of sun that builds  
2 up, you know, into a car. So what I did was, I  
3 adjusted for that. I accounted for the weather  
4 conditions with an equation I have, and what I  
5 determined was that the cabin temperature wasn't  
6 130, but as it was a little less sunny and a  
7 little bit cooler, it got up to 118 degrees.

8 Q. All right, and so let me now talk, and  
9 I want to talk specifically about the day that  
10 **Child** died, August the 5th. So your  
11 calculations now and your testimony now what I'd  
12 like to direct it to, is the testimony  
13 specifically as to that car, and the outside  
14 temperatures and the cabin temperatures during  
15 that time. Did you review the video in this  
16 case?

17 A. I did.

18 Q. Did you review the -- I think you also  
19 reviewed the video with the other as well,  
20 right?

21 A. Right.

22 Q. Tell me about all this.

23 What can you tell us about the ambient --  
24 since you're outside, what can you tell us about  
25 the cab and temperature, and the cab and

1 temperature inside the car; is that correct?

2 A. Sure. Correct. So what you take is  
3 the -- my determination of the mass room  
4 temperature that was in the car on that day. On  
5 that day the weather conditions, you know, kind  
6 of range from, you know, 80s in the morning, up  
7 to, you know, low 90s -- around 90 or so in the  
8 afternoon.

9 There was also humidity, I talked about  
10 that, it had a dew point of 74.

11 Q. All right, tell me this, let me stop  
12 you, when you say dewpoint, I think humidity.  
13 What's the difference?

14 A. Yeah, it doesn't measure humidity. So  
15 the two measures you see -- probably what you  
16 see the most is the relative humidity. People  
17 in my field actually use the dew point more  
18 because it's a more direct measure of moisture.

19 It's just like the air temperature, the  
20 higher that number goes, the more water in the  
21 air for humidity fields.

22 Q. Okay, so go ahead, I'm sorry.

23 A. So the dewpoint was at approximately  
24 74.

25 Q. Okay. So what can you tell us about

1 the temperature -- first of all, from the  
2 beginning, and let's start about 11 o'clock in  
3 the morning to say 5 o'clock that afternoon,  
4 what can you tell me about the -- outside the  
5 air temperature, the ambient air temperature?

6 A. Right, so this bottom line is the  
7 ambient air temperature, and you can see --

8 Q. That's the dotted line?

9 A. The dotted line, yeah, that's the  
10 ambient temperature that was outside the car --

11 Q. Okay.

12 A. --and from that weather station. And  
13 you can see that it started -- it was the 80s,  
14 and, you know, at the end here it got up to a  
15 little bit over 90.

16 Q. Okay, what can you tell us about the  
17 dewpoint during that time?

18 A. The dewpoint was approximately 74 in  
19 the afternoon.

20 Q. Okay. All right, and then how does  
21 that explain to you -- explain the two red dots  
22 that you have there?

23 A. Gotcha, okay. So the bottom of the doc  
24 here is my determination for what the highest  
25 cab temperature inside the car was 118.

1           So now we had talked about how humidity and  
2           heat index can influence heat stress. So for a  
3           given air temperature it's more humid and it  
4           feels more stressful outside. So when I  
5           accounted for the 118, plus the fact that the  
6           dewpoint was about 74, the heat index in the  
7           car, my determination was 135 degrees.

8           Q. I'm now gonna hand you State's Exhibit  
9           18. This is, I believe -- first off, where does  
10          this chart come from?

11          A. This chart comes from the National  
12          Weather Service.

13          Q. Okay. This is their official  
14          publication?

15          A. Yes.

16          Q. Give me just a moment. I want to ask  
17          you about some specific times, and I recognize  
18          that -- my questions here, this is actually  
19          gonna be outside the car, correct? This is what  
20          I'm gonna ask you -- if I'm asking you  
21          temperature, and it was a specific time and  
22          dewpoint, you can basically just tell me outside  
23          the car --

24          A. Correct.

25          Q. -- right?

1           A. So this would be how it would feel as  
2           you're standing outside the car.

3           Q. Okay, all right. Let me call your  
4           attention first to 11:07, and I believe -- let  
5           me back up, I've got times as 11:07, why is  
6           that?

7           A. Yeah, it seems odd, why wouldn't it be  
8           exactly 11:00? The reason that happens is all  
9           these stations around the country transmit their  
10          data, and I was told that they don't want to  
11          transmit all at once it can cause problems, so  
12          they stagger the observation time, so you could  
13          get odd times, so you'll get odd times like  
14          11:07 and so forth.

15          Q. Okay. All right, so at 11:07 a.m.,  
16          and, again, I'm gonna write up here 8/5, to make  
17          sure we're talking about the day of the  
18          incident. And let me go to 11:07, that's when  
19          you've got an actual time, correct?

20          A. Yes.

21          Q. All right, so I'll give you this.

22          A. Okay.

23          Q. Thank you.

24          A. And I have these values marked on my  
25          report --

1 Q. So let me --

2 A. -- yes.

3 Q. Okay, so what can you tell us at 11:07  
4 in and around Walterboro at this -- on this day?

5 A. Okay. So on this it is to explain  
6 these. An ambient temperature on the horizontal  
7 access, you have dewpoint and all these values  
8 on a very crowded looking chart are the heat  
9 index values.

10 So I'm gonna identify 82, and then the  
11 dewpoint was 75.59. So somewhere between 89 --  
12 and I'm gonna circle these two, but somewhere  
13 between 89 and 91.

14 Q. Okay, and that is 11:07?

15 A. Correct.

16 Q. Let's see if you can write somewhere on  
17 there just point that to 11:07.

18 A. Okay.

19 Q. So --

20 A. Give me just a sec.

21 Q. Sure.

22 A. -- is over 78 and not --

23 Q. Sure.

24 A. -- 76, let me correct that. So it's  
25 75.59, so might be closer to this one than 89.

1 Q. 89 degrees?

2 A. Yes.

3 Q. All right. So at 11:07 the heat index  
4 was 89?

5 A. Yes.

6 Q. Okay. 12:07 that day?

7 A. 12:07 it got up to 84 degrees, and if  
8 you point to 74.42, somewhere around that, to  
9 74, and that would be about 91.

10 Q. Okay, 1:07?

11 A. 1:07 is 87.

12 Q. Again, that's the ambient air temp  
13 outside?

14 A. That's the outside air temperature, and  
15 the dewpoint was 74. And it's actually -- this  
16 chart goes from 86 to 87, so somewhere between  
17 94 and 97.

18 Q. Okay.

19 A. So somewhere between 94 and 97, so  
20 around there.

21 Q. And 3:07?

22 A. 3:07 it was 90 degrees, and the  
23 dewpoint was 73. That would be sort of between  
24 these two.

25 Q. And what are those two numbers?



1           A. And so 98 and 100, somewhere between 98  
2 and 100.

3           Q. And then 4:07?

4           A. 4:07 is -- and it's tricky for me in  
5 between all these values here.

6           Q. Okay.

7           A. So it would be about -- so between 98  
8 and 100. 98, 100.

9           Q. And then 5:07?

10          A. Okay, 5:07 it was 98, but also 72  
11 dewpoint, so that would also give us that 98  
12 number.

13          Q. And these numbers that you've written  
14 out those were -- again, that's heat index  
15 outside of the car; is that correct?

16          A. Correct, those are heat index values  
17 outside the car.

18          Q. The three numbers that are highlighted,  
19 the 118, 74 and 135, what are those?

20          A. So these are my calculations for what  
21 the heat index inside the car would be.

22          Q. So --

23          A. At the highest point.

24          Q. And I'm assuming taking all this other  
25 information into account?

1 A. Correct.

2 Q. Okay.

3 A. So my determination's the highest  
4 temperature and the car was 118, and the  
5 dewpoint in the afternoon when that happened was  
6 74. And you can see that the heat index in the  
7 car would be 135.

8 Q. Go ahead and take a seat, if you would.

9 MR. STONE: I don't have any further  
10 questions, Your honor.

11 BY MR. STONE:

12 Q. Please answer any questions the defense  
13 has for you.

14 MR. STONE: Thank you, Your Honor.

15 THE COURT: Yes, sir.

16 MR. LOY: I don't have any questions.

17 MR. PHILLIPS: I'll be brief, Your Honor.

18 \*\*

19 **CROSS-EXAMINATION**

20 BY MR. PHILLIPS:

21 Q. I just wanted to make something clear,  
22 nobody disputes it was really hot in the car.  
23 Your numbers are all based on the assumption  
24 that the air conditioner never ran in the car;  
25 is that correct to assume?

1           A. Correct, I assumed the air conditioning  
2 was not running.

3           Q. All right.

4           A. And I can tell you why I made that  
5 assumption.

6           Q. Well, so -- well, what I'd say is this,  
7 if a air conditioner runs to a certain point  
8 where it overheats and the compressor cuts off,  
9 the air circulates within the car, and that  
10 would affect the heat index in the -- well, all  
11 the numbers, right?

12          A. It wouldn't affect the heat index,  
13 because it doesn't --

14          Q. Or, I'm sorry, not the heat index, but  
15 the temperature in the car?

16          A. It would depend if it was like blowing  
17 hot air in the car, that, you know, could  
18 actually -- potentially could make things worse,  
19 but it would -- yeah, there would be some air  
20 movement in there, but it would be so hot in  
21 there that even with a little bit of air  
22 movement, I don't know if it would change things  
23 a lot.

24          Q. So -- potentially -- so the air  
25 conditioner's running to where it overheats and

1 cuts off -- the compressor cuts off, and starts  
2 to blow hot air and it could make it worse?

3 A. Well, if you're blowing hot air into  
4 the car, right, and you already have hot air,  
5 you're just exacerbating the problem.

6 MR. PHILLIPS: No further questions, Your  
7 Honor.

8 \*\*

9 **REDIRECT EXAMINATION**

10 BY MR. STONE:

11 Q. I just want to let you answer your  
12 question, he had asked earlier, whether or not  
13 you assumed the air conditioner was not on? Why  
14 was that?

15 A. Right. The way that, you know, I look  
16 at heat stress and body temperature, right, is  
17 that I look in terms of energy gains, energy  
18 losses. And if you gain more energy than you  
19 lose, your body temperature goes up.

20 So I don't really see a way that **Child**  
21 could have the medical examiner reported at 110  
22 body temperature. I don't know how that could  
23 happen without --

24 MR. LOY: Your Honor --

25

1 BY WITNESS:

2 Q. -- being in a hot environment.

3 MR. LOY: -- beyond the scope of expert  
4 testimony.

5 THE COURT: Objection's overruled.

6 MR. STONE: Thank you.

7 BY MR. STONE:

8 Q. Go ahead, I'm sorry.

9 A. So from --

10 Q. With the internal temperature 110 what  
11 can you tell us?

12 A. Right, so from the way that I look at  
13 things, in terms of energy, I don't know how  
14 your body temperature could get up to that point  
15 without gaining much more energy than your body  
16 could lose.

17 Q. So you're gaining and losing energy, in  
18 layman's terms, what does that mean?

19 A. So what that means is, you have, you  
20 know, that 118 degrees, right, that directs a  
21 lot of heat towards your body, and inside the  
22 car it's hard to get rid of that heat.

23 Because what we talked about earlier that,  
24 you know, if there's not a lot of air movement,  
25 sweat can't evaporate, heat can't get released

1 from your skin, so your personal air  
2 conditioner, your body's air conditioner isn't  
3 working well. You can't get rid of that heat.  
4 As you gain more heat than you lose, your body  
5 temperature will go up.

6 MR. STONE: Your Honor, nothing else.

7 MR. LOY: May I question this witness?

8 THE COURT: Yes, sir.

9 \*\*

10 **CROSS-EXAMINATION**

11 BY MR. LOY:

12 Q. On the day in question where your 9th  
13 and 12th, if you can answer this, your test  
14 started around 11 o'clock; is that right?

15 A. It -- I think that's about right.

16 Q. Something like that, and that's not  
17 really important. And then the temperatures  
18 were monitored throughout the day; is that  
19 correct?

20 A. Right, temperatures are measured in the  
21 vehicle.

22 Q. Across here -- as you measure  
23 temperatures going up and going down; is that  
24 right?

25 A. Well, the -- on the --

1 Q. Okay.

2 A. The chart's not there anymore. Right,  
3 the temperature in the car you can see how it  
4 increased throughout the day.

5 Q. My question is, that's what you  
6 measured, right?

7 A. The temperature inside the car, yes.

8 Q. All right. Now, if, hypothetically  
9 speaking, you had parked that car where you did,  
10 set it there, turned the air conditioner on, set  
11 it in the sun, measured the temperature, and  
12 then after an hour or so the air conditioner  
13 shut off.

14 But you continued to measure the  
15 temperature, it probably would have reached  
16 close to the same temperature in the afternoon,  
17 approximately, anyway; would it not?

18 A. And I've seen other studies, so if the  
19 air conditioner running, the air temperature  
20 would be lower, if it was functioning --

21 Q. Right.

22 A. -- right? And, you know, we've all  
23 been in air-conditioned cars, they're  
24 comfortable. If it was functioning, you'd have  
25 a lower temperature, and then the temperature

1 would go up.

2 Q. Right. Once the air conditioner was  
3 shut off, the temperature would continue to  
4 rise, and would rise pretty dramatically,  
5 correct?

6 A. I've seen studies where they've --  
7 cars, you know, especially during the peak time  
8 of the day to heat up to almost the maximum  
9 temperature within an hour or two.

10 Q. Thank you.

11 THE COURT: Yes, sir?

12 MR. PHILLIPS: Real brief.

13 \*\*

14 **CROSS-EXAMINATION**

15 BY MR. PHILLIPS:

16 Q. And you said that it could be worse, if  
17 the air conditioner stopped, as far as blowing  
18 the hot air, that would significantly -- that  
19 would spike the temperature, correct?

20 A. It depends what the temperature in the  
21 car was already, but if it was drawing in air,  
22 you know, that was, you know, in that, you know,  
23 off the engine and it was hot, that could add  
24 heat stress to you.

25 Q. Okay. I'm not asking you to speculate,



1 or something like that, but just say in that  
2 scenario, again, given the fact that if that  
3 scenario was there, then the temperature in the  
4 car would rise significantly at that point?

5 A. So I don't know exactly, because it  
6 would really depend on what the temperature  
7 blowing out of it, so I can't say exactly; but  
8 if the air conditioner malfunctioned and it was  
9 blowing hot air in there, it certainly wouldn't  
10 be cooling the vehicle.

11 Q. Right, and there's no way to recreate  
12 that, without actually having data; is that fair  
13 to say?

14 A. Right, I couldn't give --

15 Q. From the car?

16 A. I couldn't give you an exact number  
17 without replicating that.

18 Q. That's right, because your numbers are  
19 all based off the weather station, and you're  
20 having to make just an educated guess of what it  
21 could potentially be, again, like you said,  
22 based on the fact that it started with no air  
23 condition versus if the air condition was  
24 working, correct?

25 A. Well, I wasn't making just an educated

1 guess, I was using scientific approaches to --

2 Q. Sure.

3 A. -- correct it to something that I think  
4 is a very conservative value that's not too high  
5 or too low for what was going on.

6 Q. That's not an issue, we know that. I'm  
7 just trying to say by the way the car had heated  
8 up it might would have been different than the  
9 way it's presented on your chart; is that fair  
10 to say?

11 A. If hot air was blowing through AC unit,  
12 I don't know, because I didn't collect the data  
13 there. It was collected without that air  
14 conditioner blowing, you know, hot air.

15 Q. Thank you.

16 THE COURT: You may step down.

17 MR. STONE: Your Honor, the State calls  
18 Jason Chapman.

19 JASON CHAPMAN,

20 BEING DULY SWORN TESTIFIED AS FOLLOWS:

21 \*\*\*

22 DIRECT EXAMINATION

23 BY MR. STONE:

24 Q. And what is your rank? I see the  
25 stripes on your sleeve, but I apologize, I don't

1 know what it means.

2 A. Captain.

3 Q. Captain?

4 A. Yes, sir.

5 Q. Okay, so Captain Chapman, you work with  
6 the Colleton County Sheriff's Office?

7 A. I do, sir.

8 Q. And how long have you been with the  
9 Sheriff's Office?

10 A. I've been with the Sheriff's Office  
11 since January 1 of 2013, and law enforcement 26  
12 years total.

13 Q. Okay. And what is your job with the  
14 Colleton County Sheriff's Office?

15 A. I am currently the Special Operations  
16 Division Commander, so I oversee tactical  
17 operations, all the criminal investigations,  
18 evidence, storage, processing, things along  
19 those lines.

20 Q. On August the 5th, 2019, did you work  
21 the case involving the death of **Child**

22

23 A. I did, sir.

24 Q. All right, and, generally, as an  
25 investigator, you went to the house, you saw the

1 crime scene, that type of thing; is that  
2 correct?

3 A. I did, sir.

4 Q. All right. Let me first show you --

5 MR. STONE: May I, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. STONE

8 Q. -- State's Exhibit 20, 21 and 22, and  
9 ask you, are these fair and accurate depictions  
10 of the scene as you saw them that day, the crime  
11 scene?

12 A. They are, sir.

13 Q. Okay.

14 MR. STONE: At this time, Your Honor, we  
15 introduce State's Exhibits 20, 21 and 22.

16 MR. LOY: None, Your Honor.

17 MR. PHILLIPS: No objection.

18 THE COURT: They're admitted.

19 (State's Exhibits 20, 21 and 22 were  
20 admitted into evidence.)

21 MR. STONE: Okay.

22 BY MR. STONE:

23 Q. So let me first go to the monitor, if I  
24 could, on State's Exhibit 20, what is that?

25 A. That is -- you're looking at the front

1 of the residence, where the incident occurred.  
2 That is the exterior camera to the Night Owl  
3 video system that was installed by the  
4 homeowner.

5 Q. Okay. And then go to State's Exhibit  
6 21. That's a closeup, I'm assuming, of the same  
7 thing?

8 A. It is.

9 Q. Where were cameras located on this  
10 house? And I think we've got a crime scene  
11 sketch of this house that we put into evidence  
12 as State's Exhibit 8. Where were cameras  
13 located at this residence?

14 A. They were located -- four different  
15 cameras.

16 Q. Okay.

17 A. You had one in the front, the one that  
18 we see in Exhibit 20 and 21. That camera was  
19 facing the driveway towards U.S. 21 or [REDACTED]  
20 [REDACTED] Highway. You had one camera on the  
21 right side of the residence, one camera on the  
22 left side of the residence, and one camera on  
23 the very back from the backyard.

24 Q. All right, so this, obviously, shows  
25 the front of the residence, but where would the

1 cameras be?

2 A. The --

3 Q. Just using State's Exhibit 5.

4 A. So we're looking at the -- this angle  
5 here, this front camera --

6 Q. Okay.

7 A. -- that's gonna be towards the vehicle,  
8 and it would have shot that whole area towards  
9 U.S. 21.

10 Q. Okay, and then the other three?

11 A. There would have been this side, the  
12 far side and then the back facing this.

13 Q. All right. And then let's go to  
14 State's Exhibit 22, and what is this?

15 A. This was the master bedroom inside the  
16 residence, and the video monitor where the DVR  
17 was connected, that showed the four cameras.

18 Q. The four cameras that you just  
19 described?

20 A. That's correct, sir.

21 Q. All right. Now, there was a -- I want  
22 to make sure I get this right, a video camera --  
23 - I mean a recorder system --

24 A. Yes, sir.

25 Q. -- involved in that?

1           A.   Yes, sir.

2           Q.   Tell me about that.   It was a Night Owl  
3 camera system, pretty normal Night Owl, like the  
4 most popular wired camera system in the nation.  
5 It was an eight-channel recorder, but it only  
6 had four cameras active on it before that we  
7 discussed prior.   And it was in the cabinet  
8 below the television monitor.

9           These are hard-wired cameras, they're not  
10 wireless, so the wires ran to the back of the  
11 DVR, and you had one cable that ran from the DVR  
12 to the monitor.   So you could live-view on the  
13 monitor, but the DVR itself also recorded what  
14 the cameras catch.

15          Q.   Now, have you reviewed the recordings  
16 from this -- from these cameras to this house?

17          A.   I have, sir.

18          Q.   And tell me how much of that did you  
19 review?

20          A.   As far as the incident date, I reviewed  
21 the whole 24 hours.   It started at midnight or  
22 1:00 on August 5th, 2019, and I ran until the  
23 camera was disconnected by law enforcement when  
24 it was seized from the residence, and I believe  
25 that was 9:30, 10 o'clock that evening.

1           Q.   Okay.  And did you also review the back  
2 cameras as well?

3           A.   I did, yes, sir.

4           Q.   And did you do anything to check and  
5 see if this was -- this recording was  
6 contemporaneous?  In other words, could you tell  
7 by this that you knew, or that you saw -- did  
8 you match them up with the video that you're  
9 watching?

10          A.   Yes, sir.  The only variance was a  
11 small difference in time, which is, you know, to  
12 be expected, your time, versus my time, versus  
13 the clock at dispatch.  I want to say it was  
14 around a seven-minute difference.

15          Q.   Okay.

16          A.   But we could easily match up things  
17 that we know to be true and accurate.

18          For example, the reliable of Agent Godley  
19 did arrive the first unit on-scene.  We could --

20          Q.   All right, well, let me stop you there.

21          A.   Sure.

22          Q.   Just because I think we have a piece of  
23 evidence on that.

24          MR. STONE:  I apologize, Your Honor, we  
25 have some exhibits.



1 BY MR. STONE:

2 Q. Okay, State's Exhibit --

3 MR. STONE: Put it up.

4 BY MR. STONE:

5 Q. State's Exhibit 5. Is that what you're  
6 talking about, when you're talking about when  
7 Agent Godley came up to the scene?

8 A. That's correct, sir.

9 Q. Okay. And so you could see this from  
10 the video?

11 A. That's correct.

12 Q. So Exhibit 5 is actually from this  
13 video; is it not?

14 A. That's correct. It's a still image  
15 taken from the video.

16 Q. And so that is way for you to be able  
17 to tell what's happening in real-time, and that  
18 actually matches up with the data; is that  
19 correct?

20 A. That's correct.

21 Q. All right. What about the 911 call?  
22 Did you do the same thing with that?

23 A. We did. And, you know, just to further  
24 validate that the video we were looking at was  
25 from that particular date in the picture, in

1 Exhibit 5 there, you can see Larry King on the  
2 telephone with 911.

3 You -- we can -- obviously, we had that  
4 recording, and we can hear the discussion that  
5 he's having back and forth with the  
6 Telecommunications Officer, and Agent Godley  
7 arrives on-scene, and you can hear his  
8 interaction with Agent Godley over the telephone  
9 to 911.

10 And so, again, you know, when you match all  
11 those up, it's just telling us that the video  
12 was a accurate representation of what was going  
13 on that day.

14 Q. Let me show you what's been marked as  
15 State's Exhibit 40. Could you tell me what this  
16 is?

17 A. Yes, sir, it's a flash drive.

18 Q. Okay, and do you know what,  
19 specifically, the flash drive is of?

20 A. The flash drive --

21 Q. I know it's got some writing on the  
22 back.

23 A. Yes, that's my signature. I previously  
24 reviewed the video to ensure -- the flash drive  
25 shows the incident date, the camera footage from

1           that incident date.

2           MR. STONE:   AT this time, Your Honor, we  
3           move State's Exhibit 40 into evidence.

4           MR. LOY:   No objection.

5           MR. PHILLIPS:   None, Your Honor.

6           THE COURT:   Admitted.

7           (State's Exhibit 40 was admitted into  
8           evidence.)

9           BY MR. STONE:

10          Q.   Now, let me ask you this, from State's  
11          Exhibit 40 have you also reviewed the  
12          demonstrative that showed both the front camera  
13          and the back camera when applicable?

14          A.   I did, sir.

15          Q.   Okay, and is that accurate as to  
16          State's Exhibit 40?

17          A.   It is.   It's simply taking the image  
18          that you see here, which was the front-mounted  
19          camera that covers the front yard, and at some  
20          point in time splitting the screen, and showing  
21          the rear camera at the same rate, at the same  
22          time, on the same date, just so that you get a  
23          birds-eye view of front yard and backyard at the  
24          same time.

25          Q.   All right, let me ask you one other

1        thing too. Could you tell if this was a motion  
2        activated camera, or if this was a continuing  
3        run camera?

4            A. So it is motion-activated. A close  
5        review of the DVR shows that it was still set to  
6        the default standard.

7            When you buy a Night Owl system, it's  
8        automatically defaulted to motion activated.  
9        You have to actually that cut that off, but in  
10       this case the DVR was set motion-activated on  
11       all four cameras, with a 15-second pre-record,  
12       and 30-second post-record per incident.

13           Q. So this is recording pretty much in  
14        real-time everything, except for when there's  
15        absolutely no motion whatsoever; is that  
16        correct?

17           A. That's correct. It runs the whole  
18        time. The only time you will see video is when  
19        it is activated by motion, and you'll get that  
20        pre-stamping post stamp, and then if there's  
21        nothing else going on, it will actually stop.  
22        And that's why on occasion you'll see a 30-  
23        second jump, or a ten-second jump in the time,  
24        it's because there was no video to record at  
25        that time, because there was no event.

1 Q. Gotcha.

2 Now, you reviewed this, you just testified,  
3 I think from 12 o'clock until 9:04 until this  
4 time; is that correct?

5 A. From midnight on the 5th, all the way  
6 up until the time that we took the video system  
7 down and cut the video off.

8 Q. Okay, and was there video caught --

9 A. Yes.

10 Q. -- during this time?

11 A. Yes.

12 Q. And when was there any motion around  
13 that car?

14 A. The --

15 Q. Well, excuse me, let me back up, when  
16 was the first time there was motion around that  
17 car?

18 A. Other than an occasional dog or cat in  
19 the early morning hours, the first activity was  
20 around 11:16, I think it was 11:16, according to  
21 the camera time, and that was Rita and Larry  
22 exiting the residence with **Child** and walking  
23 to the car.

24 Q. And that is in the morning?

25 A. That is in the morning, 11:16 a.m.

1 according to the timestamp on the camera.

2 Q. Okay, so prior to that there was no  
3 motion around that car?

4 A. Prior to that, the only thing, like I  
5 say, there's -- a dog sets it off, a cat sets it  
6 off. Vehicles going up and down U.S. 21 set it  
7 off, but as far as anything approaching or  
8 interacting or opening or tampering the vehicle,  
9 no, sir.

10 Q. And I assume on the videos that you can  
11 see that?

12 A. You can, sir.

13 Q. Okay.

14 MR. STONE: Your Honor, at this time, we  
15 would introduce -- and, in fact, what we're  
16 gonna do is, we have the full video. Again, as  
17 he has described, there's a section in it when  
18 the back becomes relevant as well, and we have  
19 superimposed that.

20 Other than that, it's accurate to the --  
21 what State's Exhibit 4 is, so at this time we  
22 would like to publish this to the jury.

23 THE COURT: All right, it's in evidence.  
24 You can publish it, but as we que that up, we're  
25 gonna take a break, and give you'all about five

1 to ten minutes.

2 So when we come back it's gonna run for a  
3 while, so we'll give you a break before we  
4 start. So please go to the jury room. Please  
5 do not discuss the case.

6 (Jury exits the courtroom.)

7 THE COURT: We'll take five to ten minutes.

8 MR. STONE: Yes, sir, thank you, Judge.

9 THE COURT: That's all right.

10 (RECESS)

11 \*\*

12 **PROCEEDINGS CONTINUED**

13 BAILIFF: All rise. Be seated, please.

14 THE COURT: Bring the jury. So how many  
15 hours is this video?

16 MR. STONE: Four hours and 14 minutes, and  
17 it comes with motion-activated cut out, so it's  
18 actually covering about six hours, but the video  
19 itself is four hours, 14 minutes.

20 THE COURT: Do you want me to tell them  
21 that?

22 MR. STONE: Sir?

23 THE COURT: Do you want me to tell them  
24 that?

25 MR. STONE: I think out of respect,

1           probably. And in case they are waiting on the  
2           next break, and they have to refresh themselves.

3           THE COURT: No, we can take a break in  
4           there somewhere.

5           MR. STONE: Yes, sir.

6           THE COURT: I'll just give them an update  
7           on the schedule and everything.

8           MR. STONE: Yes, sir.

9           THE COURT: And I think we'll do this, and  
10          maybe start at 8:00 --

11          MR. STONE: Yes, sir.

12          THE COURT: -- tomorrow morning and run to  
13          12:00, then check out --

14          MR. STONE: Yes, sir.

15          THE COURT: -- until Friday?

16          MR. PHILLIPS: I think we should give  
17          notice to everybody that -- just for scheduling  
18          purposes, Your Honor, and I'll make it work  
19          however you tell me to, but from a scheduling  
20          standpoint, would you run the whole video  
21          tonight, which would probably put us at 7:00,  
22          7:30, 7:45, or would you want to break it, and  
23          do some tomorrow?

24                 I think either way we can get our witnesses  
25          done by noon tomorrow.



1           THE COURT: No, I think we'll see, we'll  
2 try to deal with it.

3           MR. PHILLIPS: Yes, sir.

4           THE COURT: Bring them in.

5           (Jury enters the courtroom.)

6           THE COURT: All right, ladies and  
7 gentlemen, welcome back. So we're gonna play --  
8 the next will be a video that's about to be  
9 played, and -- which means we're gonna stay a  
10 little late tonight and try to complete this  
11 video.

12           And we're gonna start early tomorrow  
13 morning, 8:00 a.m., because at noon tomorrow the  
14 County is shutting down because of hurricane, or  
15 storm, or whatever that may be coming. And the  
16 courthouse is scheduled to be closed tomorrow  
17 afternoon, and all day Thursday.

18           And I'm sure if it's storming real bad,  
19 you'all would love to be not here anyway during  
20 the storm.

21           So we're going to do all we can through  
22 tonight, tomorrow morning, by noon, and probably  
23 early again on Friday, we'll talk about that  
24 tomorrow, but that's the way we're gonna go for  
25 a while.

1           If anyone needs to make a phone call, we'll  
2 take a break at some point for you to be able to  
3 do that. Next witness? Yes, sir?

4           MR. STONE: It's the same witness, Your  
5 Honor.

6           THE COURT: All right, next evidence.

7           (Video being played for the jury.)

8           BY MR. STONE:

9           Q. Just briefly here, as we're running,  
10 I'll ask the witness, can you tell us where the  
11 timeline and everything is on this?

12           A. Yes, sir, upper right-hand corner of  
13 the screen you'll see 8-05-2019 for August 5th,  
14 2019, and your time is to the right of that, and  
15 it's 11 o'clock, 'cause it just turned.

16           Q. Thank you.

17           A. Yes, sir.

18           THE COURT: Any time during this video  
19 someone needs a break, if you'll get up and  
20 start walking, and we'll stop the video.

21           (Video being played for the jury.)

22           THE COURT: Does anyone need a break?

23 Okay, all right.

24           (Jury exits the courtroom.)

25           (RECESS)

1 (Jury enters the courtroom.)

2 \*\*

3 PROCEEDINGS CONTINUED

4 THE COURT: Okay, you may proceed.

5 (Video being played for the jury.)

6 THE COURT: Pause it again. We'll take  
7 another break. Please do not discuss the case.

8 THE COURT: How much longer is it?

9 MR. STONE: An hour. About 55 minutes to  
10 be exact. There is -- there are a very few  
11 questions that I have after the video finishes,  
12 but there's something I need to bring to the  
13 Court's attention before I ask those questions.

14 THE COURT: All right.

15 MR. STONE: So I'm gonna go ahead and just  
16 give the Court some notice about it.

17 THE COURT: Okay, do you want to --

18 MR. STONE: I can do it now, if you'd like  
19 to.

20 THE COURT: Yeah.

21 MR. STONE: I need to do some follow-up. I  
22 don't believe it would be controversial, but  
23 because he will mention the word key fob, I want  
24 to bring this to your attention.

25 There are two things that were brought out,

1 both in opening from both defense attorneys, and  
2 then on cross-examination on the docket from  
3 Georgia. And those questions were the first  
4 thing in opening, and those questions were, the  
5 first thing in opening both defense attorneys  
6 said that the car was on.

7 THE COURT: The car was on?

8 MR. STONE: The car was on, I'm sorry, on,  
9 yes, sir. The air conditioner was on and the  
10 car was on.

11 Captain Chapman actually knows that that's  
12 not possible. The key fob that he would push,  
13 push it and it lights the lights on the car,  
14 which you will see in a few moments, once we get  
15 about 30 minutes into this, when they actually  
16 get the key to get the key fob out of the car.

17 It flashes once when you're locking the  
18 car, it flashes twice when you're unlocking it.  
19 Did I get that right, or do I --

20 WITNESS: Yes, sir.

21 MR. STONE: Okay. However, if the car is  
22 on, it doesn't flash at all. So we know, for a  
23 fact, when they're getting the keys out of the  
24 car, the key fob, when he's pushing it, it  
25 doesn't flash.

I think that's proper information. It's not a scientific test, it doesn't fall under Rule 5, it's not exculpatory, and it's in direct response to both of the opening statements from the defense counsel saying that the car was on. The second thing was very similar to that.

The air conditioner in the car works. The Captain has been in numerous times and the air conditioner worked, and that was on cross-examination from the doctor from Georgia. Those are the only questions, and other than follow-up as far as timing is concerned, but because he's gonna mention key fob, I wanted to get -- I wanted you to have notice of that.

THE COURT: All right, and we will get the response when we come back from the break.

MR. STONE: Yes, thank you.

(RECESS)

\* \*

PROCEEDINGS CONTINUED

THE COURT: Yes, sir?

MR. STONE: Yes, sir. Your Honor, I want to clarify something. I talked to counsel, defense counsel at the break.

Mr. Loy did say in his opening that he --

1       that the car was on. Mr. Phillips tells him  
2       that he did not. I thought he did. I wanted to  
3       clarify, but I don't think that makes a  
4       difference, but I did not want to misrepresent  
5       something to the Court.

6               Mr. Phillips, I take him at his word, but I  
7       think we'd all agree that Mr. Loy did say, in  
8       fact, say that the car was on in his opening.

9               MR. PHILLIPS: And in due candor, Your  
10       Honor, I told the Solicitor I could be wrong.  
11       It doesn't matter, because we all were in  
12       agreement that it was referenced to.

13              So I appreciate Solicitor Stone trying to  
14       clarify that issue, but at the end of the day  
15       it's been concluded it was raised in opening, so  
16       thank you, Judge.

17              THE COURT: All right, anything further on  
18       that issue?

19              MR. STONE: No, sir.

20              THE COURT: Okay, let's see if they're  
21       ready to come back.

22              (Jury enters the courtroom.)

23              (Video being played for the jury.)

24              BY MR. STONE:

25              Q. Captain Chapman, just to ask you a

1 question real quick, the time I realize is -- I  
2 know the time skips around on this, because the  
3 motion as you described earlier.

4 A. Yes, sir.

5 Q. Exactly how much time -- have you been  
6 able to calculate exactly how much time **Child**  
7 was in the car?

8 A. By our calculation from when she was  
9 placed in the vehicle, and then removed, five  
10 hours and 43 minutes and some seconds  
11 thereabout.

12 Q. You're familiar with this car?

13 It's in the impound lot I'm assuming at the  
14 Sheriff's Office?

15 A. I am, sir.

16 Q. Have you been in the car?

17 A. Yes, sir.

18 Q. The air conditioning work?

19 A. The air conditioning does work.

20 Q. Even today?

21 A. Even as of this morning it's still  
22 working.

23 Q. If you go to -- I think this is 16:46,  
24 again, military time, that is 4:46 --

25 A. It's --

1 Q. -- is that --

2 A. -- 4:46.

3 Q. -- correct?

4 A. It's 4:46 p.m.

5 Q. What's going on in this scene right  
6 here?

7 A. So they have -- they have gone to town  
8 and retrieved a second key fob to come back and  
9 unlock the vehicle. And we know that from their  
10 statement, and from the fact that he --

11 Q. Well, just let me ask you this  
12 specifically, in this picture right here, what  
13 can you tell me is going on?

14 A. He is pushing the key fob and the park  
15 lights are flashing.

16 Q. Play that please.

17 A. Indicating --

18 (Video being played for the jury.)

19 BY MR. STONE:

20 Q. So specifically tell me what's going on  
21 here.

22 A. You can see the lights flashing there?

23 Q. Yes.

24 A. So, obviously, the key fob was working,  
25 the vehicle's receiving a signal from the key



1 fob. And I am not an expert, but I can tell you  
2 that I can replicate a standard, and when we put  
3 that vehicle inside the processing bay, and we  
4 attempted to replicate that, you cannot get the  
5 vehicle to flash the park lights, if the  
6 vehicle's running, end of story, there's  
7 nothing. We also then contacted Volkswagen --

8 Q. And let's leave it at that.

9 A. Okay.

10 Q. So you that replication?

11 A. We did, over and over and over again.

12 Q. The lights are flashing, the car's not  
13 on?

14 A. Yeah, if those lights are flashing from  
15 that key fob, the vehicle is not running.

16 Q. You press the button, and you turn it  
17 on --

18 A. Right.

19 Q. -- okay.

20 A. I can't be activated at all, or it will  
21 not flash those lights.

22 MR. STONE: I have no further questions,  
23 Your Honor, thank you.

24 THE COURT: All right, Mr. Loy?

25 **CROSS-EXAMINATION**

1 BY MR. LOY:

2 Q. And based on your experience, and what  
3 you did?

4 A. Solely based on what we did in this  
5 case, I do know that Volkswagen typically does  
6 not work, if it is --

7 Q. So in this case --

8 A. Yes.

9 Q. -- you tried various methods?

10 A. That's correct, sir.

11 Q. Are you stating you're not an expert?

12 A. I am not an expert, sir.

13 Q. And you were unable to replicate what  
14 it looked like on the video?

15 A. I was unable to replicate what we saw  
16 on the video?

17 Q. I know you're not an expert, but if you  
18 were to take an automobile and just park it in  
19 the hot sun, with the air conditioner is even  
20 on, and let it sit there for a few hours, do you  
21 know if it has any effect on the air  
22 conditioning system?

23 A. Yeah, do you know if it has any effect  
24 on the air conditioning system?

25 Q. Yeah, do you know there was a sensor

1 present?

2 A. No, sir, I couldn't tell you.

3 Q. You don't know one way or the other?

4 A. No, sir, I don't.

5 Q. Thank you.

6 A. Yes, sir.

7 THE COURT: Mr. Phillips?

8 \*\*

9 **CROSS-EXAMINATION**

10 BY MR. PHILLIPS:

11 Q. As far as the car is concerned, have  
12 you wrote any reports? Have you documented  
13 anything that you discussed?

14 A. Yes, sir.

15 Q. And as to what you did regarding the  
16 testimony about the key fob?

17 A. The key fob stuff that we just talked  
18 about --

19 Q. You documented that in --

20 A. It's been documented.

21 Q. Oh.

22 A. We also --

23 Q. You wrote a report?

24 A. It's been documented, yes, sir.

25 Q. You wrote a report?

1           A. How many times do I need to answer, I'm  
2 not sure.

3           Q. So your position is you wrote a report?

4           A. I wrote notes. I know that the -- and  
5 it has been done on video, that we took the  
6 video. I know that I did it again this morning  
7 to verify.

8           I met with the Solicitor again this  
9 morning. I know -- do you have a written  
10 report? I don't know what all the reports that  
11 you have.

12          Q. Okay.

13          A. Have I documented this? Yes, I have.

14          Q. And you handed those notes to the  
15 Solicitor's Office?

16          A. Everything that we have should have  
17 been submitted, that is correct.

18          Q. So what that means -- that's why I  
19 asked the question, 'cause I don't know.

20          A. Okay, I'm sorry.

21          Q. Okay.

22          A. I apologize.

23          Q. Now, let's be direct. I know you're  
24 not a mechanic, but you just kind of went  
25 through this --

1 A. Yes.

2 Q. -- with counsel. I think you're  
3 somewhat aware of the vehicles and how they  
4 operate?

5 A. Yes, sir.

6 Q. If a car idles for hours on end, and I  
7 think that someone who has basic car common car  
8 knowledge --

9 A. Sure.

10 Q. -- and it idles hours on end with the  
11 air conditioner end, the sensor can interfere  
12 with the air-conditioner compressor, and cause  
13 the cold air to stop coming out.

14 That happens, you don't dispute that?

15 That is a phenomenon that happens, the car  
16 idles for a long time, it overheats.

17 A. Are you asking me or --

18 Q. Yeah.

19 A. If I agree with that?

20 Q. That a car overheats when it idles for  
21 hours on end with the air conditioner running?

22 A. Is it plausible? Can it happen? I  
23 would assume anything could happen.

24 Q. Okay.

25 A. Does my vehicle overheat when it runs

1 all that time? No, sir, it doesn't.

2 Q. So you do know. I guess your point  
3 is --

4 A. I just don't -- I can't be a expert in  
5 that, because I don't know. You're asking me,  
6 is it plausible that any vehicle, a vehicle, a  
7 random vehicle could run for that long and  
8 something could happen?

9 Absolutely, it's the south, it's hot.

10 Q. Right.

11 A. Absolutely.

12 Q. My main issue is that you said the air  
13 conditioner works, and nobody's saying that the  
14 air conditioner's broken:

15 A. No, sir.

16 Q. Okay.

17 A. Totally agree with you on that part,  
18 that it is plausible that a vehicle could do  
19 what you said in the south, absolutely, after  
20 running for hours, so --

21 Q. And when you recreated, you said there  
22 is no way, in Any way, shape or form that those  
23 lights would blink on that car?

24 A. I simply cannot get that vehicle to  
25 replicate what we saw in that video, with the

1 flashing of the lights upon lock and unlock, if  
2 the vehicle is running, whether it's running --  
3 actually fired up and started, or whether you  
4 just put the -- push the AC, it will not, no  
5 matter what I do, it will not do that.

6 MR. STONE: One moment, Your Honor.

7 BY MR. STONE:

8 Q. You said that there's videos of your  
9 test?

10 A. Yes, we took a video of it.

11 Q. All right. No further questions.

12 A. All right, thank you.

13 THE COURT: Anything further?

14 \*\*

15 **REDIRECT EXAMINATION**

16 BY MR. STONE:

17 Q. When you said -- it does flash when the  
18 car's off, just not on its own, is that what  
19 you're saying?

20 A. That's correct.

21 Q. Okay.

22 A. If the car's powered off, it will do  
23 double flash for unlock and a single flash for  
24 lock.

25 Q. Thank you.

1 MR. STONE: Nothing further.

2 THE COURT: Yes, sir.

3 \*\*

4 **RECROSS-EXAMINATION**

5 BY MR. PHILLIPS:

6 Q. Listening to your testimony, it sounds  
7 like with a key and a key fob, you were able to  
8 consistently lock and unlock the vehicle, is  
9 that right?

10 A. Yes, sir.

11 Q. And you were describing what the key  
12 would do; is that right?

13 A. That's correct.

14 Q. Is there some other way to unlock it  
15 without the key fob?

16 A. No, sir, not -- hold on, ask your  
17 question again, I want to make sure I answer  
18 exactly what you're asking.

19 Q. Did you ever lock and unlock in the  
20 course of your experience the vehicle with a key  
21 fob and be unsuccessful? Did it work?

22 A. It worked, yes, sir, it did work. We  
23 have not had any problems locking or unlocking  
24 remotely with the key fob.

25 Q. And you described when you were



1 watching this video, that they were hitting the  
2 key fob and the doors weren't unlocked; is that  
3 right?

4 A. No, what I was saying was, you can tell  
5 by the double flash, followed by a single, that  
6 the unlock button had been hit, and the lock  
7 button had been hit. I don't know if the locks  
8 were actually working at that point in time.

9 The only thing I can say is, that it would  
10 not flash like that, if the vehicle was running.

11 Q. It wouldn't flash like that if you  
12 successfully lock or unlock it? You don't know  
13 what would happen, if you were unable to lock it  
14 or unlock it, you didn't have that experience,  
15 correct?

16 A. And I was told yes.

17 Q. Okay.

18 A. Yes.

19 Q. So in this case if you're hitting it,  
20 and it's not locking or unlocking, you don't  
21 know for sure?

22 A. I could not --

23 Q. Okay.

24 A. I could not.

25 THE COURT: Anything further?

1 MR. PHILLIPS: Very briefly.

2 \*\*

3 **RECROSS-EXAMINATION**

4 BY MR. PHILLIPS:

5 Q. Just from the context, obviously,  
6 you've been involved in this case, and you have  
7 the video, that first phone call that Mr. King's  
8 makes?

9 A. I believe from his statement to us,  
10 yes, he was on the phone with -- I want to say  
11 he did a locksmith and a friend, trying to  
12 figure out how to get into the vehicle.

13 Q. All right, so he called some local  
14 locksmith, and he explained how to get into the  
15 car and to turn it manually, and then the second  
16 phone call you see him on someone with 911?

17 A. Yes, sir, that is correct. As soon as  
18 -- and he -- as soon as he gets in the vehicle,  
19 he dials 911, there's no hesitation, as far as  
20 him dialing 911.

21 Q. Okay, I just want to make sure that was  
22 clear.

23 A. That's correct.

24 THE COURT: You may step down.

25 MR. PHILLIPS: Nothing further.

1           WITNESS: Thank you.

2           THE COURT: And ladies and gentlemen, that  
3 is it for this day. And due to the projected  
4 weather and the Court closing at noon tomorrow,  
5 we need to start at 8:00 a.m. tomorrow morning.  
6 Is there anyone that cannot be here at 8:00  
7 a.m.? Pardon?

8           JUROR: I need a ride.

9           THE COURT: You need a ride? All right.  
10 Well, we will get with the Court officials and  
11 arrange -- how far out do you live?

12          JUROR: Jacksonboro.

13          THE COURT: Jacksonville?

14          JUROR: Jacksonboro.

15          THE COURT: Oh, Jacksonboro. How many  
16 miles is that? That's almost --

17          JUROR: 15, 16 miles.

18          THE COURT: Oh, okay. I was going to say  
19 that's almost to Charleston --

20          JUROR: Yeah.

21          THE COURT: -- but it's on the way.

22          JUROR: Yeah.

23          THE COURT: Okay. All right, well, we'll  
24 work that out to make sure you have a ride  
25 tomorrow morning, if you'll stick around and let

1           that be arranged. You have a ride to get home  
2           tonight? Oh, okay.

3           JUROR: Yes.

4           THE COURT: We'll --

5           JUROR: But not tomorrow.

6           THE COURT: Okay, we'll get you a ride  
7           home --

8           JUROR: Okay.

9           THE COURT: -- and back.

10          JUROR: All right.

11          THE COURT: And, of course, do not discuss  
12          your testimony with anyone, and that applies to  
13          all of the jurors, do not discuss your testimony  
14          with anyone.

15          Thank you so much for your hard work and  
16          cooperation today.

17          When your return tomorrow morning --

18          Pamela M. Aikens.

19          MS. AIKENS: Yes.

20          THE COURT: I'm appointing you to serve as  
21          the Foreperson of the jury. And the Foreperson  
22          will have the responsibility of being the  
23          spokesperson for the jury, presiding over the  
24          jury deliberations, and completing a verdict  
25          form, when the jury reaches that point -- when

1 and if the jury reaches that point.

2 MS. AIDEN: Yes, sir.

3 THE COURT: All right, and we'll see y'all  
4 tomorrow at 8:00 a.m.

5 (Jury exits the courtroom.)

6 THE COURT: Before we leave, I'll address  
7 some other matters.

8 MR. STONE: I'm sorry, Your Honor?

9 THE COURT: Before we leave, we'll address  
10 some other matters, if I can have everyone who  
11 is remaining have a seat or leave.

12 MR. STONE: Sir, I apologize.

13 THE COURT: Before we leave, we're gonna  
14 address some other matters. I guess as far as  
15 the mic went out, I thought it was still  
16 working. Requested jury charges. State and the  
17 defense?

18 MR. STONE: Yes, sir.

19 THE COURT: Do you have the requested jury  
20 charges?

21 MR. STONE: I do, sir.

22 THE COURTY: Pardon?

23 MR. STONE: I will have them to you as soon  
24 as possible, mine's not complete.

25 THE COURT: And when is as soon as

1 possible? When is that?

2 MR. STONE: Maybe at 2:30?

3 THE COURT: Well, that'll be fine. That'll  
4 be fine.

5 MR. STONE: Thank you.

6 THE COURT: All right.

7 MR. STONE: Would it be possible to get a  
8 copy of your charge?

9 THE COURT: I don't have a standard charge  
10 -- I mean -- no -- well, obviously, I have a  
11 standard charge.

12 I don't have my Law Clerk, so I have  
13 nothing to give you. You can read the standard  
14 charges. I can give them to you from any other  
15 case.

16 MR. STONE: Yes, Your Honor.

17 THE COURT: That's basically often time  
18 will repeat itself. Y'all may have something  
19 special in this case that you might request.

20 MR. STONE: Here, Your Honor, and I've got  
21 copies for the defense I'll give them as well.  
22 Thank you. And I know one of the things I  
23 always ask for reasonable doubt. I believe,  
24 Your Honor, --

25 THE COURT: Yes.

1 MR. STONE: -- there shouldn't be any  
2 shock. Obviously, the one thing I imagine, Your  
3 Honor, I see coming is that wanton recklessness  
4 is pending.

5 THE COURT: all right.

6 MR. PHILLIPS: Thank you, Your Honor.

7 THE COURT: That's it, we'll be back at  
8 8:00 a.m.

9 MR. STONE: Thank you.

10 MR. PHILLIPS: Thank you, sir.

11 (At 9:58 p.m. the proceedings were  
12 continued to the following day without  
13 interruption.

14 \*\*

15 END OF VOLUME II

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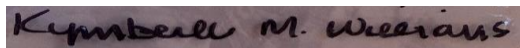
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**CERTIFICATE OF REPORTER****\*\*\***

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14<sup>th</sup> Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 29th Day of August 2023.

I do further certify that I am not related, of counsel, or interest to any party hereto.

This, the 1st day of April 2024.



-----  
Kymberlee M. Williams, CSR/RPR





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**INDEX**

|                                |     |
|--------------------------------|-----|
| PROCEEDINGS (8/30/23)          | 464 |
| WITNESS: DEMETRA GARVIN        |     |
| Direct Examination             | 464 |
| Cross-Examination (L)          | 488 |
| Cross-Examination (P)          | 493 |
| Redirect Examination           | 495 |
| WITNESS: NICOLAS BATALIS, M.D. |     |
| Direct Examination             | 496 |
| Cross-Examination (L)          | 519 |
| Cross-Examination (P)          | 534 |
| WITNESS: LARRY KING            |     |
| Direct Examination             | 553 |
| Cross-Examination (S)          | 583 |
| Cross-Examination (P)          | 598 |
| Redirect Examination           | 604 |
| Recross-Examination (S)        | 605 |
| Recross-Examination (P)        | 608 |
| WITNESS: ROBERT ARABIS         |     |
| Direct Examination (P)         | 610 |
| WITNESS: NANCY CARTER          |     |
| Direct Examination             | 295 |
| Cross-Examination (S)          | 289 |
| Redirect Examination           | 624 |

**INDEX - CONTINUED****\*\***

PROCEEDINGS CONTINUED 635

CERTIFICATE OF REPORTER 636

**\*\*****EXHIBIT LIST**

| <b>ITEM NUMBER</b> | <b>DESCRIPTION</b> | <b>PAGE</b> |
|--------------------|--------------------|-------------|
| S-24 (N/A)         | Autopsy Diagram    | 506         |

1  
2  
3  
4  
5  
6  
7  
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**PROCEEDINGS CONTINUED**

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**WEDNESDAY, AUGUST 30, 2023**

**WALTERBORO, SOUTH CAROLINA**

(The following proceedings were held in  
open court. All parties were present.)

THE COURT: Good morning. Are we ready?

MR. STONE: State is ready, Your Honor.

MR. PHILLIPS: Yes, Your Honor

MR. LOY: Yes, Your Honor.

THE COURT: Everyone is here. Good  
PHOFRPB. Welcome back.

We are on the State's case.

Who is the next witness?

MR. STONE: The state calls Demi Garvin.

**\*\*\***

**DEMETRA GARVIN,**

**BEING DULY SWORN TESTIFIED AS FOLLOWS:**

**\*\*\***

**DIRECT EXAMINATION**

BY MR. STONE:

Q. Please introduce yourself to the jury.

A. My name is Demetra, D-E-M-E-T-R-A,  
Garvin, G-A-R-V-, as in Victor, I-N, commonly  
known as Dr. Demi Garvin.

1 Q. Dr. Garvin, what do you do, ma'am?

2 A. I'm currently the Director of Forensic  
3 Sciences for Forensic Science Network, which is  
4 a privately held company that provides drug  
5 testing, forensic testing services, support  
6 services, as well as training, quality  
7 assurance, audits for coroners, pathologists,  
8 law enforcement community, attorneys.

9 Q. As a doctor, what are you a doctor in  
10 exactly?

11 A. I have a Bachelor of Science degree  
12 from Furman University and biology, and I have a  
13 doctorate in clinical pharmacy from the  
14 University of South Carolina, College of  
15 Pharmacy in Columbia.

16 Q. How long have you -- and as a doctor  
17 now, what -- of toxicology, how long have you  
18 been doing this, in particular?

19 A. So I was for 16 years a staffed  
20 psychologist and training coordinator at the  
21 State Law Enforcement Division, better known as  
22 SLED in Columbia. In 2000, after 16 years at  
23 SLED, I went over to the Richland County  
24 Sheriff's Department in Columbia and helped  
25 Sheriff Lott establish a full-service forensic

1 laboratory with multiple disciplines, crime  
2 scene latent prints, DNA, firearms, evidence of  
3 property, drug chemistry.

4 I think I have named them all, and I was  
5 there as the Laboratory Director for 15 years.  
6 Subsequent to that, in 2016 I retired from  
7 government service, and went full-force into the  
8 consulting and training.

9 Q. Okay, and that's been how long? How  
10 long have you been doing that?

11 A. Oh, almost 20 years actually.

12 Q. I'm trying to calculate. How many  
13 years is that in the field of toxicology?

14 A. Toxicology and drug chemistry this will  
15 be my 38th year.

16 Q. And have you been qualified in Court  
17 before as a -- and I guess the expertise would  
18 be toxicology and chemical -- what, you said it  
19 better than I did.

20 A. There's actually three areas, forensic  
21 toxicology, I'm a board-certified forensic  
22 toxicologist, drug chemistry, forensic drug  
23 chemistry, which is the analysis of what we  
24 refer to as pills, powders, potions,  
25 paraphernalia and plant material, the five P's,

1           and I am a registered pharmacist here in the  
2           State of South Carolina.

3           Q.   And as an expert, you've testified in  
4           pretty much all those fields?

5           A.   Yes, sir.

6           Q.   And how many times have you been  
7           qualified in Court in South Carolina as an  
8           expert?

9           A.   I've been in qualified in South  
10          Carolina beyond -- over 250 times, all Court  
11          settings except in international.

12          Q.   Okay. So from the standpoint of  
13          expertise, is your expertise in toxicology and  
14          forensic chemistry?

15          A.   Drug chemistry, yes, sir.

16          Q.   Drug chemistry.

17          MR. STONE: Your Honor, at this time we'd  
18          offer Dr. Demi Garvin as an expert in those  
19          fields.

20          THE COURT: What says the defense?

21          MR. LOY: He's an expert, Your Honor.

22          MR. PHILLIPS: No objection in  
23          qualification and renew objections.

24          THE COURT: He's so qualified.

25



1 BY MR. STONE:

2 Q. All right, now, Dr. Garvin, as an  
3 expert, I know you have reviewed the entire  
4 file.

5 At one time you actually started on the  
6 decedent, **Child**; is that correct?  
7 You actually did some work on her originally?

8 A. Yes, sir. As part of the -- so  
9 Forensic Science Network, myself specifically,  
10 we provide consultative support, toxicology and  
11 drug chemistry support to the Colleton County  
12 Coroner's Office.

13 And in this particular case the Coroner  
14 engaged with me to assist him in helping the  
15 Medical University of South Carolina, the  
16 pathologist-of-record, to identify the proper  
17 testing, the toxicology testing on specimens  
18 collected from autopsy, to ensure that  
19 comprehensive testing was performed under the  
20 circumstances of the case, as they were known at  
21 that time, and then to provide a narrative  
22 summary of the results when they announced it  
23 was completed.

24 Q. Have you viewed all of the test  
25 results in this case, including the test results

1 from Rita Pangalangan, as well as Larry King?

2 A. Yes, sir.

3 Q. Okay, let me start first with -- and we  
4 had testimony just yesterday, but I want to make  
5 sure I get the number right.

6 First of all, let's go to -- let's start  
7 with Rita Pangalangan. What were the results of  
8 her toxicology screen? And I'll try to stay out  
9 of your way.

10 A. So --

11 MR. STONE: And this is your report, for  
12 the record?

13 THE COURT: Yes, sir.

14 BY MR STONE:

15 Q. Go ahead, I'm sorry.

16 A. So I'll provide the pertinent  
17 positives. The blood sample collected from Ms.  
18 Pangalangan, I believe, was positive for  
19 methamphetamine.

20 Q. All right, and I'm just gonna put meth,  
21 'cause I'm not sure I can get the full spelling  
22 on that.

23 A. Had a concentration of 400 nanograms  
24 per milliliter.

25 Q. Okay.

1           A. With a correspondent amphetamine  
2 concentration of 160 nanograms per mil.

3           Q. All right, now I do not know what  
4 nanograms per milliliter mean. So what -- can  
5 you kind of tell me what that means? Any  
6 significance to that?

7           A. So generally speaking, when we're  
8 dealing with drug concentrations in a biological  
9 sample, in this case a blood sample, there is a  
10 unit of measure associated with that drug, and  
11 that can vary broadly, depending on the drug in  
12 question.

13           So if you think about when your height or  
14 your weight is obtained, we don't just put 150,  
15 there has to be some unit of measure after that  
16 to put it in context, 150 pounds, 150 ounces,  
17 whatever that might be, the same without height.

18           The same is true with the drug  
19 concentration. So the nanograms per mil in this  
20 instance is a measure of this particular drug,  
21 how it would be reported on the toxicology  
22 report, nanograms per milliliters, it's a unit  
23 of measure.

24           Q. And you brought something up that I  
25 want to ask about. You said ways of testing,

1           and I think you made some kind of reference to  
2           blood tests, there are other ways of testing for  
3           meth in a system versus a urine test; is that  
4           correct?

5           A.   Yes, we can test for methamphetamine  
6           and its corresponding active breakdown produce,  
7           which is the amphetamine that you see there.

8           We can test for it in blood, we can test  
9           for it in urine, oral fluid, or formerly known  
10          as saliva, tissue specimens, ocular fluid, any  
11          number of biological places.

12          Q.   What's the advantage of a blood test  
13          over say a urine test?

14          A.   So, particularly, in a living person  
15          the blood test is a very good selection, in  
16          terms of the specimen, because it represents  
17          what is happening in real-time, if you will, in  
18          association with that sample.

19          Q.   Okay. Dr. Demi, let me go ahead and  
20          get down to Larry King's results as well, if you  
21          can go to that, please?

22          A.   Yes, sir, again, the pertinent  
23          positives are methamphetamine at a concentration  
24          of 480 nanograms per milliliter, with the  
25          corresponding amphetamine concentration of 88

1 nanograms per milliliter.

2 Q. Okay, and, again, that was a blood test  
3 as well; is that correct?

4 A. Yes, sir.

5 Q. All right. Now, Dr. Garvin, what can  
6 you tell me from the standpoint of 400 nanograms  
7 or 480 nanograms per milliliter as those two,  
8 the influences that drug would have on a body?

9 A. So first of all, just to contextualize  
10 the drug itself, methamphetamine is a very  
11 potent manmade central nervous system stimulant.

12 So when we talk about stimulants, we're  
13 talking about a compound that increases our  
14 heart rate, our respiration, our temperature,  
15 our -- up to a certain point potential cognitive  
16 ability, and other physiological and  
17 psychological functions.

18 With increasing doses the drugs becomes --  
19 those doses that are associated with misuse,  
20 abuse, and then above that towards toxicity and  
21 lethality, we see the potential for a cardiac  
22 event, a sudden cardiac death, central nervous  
23 system activity, to the point of seizures, and  
24 death, potentially from that.

25 The drug is used medicinally, so we --

1       there are prescriptive reasons to be using  
2       methamphetamines, in this country, in the United  
3       States, specifically, attention deficit  
4       hyperactivity disorder, which is otherwise known  
5       as ADHD. It has been used for weight loss,  
6       although that tends to be less so now, because  
7       there are safer drugs for that purpose, and it's  
8       also used for a condition known as narcolepsy,  
9       which is, essentially, a condition in which the  
10      patient will -- have difficulty staying awake  
11      and will actually spontaneously fall asleep with  
12      no warning.

13             So it can be used for its stimulant effects  
14      in those instances medicinally.

15             Q. All right, so let me back you up on  
16      this. You've got three -- you had three  
17      different levels. You had the first level, then  
18      you have the misuse level, and then you have  
19      then the third, which is the potential fatal  
20      level; is that correct? And I don't remember  
21      what you called the first level.

22             A. What -- therapeutic.

23             Q. Therapeutic?

24             A. Yes.

25             Q. All right.

1           A. Because the drug is available  
2           medicinally.

3           Q. Okay, so the first thing you talked --  
4           okay. Therapeutic and then misuse I think is  
5           what you used?

6           A. Yes, sir, misuse, abuse.

7           Q. And then fatal?

8           A. Fatality, yes, sir.

9           Q. All right, from the standpoint of those  
10          three levels of the use of this drug, are you  
11          talking about it from the standpoint of using it  
12          on a doctor's prescription, that type of tying?

13          Are there certain levels, at some point,  
14          that you start looking at this, and say, you  
15          know, this level in the bloodstream would fall  
16          under this category, and things like that?

17          A. Yes, there are benchmarks, if you will,  
18          or bright lines where we can put into context  
19          what we, in our opinion, based on education,  
20          training and experience, and the peer review  
21          literature associated with those three different  
22          situations.

23          So, typically, with therapeutic use of  
24          methamphetamine, we're expecting to see  
25          concentrations, again, and my comments are

1       relegated completely to living individuals, not  
2       someone who's deceased. So in a living  
3       individual who's receiving the drug by  
4       prescription, legitimately, we are expecting to  
5       see concentrations around 50 nanograms per mil  
6       and less, so somewhere between 10 nanograms per  
7       mil and 50 nanograms per mil, typically.

8             Q. And that's per milliliter, correct?

9             A. Nanograms per milliliter, yes, sir.

10            Q. Okay.

11            A. There might be -- and there's gonna be  
12       some -- a few exceptions to that, depending on  
13       how the patient was dosed, and what the  
14       condition is, and their body, but 50 nanograms  
15       you might even see some cases that approach 100  
16       nanograms per mil, but, generally, less than  
17       that.

18            Q. Okay.

19            A. Yes, sir.

20            Q. All right. Then what gets us into that  
21       second category?

22            A. So misuse, abuse of the drug,  
23       typically, anything above 200 nanograms per mil  
24       is associated with misuse or abuse.

25            Q. Okay. Now, I'm assuming that somebody



1 even that is prescribed methamphetamine, if they  
2 get it past 200, they're not doing it on the  
3 doctor's instructions, they're doing it on their  
4 own?

5 A. That's been my experience, yes, sir.

6 Q. Okay. So that's anything north of 200  
7 nanograms; is that correct?

8 A. Yes, sir.

9 Q. Okay, and then when do we get into the  
10 fatal end of it?

11 A. So there -- this is where overlap  
12 occurs. So above 200 nanograms per mil, when we  
13 say that we're in the misuse, abuse range, we  
14 also begin to see -- that doesn't mean that  
15 someone cannot die from abuse of the drug. 300,  
16 400, 600 nanograms per mil upwards of 1,000,  
17 2,000 nanograms per mil, we begin to get into a  
18 dangerously high area with the potential for  
19 overdose.

20 To put that into further context, I have  
21 cases, personally, that I've signed out with  
22 individuals who have died after having achieved  
23 20,000 nanograms per mil.

24 So there's a huge range, even north of  
25 that. I think my personal experience has been a

1 case where an individual had succumbed at 38,000  
2 nanograms per mil.

3 Q. But the low end of that is, you've seen  
4 it what, 300?

5 A. 300 nanograms per mil, 400 nanograms  
6 per mil, 600 nanograms per mil.

7 Q. By the way just on the side, is there a  
8 sitewide prescription reporting system that you  
9 also have access to?

10 A. That's known as the prescription drug  
11 monitoring program here in South Carolina, it's  
12 a database for healthcare providers to access  
13 and enter information about a patient when  
14 they're receiving controlled substances.

15 So the prescriber has access to that  
16 database, the pharmacist has access. In the  
17 State of South Carolina, because I don't have an  
18 active patient provider, even though I am a  
19 pharmacist, because I don't have an active  
20 patient provider relationship, that information  
21 is made known to me from an individual who does.

22 So I personally did not access that report,  
23 but the information therein was provided to me.

24 Q. But that information is stuff that you  
25 normally would use in your role as a

1 toxicologist, in making the -- everything from  
2 an expert's determination and analysis and  
3 things like that; is that correct?

4 A. Yes, it certainly can be, yes.

5 Q. Do you have any information concerning  
6 either Larry King or Rita Pangalangan, in  
7 accordance with that?

8 A. Yes, sir.

9 Q. Okay, and what is that information?

10 A. So based on the information that was  
11 provided to me about the prescription drug  
12 monitoring report, there was no evidence that  
13 either individual was -- had been prescribed a  
14 compound that was methamphetamine-based.

15 Q. And even if they were under 400  
16 nanograms per milliliter, that's much higher  
17 than a doctor would prescribe anyways; is that  
18 correct?

19 A. Well, if it's not a concentration --  
20 the concentration doesn't reflect prescribing,  
21 but neither one of those individuals had  
22 prescriptions for either a methamphetamine-based  
23 compound, or amphetamine-based compound.

24 Q. So now you've brought up another point  
25 on this then, from the 400 nanograms per

1 milliliter, can you tell me -- I guess from the  
2 standpoint of that, that doesn't necessarily  
3 mean they took a certain amount, they could have  
4 taken a lot to build up to that; is that how  
5 that -- how does that work exactly in the  
6 bloodstream?

7 A. So the concentrations that you see  
8 depicted here are a function of a number of  
9 factors. Certainly, the drug that's  
10 administered, the dose, which we don't know, the  
11 time of the dose, which we don't know, the --  
12 whether or not it's a single dose, or whether  
13 it's multiple doses.

14 The individual's ability to metabolize or  
15 breakdown the drug, in this case from  
16 methamphetamine, which was the parent drug to  
17 amphetamine, which is the metabolite, which is  
18 also active, which is the active form of the  
19 drug.

20 This is our body's -- the way that our body  
21 removes the parent drug and prepares it for  
22 elimination from the body.

23 Q. At 400 or 480 milligrams -- nanograms,  
24 excuse me, that fall under the misuse category,  
25 can you tell if those results -- somebody with

1       that in their bloodstream, which you testified  
2       is actually a very good way of testing, are they  
3       under the influence of meth?

4           A.   So with methamphetamine, one can be  
5       actively under the influence, so what do we mean  
6       by that? Well, because it's a stimulant, we  
7       tend to see certain side effects, or adverse  
8       effects when the drug is misused associated with  
9       it.

10           First of all, the individual is misusing  
11       the drug to achieve a sense of euphoria and  
12       well-being. In fact, that is created initially  
13       by its effect on your transmitters in our brain,  
14       certainly, our transmitters in our brain.

15           So the individual wants to use the drug to  
16       achieve this sense of well-being, this sense of  
17       euphoria.

18           They also are on the receiving end of the  
19       changes in blood pressure that I mentioned  
20       earlier, potentially, changes in temperature,  
21       potential changes in heart rate, breathing.  
22       They become more excitable. They become more  
23       stimulated. That could be stimulated, in terms  
24       of their motor function, it could be stimulated  
25       in terms of their sexual function. They become

1 more hyper-vigilant, which means they might be  
2 staying on task more specifically, or obsessing  
3 about something in particular, a particular  
4 situation.

5 They then, again, with increasing doses  
6 that can proceed to more pronounced adverse  
7 effects, which could lead to cardiovascular  
8 collapse, or to seizures in a worse case  
9 scenario.

10 Then there's the backside of the drug,  
11 which is when the individual is coming down from  
12 the drug. So there are effects when the blood  
13 concentration is rising, and the individual's  
14 actively under the influence, and there are also  
15 effects when the individual is coming down, or  
16 is away from the drug, if you will.

17 And that, if you think about it, it's sort  
18 of intuitive that those effects are kind of the  
19 opposite, so the person becomes fatigued, they  
20 may become depressed, they're looking for their  
21 next dose potentially, because they want to feel  
22 good again, all right, based on the  
23 neurotransmitter release.

24 So some -- so opposite affects, typically,  
25 they may crash. That's actually referred to as

1 crash, where they sleep, where they may have  
2 been up for days or hours during active use, now  
3 coming down off the drug they may sleep for  
4 days, hours or days.

5 Q. So the influence is actually gonna be  
6 spanned over not just when they're taking it,  
7 but also after they've taken it?

8 A. Yes.

9 Q. Not just --

10 A. Correct.

11 Q. -- right immediately afterwards?

12 A. Yeah, the whole -- the entire continuum  
13 of their relationship with that drug.

14 Yes, sir.

15 Q. At 400 nanograms per milliliter, and at  
16 480 nanograms per milliliter, what would you  
17 expect to see as the side effects of that, or  
18 the effects of that on somebody?

19 A. Well, it's difficult to say. It could  
20 be either situation. It could be the  
21 individual, because we don't know the time of  
22 last dose.

23 It could be the individual actively under  
24 the influence, so they're stimulated, they're  
25 hypervigilant. Again, some of those effects

1       that I mentioned earlier, increased libido,  
2       obsession, euphoria. They may feel excessive  
3       strength in some instances, risk taking  
4       behavior.

5             And then if they're coming down, which that  
6       concentration could also reflect, they're  
7       exhausted, they're sleeping, fatigued,  
8       irritable.

9             Q. How does that affect their decision-  
10      making?

11            A. So methamphetamine does affect our  
12      cognitive ability, and misused -- well, let me  
13      start with therapeutic doses. So one of the  
14      reasons that it's given for ADHD, Attention  
15      Deficit Hyperactivity Disorder, is because in  
16      certain populations if you've been diagnosed  
17      with that condition, the drug helps that  
18      individual to stay on task, to stay on focus,  
19      but the drug dosing associated with that  
20      condition is low.

21            Two and-a-half milligram, five milligrams,  
22      ten milligrams, perhaps up to 30 milligrams a  
23      day, depending on what -- whether we're treating  
24      an adult or a child, a young person. Misuse  
25      we're talking about doses of up to 1,000



1 milligrams a day, so much, much higher doses of  
2 the drug. And with binging, which is repeated  
3 dosing multiple times over a short period of  
4 time, or over several days perhaps.

5 Individuals have documented to self-  
6 administer up to 5,000 milligrams a dose, so  
7 very, very large doses of the drug.

8 Q. And at that level what would you expect  
9 to see then, as far as their cognitive  
10 abilities?

11 A. So the cognitive function consists of  
12 our ability to reason to make good decisions --

13 MR. LOY: Your Honor, I object.

14 BY MR. GATCH:

15 Q. -- decision-making.

16 THE COURT: Your objection is the question  
17 is unclear?

18 MR. STONE: She's an expert in this field,  
19 and I've asked her a clear enough question that  
20 she is having no trouble answering it.

21 MR. LOY: There's no testimony before the  
22 Court that anybody had 5,000 milligrams. I  
23 think the question is relevant.

24 THE COURT: The objection's overruled.

25

1 BY MR. STONE:

2 Q. Go ahead, I'm sorry, go ahead.

3 BY WITNESS:

4 A. Would you ask the question again? I'm  
5 sorry.

6 Q. Yeah, I don't know if I can remember  
7 it. At the levels of 400 and 480 nanograms, and  
8 then in the misuse category, which is you've got  
9 as, basically, 200 plus is in the misuse  
10 category, so let's talk about the misuse  
11 category.

12 What would you expect the people to act  
13 like in that category over 200, from the  
14 standpoint of cognitive skills, motor skills,  
15 libido, that type of thing?

16 A. So it's difficult to ascribe specific  
17 affects with a specific concentration. You can  
18 talk in general terms based on what we know,  
19 with regard to the published literature. And in  
20 -- without knowing whether the individual is  
21 actively under the influence here, or coming  
22 down off the drug, being separated from the drug  
23 prior to perhaps the next dose, there could be  
24 effects on cognitive function of decreased  
25 judgment, decreased critical thinking skills,

1 decision-making, those would be effects that we  
2 would see.

3 Q. Say that again, I'm sorry.

4 A. So --

5 Q. Decision --

6 A. Decision-making judgment, critical  
7 thinking. The part of critical thinking would  
8 be to lessen ability to recognize the  
9 consequences of our actions.

10 Q. Okay, I'm sorry, that's not cognitive,  
11 okay, that's just cognitive, all right.

12 A. Yes, sir.

13 Q. Okay, what else?

14 A. I think --

15 Q. Other than cognitive, what else are we  
16 dealing with?

17 A. Actively under the influence, euphoria  
18 early on, stimulation, perhaps feeling increased  
19 strength.

20 Q. Okay.

21 A. Possible increased libido.

22 Q. That's basically a sex drive; is that  
23 right?

24 A. Yes, sir.

25 Q. And you're using the term influence, I

1 know what you mean when you're saying actively  
2 using, as opposed to still being there. If you  
3 have 400 nanograms per milliliter in your blood,  
4 what -- or 480 nanograms per milliliter in your  
5 blood, is that affecting the person that has it  
6 in their blood at that time?

7 You mentioned earlier contemporaneous and  
8 that type of thing, can that tell us anything?

9 A. It would be my opinion that it would  
10 impairing the individual.

11 Yes, either by virtue of being actively  
12 under the influence of the drug, as a central  
13 nervous system stimulant, as I've described  
14 here, or on the backside coming down off the  
15 drug, that's commonly referred to as tweaking,  
16 and where the person has had -- it's been some  
17 period of time since their last dose, and  
18 they're either actively seeking another dose, or  
19 have been removed from the ability to obtain  
20 another dose.

21 Q. So in either way they're under, you  
22 know, it's affecting them one way or the other?

23 A. Yes, sir.

24 Q. Okay.

25 MR. STONE: I don't have any further

1 questions at this time, Your Honor, thank you.

2 THE COURT: Mr. Loy?

3 MR. LOY: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 \*\*

6 **CROSS-EXAMINATION**

7 BY MR. LOY:

8 Q. Good morning.

9 A. Good morning.

10 Q. And, I'm sorry, I didn't catch your  
11 last name?

12 A. Demi Garvin. Garvin, G-A-R-V-I-N.

13 Q. Doctor, first, I know that the  
14 Solicitor was taking care to note your comments  
15 or your answers, and I understand your  
16 therapeutic zone could be ten to 50, or even as  
17 high as 100; is that right?

18 A. Yes, sir.

19 Q. Okay, I see he didn't put that up  
20 there, but 100 would still be within the  
21 therapeutic range; is that correct?

22 A. We see some individuals, yes, it's  
23 typically less than 100 nanograms per mil --

24 Q. All right.

25 A. -- for therapeutic dosing.

1           Q. And I was listening to your testimony  
2 also. It sounds like you could testify to us  
3 about all sorts of things with your expertise,  
4 and all sorts of things. I assume that would  
5 include alcohol also; is that correct?

6           A. Yes, sir.

7           Q. Is there a tolerance of a certain  
8 substance -- within your field, is that a term  
9 you'all use, tolerance substance, or drug  
10 tolerance?

11          A. There is such a thing as tolerance,  
12 yes, in association with alcohol and other  
13 drugs, yes, sir.

14          Q. Could you explain to the ladies and  
15 gentlemen of the jury what that means?

16          A. So -- well, there's different types of  
17 tolerance, but the tolerance that people are  
18 most commonly aware of, is the condition where  
19 repeated dosing of a particular drug, to include  
20 alcohol, but methamphetamine is another compound  
21 where this could occur.

22               The same dose given with repetition, that  
23 individual becomes less responsive to it,  
24 necessitating a higher dose the next time.  
25 Probably the most classic compound that

1 tolerance occurs with that type of tolerance  
2 occurs with is alcohol, where one dose of  
3 alcohol, one alcoholic beverage, an individual  
4 starts to ingest that, and over time if they  
5 continue to use alcohol, they need more of an  
6 alcoholic dose, or more drinks to achieve the  
7 same effect that they're looking for.

8 Q. So a younger person who's never -- or  
9 an adult who's never consumed alcohol, and  
10 drinks alcohol, might become intoxicated at a  
11 very low level in their bloodstream; is that  
12 correct?

13 A. Yes.

14 Q. Whereas, a person, if you will, a  
15 better term is a more experienced drinker might  
16 be able to consume several times that amount of  
17 alcohol, and at least show this; is that correct  
18 also?

19 A. Yes. Individuals who are chronic, with  
20 regard to alcohol, and individuals who are  
21 chronic alcohol users, it's -- they develop  
22 functioning at higher concentrations, so it's  
23 more difficult to ascertain their impairment.  
24 They're still impaired from ethanol, but it's  
25 more difficult to discern it without objective

1 criteria to do that particularly.

2 Q. These apply to other substances too;  
3 does it not generally speaking?

4 A. Correct.

5 Q. And we talked about the -- obviously,  
6 you'all talked about the ranges.

7 You said that you have seen either  
8 personally, or in the literature, blood alcohol  
9 levels up to 20,000 or 38,000 even nanograms per  
10 milliliter; is that correct?

11 A. Not blood alcohol, methamphetamine  
12 concentrations.

13 Q. I'm sorry, I was confused, I didn't  
14 make that clear, I am talking about the chart  
15 now.

16 As far as methamphetamine goes, you said  
17 you have seen it up to that level in various  
18 individuals, either personally or in literature;  
19 is that correct?

20 A. Yes, sir.

21 Q. And could we assume that -- or would it  
22 be fair to say that those people must have  
23 built a tolerance to the substance.

24 milligrams -- or nanograms per milliliter,  
25 than a person who has used it regular?



1           A. There are a lot of variables that go  
2 into that. Broadly, yes, and just for the  
3 record, the individuals who were in the -- I'm  
4 personally not familiar in my role with any  
5 individual whose come into my work practice  
6 environment for review, who was alive above  
7 3,000 nanograms per mil.

8           All those individuals were deceased, but as  
9 a general rule, an individual at 1,000 nanograms  
10 per mil would theoretically be at higher risk,  
11 but there are other factors. I have seen  
12 individuals who are chronic methamphetamine  
13 users, who are deceased with 1,000 nanograms per  
14 mil, there's overlap.

15          Q. And you talked about affecting  
16 cognitive abilities, and I know you were careful  
17 to focus your answers and the possibilities, it  
18 could be this, or it could be that, and that  
19 would vary from circumstance-to-circumstance,  
20 and individual-to-individual; is that correct?

21          A. To a certain extent. The point that I  
22 was trying to make there was that we can't look  
23 at a specific drug and concentration, and say at  
24 that concentration of that drug, the individual  
25 is going to behave this way.

**1** That is much too dogmatic.

**2** Q. Thank you very much.

3 \*\*

|   |                   |
|---|-------------------|
| 4 | CROSS-EXAMINATION |
|---|-------------------|

5 BY MR. PHILLIPS:

|   |                  |
|---|------------------|
| 6 | Q. Good morning. |
|---|------------------|

|   |                  |
|---|------------------|
| 7 | A. Good morning. |
|---|------------------|

8 Q. Just to make sure we're on the same  
9 page, as far as timing your testimony, you  
10 wouldn't know whether someone had ingested meth  
11 say potentially up to three days prior to that,  
12 based on their ability to metabolize; is that  
13 fair to say?

14                   That they can test positive and have  
15                   methamphetamine in their blood, when they've  
16                   ingested it up to several days before, I think  
17                   generally three days; is that fair to say?

18           A. And what biological matrix are we  
19       talking about?

20 Q. I'm not a scientist, but I'm asking,  
21 people who test positive for methamphetamine,  
22 that's generally a window of three days?

|    |                                        |
|----|----------------------------------------|
| 23 | A. What specimen are we talking about? |
|----|----------------------------------------|

24 Q. I'm just saying in the blood.

25 A. I need to know the specimen. In the

1 blood?

2 Q. Generally.

3 A. That's conceivable, yes, that's  
4 possible.

5 Q. Okay, when you say conceivable, the  
6 answer's yes?

7 A. It's possible.

8 Q. Okay. And you can't tell how it  
9 affects a person, specifically, because you said  
10 you don't distribute variables, in terms of how  
11 it metabolizes, and tolerance, and everything in  
12 between, correct?

13 A. No, that's not exactly what I said.

14 Q. Okay. Well, I mean we can clear it up.

15 A. So it would be my opinion that the use  
16 -- the misuse of methamphetamine is associated  
17 with broadly one of two scenarios, either the  
18 individual is actively under the influence on or  
19 about the time of the incident at hand, or they  
20 are coming down off of the drug, and wait for  
21 their next dose.

22 Q. Okay.

23 A. So tweaking impairment on the back --  
24 there's impairment on the front side, and  
25 there's impairment on the backside.

1 Q. And you can't tell which one?

2 A. I cannot tell from the concentration  
3 where that individual is without more  
4 information.

5 Q. That's right, you wouldn't be able to  
6 tell it was ingested up to three days prior?

7 A. I would not be able to tell that from  
8 the toxicology, no.

9 Q. Thank you.

10 MR. STONE: Just briefly

11 \*\*

12 **REDIRECT EXAMINATION**

13 BY MR. STONE:

14 Q. But regardless of when the ingestion  
15 was, at 480 nanograms per milliliter, they are  
16 impaired either whether they're going up, or  
17 coming down?

18 A. In my opinion, yes, sir.

19 Q. Thank you.

20 MR. PHILLIPS: No further questions.

21 THE COURT: Anything further?

22 MR. STONE: Nothing, thank you.

23 MR. PHILLIPS: None, Your Honor.

24 THE COURT: Thank you.

25 MR. STONE: State calls Dr. Batalis.

1 THE COURT: Yes, sir.

2 \*\*\*

3 NICOLAS BATALIS, M.D.

4 BEING DULY SWORN TESTIFIED AS FOLLOWS:

5 \*\*\*

6 DIRECT EXAMINATION

7 BY MR. STONE:

8 Q. Your middle name is Ike?

9 A. Yes.

10 Q. That's my father's name and my son's  
11 name. I didn't know that.

12 Dr. Batalis, what do you do, sir?

13 A. I'm a Forensic Pathologist.

14 Q. And what exactly is a forensic  
15 pathologist?

16 A. So forensic pathology is a subspecialty  
17 -- a practice of medicine and a subspecialty  
18 that focuses on the medical legal aspects of  
19 medicine, predominantly performing autopsies to  
20 determine a cause of the manner of death.

21 Q. And how long have you been doing that?

22 A. I've been employed in my current  
23 position for approximately 15 years.

24 Q. Okay. What did you do prior to that?

25 A. I started my training, obtaining my

1       undergraduate degree in biology at Butler  
2       University in Indianapolis, Indiana. I then  
3       went on to complete medical school at Indiana  
4       University School of Medicine, also in  
5       Indianapolis.

6             After completing medical school I moved to  
7       Charleston to the Medical University of South  
8       Carolina, where I completed a four-year training  
9       program in general pathology.

10            So general pathology is a field of medicine  
11       that deals with the diagnosis of disease. So if  
12       you were to have a tumor cut out, or a biopsy  
13       performed, the pathologist would be the one to  
14       look at that, and determine if there's cancer,  
15       or an infection, and that type of stuff.

16            A pathologist would also receive a clinical  
17       laboratory, so if you had any blood work done, a  
18       pathologist would oversee the lab work  
19       performed, and that sort of work.

20            So after completing that four-year training  
21       program in general pathology, I passed an  
22       examination and became nationally certified in  
23       pathology.

24            I then went onto a one-year specialty  
25       training program, and, specifically, regarding