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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to Horry County
Court of Common Pleas

The Honorable Frank Addy, Jr., PCR Judge

Appellate Case No. 2025-001743

LA'QUANDIAN BROMELL.....Petitioner,

v.

STATE OF SOUTH CAROLINA.....Respondent.

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2021-GS-26-04475 AND 04476

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

vs.)

April 11-14, 2022

LAQUANDIAN J. BROMELL,)

Defendant.)

B E F O R E:

Honorable Kristi Curtis
Horry County Courthouse
Conway, South Carolina

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

Nancy R. Livesay, Esquire
Christopher D. Helms, Esquire
Attorneys for State of South Carolina

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Kay H. Richardson
Circuit Court Reporter

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MOTIONS

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1 **APRIL 11, 2022 - DAY ONE**

2 **ON THE RECORD - 12:43 P.M.**

3 (REPORTER'S NOTE: The following takes place outside the
4 presence of the jury venire.)

5 MOTIONS:

6 MR. HELMS: The defense, Your Honor, has submitted
7 potential voir dire questions to the Court. We do have
8 objections to some of those questions, Your Honor. And then
9 in addition, we would like to ask the Court to add one
10 additional question to its normal voir dire practice.

11 THE COURT: Okay.

12 MR. HELMS: First and foremost, the question we would
13 like to add is just, have you ever been charged with a crime?
14 But as far as the objections are concerned, Your Honor, we
15 would definitely object to Part F of the defense counsel's
16 memorandum where it's addressing the potential jurors'
17 education, Your Honor. My understanding is the qualification
18 for a juror is if they have a sixth-grade education and above.
19 I think this is just a speck too far and not necessary.

20 THE COURT: Well, I think it's appropriate to charge or
21 to ask them if they have any legal training.

22 MR. HELMS: Okay, Your Honor, that's -- I understand.

23 THE COURT: But I'll be glad to hear from you, Mr.
24 Brooker -- is it Brooker with an R?

25 MR. BROOKER: It's Brooker with an R, Your Honor.

STATE V. BROMELL - 2021-GS-26-04475 AND 04476
MOTIONS

13

1 THE COURT: Thank you.

2 MR. BROOKER: Your Honor, the purpose of -- the purposes
3 at least our voir dire questions is not relevant with respect
4 to whether or not a particular juror is qualified. I think if
5 that juror is sitting in here and has already survived, I
6 think, the qualification panel that -- the qualification voir
7 dire that the Court went through, then of course that juror is
8 qualified. But of course, we have preemptible challenges.
9 And when we have preemptible challenges, those preemptible
10 challenges allow us to be able to make or exclude a person
11 from potential -- from the juror for just about any reason as
12 long as it's not, you know, an inappropriate reason, as long
13 as it doesn't violate *Batson* or either the progeny of *Batson*.
14 And of course is is that we're asking this question so that we
15 can make a determination as to whether or not we want to
16 strike a potential juror with those preemptory challenges,
17 which is -- which allows us to be able to do it for just about
18 any reason. Some of the issues in connection with trial
19 sometimes tend to be complicated, and of course is is that we
20 want to make sure. And specifically, if we have an issue that
21 we think is gonna be complicated during the course of a trial,
22 but we have an interest and of course is is that he has a due
23 process right to make sure, you know, that -- you know, that
24 particular juror may understand the issue that may be
25 presented. And so, that person has nothing to do with juror

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MOTIONS

14

1 qualification. It has everything to do with -- of assisting
2 us in exercising our preemptory strikes and deciding whether
3 or not we want to strike someone.

4 THE COURT: Mr. Helms?

5 MR. HELMS: Your Honor, again, it goes -- I mean, if you
6 find out that each individual juror has a higher education
7 than the next, where do you go from there? I mean, what does
8 it -- what does it accomplish? The standard for these jurors
9 is if they have a sixth-grade education or above, and if they
10 do, they're qualified to serve as jurors. You know, we can
11 dig into each individual juror's past, characteristics,
12 personalities, jobs, but you know the fact of the matter is
13 South Carolina voir dire is limited in that regard. Now, if
14 the Court wants to go that far, I just don't see the relevance
15 in it. We've never done it before. I've never seen it done
16 that -- to that level, and I just don't see that -- the
17 necessity in it. We have further objection -- and I
18 understand the Court's ruling as to legal training. My
19 argument would be the same. If they do have legal training,
20 the standard here is can you be fair, can you be impartial.
21 That's asked multiple times while they're up here. Defense
22 counsel is right, he's got strikes just like we have strikes.
23 He's got twice as many as we do, and he can exercise them for
24 any reason he so chooses, based on the information that we're
25 presented. But that's my argument, Judge. I just think it's

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MOTIONS

15

1 not necessary.

2 THE COURT: Well, I do think whether they've got legal
3 training, sometimes they can have more sway over the other
4 jurors when they know that they've got some kind of legal
5 training. And I guess I feel similar about whether they have
6 any law enforcement training. We know we have a few, at least
7 we have one who is a former officer.

8 So, I'm going to ask Numbers 3 and 4.

9 MR. HELMS: Yes, ma'am, Your Honor. I understand.

10 THE COURT: And let me stop you because you said you
11 wanted to ask if anyone has been charged with a crime.

12 MR. HELMS: Yes, ma'am.

13 THE COURT: I generally ask if anybody has been a victim
14 or a member of their family has been a victim of a crime of
15 violence or if they've ever been charged with a crime of
16 violence, not just any crime in the world.

17 MR. HELMS: I understand, Your Honor. The -- and I
18 understand that. The question we're asking, though, is more
19 specific or more broad, rather. We would just ask the Court
20 if it would be willing to ask about any crime.

21 THE COURT: I mean, we're gonna say charged and
22 uncharged. I mean, any time somebody is in grade school and
23 goes to the ---

24 MR. HELMS: I know. And, Your Honor, the state would
25 argue -- I would make the same argument about education. You

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MOTIONS

16

1 know, every single step they took in education; are we gonna
2 get that specific?

3 THE COURT: I'm not asking the first two questions about
4 education. I'm only asking about legal training and law
5 enforcement training.

6 MR. HELMS: Legal training; yes, ma'am. But that is the
7 request from the state in regard to voir dire, Your Honor.
8 But we do have one more objection.

9 THE COURT: Okay. I'm gonna ask if there's anyone who
10 they are a close or a member of their family has ever been a
11 victim of a violent crime or has ever been charged with a
12 violent crime.

13 MR. HELMS: Okay.

14 THE COURT: And then, I'm sorry, tell me what -- and then
15 similarly Question Number 2 in the H section on the victims of
16 crime, there's the question about whether you are a member of
17 any organization that advocates against crime. I usually also
18 ask if there are any -- any member of a organization with
19 offender's rights group, such as the Innocence Project.

20 MR. HELMS: Okay. I couldn't hear you. Say that last
21 part again, Judge. I'm sorry.

22 THE COURT: Just the reciprocal of Number H(2), if there
23 is anyone who is the supporter or a member of a group that
24 advocates for offenders' rights, such as the Innocence
25 Project.

STATE V. BROMELL - 2021-GS-26-04475 AND 04476
MOTIONS

17

1 MR. HELMS: I don't have any problem with that, Judge.

2 In terms of violent crime, do you ask -- are you gonna --
3 does the Court define violent crime, or do you just leave that
4 for interpretation?

5 THE COURT: I leave that to their common sense
6 understanding of violent crime.

7 MR. HELMS: For that reason, Your Honor, we would again
8 reiterate that we would ask for the Court to ask them if
9 they've been charged with any crime, because that would lead
10 them to have to classify what a violent crime is, and I don't
11 know that they're capable of doing that.

12 THE COURT: Mr. Brooker, do you have any objection to me
13 asking if they have ever been charged with a crime?

14 MR. BROOKER: I don't have any objection, Your Honor.

15 THE COURT: Okay.

16 MR. HELMS: Your Honor, we were -- may I address ---

17 THE COURT: Uh-huh, (affirmative response).

18 MR. HELMS: You were addressing Number H(2), and it --
19 and you're gonna ask are they a member. Are you gonna
20 specifically ask those questions in regards to the
21 organizations of MADD and SADD, Your Honor?

22 THE COURT: I'm sorry. I'm not following your ---

23 MR. HELMS: When you ask that or are gonna ask that
24 Question H(2), are you specifically gonna mention the
25 organizations MADD or SADD?

STATE V. BROMELL - 2021-GS-26-04475 AND 04476
MOTIONS

18

1 THE COURT: I was going to ask that or any other similar
2 organization.

3 MR. HELMS: Your Honor, my problem with that question is
4 it's very one-sided. It's very pro law enforcement groups.
5 By the same token, and just to be fair to the state, we would
6 ask that you would ask in that same question, are they
7 likewise a member of Black Lives Matter, ANTIFA, or those anti
8 law enforcement organizations.

9 THE COURT: Okay.

10 MR. HELMS: Defund the Police.

11 THE COURT: Okay. That's what I was attempting to do
12 with my last -- what I just told you I was gonna ask if they
13 had or a member of any group that supports offenders' rights.
14 But I can also ask that advocates against law enforcement.

15 MR. HELMS: Specifically, Your Honor, my request is that
16 if the Court is gonna mention those organizations that are pro
17 law enforcement, Your Honor, like MADD and SADD, because it's
18 -- the question says advocates against crime, but like you
19 said, Your Honor, advocates for offenders' rights.

20 THE COURT: What we usually ask is -- what I ask is, is
21 there anyone who is a member or a financial supporter of any
22 group that advocates for victims' rights. And then I ask is
23 there anyone who advocates for offenders' rights.

24 MR. HELMS: I have no objection to that.

25 THE COURT: Okay.

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MOTIONS

19

1 MR. HELMS: Yes, ma'am. And the last objection, Your
2 Honor, from the state would deal with the entirety of Part G.
3 Your Honor, that deals with the race of the defendant.
4 Obviously, that's -- you can -- that's evident by his race in
5 court. Additionally, Your Honor, the race of the defendant or
6 the victim have no -- that is not a matter of controversy in
7 this trial. We don't contend that that was the motive. We
8 don't content that that was an animus between the parties.
9 Race of the victim has nothing to do with it, just like race
10 of the defendant. We'd prefer just not to bring race and fire
11 that bullet, Your Honor.

12 THE COURT: I would agree. I've never charged anything
13 approaching that, and not -- I'm not gonna start.

14 But, Mr. Brooker, unless you can tell me something that
15 sways me.

16 MR. BROOKER: Your Honor, unfortunately, we don't live in
17 a post-race society. It obviously is, is that if you look at
18 the statistics, then of course is is that some of the -- some
19 of the most fervent and active -- I guess, groups that are
20 hostile to African Americans are located in southern states.
21 And of course there is a number of them here in South
22 Carolina. And of course, because we don't live in a post-race
23 society, then I think it is, you know, absolutely necessary
24 for us to ask that question to make sure that there is no one
25 who is on the jury, you know, that harbor any animus against

STATE V. BROMELL - 2021-GS-26-04475 AND 04476
MOTIONS

20

1 him and purely based upon his race. Now, I don't think it's a
2 controversial question. I think everyone, you know, who is
3 sitting in the jury pool, you know, who has ever watched the
4 news will know is is that, you know, there is these sorts of
5 groups out there, and of course is is that there are tens of
6 thousands, actually hundreds of thousands of people who are
7 members of them. And of course is is that we want to -- we
8 have a, you know, a vested interest in making sure that
9 someone who may have a prejudice against him because of his
10 race, doesn't end up sitting on this jury.

11 I don't think it's such a controversial question to ask
12 that. We don't live in a post-race society.

13 THE COURT: I appreciate your argument, sir. Just
14 generally, I'm not gonna charge them -- I'm not gonna question
15 them on anything in voir dire that I'm gonna give them
16 instruction on -- when I instruct them on the law, I'm gonna
17 instruct them that he innocent until proven guilty, and it's
18 the state that's got the burden of proof. And I'm gonna
19 assume the jurors are gonna follow my instructions.

20 So, I'm gonna respectfully decline to ask them G(1) or
21 G(2).

22 MR. BROOKER: Thank you, Your Honor.

23 MR. HELMS: That would be all from the state in terms of
24 voir dire.

25 THE COURT: Mr. Brooker, anything else that you want to

STATE V. BROMELL - 2021-GS-26-04475 AND 04476
BY THE COURT

21

1 discuss before we bring the jury in?

2 MR. BROOKER: Nothing, Your Honor, in reference to voir
3 dire.

4 THE COURT: Okay. Then we are ready for the panel.

5 (REPORTER'S NOTE: Jury venire enters courtroom at 12:58 p.m.)

6 THE COURT: Can I get counsel to approach for just a
7 moment?

8 (REPORTER'S NOTE: Bench conference is held off the record in
9 the presence but outside the hearing of the jury.)

10 BY THE COURT:

11 THE COURT: Okay. Mr. Helms, if you'd like to call the
12 first case. And I've probably stolen your indictment.

13 MR. HELMS: That's right, Your Honor; that's what I was
14 looking for. Thank you, Judge.

15 Your Honor, at this time, the State of South Carolina,
16 County of Horry, would call State vs. Laquandian Jaraffus
17 Bromell. Those are true-bill indictments, Your Honor, 2021-
18 GS-26-04475 and 2021-GS-26-04476, indictment for murder and
19 possession of a weapon during the commission of a violent
20 crime.

21 VOIR DIRE:

22 THE COURT: Okay. Ladies and gentlemen, I am going to
23 read to you from the indictment in this case. The indictment
24 is simply the charging documents by which this case is brought
25 in front of the jury. The indictment is not evidence. It

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VOIR DIRE

22

1 simply contains the allegations that the state is making in
2 this case. And the state alleges that Laquandian Jaraffus
3 Bromell did in Horry County on or about June 23rd, 2020,
4 willfully, feloniously, and intentionally kill the victim
5 Victim: H.G. [REDACTED] with malice aforethought, either expressed or
6 implied, by means of shooting and the victim did die as a
7 result of those injuries.

8 The state further alleges that the defendant did in Horry
9 County on or about June 23rd, 2020, possess a firearm or
10 visibly display what appeared to be a firearm or visibly
11 displayed a knife during the commission or attempted
12 commission or a violent crime in violation of South Carolina
13 law.

14 So, first of all, ladies and gentlemen, let me ask, is
15 there any juror who has any personal knowledge of the facts of
16 this case? If so, please stand.

17 (REPORTER'S NOTE: No response.)

18 THE COURT: The State of South Carolina is represented in
19 this matter by the Fifteenth Circuit Solicitor's Office by Mr.
20 Chris Helms and Ms. Nancy -- is it Livesay?

21 MS. LIVESAY: Livesay.

22 THE COURT: Livesay.

23 MS. LIVESAY: Yes, ma'am.

24 THE COURT: If I could ask y'all to please stand and
25 introduce yourselves to the jury panel.

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VOIR DIRE

23

1 MR. HELMS: Yes, ma'am, Your Honor.

2 Ladies and gentlemen, my name is Chris Helms, and I'm an
3 assistant solicitor with the Fifteenth Circuit's Solicitor's
4 Office, that encompasses Horry and Georgetown Counties. I've
5 been employed there for about six years.

6 MS. LIVESAY: I'm Nancy Livesay. I'm also a prosecutor
7 here for the Fifteenth Judicial Circuit, which is Horry and
8 Georgetown Counties.

9 THE COURT: Ladies and gentlemen, I'm going to ask if
10 there's anyone related by blood or marriage, or do you have a
11 close personal or business relationship with either Mr. Helms
12 or Ms. Livesay.

13 (REPORTER'S NOTE: No response.)

14 THE COURT: Is there any member of the jury panel who has
15 ever been represented by either of these attorneys, either you
16 or a member of your immediate family?

17 (REPORTER'S NOTE: No response.)

18 THE COURT: Is there any member of the jury panel that
19 either you or a member of your family has ever worked for the
20 Fifteenth Circuit Solicitor's Office?

21 (REPORTER'S NOTE: No response.)

22 THE COURT: Is there any member of the jury panel who is
23 close friends with anyone who is employed with the Fifteenth
24 Circuit Solicitor's Office?

25 (REPORTER'S NOTE: No response.)

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1 THE COURT: Okay. The defendant, Mr. Bromell -- and am I
2 pronouncing that correct?

3 MR. BROMELL: Yes, ma'am.

4 THE COURT: Mr. Bromell is in the courtroom today, and he
5 is represented by Attorney Thurmond Brooker.

6 Mr. Brooker, if you would also introduce yourself and
7 your client to the jury panel.

8 MR. BROOKER: Thank you, Your Honor.

9 My name is Thurmond Brooker. My office is in Florence,
10 South Carolina. I represent Laquandian Bromell, who is seated
11 right next to me.

12 If you would stand up, Mr. Bromell. Turn around and face
13 the jury so that they can see you.

14 MR. BROMELL: (Complies.)

15 MR. BROOKER: Thank you.

16 THE COURT: Thank you, Mr. Brooker and Mr. Bromell.

17 Ladies and gentlemen, is there any member of the jury
18 panel related by blood or marriage or with a close personal or
19 business relationship with Attorney Thurmond Brooker?

20 (REPORTER'S NOTE: No response.)

21 THE COURT: Is there any juror that you or a member of
22 your family is a current or former client of Mr. Brooker, who
23 practices out of Florence, South Carolina.

24 (REPORTER'S NOTE: No response.)

25 THE COURT: Is there any juror that you yourself or a

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1 member of your family have ever been employed by Mr. Brooker's
2 law firm?

3 (REPORTER'S NOTE: No response.)

4 THE COURT: Is there any juror related by blood or
5 marriage or with a close personal or business relationship
6 with the defendant, Mr. Laquandian Bromell?

7 (REPORTER'S NOTE: No response.)

8 THE COURT: Ladies and gentlemen, there are a number of
9 potential witnesses in this case, and I need to ask you about
10 these potential witnesses. Ladies and gentlemen, for each of
11 these witnesses, I have -- I'm gonna have the same question.
12 Are you related by blood or marriage? Do you have a close
13 personal or business relationship with any of these potential
14 witnesses? I can almost assure you that every single witness
15 on this is going to testify, but they have the potential to be
16 witnesses who will testify in this case. So, we need to know
17 if you know any of them.

18 Yes, sir?

19 JUROR 375: I know the defendant.

20 THE COURT: And tell me your name, sir?

21 JUROR 375: Carles Wright.

22 THE COURT: I'm sorry; tell me again your last name.

23 JUROR 375: Carles Wright.

24 THE COURT: Mr. Wright. And you are juror number 375?

25 JUROR 375: Yes.

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1 THE COURT: And can you tell me just broadly how do you
2 know him?

3 JUROR 375: Since school. We played football together
4 since we was little.

5 THE COURT: Okay. Mr. Wright, does your knowledge of the
6 defendant, would that prevent you from being a fair and
7 impartial juror in this case?

8 JUROR 375: Yeah, I can't be on the jury.

9 THE COURT: Okay. I'm gonna go ahead and excuse you from
10 this trial. Sir, if you'll please call the call-in number
11 today after 6:00 p.m., we may have some further instructions
12 for you on the call-in number. Do you still have your little
13 sheet of paper?

14 JUROR 375: Uh-huh, (affirmative response).

15 THE COURT: Okay. Thank you, sir. If you'll call that
16 number after 6:00 p.m. tonight.

17 Yes, sir. Tell me your name?

18 JUROR 154: Anthony Hemingway.

19 THE COURT: I'm sorry. Your last name again?

20 JUROR 154: Hemingway.

21 THE COURT: Hemingway.

22 Okay, Juror Number 154.

23 Yes, sir. You know the defendant?

24 JUROR 154: I know both sides.

25 THE COURT: Okay. When you say both sides, tell me what

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1 you mean.

2 JUROR 154: I know this family (indicating); and I know
3 his family (indicating).

4 THE COURT: Okay. You know the victim's family and you
5 know the defendant's family?

6 JUROR 154: Yes, ma'am.

7 THE COURT: And would your knowledge of those families,
8 would that prevent you from being a fair and impartial juror,
9 sir?

10 JUROR 154: Yes, ma'am. I ---

11 THE COURT: Okay. Mr. Hemingway, I'm gonna excuse you
12 from this trial. If you'll please call the call-in number
13 after 6:00 p.m. tonight.

14 JUROR 154: Yes, ma'am.

15 THE COURT: Thank you, sir.

16 I'm gonna give you the names of these witnesses about 10
17 at a time.

18 Veronica Jackson; Vance Hemingway; Courtney Hemingway;
19 Winferd Sherman; Latrinity Willard; Leo Lonnie Handy; Danny
20 Ricky Jackson; Jaquan Demond Jackson; Justine Bellamy; Lashira
21 Alliyah Bennett. For those first 10 witnesses, is there any
22 juror related by blood or marriage or with a close personal or
23 business relationship?

24 (REPORTER'S NOTE: No response.)

25 Okay. Some additional witnesses, Paul Hamm ---

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1 UNIDENTIFIED PERSON: I know ---

2 THE COURT: Don't say anything. You're not gonna be here
3 as a juror. You're here for -- you're not on the jury panel;
4 is that correct?

5 UNIDENTIFIED PERSON: That's correct.

6 THE COURT: Okay. Thank you, ma'am. I don't need to
7 know who you know. I'm assuming you're gonna know some folks
8 here, but thank you.

9 Okay. Paul Hamm; Brad Jones; Dwight Tomlin; T. McCullah,
10 that's M-C-C-U-L-L-A-H is the last name; Justin Jones; Shaun
11 Wydra, that's W-Y-D-R-A; Ken Marcus; Greg Lent; Becky
12 Phillips; and John Kelly. And I'm sorry, each of these are
13 officers with the Horry County Police Department.

14 Again, any juror who is related by blood or marriage or
15 has a close personal or business relationship with those
16 potential witnesses?

17 (REPORTER'S NOTE: No response.)

18 THE COURT: Okay. Also with the Horry County Police
19 Department, Drew Edwards; Josh Johnson; Brian Scales; and
20 Rashad Chestnut. Again, anyone related by blood or marriage
21 with the close personal or business relationship?

22 (REPORTER'S NOTE: No response.)

23 THE COURT: With the Medical University of South
24 Carolina, Erin Presnell, P-R-E-S-N-E-L-L; Anthony Knecht,
25 that's K-N-E-C-H-T; Officer Lori Dudley, with the Horry County

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1 Police Department; Agent Suzanne Cromer, with the South
2 Carolina Law Enforcement Division; Agent Megan Fletcher, with
3 the South Carolina Law Enforcement Division, also known as
4 SLED; Cortisha Hemingway; Ben Wells, with the Horry County
5 Sheriff's Office; Christi Thompkins, who works for the 911
6 service for Horry County; Nate Howlett, with Myrtle Beach
7 Police Department; Detective Dewitt, with the Horry County
8 Police Department; and Lieutenant C. Howell, with the Horry
9 County Police Department. Of those, is there anyone related
10 by marriage or with a close personal or business relationship?

11 Yes, ma'am?

12 JUROR 204: Greg Dewitt is my uncle.

13 THE COURT: And remind me of your name, ma'am?

14 JUROR 204: Lashanti Legette.

15 THE COURT: I was trying to find you here.

16 COURT REPORTER: 204.

17 THE COURT: Okay. I'm gonna go ahead and excuse you from
18 this case, so we don't make your Easter holiday real
19 uncomfortable around the dinner table.

20 Ms. Legette, if you will please call the call-in number
21 after 6:00 p.m. today, you'll have further instructions.

22 JUROR 204: All right.

23 THE COURT: Thank you, ma'am.

24 JUROR 204: Yes, ma'am.

25 THE COURT: Yes, sir?

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1 JUROR 346: Your Honor, I'm also a volunteer
2 firefighter/paramedic with Horry County, and I work a lot with
3 the officers and 911 dispatch. I don't really know them by
4 face, but name ---

5 THE COURT: Okay. And can you remind me of your name,
6 sir?

7 JUROR 346: Joseph Turbeville.

8 THE COURT: Turbeville?

9 JUROR 346: Yes, ma'am.

10 THE COURT: Juror Number 346?

11 JUROR 346: Yes, ma'am.

12 THE COURT: Sir, do you think that would prevent you from
13 being a fair and impartial juror? You don't recognize the
14 names thus far, I guess, if my first question.

15 JUROR 346: No, Your Honor. I don't recognize them by
16 their names, but I mean I see people in passing. If I
17 visualize them, I might recognize them.

18 THE COURT: And you are retired currently?

19 JUROR 346: No, ma'am. I'm still active. I'm a
20 volunteer firefighter and paramedic.

21 THE COURT: And your spouse is also?

22 JUROR 346: No, ma'am. She's a teacher.

23 THE COURT: Okay. Mr. Turbeville, do you think that
24 would prevent you from being a fair and impartial juror?

25 JUROR 346: I would not like to take the chance on that.

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1 THE COURT: Okay. Mr. Turbeville, I'm gonna excuse you
2 from this trial, sir. Again, if you'll please call the call-
3 in number after 6:00 p.m. this evening.

4 JUROR 346: Thank you.

5 THE COURT: Thank you.

6 Okay. A few additional witnesses, Latrika Green; Roy
7 Prickett, P-R-I-C-K-E-T-T; William Anders; Jaylon Hemingway;
8 Justin Goodman; and Renee Hardwick, who also works for 911.
9 Again, anyone related by blood or marriage or with a close,
10 personal, or business relationship with any of these potential
11 witnesses?

12 (REPORTER'S NOTE: No response.)

13 THE COURT: Is there any member of the jury panel who has
14 ever been a patron of Turk's Place on Redenbo Drive in Loris,
15 South Carolina?

16 (REPORTER'S NOTE: No response.)

17 THE COURT: Is there any member of the jury panel who
18 knows or has any relationship with the victim's family, the
19 victim in this case is -- and I may be pronouncing this
20 incorrectly -- is it Heiden or Victim: H.G.

21 MR. HELMS: Victim: H.G. Your Honor.

22 THE COURT: Victim: H.G. Alexander Goodman of Loris, South
23 Carolina.

24 (REPORTER'S NOTE: No response.)

25 THE COURT: Is there any member of the jury panel who is

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1 related either by blood or marriage, or you have a close
2 personal or business relationship with another member of the
3 jury panel today? Sometimes, we get cousins or husbands and
4 wives, even, that are called for jury duty at the same time.
5 (REPORTER'S NOTE: No response.)

6 THE COURT: Do you have a coworker who is also here on
7 jury duty with you?

8 THE COURT: Okay. You two are coworkers?

9 JUROR 358: Yes.

10 THE COURT: Okay. If I could get you to tell your names.

11 JUROR 358: Terry White.

12 THE COURT: And Mr. White, do you know your juror number?

13 JUROR 358: It is Number 358.

14 THE COURT: It looks like 358. Gotcha. So, Juror Number
15 358.

16 Sir, tell me your name.

17 JUROR 250: 250, Melvin Nobles.

18 THE COURT: Okay. Okay. Mr. Nobles, let me ask you
19 first, sir, y'all work together. If your opinion differed
20 from your coworkers, could you make a finding in this case
21 following my instructions and with your own view of the facts
22 ---

23 JUROR 250: Yes.

24 THE COURT: --- independently of Mr. Nobles -- or
25 independently of Juror Number 358?

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1 JUROR 250: Yes.

2 THE COURT: You could find independently of him?

3 JUROR 250: Yes, ma'am.

4 THE COURT: Okay.

5 And same question for you, and I've got your names
6 backwards. Mr. White, correct?

7 JUROR 358: Yes, ma'am.

8 THE COURT: Mr. White, sir, do you believe that you can
9 listen to the facts, that you can follow my instructions on
10 the law, and that you could make a finding independently of
11 Mr. Nobles?

12 JUROR 358: Yes, ma'am.

13 THE COURT: And if your opinion differed from his, would
14 you feel that you were in any way that you had to be in
15 agreement with Mr. Nobles?

16 JUROR 358: No, ma'am.

17 THE COURT: Is he your superior in any way?

18 JUROR 358: No, ma'am.

19 THE COURT: And Mr. Nobles, same question, Mr. White is
20 not over you in your employment?

21 JUROR 250: No, ma'am.

22 THE COURT: Any other questions that y'all would like me
23 to ask Mr. White or Mr. Nobles?

24 MR. HELMS: Nothing from the state, Your Honor.

25 MR. BROOKER: Nothing, Your Honor.

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1 THE COURT: Thank you for that information.

2 Ladies and gentlemen, has the solicitor's office, the
3 Fifteenth Circuit Solicitor's Office ever prosecuted a case in
4 which you, yourself, or a family member was a victim, a
5 witness, or a defendant? If so, please stand.

6 (REPORTER'S NOTE: No response.)

7 THE COURT: Is there any member of the jury panel who has
8 ever worked as a law enforcement officer or with any law
9 enforcement agency? If so, please stand.

10 Yes, sir? Tell me your name.

11 JUROR 357: I'm Timothy Whalen.

12 THE COURT: Okay. Mr. Whalen, let me find you here.
13 Number 357. And you are a retired police officer; is that
14 correct?

15 JUROR 357: Yes, ma'am.

16 THE COURT: And that was from outside of South Carolina?

17 JUROR 357: I'm hard of hearing.

18 THE COURT: What state were you employed as a police
19 officer?

20 JUROR 357: I was with Ashland County in Ohio.

21 THE COURT: And how long ago?

22 JUROR 357: A year ago.

23 THE COURT: Okay. And do you think that that would
24 prevent you from being a fair and impartial juror?

25 JUROR 357: I can't say.

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1 THE COURT: Okay. Thank you, Mr. Whalen. I'm gonna
2 excuse you from this case. If you'll please call the call-in
3 number after 6:00 p.m. this evening.

4 JUROR 357: Thank you.

5 THE COURT: Thank you.

6 Is there any member of the jury panel who has any legal
7 training?

8 (REPORTER'S NOTE: No response.)

9 THE COURT: Is there any member of the jury panel who has
10 any law enforcement training?

11 (REPORTER'S NOTE: No response.)

12 THE COURT: Ladies and gentlemen, is there any member of
13 the jury panel that you yourself or a member of your family
14 have ever been the victim of a crime of violence or has ever
15 been charged with a crime of violence? And let me say that I
16 know we are eliciting some fairly sensitive information. If
17 you are not comfortable responding where you're sitting, I
18 would -- we can have you come forward and give you a little
19 bit more privacy up here at the bench. Again, any member of
20 the jury panel that you or a member of your immediate family
21 has ever been the victim of a crime of violence or has ever
22 been charged with a crime of violence.

23 Would you like to come forward to give me that
24 information?

25 JUROR 136: Yes, ma'am.

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1 (REPORTER'S NOTE: Bench conference is held on the record in
2 the presence but outside the hearing of the jury.)

3 THE COURT: Your name, sir?

4 JUROR 314: Shane Smith.

5 So, a couple of different times. A very long time ago,
6 like when I was six, for the attempted murder of family
7 members, but that was when I was six. So, that was near 18,
8 19 years ago. And then right after basic training, when I got
9 back to South Carolina, circa 2017, May of, I was assaulted at
10 a gas station. Like I didn't press charges or anything.

11 THE COURT: Let me ask with respect to the first issue.
12 Was that here in South Carolina?

13 JUROR 314: That was Indiana. He was tried in
14 Indianapolis.

15 THE COURT: And then the more recent issue, was that here
16 in South Carolina?

17 JUROR 314: Yeah, in Horry County, specifically.

18 THE COURT: And was it investigated at all by Horry
19 County Police Department?

20 JUROR 314: Yes, yes. I think that they arrested him,
21 but I didn't press charges. We just had a -- I guess he had
22 an issue with me. And it rose to him hitting me. I was just
23 ---

24 THE COURT: Okay. But it was handled by Horry County
25 Police Department?

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1 JUROR 314: Yes; yes, ma'am.

2 THE COURT: And did you ever have any contact with the
3 solicitor's office as a result of that?

4 JUROR 314: No. I think I received like a victim
5 advocate's letter, but by that time I just dismissed the
6 charges.

7 THE COURT: And this was in about 2017?

8 JUROR 314: Yes, ma'am.

9 THE COURT: Mr. Smith, do you think that either of those
10 experiences would make you incapable of being a fair and
11 impartial juror?

12 JUROR 314: No, I feel fine.

13 THE COURT: Do you think that you can listen to the
14 facts, that you can, that you can follow my instructions on
15 the law, and that you can give both the state and the
16 defendant a fair trial?

17 JUROR 314: Absolutely.

18 THE COURT: Thank you very much for that information.

19 JUROR 314: Okay.

20 THE COURT: Okay. Tell me your name, sir.

21 JUROR 136: James Grissom, 136.

22 THE COURT: Yes, sir, Mr. Grissom?

23 JUROR 136: My sister and her fiancé were involved in
24 shooting a couple of years -- well, it's been several years
25 back. She was charged.

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1 THE COURT: This was her fiancé?

2 JUROR 136: Yes.

3 THE COURT: He was charged with shooting her?

4 JUROR 136: No, they were charged with shooting her
5 uncle.

6 THE COURT: I'm sorry. What?

7 JUROR 136: Charges with shooting the uncle, his uncle,
8 yeah.

9 THE COURT: They both were charged with shooting
10 somebody?

11 JUROR 136: Yeah.

12 THE COURT: And was that here in Horry County?

13 JUROR 136: Yes, ma'am.

14 THE COURT: And was criminal charges brought?

15 JUROR 136: He's been locked up.

16 THE COURT: And what happened to your sister?

17 JUROR 136: Everything was dropped on her.

18 THE COURT: Okay.

19 JUROR 136: Because of him.

20 THE COURT: Do you know was it the Fifteenth Circuit
21 Solicitor's Office prosecuting that case?

22 JUROR 136: I really don't know.

23 THE COURT: And do you recall his name?

24 JUROR 136: Furman Cain.

25 THE COURT: Cain, C-A-I-N?

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1 JUROR 136: Yes, ma'am. Furman Cain.

2 THE COURT: Furman, F-U-R-M-A-N?

3 JUROR 136: It's been -- it's been a while back.

4 THE COURT: More than 10 years ago?

5 JUROR 136: Probably.

6 THE COURT: Maybe more than 20 years ago?

7 JUROR 136: No.

8 THE COURT: Okay. Were you a witness or in any way
9 involved in the case?

10 JUROR 136: No, not supposed to be, but they pushed me
11 out of it.

12 THE COURT: Were you actually there when this occurred?

13 JUROR 136: No, ma'am.

14 THE COURT: Okay. You were not gonna be a witness as to
15 what happened or even a alibi witness?

16 JUROR 136: Well, they used my gun and everything, so I
17 was supposed to go there for that.

18 THE COURT: Okay. You were never charged with anything?

19 JUROR 136: No, ma'am.

20 THE COURT: Okay. Mr. Grissom, do you think that would
21 prevent you from being a fair and impartial juror?

22 JUROR 136: Uh-huh, (affirmative response).

23 THE COURT: I'm going to excuse you from this trial. I
24 thank you for coming and telling us.

25 JUROR 136: Just call in tonight?

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1 THE COURT: Yes, just call that number after 6 o'clock.

2 JUROR 136: All right. Thanks.

3 THE COURT: Juror 136 is excused.

4 JUROR 178: How are you doing?

5 THE COURT: Tell me your name.

6 JUROR 178: Shakeria Jenerette.

7 THE COURT: Okay. Jenerette. Number 178.

8 JUROR 178: My only question was family members or --

9 family members or ---

10 THE COURT: Yes, ma'am.

11 JUROR 178: Okay, so, do that include like spouses, kids'
12 fathers or no.

13 THE COURT: Why don't you just tell me and then we'll
14 kind of decide.

15 JUROR 178: Okay. So, he's considered a felon as of now.
16 He done served -- it started off as attempted murder, but they
17 lowered it down. So, I think it's aggravated assault as of
18 now, but the ---

19 THE COURT: Who is this we're talking about?

20 JUROR 178: My kids' father.

21 THE COURT: And how long ago was this?

22 JUROR 178: About two years ago.

23 THE COURT: Okay. And this was -- he was charged with
24 some kind of assault?

25 JUROR 178: Uh-huh, (affirmative response).

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1 THE COURT: And who was the victim?

2 JUROR 178: Gosh, I can't even think of his name.

3 THE COURT: No one associated with you or your family?

4 JUROR 178: Huh-uh, (negative response).

5 THE COURT: Do you know if -- was it here in this
6 jurisdiction? Was it in Conway, Horry County?

7 JUROR 178: Uh-huh, (affirmative response).

8 THE COURT: And do you know if it was Horry County Police
9 Department or Sheriff's Office who were involved in it?

10 JUROR 178: I can't remember.

11 THE COURT: Were you a witness at all in the case?

12 JUROR 178: Huh-uh, (negative response).

13 THE COURT: Did you ever have any contact with either an
14 investigator or anybody from the solicitor's office?

15 JUROR 178: Huh-uh, (negative response).

16 THE COURT: Do you -- tell me what was the status. Did
17 he have a trial?

18 JUROR 178: So, he went to court, and he had his lawyer,
19 and they offered a different plea, so he had to serve 10 years
20 of that time.

21 THE COURT: And he's done with that?

22 JUROR 178: Yes, ma'am.

23 THE COURT: Ms. Jenerette, do you think that that would
24 prevent you from being a fair and impartial juror in this
25 case?

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1 JUROR 178: No, I just wanted to mention it.

2 THE COURT: And I appreciate that.

3 JUROR 178: Uh-huh, (affirmative response).

4 THE COURT: Do you think that you can listen to the
5 facts, that you can follow my instructions on the law, and
6 that you can give both the state and the defendant a fair
7 trial?

8 JUROR 178: I can.

9 THE COURT: If you would just -- would you mind giving me
10 his name?

11 JUROR 178: It's J-Y-B-E.

12 THE COURT: J-Y-B-E?

13 JUROR 178: Uh-huh, (affirmative response), and Powell.

14 THE COURT: Powell. Okay.

15 Okay. Anything else y'all want to ask Ms. Jenerette?

16 MR. BROOKER: No, not from the defendant.

17 THE COURT: Thank you so much. I appreciate you sharing
18 that with us.

19 (REPORTER'S NOTE: End of bench conference.)

20 THE COURT: Is there any member of the jury panel who is
21 either a member or a supporter of any group that advocates for
22 victims' rights or any group that advocates for offenders'
23 rights? If you would please stand.

24 (REPORTER'S NOTE: No response.)

25 THE COURT: Okay. Any additional questions on behalf of

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1 the state?

2 MS. LIVESAY: No, sir -- No, ma'am.

3 THE COURT: Mr. Brooker?

4 MR. BROOKER: Just one additional question, Your Honor.
5 I think on the potential jurors list, some of the jurors were
6 not mentioned by first name. If we could simply ask the
7 jurors that if at any point in time during the trial, if they
8 recognize a juror that they did not previously identify by
9 name, if they could bring that to the attention of the Court.

10 THE COURT: You mean a witness?

11 MR. BROOKER: Recognize a witness that they a didn't --
12 did not previously recognize by name, if they could bring that
13 to the attention of the Court.

14 THE COURT: Sure.

15 So, ladies and gentlemen, we are gonna draw 12 jurors,
16 and we're gonna draw two alternate jurors. So, sometimes, you
17 don't realize that you know someone until you see their face.
18 So, if during the course of the trial you realize that you
19 recognize someone involved in the case, if you'll please
20 notify the bailiff, and they'll bring that to our attention.

21 MS. LIVESAY: Can we approach real quick?

22 THE COURT: Uh-huh, (affirmative response).

23 MS. LIVESAY: Thank you, Judge

24 (REPORTER'S NOTE: Bench conference is held off the record in
25 the presence but outside the hearing of the jury.)

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JURY SELECTION

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1 JURY SELECTION:

2 THE CLERK: When I call your name and juror number,
3 please come to the front of the courtroom, turn around and
4 face the back of the courtroom, and bring any belongings that
5 you have with you.

6 Juror Number 80, Deborah Corkum.

7 THE COURT: And just for the record, for the state, there
8 are five strikes for the defendant, there are 10 strikes.
9 We're going to seat two alternate jurors. For the alternates,
10 the state has one strike, and the defendant has two strikes.

11 THE CLERK: What say the State?

12 JUROR 80: Pardon me?

13 THE COURT: You're fine, ma'am. You're just gonna stand
14 there and they're gonna tell us whether they're gonna seat you
15 or strike you.

16 MS. LIVESAY: Could you please present this juror.

17 THE CLERK: Defense?

18 MR. BROOKER: If you can indulge me for just a second,
19 please?

20 THE COURT: Take your time.

21 Ladies and gentlemen, while they're having a little
22 discussion, let me just give you a little housekeeping. We've
23 had you in here for a long morning. We understand that. As
24 soon as we empanel this jury, if you are selected for jury
25 service, our first order of business is gonna be to let you go

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1 to lunch. So, we are gonna feed you pretty quickly.

2 MR. BROOKER: Please present the juror.

3 THE CLERK: Please be seated in the jury box.

4 Juror Number 157, Isaac Henry.

5 What say the state?

6 MS. LIVESAY: Could we please excuse this particular
7 juror?

8 THE CLERK: You're excused from this particular case.

9 If you'll just have a seat back.

10 Juror Number 248, Jennifer Nicely.

11 MR. BROOKER: I apologize. Could you give me that number
12 again?

13 THE CLERK: 248.

14 MR. BROOKER: Thank you.

15 THE CLERK: What say the state??

16 MS. LIVESAY: Would you please present this particular
17 juror?

18 THE CLERK: Defense?

19 MR. BROOKER: Excuse this juror for the purpose of this
20 trial.

21 THE CLERK: You're excused from this particular case.

22 Juror Number 33, Myra Booth.

23 What say the state?

24 MS. LIVESAY: Would you please present this juror?

25 THE CLERK: Defense?

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1 MR. BROOKER: If you can indulge me for just a second.

2 Please present the juror.

3 THE CLERK: Please be seated in the jury box.

4 Juror Number 152, Timothy Hegler.

5 What say the state?

6 MR. BROOKER: Is that 152?

7 THE CLERK: Yes, sir.

8 MR. BROOKER: Thank you.

9 THE CLERK: What say the state?

10 MS. LIVESAY: Would you please present this juror.

11 THE CLERK: Defense?

12 MR. BROOKER: Excuse this juror.

13 THE CLERK: You are excused from this particular case.

14 Juror Number 253, Terry O'Neill.

15 What say the state?

16 MS. LIVESAY: Would you please present this juror.

17 THE CLERK: Defense?

18 MR. BROOKER: Please present the juror.

19 THE CLERK: Please be seated in the jury box.

20 Juror Number 50, Christin Camp.

21 What say the state?

22 MS. LIVESAY: Could you please present this particular

23 juror?

24 THE CLERK: Defense?

25 MR. BROOKER: Please excuse this juror.

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1 THE CLERK: You're excused from this particular case.
2 Juror Number 277, Jonathen Ray.

3 What say the state?

4 MS. LIVESAY: Could you please present this particular
5 juror?

6 THE CLERK: Defense?

7 MR. BROOKER: Please present the juror.

8 THE CLERK: Please be seated in the jury box.

9 Juror Number 217, Chicora Luddley.

10 What say the state?

11 MS. LIVESAY: Would you please excuse this particular
12 juror?

13 THE CLERK: You are excused from this particular case.
14 Juror Number 131, Kalaya Grant.

15 MR. BROOKER: I apologize.

16 THE CLERK: 131.

17 MR. BROOKER: Thank you.

18 THE CLERK: What say the state?

19 MS. LIVESAY: Can you please present this particular
20 juror?

21 THE CLERK: Defense?

22 MR. BROOKER: Please present the juror.

23 THE CLERK: Please be seated in the jury box.

24 Juror Number 191, William Knetzer.

25 What say the state?

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1 JUROR 191: Can I speak to the Judge?

2 Can I come up for a second?

3 THE COURT: Sure.

4 Let's get the attorneys to approach as well.

5 (REPORTER'S NOTE: Bench conference is held on the record in
6 the presence but outside the hearing of the jury.)

7 JUROR 191: I told you I was hard of hearing. I can hear
8 you but when they're not facing me, I can't hear a word
9 they're saying.

10 THE COURT: Okay. Apparently, we have headsets that we
11 can give you that will help you to hear during the course of
12 the trial.

13 JUROR 191: Yeah, cause as soon as they turn their head
14 away from me, I can't hear a word they're saying.

15 MS. LIVESAY: It's hard to hear in here anyway.

16 THE COURT: Yeah, the acoustics in here are not great.
17 Thank you for bringing that our attention. Yeah. I think we
18 can accommodate you.

19 JUROR 191: Okay.

20 (REPORTER'S NOTE: End of bench conference.)

21 THE CLERK: What say the state?

22 MS. LIVESAY: Would you please present this particular
23 juror.

24 THE CLERK: Defense?

25 THE COURT: Hang on just a minute; we're gonna hear from

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1 the other side.

2 MR. BROOKER: This is Juror 191; is that correct?

3 THE CLERK: Yes, sir.

4 MR. BROOKER: Okay. I wanted to make sure.

5 Please present the juror.

6 THE CLERK: Please be seated.

7 THE COURT: Mr. Knetzer, you've been selected on the
8 trial, so if you'll follow Mr. Bobby there and have a seat.

9 Thank you.

10 THE CLERK: Juror Number 187, Joseph Keller.

11 What say the state?

12 MS. LIVESAY: Would you please excuse this particular
13 juror.

14 THE CLERK: You're excused from this particular case.

15 Juror Number 110, Jessica Faulkenbery.

16 What say the state?

17 MS. LIVESAY: Would you please present this juror.

18 THE CLERK: Defense?

19 MR. BROOKER: Please present the juror.

20 THE CLERK: Please be seated in the jury box.

21 Juror Number 241, Lillian Mosley-Campbell.

22 What say the state?

23 MS. LIVESAY: Would you please excuse this particular
24 juror?

25 THE CLERK: You are excused from this particular case.

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1 THE COURT: Thank you, ma'am.

2 THE CLERK: Juror Number 178, Shakeria Jenerette.

3 What say the state?

4 MS. LIVESAY: Would you please excuse this particular
5 juror?

6 THE CLERK: You're excused from this particular case.

7 Juror Number 358, Terry White.

8 What say the state?

9 MS. LIVESAY: Could you please present this juror.

10 MR. BROOKER: If you could indulge me for just a second.

11 Please present the juror.

12 THE CLERK: Please be seated in the jury box.

13 Juror Number 12, Brittany Aycoth.

14 What say the state?

15 MS. LIVESAY: Could you please present this juror.

16 THE CLERK: Defense?

17 MR. BROOKER: Excuse this juror.

18 THE CLERK: You are excused from this particular case.

19 Juror Number 250, Melvin Nobles.

20 What say the state?

21 MS. LIVESAY: Could you please present this juror.

22 THE CLERK: Defense?

23 MR. BROOKER: Excuse this juror for the purpose of this
24 trial.

25 THE CLERK: You are excused from this particular case.

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1 Juror Number 322, Louis Strickland.

2 What say the state?

3 MS. LIVESAY: Would you please present this juror?

4 THE CLERK: Defense?

5 MR. BROOKER: Present the juror.

6 THE CLERK: Please be seated in the jury box.

7 Juror Number 360, Amanda Wilburn.

8 What say the state?

9 MR. BROOKER: I apologize. What's that number again?

10 THE CLERK: 360.

11 MR. BROOKER: Thank you.

12 MS. LIVESAY: Would you please present this juror?

13 THE CLERK: Defense?

14 MR. BROOKER: Please excuse this juror.

15 THE CLERK: You're excused from this particular case.

16 Juror Number 88, Bryan Davenport.

17 What say the state?

18 MS. LIVESAY: Could you please present this juror?

19 THE CLERK: Defense?

20 MR. BROOKER: Please excuse this juror.

21 THE CLERK: You're excused from this particular case.

22 Juror Number 314, Shane Smith.

23 What say the state?

24 MS. LIVESAY: Could you please present this juror?

25 THE CLERK: Defense?

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1 MR. BROOKER: If you could indulge me for just a second.

2 Excuse this juror, please.

3 THE CLERK: You're excused from this particular case.

4 Juror Number 139, Pamela Hackney.

5 What say the state?

6 MS. LIVESAY: Could you please present this juror?

7 THE CLERK: Defense?

8 MR. BROOKER: Excuse this juror.

9 THE CLERK: You're excused from this particular case.

10 Juror Number 1, Kathleen Adam.

11 What say the state?

12 MS. LIVESAY: Could you please present this particular
13 juror?

14 THE CLERK: Defense?

15 MR. BROOKER: Please present the juror.

16 THE CLERK: Please be seated in the jury box.

17 Juror Number 158, Brook Hensley.

18 What say the state?

19 MS. LIVESAY: Could you please present this juror?

20 THE CLERK: Defense?

21 MR. BROOKER: Please present the juror.

22 THE CLERK: Please be seated in the jury box.

23 Juror 56, Kathleen Cardamone.

24 What say the state?

25 MR. BROOKER: This is 158?

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1 THE CLERK: This is 56. 158 you just seated.

2 MR. BROOKER: I'm sorry. 156, I apologize.

3 THE COURT: Just 56.

4 THE CLERK: What say the state?

5 THE COURT: I'm sorry, Juror Number 56.

6 MR. BROOKER: Thank you.

7 MS. LIVESAY: Could you please present this juror?

8 THE CLERK: Defense?

9 MS. LIVESAY: I heard you say it, but I didn't -- there
10 was some cross talk. I'm sorry.

11 MR. BROOKER: Please present the juror.

12 THE CLERK: Please be seated in the jury box.

13 Juror Number 54, Kelly Capasso.

14 What say the state?

15 MR. HELMS: Your Honor, two and one?

16 THE COURT: Correct. So, we -- we're gonna have two
17 alternates. State gets one strike; the defendant gets two
18 strikes.

19 MR. BROOKER: What was her number again?

20 THE CLERK: This one is 54.

21 MR. BROOKER: Thank you.

22 THE CLERK: What say the state?

23 MS. LIVESAY: Could you please present this juror?

24 THE CLERK: Defense?

25 MR. BROOKER: Please present the juror.

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1 THE CLERK: Please be seated in the jury box.

2 Juror Number 93, Chelsey Dawson.

3 What say the state?

4 MS. LIVESAY: Could you please present this particular
5 juror?

6 THE CLERK: Defense?

7 MR. BROOKER: Is this 98?

8 THE CLERK: 93.

9 MR. BROOKER: 93; I apologize.

10 Please present the juror.

11 THE CLERK: Please be seated in the jury box.

12 THE COURT: Any motions from the state regarding the
13 empaneling of the jury?

14 MS. LIVESAY: No, ma'am.

15 THE COURT: Any from the defendant?

16 MR. BROOKER: None, Your Honor.

17 BY THE COURT:

18 THE COURT: Okay. Ladies and gentlemen, if you were not
19 selected on this particular case, I'm gonna go ahead and
20 excuse you. So, if you'll please call the number on your
21 sheet after 6:00 p.m. today, you'll get further instructions
22 about when to call in or when to report back to the
23 courthouse.

24 Thank you again for being here.

25 (REPORTER'S NOTE: Jury venire excused and exits courtroom @

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1 2:06 p.m.)

2 THE COURT: Could I ask the attorneys to approach just a
3 minute about scheduling?

4 MR. HELMS: Yes, ma'am, Your Honor.

5 THE COURT: And Mr. Brooker, if you don't mind as well.

6 MR. BROOKER: I apologize, Judge.

7 (REPORTER'S NOTE: Bench conference is held off the record in
8 the presence but outside the hearing of the jury.)

9 THE COURT: Okay. Ladies and gentlemen, we are gonna go
10 ahead and excuse you for the day. We are gonna take up some
11 legal matters this afternoon that we need to do outside of
12 your presence, so that when you report tomorrow morning, we'll
13 be ready to start immediately with this case.

14 I'm gonna ask if you'll please be in the building by
15 9:20. It's gonna take a few minutes for -- when you come in
16 they'll know that you're reporting for jury duty. You'll tell
17 them you're here for jury duty, they're gonna escort you back
18 to the jury room, get your badge, get you situated. My
19 intention is that we will start this trial promptly at 9:30
20 tomorrow morning.

21 A couple of matters to just go over with you. Right now,
22 both sides believe that you are fair and impartial jurors with
23 no dog in this fight. It is very natural that your friends
24 and family may want to know -- you've got jury duty, they want
25 to know if you're on a case, what's the case about, who is

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1 involved with it. My order to you is that you should not
2 discuss this with anyone, not your fellow jurors, not your
3 friends and family yet. You have just the barest idea of what
4 this case is about. Sometimes very well meaning, you might
5 tell somebody what case you're on or who is involved in it,
6 and unintentionally that will elicit back from them a response
7 that is gonna compromise your ability to be fair and
8 impartial. And then all this work that we've done this
9 morning goes out the window and we've got to start over again.
10 So, again, when the case is over, it'll be entirely up to you.
11 You can discuss it or you can choose not to discuss it. That
12 will be entirely up to you. But until tomorrow, please don't
13 begin discussing it with anyone.

14 Have a good night and we'll see you tomorrow at 9:30.

15 (REPORTER'S NOTE: Jury excused for the day and exits
16 courtroom @ 2:08 p.m. The following takes place outside the
17 presence of the jury.)

18 THE COURT: Okay. It's 10 after 2:00. What time do
19 y'all think we can reconvene?

20 MS. LIVESAY: Whatever is good with you, Judge. We can
21 get something quick to eat and come back and go ahead and try
22 to knock it out, if that works for Mr. Brooker.

23 MR. BROOKER: Your Honor, I am happy with whatever the
24 consensus agrees with, so if everybody is fine with that,
25 that's fine with me.

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1 THE COURT: Is 3:15 -- does that give y'all enough time?

2 MS. LIVESAY: That's fine.

3 MR. HELMS: Yes, ma'am.

4 MS. LIVESAY: Whatever you want, Judge.

5 THE COURT: That's a little bit over an hour.

6 MR. BROOKER: That's fine.

7 THE COURT: Okay. We'll reconvene at 3:15.

8 MR. HELMS: Thank you, Your Honor.

9 MS. LIVESAY: Can I say this, Judge, real quick? The
10 juror with the hearing impairment, there are headphones that
11 directly go into the -- you know, from the microphone. I
12 think we need to let him have them all the time, because some
13 witnesses are gonna talk louder than others, and I want him to
14 be able to put them on as he needs them and take them off as
15 he needs to.

16 MR. BROOKER: I think and that's perfectly -- that's
17 perfectly fine, Your Honor.

18 THE COURT: Okay. We'll make sure we get them to him in
19 the morning when he arrives.

20 MS. LIVESAY: Okay. And just so Mr. Brooker knows,
21 because I know, the microphone feeds right into the earphones.
22 So, even when you're talking very low, that microphone feeds
23 it right in there. So, just be careful.

24 THE COURT: And so, what I understand is you have to push
25 that button down and hold it in order to ---

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1 MS. LIVESAY: Right, right.

2 THE COURT: --- keep that from picking up. Some of them
3 you push it and it goes off and then of course we forget to
4 push it and turn it back on, so this one if foolproof, it just
5 means that you have to hold the button down if you don't want
6 people to hear you.

7 MR. BROOKER: That answers my next question, Your Honor.

8 THE COURT: Yeah. There's no way to turn it off. You
9 have to actually hold it down.

10 THE CLERK: Hold it down while you're talking. Like just
11 hold it and then talk into.

12 MR. HELMS: I think the button disappears if it's muted.

13 MR. BROOKER: Yeah, the light is still on green.

14 MR. HELMS: You had it muted. That's correct.

15 THE COURT: Because when you push the button, the light
16 goes off. When you take your finger off the button, the light
17 goes back on.

18 MR. BROOKER: I got you. I got it, Your Honor.

19 THE COURT: It's a pretty sensitive button.

20 Okay. We'll be back then at 3:15 for pretrial.

21 MR. HELMS: Yes, ma'am.

22 MS. LIVESAY: Thank you, Your Honor.

23 MR. BROOKER: Thank you, Your Honor.

24 **RECESS - 2:09 P.M.**

25

*******OFF THE RECORD*******

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1 ON THE RECORD - 3:20 P.M.

2 (REPORTER'S NOTE: The following takes place outside the
3 presence of the jury.)

4 THE COURT: Okay. Do we want to start with the *Jackson*
5 *v. Denno*?

6 MS. LIVESAY: We're ready to move forward with it, Judge.

7 THE COURT: Okay.

8 MR. BROOKER: We are as well, Your Honor.

9 JACKSON V. DENNO HEARING:

10 MS. LIVESAY: Your Honor, at this time, the state calls
11 Ken Markus to the stand.

12 KENNETH MARCUS, HAVING BEEN SWORN,

13 TESTIFIED AS FOLLOWS:

14 THE CLERK: State your name and spell it for the Court.

15 MR. MARCUS: Kenneth Marcus, and that's M-A-R-C-U-S.

16 DIRECT EXAMINATION OF KENNETH MARCUS BY MS. LIVESAY:

17 Q: Detective Marcus, if you don't mind, tell the Court where
18 you are employed.

19 A: I work with the Horry County Police Department.

20 Q: And how long have you been employed there?

21 A: Since 2007.

22 Q: And if you don't mind, tell the Court what kind of
23 training you've had to become a policeman, and then what kind
24 of training you've had since you've been with the department.

25 A: Initially, we had to go through several weeks of training

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1 at the Criminal Justice Academy for basic policing, and then a
2 little over three months of field training on the road with
3 another officer. After that, we go through yearly training,
4 yearly in-service to keep several of our skills up to date.

5 Q: Okay.

6 A: After 2016, I was interested in investigations. I ended
7 up going through a couple of courses with investigations to
8 prepare for that particular function, which included several
9 training classes and seminars through the International
10 Homicide Investigations Association, SPI, which is a college
11 out in Kentucky where we go, and several interview courses as
12 well.

13 Q: And what is your current position?

14 A: So, currently, I am a investigator with our cold case and
15 missing persons division.

16 Q: And what was your position in 2020 when this occurred?

17 A: I worked with the robbery/homicide unit.

18 Q: Okay. And what were your responsibilities with that
19 unit?

20 A: I was a detective that investigated very violent crimes,
21 specifically classified with deaths or the likelihood of
22 death.

23 Q: Okay. And did you assist on the case that we're here
24 today regarding Laquandian Bromell?

25 A: Yes. I was the case agent for that particular case.

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1 Q: And as part of your assistance, did you talk with Mr.
2 Bromell?

3 A: I did.

4 Q: Okay. And tell this Court how that came about.

5 A: Mr. Bromell was identified as a person who was believed
6 to have caused the death of that victim, and a warrant was
7 issued for his arrest, and he was arrested, I believe the day
8 after the shooting. When we first met with Mr. Bromell at his
9 house, we took him into custody. He was advised of his
10 Miranda Rights and that we were gonna go back to the M.L.
11 Brown Building and sit down and attempt to have an interview
12 with him about why we are, you know, have him in custody.

13 We returned to the M.L. Brown Building, advised him of
14 his rights again, he acknowledged his rights, waived those
15 rights for him to speak with us, and then we had approximately
16 a 40-minute conversation, I believe, with him about this
17 incident. And prior to him invoking his rights and requesting
18 an attorney be present or speak with an attorney prior to
19 answering to any further questions we had.

20 Q: Okay. So, when you took him to the police department, he
21 was clearly in custody?

22 A: Yes.

23 STATE'S EXHIBIT NUMBER 2

24 MARKED FOR IDENTIFICATION FOR PRETRIAL ONLY

25 Q: Okay. And I'm gonna show you what's been marked as

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1 State's Number 2. If you don't mind, tell the Court what that
2 is.

3 A: This is a advisement of Miranda rights. This is the
4 sheet that we used to ensure Mr. Bromell was -- or understood
5 his rights, and it's a signature on here stating that he
6 understood those rights and requested -- or was okay speaking
7 with us.

8 Q: Okay. And so, Mr. Bromell signed the advisement of
9 rights?

10 A: Yes.

11 Q: Did he have any questions for you?

12 A: He specifically asked at one point in time about the
13 right to have an attorney. He said that he was detained at
14 the moment and asked if an attorney could be present for him.
15 We said, yes. We asked if he needed an attorney, and he said
16 at the moment, no, that he was okay, that he was good, he had
17 no problem talking with us.

18 Q: Okay. And in the time -- about how long did you talk to
19 him?

20 A: Again, about 40 minutes.

21 Q: Okay. And during the time that you talked to him, did
22 you let him use the bathroom?

23 A: He was allowed to use the bathroom prior to our
24 interview, yes.

25 Q: Okay. And did you give him anything to drink or eat if

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1 he asked for it?

2 A: We asked him if he wanted anything to drink or eat, and
3 he asked for a bottle of water. We brought him a bottle of
4 water, and he had that and was able to drink it, and in fact
5 did drink some water during that time.

6 Q: Okay. And during the time when you were interviewing
7 him, was he handcuffed at that time?

8 A: No.

9 Q: And who all was in the room?

10 A: Myself and Detective Scales.

11 Q: Okay. And at that time, was he in his regular clothes?

12 A: Yes.

13 Q: Okay. So, he was in his own clothes, nobody had booked
14 him in, nothing like that had occurred?

15 A: That's correct.

16 Q: Okay. And he was given a bottle of water at his request?

17 A: Yes.

18 Q: Okay. And did he appear to be under the influence?

19 A: No.

20 Q: Okay. About what time was it?

21 A: I believe we took him into custody around 7:30, 8 o'clock
22 in the morning, so, it couldn't have been any later than 9:00.
23 And on this particular sheet right here -- I'm sorry; I
24 misspoke. It is June 24th, 2020, at 10:24 in the morning is
25 what I have marked on this sheet.

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1 Q: Okay. So, and -- so, did he appear to be under the
2 influence?

3 A: No.

4 Q: Did he appear to be in any pain of any kind?

5 A: No. And we specifically ask those questions as well, and
6 he mentioned that he was in no discomfort. He was under no
7 prescription medications or the influence of illegal drugs or
8 alcohol.

9 Q: Okay. So, that's documented on the Miranda form?

10 A: Yes, ma'am, right here in this section of the form.

11 Q: Okay. Now, during the time you spoke with him, did you
12 ever threaten him?

13 A: No.

14 Q: Did you ever put your hands on him?

15 A: No.

16 Q: Did you ever promise him anything?

17 A: No.

18 Q: Okay. During the time when you were talking with him,
19 were his answers responsive to your questions? Did he know
20 what was going on?

21 A: Yes.

22 Q: Okay. So, he was responsive to what you were asking him?

23 A: That's correct.

24 Q: Okay. And did you talk with him about that night, the
25 night of the murder?

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1 A: Yes.

2 Q: And did he answer you about the night of the murder?

3 A: Yes, he did.

4 Q: Okay. And is the entirety of the conversation on the
5 audio/video recording?

6 A: It was recorded audio and video by devices in the room,
7 yes.

8 Q: Okay. And at any point did he invoke one of his rights?

9 A: He did. Approximately 40 minutes into the interview,
10 which was the termination of the interview. He did mention
11 that he did want to speak with a lawyer and asked -- he didn't
12 want to be asked any other questions until he did.

13 Q: Okay. So, at that point, you terminated the interview?

14 A: That is correct.

15 Q: Okay. So, did it appear then that he understood how to
16 invoke his rights?

17 A: Yes.

18 Q: And at some point, did he invoke his rights?

19 A: That's correct; yes.

20 Q: And at that point, did the interview terminate?

21 A: The minute he invoked his rights, yes; the interview
22 terminated.

23 Q: Okay. And prior to that statement, had he given any
24 indication that he was invoking any of his rights?

25 A: No.

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1 Q: Okay. And it was audio/video recorded?

2 A: Yes, ma'am.

3 Q: And have you seen that audio and video?

4 A: Yes.

5 STATE'S EXHIBIT NUMBER 1

6 MARKED FOR IDENTIFICATION FOR PRETRIAL ONLY

7 Q: I'm gonna show you what's been marked as State's Exhibit
8 Number 1. Do you recognize that?

9 A: It is a DVD that says defendant's statements, which here
10 should be two camera views in that particular interview room.

11 Q: Okay. And does that encompass the entirety of when Mr.
12 Bromell was in the interview room?

13 A: It should; yes, ma'am.

14 Q: So, if you threatened him, forced him, promised him
15 anything, it would be on the video?

16 A: That's correct.

17 Q: And you're telling us that never happened?

18 A: That's correct.

19 MS. LIVESAY: Your Honor, at this time, the state wishes
20 to publish State's Exhibit Number 1, which is the defendant's
21 interview.

22 THE COURT: Yes. Go ahead.

23 MS. LIVESAY: And it's two different angles, so we'll
24 just play, you know, on angle. It's all the same.

25 (REPORTER'S NOTE: State's Exhibit 1 published for the Court.

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1 Audio not transcribed herein.)

2 MR. HELMS: Your Honor, with the Court's permission,
3 we'll just fast-forward until he comes back in the room.
4 Nothing happens, obviously, until they come back in the room.
5 Unless there's an objection.

6 THE COURT: Any objection?

7 MR. BROOKER: I'm sorry, Your Honor. I don't have any
8 objection, Your Honor.

9 (REPORTER'S NOTE: Mr. Brooker's phone rings.)

10 I apologize, Your Honor. I think I turned the volume
11 back during lunch.

12 I have no objection, Your Honor, to fast-forwarding it.

13 (REPORTER'S NOTE: Resume publishing of State's Exhibit 1 to
14 the Court.)

15 BY MS. LIVESAY:

16 Q: Mr. Marcus, is that the end of the interview?

17 A: Yes, ma'am.

18 Q: Now, during the time that you spoke with him, did he ever
19 appear to be uncomfortable or intimidated?

20 A: No.

21 Q: Okay. And at any time before you come in at the end and
22 he invokes his right, did he give you any indication that he
23 did not want to speak with you?

24 A: No.

25 Q: And at any time did -- was he denied going to the

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1 bathroom, a drink of water, anything like that?

2 A: The only time with the bathroom was initially when the
3 transporting officer had said, hey, wait for the detectives
4 and let me make sure that we've got the housekeeping stuff
5 correct. And then after we arrived, then he said, hey, he
6 needs to use the restroom, and we said, absolutely, he can use
7 this restroom right here. But outside of that, no, he was
8 never denied anything that he asked.

9 Q: Did he say or do anything in the course of the interview
10 to indicate he knew that he was not speaking with you
11 voluntarily?

12 A: No.

13 Q: And in your opinion, was he there freely and voluntarily
14 talking with you?

15 A: Talking with us, yes. I mean, obviously, he was in
16 custody, but yes, during that interview ---

17 Q: But during the course of the interview, was he cuffed?

18 A: I believe he may have had leg shackles on still; but
19 handcuffs, no. And that's simply because of procedure for us,
20 safety.

21 Q: Okay. So, he was able to drink water ---

22 A: Absolutely.

23 Q: --- move his hands around while he was in there with you?

24 A: Stretch, do what he needs to, absolutely.

25 Q: Okay. Did anything happen in the course of the interview

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1 that made you believe that the interview was no longer
2 voluntary?

3 A: The time that he invoked his rights was the only time
4 that ---

5 Q: And up to that point, was there any indication that it
6 was not freely and voluntarily?

7 A: No.

8 MS. LIVESAY: No further questions, Your Honor.

9 THE COURT: Mr. Brooker?

10 MR. BROOKER: Thank you, Your Honor. If you'll indulge
11 me for just a second. I may not have too many questions to
12 ask.

13 CROSS-EXAMINATION OF KENNETH MARCUS BY MR. BROOKER:

14 Q: Just a couple of questions. It's Detective Marcus, is
15 that ---

16 A: Yes.

17 Q: Is that the correct way to address you?

18 A: Yes.

19 Q: Just want to ask you a couple of questions, Detective
20 Marcus, about his apprehension.

21 A: Okay.

22 Q: If my memory serves me correctly that this shooting took
23 place, I think, on the early morning of June 23rd of 2020; is
24 that correct?

25 A: June 23rd, 2020; that's correct, early morning hours,

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1 approximately 4 o'clock in the morning, I believe.

2 Q: Okay. And I think at some point in time, I think it was
3 that y'all came out and arrested Mr. Bromell at his home?

4 A: It should've been the following day on June 24th, 2020.

5 Q: And when y'all came out and arrested him, did y'all
6 arrest pursuant to an arrest warrant that y'all secured?

7 A: Yes, yes.

8 Q: Okay. I'm gonna ask you to take a look at a copy of -- I
9 think, this arrest warrant, and see whether or not this is the
10 arrest warrant.

11 May I approach, Your Honor?

12 See whether or not that was the arrest warrant that y'all
13 secured.

14 MS. LIVESAY: Do you want that marked, Mr. Brooker? Do
15 you want the warrant marked or not?

16 MR. BROOKER: If he recognizes it, yeah, I'll have you
17 mark it.

18 A: Yes. I recognize this.

19 MR. BROOKER: If we could have this marked.

20 THE COURT: I think it's 1 and 2 for the purposes of this
21 hearing.

22 COURT REPORTER: Is this Defendant's?

23 MR. BROOKER: Yes.

24 DEFENDANT'S EXHIBIT NUMBER 1

25 MARKED FOR IDENTIFICATION FOR PRETRIAL ONLY

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1 BY MR. BROOKER:

2 Q: I'm gonna ask you a couple of questions in reference to
3 this. You take a look at it and I'll read it, and then I'll
4 give it to you again to make sure I'm reading this correctly.
5 I don't want you to think I'm deceiving you.

6 A: Sure.

7 Q: I think the search warrant says on June 23rd of 2020, in
8 the Longs Section of Horry County, the defendant did cause the
9 death of Adrian -- Victim: H.G. [REDACTED] with malice aforethought.
10 The next sentence says the defendant was recorded on video
11 approaching the victim while he was walking down Redenbo Lane,
12 and then witness -- and then witnessed shooting the victim
13 multiple times by corroborating witnesses. Forensic evidence
14 found on the scene, support witnesses' statements collected.

15 I'm gonna ask you a couple of questions in reference to
16 this. I know you're probably asking, well, what does this
17 have to do with *Jackson v. Denno*, but I'll tie it in in just a
18 minute. It says the defendant was recorded on video
19 approaching the victim while he was walking down Redenbo Lane.
20 Does that video -- you're talking about the video that was
21 found at the -- the video was seen at the club that you --
22 that y'all secured from the club?

23 A: Yes.

24 Q: Okay. And just to be certain, I know that probably
25 eventually it's gonna be played for purposes of the trial.

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1 Does that video show -- show Mr. Bromell approaching the
2 victim while he was walking down the road?

3 A: The victim was walking down the road. Mr. Bromell was
4 driving -- was seen getting into the vehicle and driving down
5 and then stopping right where the victim was at at that time.
6 But, yes, he was approaching the victim. That video does show
7 that.

8 Q: And it says then -- and then witnesses shooting the
9 victim multiple times by corroborating witnesses.

10 A: That's correct.

11 Q: Who are the corroborating witnesses?

12 A: That would be Cortisha Hemingway.

13 Q: Okay.

14 A: Courtney -- just a moment -- there was three people that
15 were in that area. Latreka Green, Courtney Hemingway, and
16 Cortisha Hemingway were the three that were present in that
17 area.

18 Q: And they all told you -- or at least two of them told you
19 that they saw -- that they saw Mr. Bromell ---

20 MS. LIVESAY: Your Honor, I just want to object. I think
21 we're outside the scope or the *Denno* hearing. I don't know
22 that this is relevant as to whether or not the statement to
23 Mr. Marcus was voluntary.

24 THE COURT: What's the relevance, Mr. Brooker?

25 MR. BROOKER: The only -- the relevance, Your Honor,

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1 would be is whether or not he was lawfully in custody. In
2 order for them to be able to take his statement, read his
3 Miranda rights, and of course, by him waive those Miranda
4 rights, if he was lawfully in custody. If he was never
5 lawfully in custody, Your Honor, then of course is is that the
6 -- the Miranda warnings that was given by *Jackson v. Denno*
7 would be void because he was never legally in custody. And,
8 of course, his statement never would've been voluntarily given
9 if he was not legally in custody. And so, I think one of
10 things that they have to establish first is is that he was
11 legally in custody at the time. And of course, after ---

12 THE COURT: Are you challenging whether there was
13 probable cause to arrest him?

14 MR. BROOKER: For the purposes of this *Jackson v. Denno*
15 hearing, I want to establish -- or at least I'm exploring the
16 possibility as to whether or not he was lawfully in custody,
17 because in order for him to waive those Miranda rights, then
18 of course, he would have to be lawfully in custody.

19 THE COURT: Okay. Go ahead.

20 MR. BROOKER: That's where the voluntariness comes in
21 because if, obviously, I don't think that it's their position
22 that he was voluntarily -- he voluntarily consented to be
23 arrested. And of course, if he wasn't voluntarily consent to
24 the arrest, then we would assume that at least his arrest was
25 involuntary. And of course, then the question if his arrest

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1 was involuntary, then of course is is that it would have to be

2 ---

3 THE COURT: I mean, with all due respect, Mr. Brooker, I
4 think everybody's arrest is generally gonna be involuntary.
5 Nobody is usually consenting to be arrested.

6 MR. BROOKER: Absolutely.

7 THE COURT: So, the question is not really whether they
8 consented to being arrested; the question was if after being
9 arrested and subjected to custodial interrogation, even if
10 they haven't formally been arrested, if they're subjected to
11 custodial interrogation, whether they were given their Miranda
12 warnings and then voluntarily waived those rights and made a
13 voluntary statement.

14 MR. BROOKER: That's correct, Your Honor, after being
15 lawfully arrested.

16 THE COURT: Okay. I'll give you a little bit of leeway
17 here, but ---

18 MR. BROOKER: I won't spend very much time, I promise.

19 THE COURT: Go ahead.

20 MR. BROOKER: Okay.

21 BY MR. BROOKER:

22 Q: Other than what's contained within the affidavit portion
23 of this arrest warrant, did you personally appear before the
24 Magistrate Judge?

25 A: To me honest -- are you talking about for the

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1 presentation of the warrant or are you talking about the
2 hearing after ---

3 Q: I'm -- well ---

4 A: -- to obtain the arrest warrant?

5 Q: Yeah. Did you submit an affidavit to the Judge ---

6 A: Yes.

7 Q: --- or did you personally appear and the Judge place you
8 ---

9 A: I personally appeared before the Judge, that is correct.

10 Q: And the Judge placed you -- the Judge, I guess, read you
11 an oath, and of course, you testified under oath before the
12 Judge?

13 A: I presented the case to the Judge, yes, the facts that
14 were known at the time.

15 Q: Okay. Did you present anything other than what's
16 contained within the -- in the search warrant -- in the
17 affidavit portion of the search warrant? And I should
18 rephrase ---

19 A: I presented the information that we had learned from
20 witnesses. We presented the information that we had obtained
21 during the crime scene processing of the scene, and what was
22 reviewed in the video obtained from the club to the Judge.
23 And he agreed that there was enough probable cause for Mr.
24 Bromell's arrest. Obviously, he issued the warrant.

25 Q: Okay. And just -- and I'm gonna move on, just one --

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1 that was verbal testimony. You gave verbal testimony in
2 addition to an affidavit?

3 A: That's correct.

4 Q: Okay. Now, I think you said Mr. Bromell was arrested, I
5 think the next day of June 24th, 2020; is that correct, after
6 the shooting?

7 A: Yes. Yes; that's correct.

8 Q: And he was arrested, I think, in the early morning hours
9 at his home?

10 A: About 8:00, 9 o'clock in the morning; yes, sir.

11 Q: And I -- and of course is is that -- was he -- was he
12 asleep in his underwear at the time that y'all came to the
13 house?

14 A: I am unsure if he was asleep or not. I was not one of
15 the officers who actually made contact with him initially
16 during his arrest.

17 Q: Were you there when he was arrested?

18 A: I was there; that's correct. I was not the initial
19 officers that made the contact with him.

20 Q: Did you talk with him at the scene?

21 A: I did.

22 Q: And I think you said is is that the -- that that was the
23 second time that he was issued his Miranda rights? I think
24 that we just saw on what's been identified as State's Exhibit
25 Number 1 at the interview room?

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1 A: Yes. That was the second time he was advised of his
2 Miranda rights.

3 Q: At the scene when he was arrested?

4 A: At the scene that he was arrested, I did advise him of
5 his rights. However, I did not ask him any questions. I
6 informed him that we were going to go back to the M.L. Brown
7 Building and sit down in a room.

8 Q: Did he ever invoke the word lawyer to you when you
9 arrested him at the scene?

10 A: No.

11 MR. BROOKER: If you could indulge me for just a second,
12 Your Honor, let me make sure I don't have any final questions.

13 THE COURT: Sure.

14 MR. BROOKER: I don't have any further questions, Your
15 Honor.

16 BY THE COURT:

17 THE COURT: Anything further from the state?

18 MS. LIVESAY: Not from this witness; no, ma'am.

19 THE COURT: Thank you, sir. You may step down.

20 And that's ---

21 MS. LIVESAY: Just briefly if I can, Judge. I didn't
22 want to ask him any more questions, but I did want to make
23 sure that I was clear on the record. Whenever there is a
24 custodial interrogation, Miranda is required. That means the
25 defendant has to be in custody and the police have to be

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1 interrogating him. Mr. Marcus told this Court that he was in
2 custody. In fact, when the defendant asked, you know, am I in
3 custody, he said, yes, sir, I have a warrant for you. So, he
4 was read Miranda, he signed Miranda, he checked. He
5 acknowledged on the video that he wanted to speak with police.
6 He did speak with them until he no longer wanted to. At that
7 time, he invoked his rights, which he clearly understood
8 because he invoked them when they were -- when he was ready to
9 invoke to his rights. Immediately, the interview was
10 terminated.

11 As to any questions about the warrant, the state doesn't
12 believe that's appropriate or relevant for this particular
13 hearing. Any objections to the warrant would have been
14 appropriate at preliminary hearing, but now the Grand Jury has
15 true-billed the case, so that would be the appropriate
16 charging document.

17 Thank you, Judge.

18 THE COURT: Mr. Brooker, anything?

19 MR. BROOKER: I will just be very brief, Your Honor.
20 Your Honor, I would agree with just about everything that Ms.
21 -- that was said just a moment ago by the state with the one
22 exception, and that is is that the warrant does have relevance
23 with respect to voluntariness. And the relevance to the
24 warrant is is that you're absolutely right that in order for,
25 you know, Miranda to be applicable, that the person has to be

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1 in custody, but not just in custody; the person has to be
2 lawfully in custody. An example of that would be is is that
3 if someone was arrested, and of course if they were wrongfully
4 arrested then the probable cause did not exist for that
5 arrest, but then of course you would imagine that everything
6 that took place thereafter would've occurred unlawfully. And
7 then of course is is that would not be a valid or would be
8 null and void. And so, in order to, you know, to decide, you
9 know, whether or not he was properly in custody, and then of
10 course read his Miranda rights, and then applied a waiver,
11 then of course is you have to take a look at the warrant
12 itself. And of course, Your Honor, the only argument we would
13 make is is that based upon the officer's testimony, based upon
14 the warrant that is contained in evidence is is that the
15 warrant is insufficient to satisfy probable cause grounds,
16 that that the warrant primarily, I think, contains conclusory
17 statements. And of course, we know under *Illinois v. Gates*,
18 that when a warrant contains conclusory statements, that
19 conclusory statements is insufficient -- insufficient in order
20 to satisfy probable cause. Also, if we look at *Frank v.*
21 *Delaware*, I think the officer testified that -- that the
22 vehicle, I think that the video shows Mr. Bromell following
23 the victim, and then of course approaching the victim, and I
24 think shooting him. I don't want to misstate what's contained
25 within the -- in the arrest warrant but it's up there. And

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1 of course is is that Your Honor, we believe that would be
2 contrary to the facts on that there is no evidence that would
3 suggest, or at least that evidence would've been misleading.
4 And of course, under *Franks v. Delaware* -- I think *Frank*
5 basically says is is that if a officer provides misleading
6 evidence or misleading statements to a judge, then that may be
7 relevant. The judge may take a look at that to determine
8 whether or not those misleading statements would somehow void
9 the warrant.

10 THE COURT: So, let me ask you, what are the conclusory
11 statements that you think are contained within the warrant?

12 MR. BROOKER: I think the first statements in -- the
13 first statement that has been claimed that contained, if I
14 could get, Your Honor -- and I'll go through it. Taking a
15 look at Defendant's Exhibit Number 1, obviously I think
16 there's no -- there's clearly no question that the first
17 sentence in that affidavit is conclusory. It says that on
18 July 23rd, 2020, in the Longs section of Horry County, the
19 defendant did cause the death of Victim: H.G. with malice
20 aforethought. I think there's no question about that that
21 that is a conclusory statement. And it says the defendant was
22 recorded on video approaching the victim. He was walking down
23 Redenbo Lane. And then witnessed shooting the victim multiple
24 times by -- you know by corroborating witnesses. And of
25 course, Your Honor ---

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1 THE COURT: So, tell me what is misleading about the
2 statements?

3 MR. BROOKER: What is misleading about the statements,
4 Your Honor, is is that for one thing what the officer
5 indicates that the video depicts is not depicted by the video.

6 THE COURT: Isn't that a question for the jury to
7 determine?

8 MR. BROOKER: It is, Your Honor, but of course is is that
9 it's relevant for the purposes of establishing I think
10 probable cause as well, too. And I won't get too deep into
11 this, Your Honor. I -- but I just need to put the argument on
12 the record, so that if later on, if it becomes necessary, the
13 Court of Appeal can take a look at whether or not the warrant
14 satisfied probable cause or whether or not he was properly
15 under arrest at the time in which he was interrogated. That's
16 the only purposes of raising that.

17 THE COURT: Okay. Well, I mean, I'm assuming if the
18 video does not show anything of what the officer indicated and
19 the witnesses don't testify as to what -- I haven't seen the
20 statements, but I'm assuming there's some witness statements
21 that are identifying your client as the shooter, then that
22 would be the subject of a directed verdict motion at the
23 appropriate time.

24 I would agree if the arrest warrant just contains
25 conclusory statements, and I mean I've seen them before where

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1 they'll just say as a result of an investigation, this person
2 was identified as the suspect without giving any basis for why
3 that person was identified as a suspect. That would be
4 conclusory statements in the arrest warrant.

5 So, I mean, in this case they tell him that they've got a
6 warrant for him, they do have a warrant for him. They've gone
7 in front of a neutral magistrate who has agreed to those
8 probable cause. He's clearly in custodial interrogation, and
9 he's not free to leave. He is -- they are questioning him.
10 They have given him Mirand warnings, as they're required to
11 do. The length of the interrogation is reasonable I would
12 suggest if, you know, 45 minutes total with about 25 to 30
13 minutes of that being actual interrogation. So, it certainly
14 wasn't subjecting him to any unreasonable length.

15 Looking at the totality of the circumstances, it appears
16 to me that his statement is voluntary. He makes a question
17 about Number 3 with regard to his attorney, and they
18 specifically follow up with that to say, oh, are you invoking
19 your right to an attorney? Are you okay to answer questions?
20 And he indicates he's okay to answer questions. Again,
21 there's no threats made against him, no promises. He's given
22 water; he's given a chance to go to the restroom. He clearly
23 understood the questions he was being asked. He didn't have
24 any trouble responding and understands how to invoke his
25 rights because he eventually does ask for a lawyer, and at

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1 that time the questioning stops. So, I do find by a
2 preponderance of the evidence that the statement was
3 voluntary.

4 Now, we also have a identification issue that we need to
5 address; is that correct?

6 MR. HELMS: That is my understanding, Your Honor. We
7 have an identification issue.

8 MS. LIVESAY: Yeah, but that's Mr. Brooker's.

9 MR. HELMS: And obviously, that -- the onus is on Mr.
10 Brooker.

11 THE COURT: Okay. Mr. Brooker, I'm glad to hear from
12 you.

13 MR. BROOKER: Thank you, Your Honor. And Your Honor, it
14 may be necessary, I think for us to -- to at least at some
15 point in time to play a portion of the audio, and then of
16 course also a portion of the video tape. The audio tape of I
17 think of -- I think two of the witnesses, and of course is is
18 that I think Cortisha Hemingway, and then of course Courtney
19 Hemingway, it is -- it is my understanding that that the state
20 intends to present at least one of them -- I think it's
21 Cortisha Hemingway as a witness in this case. And of course,
22 specifically will present her as a witness that identified Mr.
23 Hemingway -- excuse me -- identified Mr. Bromell on the night
24 of the shooting as the person who was being shot or the
25 persons engaged in the shooting. Obviously, that out-of-court

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1 statement would not be admissible and would be in violation of
2 his due process, his due process rights. If that statement --
3 if the identify of Mr. Bromell was somehow suggested to
4 Courtney Hemingway after law enforcement suggests the identity
5 of Mr. Bromell as the shooter to Ms. Hemingway, then Ms.
6 Hemingway then identifies him as the shooter. So, what our
7 position is is that Ms. Hemingway, I think, prior to the
8 shooting, I think Ms. -- Ms. Hemingway, and it'll be better, I
9 think when we play her statement. I think Ms. Hemingway
10 stated that on the night of the shooting, that herself, her
11 mother Courtney Hemingway, and I think a cousin, Ms. Green,
12 was actually standing out in a parking area, I think away from
13 the club, that the victim walked past them. And of course,
14 that later on as they were watching some video, I think, on
15 one of their -- on one of their cellphones that they heard,
16 you know, what they believed to be a gunshot. At that time,
17 they ducked for cover, and I think it was Cortisha Hemingway
18 testified or will testify I think in her statement or says in
19 her statement that she crept back to the edge of the SUV that
20 they were behind, and of course, she looked out from the SUV,
21 and she saw a -- and what she identified as a boy or a person
22 standing over the victim as the victim was struggling to get
23 up. And that person firing multiple shots into the victim.
24 She says then that she fell to the ground, and that's all that
25 she seen. She said she never saw the victim, never saw this

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1 person who was shooting, never saw him get into the car,
2 because she said there was a car there. She never saw him get
3 into the car and never saw him drive away. When she was
4 asked, I think later on or she was asked whether or not she
5 could identify that person, at that time, she could not
6 identify the person. And the only description that she gave
7 of that person was that he was short, that she said that he
8 had something on top of his hair, something on top of his
9 head. And of course is is that it was very vague, and of
10 course that was probably as specific as she got. She said
11 that she saw something on top of his head, and she didn't know
12 whether or not it was dreads or what it was. And then she
13 said also he was wearing a jacket. And that was the basis of
14 the description. Later after that, Your Honor, I think law
15 enforcement was on the scene. I think the owners of the club
16 indicated that they had video, they have club video that
17 captures the parking lot area. Those law enforcement
18 officers, those two law enforcement officers went into the, I
19 guess, the residence of these club owners, and they watched
20 the video. And of course, on that video, they saw an
21 individual get into a car they believe was the last car to
22 leave the parking lot that night, and they believe that
23 individual to be Bromell. They actually took a picture of
24 him. And of course is is that you will hear in this -- in
25 this Courtney Hemingway's statement, she says that when she

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1 came in while they were watching the video on scene, and she
2 said that the officer suggested that they had a person who
3 they thought was the shooter, that the officers showed her a
4 picture of the person who they thought was the shooter. And
5 at that time they all said, yeah, that looks like Juicy, which
6 is what they call Laquandian Bromell. And you could hear from
7 the videotape they are saying that I guess in disbelief. Is
8 Juicy the one did that? No, that can't be -- that's Juicy.
9 Juicy is the one that did that? And then of course at that
10 particular period of time, they had suggested to, to Ms.
11 Hemingway that actually does shooter that was Bromell. And
12 then of course, we know underneath *Neil v. Biggers*, it says
13 any out-of-court statement, out-of-court identification
14 process that appears to be unnecessary and unduly suggestive,
15 may be unconstitutional and much -- unconstitutional and must
16 be suppressed. And of course it provides, I think, a two-
17 pronged test that the Court must go through in order to
18 determine whether or not the state -- whether or not the out-
19 of-court identification was unduly suggestive. And therefore,
20 must be suppressed. If you can indulge me for just a second,
21 Your Honor, I'm gonna pull up my case. I know I got it in
22 here somewhere.

23 THE COURT: So, the Court has to determine whether the
24 identification process was unduly suggestive. And, if so,
25 whether the out-of-court identification was nevertheless so

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1 reliable that no substantial likelihood of misidentification
2 existed?

3 MR. BROOKER: That's correct, Your Honor. And then of
4 course in determining whether or not it was unduly suggestive,
5 I think there is a number of factors that, you know, that,
6 that the Court, that our Supreme Court says that the Court
7 should consider in deciding whether or not it was -- whether
8 or not it was otherwise reliable.

9 THE COURT: Well, let me ask this of the state, are you
10 intending to have the Hemingway, I guess it's mother and
11 daughter, are y'all intending to use them as identification
12 witnesses?

13 MS. LIVESAY: Not exactly, Your Honor. Cortisha
14 Hemingway is going to give a description of the person she saw
15 as the shooter. And Mr. Brooker just gave you that. It's a
16 black male, short fellow, something on top, and a jacket with
17 stripes down the side. She is not gonna say that she knows
18 that it's the defendant. She's only going to give that
19 description. Now, she says, obviously, that that description
20 matches the defendant, but no, she's gonna say this is who I
21 saw, it was dark, I was some distance away, but I know I saw a
22 black male, something on top of his head, jacket with the
23 white stripes down the side. Now ---

24 THE COURT: And what I'm understanding is that she did
25 not identify him as the shooter?

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1 MS. LIVESAY: No, no, ma'am. This is not going to be
2 something where she says I saw the shooter and that's him
3 sitting right there; no, ma'am. But she is gonna give that
4 description. And of course, it will be up to the jury,
5 they're going to see the video that Mr. Brooker is telling you
6 about, they're going to hear her description, and then they
7 will decide whether or not they believe that description
8 matches the description of the person on the video.

9 THE COURT: Well, do you intend to you then show the
10 video where she says, oh, that's Juicy?

11 MS. LIVESAY: She -- the video is gonna include that
12 night from the -- it's a I want to say a club but not really a
13 club. It's a gathering place. But they have surveillance
14 footage inside the club, on the porch, and the parking lot
15 area. So, you're gonna see everybody coming in and going out
16 of the club, which is gonna include the defendant and the
17 victim. And she's gonna be able to say, now, I do know that
18 guy, the guy going in the club, that's Juicy. I know him.
19 And several other witnesses that were out there are gonna be
20 able to say, I know that's the victim, that's Victim: H.G. and I
21 know that that's Juicy right there. I have known those guys
22 forever. So, that is gonna happen. I do believe that's
23 admissible under 701 and 704. They're not gonna say he's the
24 shooter, but they're going to be able to say I know him and
25 that's him, and that's the victim. And several of them are

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1 gonna say that's me in the video, you know, that's my cousin
2 in the video.

3 THE COURT: But just to be clear, neither Cortisha
4 Hemingway, nor Courtney Hemingway, nor Ms. Green are going to
5 say we saw the person shooting and we identify that person as
6 the defendant?

7 MS. LIVESAY: She identified ---

8 THE COURT: In other words, they're gonna testify
9 consistent with the only description they could give at the
10 time were those three basic things, his height, what his hair
11 looked like, and his jacket.

12 MS. LIVESAY: That's right; that's right. But she cannot
13 say that that's Juicy. She can only say this is the
14 description of the person I saw. Now she is gonna say what he
15 told you, I saw this person standing over the victim shooting
16 the victim. But she's also gonna say, I can't say that's
17 Juicy, but I know one hundred percent that that person had a
18 dark jacket, stripes down the side, black male, short, and
19 something on his head.

20 THE COURT: Yes, sir?

21 MR. BROOKER: Your Honor, if that is the extent of what
22 her testimony is, and she is not going to testify to that out-
23 of-court identification that she gave to the law enforcement
24 officer after the law enforcement officer suggesting to him
25 that this will be the shooter or that she is not going to make

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1 an in-court identification saying that, hey, that is the --
2 that is the person that I saw standing over the body that
3 night or standing over the victim that night shooting. If
4 she's not gonna make those identifying -- or she's not gonna
5 testify to identity in that way, then of course is is that I
6 don't think that we're gonna have a problem.

7 MS. LIVESAY: He's correct. She's just gonna identify
8 him going into the club.

9 THE COURT: Okay.

10 MS. LIVESAY: Like several of the witnesses.

11 THE COURT: I understand exactly where you're going. It
12 sounds to me like that's not gonna be an issue, but of course
13 you will make an objection if we start to get into any of that
14 territory, but I think we all understand what the parameters
15 are is if all -- if the only description she could give that
16 night, knowing that she knows this gentleman, is this is what
17 he was wearing, this is his height, this is what his hair
18 looks like, she can't now come on the stand and say and, yeah,
19 I identified it to be him.

20 MS. LIVESAY: Okay.

21 MR. BROOKER: Yeah. And that's correct, Your Honor. Or
22 she can't testify to any -- any identification that she gave
23 that night after seeing the video.

24 THE COURT: Correct. So, well, I mean, I guess she could
25 say -- she's going to testify not a video of the shooting, but

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1 just a video of him going in the club, I recognize as that's
2 the defendant.

3 MS. LIVESAY: Okay.

4 MR. BROOKER: And I understand that, Your Honor.

5 THE COURT: It'll be up to them to put it together that
6 that's the same person.

7 MR. BROOKER: Absolutely, Your Honor. And I --
8 Absolutely, Your Honor. And of course is is that if that's
9 all that she's gonna testify to, I don't think that we have a
10 *Biggers* issue.

11 THE COURT: Okay. Then I think were on the same page
12 with that.

13 Are there any other witnesses that we need to address the
14 identification issue?

15 MR. BROOKER: No, Your Honor. I think the only two
16 witnesses out there were -- and I'm assuming the same is gonna
17 also apply to I think Courtney Hemingway, who was also out
18 there. And I think Courtney Hemingway, I think, originally
19 said that she didn't see the witness, but later on Courtney
20 Hemingway was present, I think, when the officers showed a
21 photograph of Mr. Bromell, and that they all said, yeah, that
22 is Juicy, you know, that is Juicy. So, I'm assuming she is
23 also not going to testify on the stand to an in-court
24 identification or either to an out-of-court identification
25 that was made that night. Is that correct?

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1 MS. LIVESAY: She's gonna say the person on the
2 surveillance footage walking in and out of the club, I know
3 that person to be Juicy, yes. But she's not gonna say I saw
4 the shooter, and that's Juicy. And if that makes sense?

5 MR. BROOKER: That makes sense. So, I mean that's what I
6 wanted to get clear is that not -- as long as she is not
7 making an identification of a shooter that night or make an
8 identification of the shooter during the trial in the
9 courtroom. But of course, saying that, hey, I know that
10 person who is on the video, and that's the person that we know
11 as Juicy, I don't think that is an identification of the
12 shooter. Then, if that's the case, and of course we don't
13 have a *Biggers* issue.

14 THE COURT: I think we're all on the same page then.

15 Okay. Anything else that we need to address ---

16 MS. LIVESAY: Nothing from the state, Your Honor.

17 THE COURT: --- before tomorrow?

18 MR. BROOKER: Nothing from the defense, Your Honor.

19 THE COURT: Let's go ahead and talk about your rights
20 with respect to testifying.

21 Mr. Bromell, if you don't mind standing for me, sir.

22 Sir, you have the right to remain silent, and that right
23 continues on throughout this entire proceeding all the way
24 until the case ends and the jury begins deliberating. And so,
25 what that means, is you get to choose whether or not you want

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1 to testify. If you decide you do not want to testify, there
2 is nobody that can make you testify. The state can't make you
3 testify; your lawyer can't make you testify; I can't make you
4 testify. If you choose not to testify, I'm gonna instruct
5 this jury that the state has the burden of proof, and they
6 have the burden of proving you guilty beyond a reasonable
7 doubt, and that you are innocent until the state proves you
8 guilty beyond a reasonable doubt. I am also going to instruct
9 them that it's your constitutional right to remain silent and
10 they cannot use that against you. They can't even discuss it
11 during the deliberations. It is not a factor that they should
12 consider at all.

13 Having said all that, this is your trial; this is your
14 day in court. So, if you want to testify, that is your right
15 as well. You should discuss with your attorney that decision
16 of whether or not testify. You can discuss it with your
17 family. You can discuss it with anybody you want to. You
18 should certainly listen to the advice of your attorney, but
19 ultimately that's your decision to make. We're gonna go over
20 this again after the state rests, so you don't have to make
21 that decision now, you don't have to make that decision
22 tomorrow. You don't make that decision finally until the
23 state rests. Okay? So, you have some time to think about it,
24 discuss with your attorney, and discuss it with your family.

25 If you testify, you will see the same procedure that we

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1 use with all of the witnesses. It will be the same procedure
2 we use if you decide to take the stand. That is you would
3 take the stand, your attorney could ask you questions on
4 direct examination, and then the state can ask you questions
5 on cross-examination.

6 Is there any impeachment issue that we need to discuss?
7 Would the state be seeking to impeach him with any ---

8 MR. HELMS: I'm sorry, Your Honor?

9 MS. LIVESAY: No, sir. Not as to a prior record.

10 THE COURT: Okay. So, we don't have that issue to
11 contend with?

12 MS. LIVESAY: No, sir -- no, ma'am.

13 THE COURT: So, it means the state would get an
14 opportunity to ask you questions on cross-examination just
15 like any of the other witnesses.

16 Anything else you want me to cover with him?

17 MR. HELMS: No, Your Honor.

18 MR. BROOKER: No, Your Honor.

19 THE COURT: Okay. Thank you.

20 All right. Then will be adjourned -- is 9:30 all right
21 for us to start?

22 MR. HELMS: Absolutely, Your Honor.

23 MS. LIVESAY: Yes, sir.

24 MR. BROOKER: That's fine, Your Honor.

25 THE COURT: Okay. And let's make it our goal to start

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1 right at 9:30, since I've kinda promised this jury that that's
2 what we'll do.

3 MR. HELMS: Punctuality is a virtue, Judge.

4 THE COURT: Great. All right. See y'all tomorrow.

5 **RECESS - 5:20 P.M. - END OF DAY ONE**

6 *****OFF THE RECORD*****

7 **APRIL 12, 2024 - DAY TWO**

8 **ON THE RECORD - 9:45 A.M.**

9 (REPORTER'S NOTE: Jury enters courtroom @ 9:45 a.m.)

10 THE COURT: Okay. Good morning, ladies and gentlemen. I
11 want to thank you so much for being on time this morning. We
12 do appreciate you being punctual very much.

13 Before we get started, I want to tell you also that if at
14 any time you need a break, if you'll just raise your hand. I
15 guarantee that if you need a break, it means that somebody
16 else in this courtroom probably needs a break as well. So, if
17 you'll either get -- if I don't see you, if you'll get Mr.
18 Bobby's attention, just raise your hand if you need a break at
19 any time. Sometimes, we get a little focused on what we're
20 doing up here, and we can get real involved in what's going on
21 in the courtroom, but we do not mind taking a break at any
22 point whenever y'all need a break.

23 Again, my name is Kristi Curtis. I want to introduce you
24 first of all to some of the folks in the courtroom, so you
25 kind of know who we're -- who these people are that are in the

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1 courtroom with you. You've met the lawyers, and you've met
2 the defendant yesterday.

3 This is my law clerk Jack Jackson. He assists me during
4 the course of the year. He's just graduated from law school
5 and passed the bar exam. So, that's his role in this process.

6 In front of me is our court reporter, Kay Richardson.
7 She has to take down every word that every person says during
8 this trial. So, everything I say, everything a witness says,
9 everything the attorneys say. So, sometimes you may see one
10 of us say, okay, slow down, or you know don't talk over one
11 another, and that's because she's got to actually take down
12 every word that everyone says just during the course of this
13 trial, so if we ever need to come back and look at a
14 transcript we can see what happened in the courtroom today.

15 And then also, you'll notice this young lady who will be
16 swearing the witnesses and taking part in the trial today.
17 This is Taylor Miles. She works for your Horry County Clerk
18 of Court. Those folks are responsible for every filing in
19 Horry County on the civil side and on the criminal side. They
20 schedule court, they make your court system function. So,
21 just wanted to give you an idea of who these folks are that
22 are up here with me.

23 Of course, you've met Mr. Bobby. The bailiffs and
24 security will be assisting you. So, if there's anything you
25 need if you'll please just bring it to their attention, and

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1 they'll be glad to help you.

2 Ladies and gentlemen, the case that we're about to try is
3 the State of South Carolina versus Laquandian Jaraffus
4 Bromell. And before we begin the trial, I want to tell you
5 that this trial may be very different from what you might
6 expect from either television or movies or what you've read in
7 books where trials are full of high drama, and intense action,
8 and riveting circumstances. That may be the case with this
9 trial, but often, particularly from where you're sitting this
10 trial may appear to be very deliberate. Sometimes, it seems
11 slow or repetitive, and probably the opposite of what you've
12 seen on television. But the courtroom is a place of honor
13 that's dedicated to the protection and preservation of
14 citizens' rights through what many people have called the
15 greatest judicial system ever created. The attorneys that
16 will be appearing before you are advocates for the parties
17 that they represent, but first and foremost they are officers
18 of the Court, and they're sworn to uphold the fairness and
19 integrity of our judicial system. And they're gonna help you
20 in their role today as factfinders. You should expect them to
21 be professional, competent, and ethical in the representation
22 of their client's interests.

23 And in just a minute, you're gonna take an oath as well
24 to try this case and reach a verdict based on the testimony
25 and the evidence presented. And you're also expected to be

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1 professional, reasonable, and ethical.

2 So, I thank you first of all for accepting this very
3 important responsibility. What I'm now gonna say to you is an
4 introduction to the trial of this case. This is not a charge
5 on the law. I will give you instruction on the law at the end
6 of the case. This is just an explanation of the procedure
7 that we are gonna follow so that you can better understand
8 what's happening during the trial.

9 The defendant is charged by an indictment filed in this
10 Court with the crimes of murder and possession of a weapon
11 during a violent crime. The elements of those offenses will
12 be explained to you during the trial and at the end of the
13 case when I charge you on the law. But the indictment, these
14 documents that I read to you -- read from to you yesterday are
15 not evidence in any sense of the word. It's just the
16 allegations that the state is making against the defendant.
17 The defendant has pled not guilty to these indictments, and
18 the state therefore has the burden of proving each of the
19 elements of the indictment beyond a reasonable doubt. It will
20 be your duty, ladies and gentlemen, to determine whether the
21 state has met that burden. Your purpose as jurors is to find
22 and determine the facts in the case. You are the sole judges
23 of the facts. If at any time I make a comment that seems to
24 be my opinion of the facts, you must disregard it. My opinion
25 regarding the facts does not matter at all. You are the sole

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1 judges of the facts of the case.

2 You are to determine the facts from the testimony that
3 you will hear, sworn testimony from this witness stand, and
4 any other evidence that's introduced in court. It's up to you
5 to determine the inferences that you feel may be properly
6 drawn from the evidence. It's especially important that you
7 perform your duty of determining the facts diligently and
8 conscientiously, because ordinarily there is no way to correct
9 an erroneous determination of the facts by a jury.

10 The same law that makes you the judge of the facts makes
11 me the judge of the law. And the law given by the Court is
12 the only law that you can consider, and you have to accept
13 that law and follow it even though you may disagree with it
14 personally. I cannot tell you what the facts are, and you
15 can't disagree with me as to what the law is or should be.
16 Your job as jurors is to take the law as I give it to you,
17 apply it to the facts as you find them from the testimony of
18 the witnesses and any other evidence introduced during the
19 trial, and after that you'll be in a position to render your
20 verdict. Until I advise you to begin your deliberations you
21 must not discuss the case with anyone including your jurors,
22 your fellow jurors, your friends, family members, and
23 certainly not anyone involved in the case. If you should
24 happen to see any of the attorneys or parties or witnesses at
25 lunch or coming and going from the courthouse and they don't

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1 speak to you at all, please don't think that they're being
2 rude, they're just trying to strictly adhere to my instruction
3 not to have any contact with you.

4 During the trial, please do not listen to, read, or watch
5 any news reports about the case. This includes anything that
6 you may see in the newspapers or on the Internet, radio,
7 television, on social media, Facebook, Instagram. We are not
8 anticipating that, but under your oath as jurors if anything
9 should come on or you should scroll through anything regarding
10 this case, it is your duty to turn the television off, scroll
11 past it on Facebook. It's important that you keep an open
12 mind in this case and that you not consider anything beyond
13 what you hear within the walls of this courtroom during your
14 deliberations.

15 It's also important that you keep an open mind and not
16 decide any issue in this case until all of the evidence has
17 been presented, the parties have made their closing arguments,
18 and I have given you the instructions on the law. It is your
19 solemn responsibility to determine the guilt or innocence of
20 the defendant, and your verdict must be based solely on the
21 evidence as it's presented to you in this trial and on the law
22 as I instruct you at the close of the trial.

23 In just a minute, the solicitor will make what is called
24 an opening statement in which he or she will tell you what the
25 case is about, what they believe the issues are in this case,

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1 and maybe a preview of what kind of testimony you will hear
2 during the trial. At the close, then -- Mr. Brooker may also
3 make an opening statement, although he is not required to do
4 so. The opening statements are not evidence. Again, the
5 evidence is the sworn testimony from the witness stand and any
6 exhibits that are entered into evidence, but of course each
7 attorney telling you what their opinion is as to what the
8 issues are in this case.

9 From time to time during the trial, you may hear somebody
10 make an objection to a piece of evidence. It may be necessary
11 that we have a legal discussion either of at the bench or we
12 may need to send you out of the courtroom in order to have
13 legal discussions regarding the admissibility of evidence.
14 And of course, sometimes it's necessary that we have those
15 discussions outside of your presence before that issue or that
16 evidence comes before you. So, we may dismiss you from the
17 courtroom briefly while we take up an issue of law.

18 In determining what the facts are in this case, you must
19 determine whether the testimony of the witnesses is believable
20 or credible. It will be my responsibility to rule as a matter
21 of law as to whether certain testimony is admissible. But
22 once it's admissible, whether or not you believe it is solely
23 for you to determine. In deciding whether to believe a
24 witness, you have the right to consider the interest or bias
25 of any witness, the prejudice of any witness, the opportunity

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1 that the witness had to hear and see the things the witnesses
2 testifying about, and the way the witness act, what their
3 demeanor is while on the witness stand. You have a right to
4 consider anything that's in the record that will help you
5 evaluate the testimony of the witnesses. It's therefore
6 important that you pay close attention to the attorneys and to
7 the witnesses, observe their testimony, listen to their
8 testimony. Please pay careful attention and don't let your
9 thoughts wander, so that at the end of the testimony after the
10 arguments of counsel in the charge on the law by the Court,
11 you will then be in a position to then determine what the
12 facts are, apply the law to those facts, and then render your
13 verdict.

14 I am gonna ask when we take a break or at the lunchbreak,
15 whichever you all prefer, if you'll please select a
16 foreperson. Any of the 12 jurors are eligible to be the
17 foreperson, just not our alternate jurors. You don't need any
18 special training or experience to be the foreperson. You have
19 all the skills you need just with your life experience and
20 common sense. The foreperson's responsibilities are to
21 preside over the deliberations at the end of the trial. If
22 there is some question or an issue that needs to be brought to
23 my attention, you will write me a note and give it to the
24 bailiffs, and they'll give that to me. And then once the jury
25 has reached a unanimous verdict, you will sign the verdict

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1 form on behalf of the jury panel. So, again, we'll give you a
2 chance to select a foreperson just whenever we're on a break
3 or if you prefer to do it during the lunchbreak.

4 Okay. Any additions or exceptions to my instructions to
5 the jury?

6 MS. LIVESAY: No, sir -- no, ma'am.

7 MR. BROOKER: No, ma'am.

8 THE COURT: Please swear the jury.

9 THE CLERK: Please stand and raise your right hand.

10 JURY IS DULY SWORN:

11 THE CLERK: Thank you. You may be seated.

12 MR. HELMS: May it please the Court, Your Honor?

13 THE COURT: Mr. Helms; yes, sir.

14 MR. HELMS: Thank you very much.

15 OPENING BY MR. HELMS:

16 MR. HELMS: Your Honor, going up at Horry County, you
17 learn a thing or two about hunting. Y'all probably did too.
18 And I'm not a hunter anymore, but a lot of my friends were.
19 And the general theme is this, it doesn't matter what your
20 hunting, the process is pretty much always the same. You
21 decide what you're gonna hunt, you stalk your prey, and then
22 when it's at its most vulnerable you strike.

23 Now you can see where I'm going with this. This case is
24 no different than a hunter stalking his prey, hunting it,
25 waiting until it's the most vulnerable, and then striking.

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1 The roles were played by Laquandian Bromell; he's the hunter.
2 That's what the evidence is gonna show. You already know who
3 the prey is. The prey, you'll never hear from him because
4 he's dead. His name was Victim: H.G. 26 years old, and he
5 was hunted until he was at his most vulnerable.

6 Now, it's a hell of thing to call a man a murderer. That
7 accusation, it's not -- the gravity of it is not lost on me.
8 No matter how many times I have to sit at this table and
9 accuse someone of it and prove that they done it, or how many
10 times I have sat and Mr. Brooker's seat, as a defense
11 attorney, and listened to my client being accused of it. The
12 accusation itself is great; there's no doubt about it.

13 And right now, as we sit here, the defendant, Mr.
14 Laquandian Juicy Fruit Bromell is presumed innocent. We, as
15 the solicitor's, represent the people of the state of South
16 Carolina, and as such we have an obligation to you. We have
17 an obligation to present and show you the evidence. We have
18 to let you see what we've seen, and let you hear what we've
19 heard to stand here and make such a terrible accusation. And
20 you will have the duty to make a decision based on what you
21 have seen and heard, not based on what I am saying to you now,
22 ladies and gentlemen of this jury, not based on what Mr.
23 Brooker is about to say to you, because what we say is not
24 evidence. You don't have to believe what I'm telling you.
25 All I'm trying to do right now is put into context what you're

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1 about to see.

2 What you are about to see is a presentation of evidence
3 from that witness stand, and they're going to tell you
4 everything that I am telling you now is true. What are you
5 going to find out from that witness stand? You're going to
6 find out who was involved, who the players are. You're gonna
7 find out, and we have to prove this, hold me to task, because
8 we have the obligation of proving this with the evidence.
9 You're gonna find out who was involved; we're gonna prove who
10 was involved. We're gonna prove what happened. We're gonna
11 prove where it occurred and exactly when it occurred. That's
12 right. Ladies and gentlemen, we're even going to prove to you
13 how it happened. Now that's a tall order, and I better live
14 up to it, because we have the burden of proof. But that's
15 okay because the evidence is going to speak for itself.

16 The Judge said something that piqued my interest in
17 regards to you using your common sense and life experience.
18 That's why you're here, folks. We don't want this jury to
19 consist of a bunch of judges or lawyers. We want you to be
20 people from the community of all walks in life, and you are,
21 to come in and see what we have seen and hear what we've heard
22 to come to your conclusions based on your common sense and
23 your life experiences.

24 What will the evidence show you? Here's what it's going
25 to show you. That on June 23rd of 2020, a murder occurred.

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1 The players were the defendant and the victim. Now, there's
2 gonna be some more folks that you're gonna hear from. Keep in
3 mind, ladies and gentlemen, that Mr. Bromell is not here
4 standing accused of singing too loud and the church choir.
5 So, you're not gonna hear from deacons, priests, nuns, and
6 ushers. You're gonna hear from people that were there, people
7 who know about what occurred. Frankly, folks, you're probably
8 going to hear from folks that don't want to be here, and you
9 will have an opportunity to judge their credibility. If they
10 don't want to be here, you will ask yourself why are they
11 here, why are they telling you what they are telling you.

12 Here's what they'll tell you. That on June 23rd of 2020,
13 the defendant and the victim were at the same place at the
14 same time, Turk's in the Cedar Branch section of Horry County.
15 Now, folks, when the Judge asked you during the voir dire
16 section of -- or part of this trial, if you had ever been to
17 Turk's and nobody raised their hand, there's a reason you
18 didn't raise your hand. It's invitation only. If you don't
19 know somebody that lives and works there, you better live and
20 work there or you ain't going. It just so happens the
21 defendant was welcome, and the victim was welcome there.
22 There's no dispute. Ladies and gentlemen, when I tell you and
23 when we call Turk's Place a club, we use that term loosely.
24 You're not gonna find any records of it in the Horry County
25 business section. Okay? This is a pop-up club in a rough

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1 part of town, frankly. But we're gonna prove that they were
2 there together. Hold me to task.

3 We're going to prove that Mr. Bromell stalked his prey at
4 Turk's Place. He watched him until he was at his most
5 vulnerable. We're gonna prove that Victim: H.G. tried to --
6 tries to avoid him. Even to the point of walking out of his
7 way when he leaves Turk's Place to walk down the road. You
8 see, ladies and gentlemen, the evidence is gonna show Victim: H.G.
9 Goodman doesn't have a car. When he comes and goes, he's
10 walking, and everybody knows it.

11 We're gonna prove he goes into the club, he gets frisked
12 like everybody else with his shirt off and his pants hanging
13 down. And when I say he, I'm talking about the victim,
14 Victim: H.G. So, we're gonna prove he has no weapon on him. And
15 at the end of the night, when he decides to leave -- like I
16 said, you're gonna see him avoid the defendant, walk down
17 Redenbo Street. And then you're gonna see the defendant get
18 in his burgundy Pontiac sedan. He's gonna make sure that he's
19 the last person out of the parking lot. And you're gonna see
20 him follow Victim: H.G. ladies and gentlemen. You're gonna
21 see Victim: H.G. walk down the road where he dies. He dies
22 because you're going to see Laquandian Bromell's car follow
23 him where he waits until he's at his most vulnerable and then
24 strikes. Not once, not twice, three, four, five, six, seven,
25 or even eight times, but ladies and gentlemen, Laquandian

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1 Bromell shoots him nine times, all but one in the back. Hold
2 me to task. The evidence is gonna show this.

3 Folks, I do not know what Mr. Brooker is going to get up
4 here and tell you. I know what he's not going to tell you.
5 He's not going to tell you to believe the evidence. Because
6 if he tells you that, we shouldn't be here. He's not going to
7 tell you to trust your common sense, because if he tells you
8 that this will be easy. That's what I'm telling you. That's
9 what we're telling you. Trust your sight, trust your ears,
10 and trust your common sense just like the Judge said.

11 When Laquandian Juicy Fruit Bromell hunted, stalked, and
12 killed his prey, Victim: H.G. on June 26 on Redenbo Road,
13 he had no idea that there was evidence that would prove the
14 case against him. He was very, very wrong.

15 THE COURT: Mr. Brooker?

16 MR. BROOKER: Thank you, Your Honor.

17 OPENING BY BROOKER:

18 MR. BROOKER: Good morning.

19 If you can remember from yesterday, I'm Thurmond Brooker.
20 And that is Laquandian Bromell. And the reason why that we've
21 all been brought here, like what the prosecutor says, like
22 what the government says, is that the government has accused
23 Laquandian Bromell of murdering Victim: H.G. and this
24 happened on the morning -- on the early morning of June 23rd
25 of 2020. That's the allegation. That's why we are all here.

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1 Okay?

2 Now, you're probably gonna ask yourself, well, then, how
3 do they do that? What the Judge has just explained to you is
4 is that -- a little bit about the roles of everyone here in
5 the courtroom throughout this entire process. And of course,
6 from common knowledge, I'm pretty sure all of you know a
7 little bit about this. You've watched school -- excuse me --
8 watched on television, you read newspapers, you read books.
9 This is a criminal trial. And of course is is that the trial
10 is the vehicle in which the government has to prove those
11 allegations that it's made, the accusations they made against
12 Bromell. This is the vehicle in which they have to prove it.
13 And of course is is that just like any process, you know, any
14 vehicle or any arena, there are rules that have to be
15 followed, rules that have to be abided by during this criminal
16 trial process. And that's what I want to talk with you first
17 about just a little bit. Okay. And of course, the purpose of
18 these rules, and I didn't create these rules, the defendant
19 didn't create these rules. These rules were created by the
20 government, our government, the federal government and the
21 state government. They created these rules. And of course,
22 the purpose of them creating these rules is to the best of
23 everyone's ability to try to create a process that's gonna be
24 fair, and a process that's gonna be accurate, most
25 importantly. The process is gonna be fair and accurate is the

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1 most important. And of course, these rules that govern this
2 process are rules that have been established over years, since
3 the creation of these governments, our governments. These are
4 our governments; they create these rules. And they've created
5 them over the years of the life of our governments.

6 Now, one of the most important rules in order for this
7 process to be fair and accurate that you have to follow, I'm
8 pretty sure you've all heard this, and that is is that the
9 innocence of the accused. As Laquandian Bromell sits here, he
10 is just as innocent as anyone sitting in this courtroom
11 without exception. He's just as innocent as anyone sitting in
12 this courtroom without exception. And the reason why is is
13 that the government has not proved anything. They have not
14 presented any evidence to you. They have not proved anything
15 whatsoever. Now, they're gonna try to do that, and that takes
16 me to the second important principle that you have to adhere
17 to. And of course, Mr. Helms mentioned is is that the burden
18 of proof. Who carries the burden of proof in a criminal case?
19 It's the government. The government has made these
20 allegations, and of course the government and the government
21 alone has the sole responsibility of proving these
22 allegations, the sole responsibility of proving these
23 allegations. We're not here for Mr. Bromell to prove his
24 innocence. We're here to give the government the opportunity
25 to prove his guilt. Like the Judge said, and like Mr. Helms

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1 says, is is that the accused doesn't have to prove anything.
2 Theoretically, he could sit at the table, and he could go to
3 sleep, theoretically. He does not have to prove one single
4 thing. Everything that has to be proven in this case has to
5 be proof by the government; everything has to be proved by the
6 government. And so, at any point in time is that during the
7 course of this trial, and of course is if you have a question
8 or a question hadn't been answered, or if there's evidence
9 that's been left out, or if there's questions, there's gaps,
10 you have to contribute that deficiency to the government. You
11 can't look over at Laquandian and says I need you to answer
12 this question. He has absolutely no responsibility whatsoever
13 to prove his innocence. And these are important principles.
14 This is just not doodling on a paper. These are absolutely
15 important principles. If we are to have this wonderful
16 society that we say that we have, the best in the world that
17 you heard the Judge says, we have to, we have to -- and when I
18 say we, I'm talking about you the jury right now -- have to
19 abide by these principles. Don't ever look at the defense,
20 don't ever look at Laquandian Bromell and ask him to produce
21 something. He doesn't. Everything has to be proven and
22 presented to you by the government.

23 Now, what's the burden of proof? That's the next
24 important principle. Or by what standard do they have to
25 prove this? By what standard do they have to prove that

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1 Laquandian Bromell murdered Victim: H.G. What's the
2 standard?

3 Now, you heard the government says, well, ladies and
4 gentlemen, use your common sense. We're gonna present some
5 facts to you and, of course, we want you to use your common
6 sense. And he's absolutely right about that. But common
7 sense is not the standard. It's a standard that's much higher
8 than that. It's the highest burden that we have in our
9 judicial system, and that's proof beyond a reasonable doubt.
10 The government has to prove Laquandian's guilt beyond a
11 reasonable doubt, and that is a pretty high standard. Like I
12 said, it's the highest that we have, and it should be. It
13 should be the highest that we have, because in criminal
14 trials, we're dealing with life, liberty, and property. The
15 most important things that human beings have, their life,
16 their liberty, and their property. It is a high standard and
17 rightfully so.

18 Now, I'm not gonna -- well, let me go to the next
19 important -- next important principle. And of course, the
20 government -- Mr. Helms with government alluded to this --
21 said something about it, but I want to emphasize it. And that
22 is -- and the Judge also emphasized this to you as well, too,
23 and that is is that she talked about the role of everybody
24 here in the courtroom. She talked about what her role was.
25 She talked about the role of the court reporter, role of the

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1 representative of the clerk's office. She talked about the
2 role of the attorneys. And what is our role? Attorneys are
3 facilitators; we're not witnesses. Anything that comes out of
4 my mouth is not testimony. I was not there the night that
5 Victim: H.G. was shot and killed, neither was anyone at the
6 government's table was there that night. And so, when we
7 talk, the purpose -- our purpose in this courtroom is is to
8 take what information that is available, and present that
9 information to you, you know, in an orderly, and hopefully in
10 an understandable way so that you can better do your job in
11 determining at the end of this case as to whether or not the
12 government has managed the burden of proof beyond a reasonable
13 doubt. That's what our jobs are. We're facilitators. We
14 just help present the evidence or help identify the absence of
15 evidence. We're not witnesses. Don't ever confuse that.
16 Don't ever think that I'm testifying to you. Don't ever think
17 that any of these lawyers in the courtroom are giving you
18 testimony; we're not; we're not.

19 Now, another thing that the government said was that it
20 is gonna prove all of these things to you. And of course is
21 is that they're gonna do it by putting up witnesses. And my
22 understanding is that they're gonna show you some videotape.
23 And what that video tape or what that -- what those -- what
24 that video tape is expected to show is is that on the night in
25 which Mr. Goodman was killed it is is that you'll be able to

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1 see him leaving this little -- I think he mentioned Turk's
2 Place. And of course what it is is that it's -- it's an
3 illegal -- a bar. You know, it's an unlicensed bar, you know
4 where people get together and drink. So, and you're gonna see
5 him leaving Turk's Place, Mr. Goodman. And he walks out from
6 Turk's Place down this dirt road. And of course, this dirt
7 road is dark. There's no lights in that area whatsoever. No
8 lights lining that dirt road, so it's extremely dark. And of
9 course, you're gonna see the lights of this car. The car --
10 they're gonna tell you that Laquandian Bromell was driving.
11 You're gonna see the lights. You're gonna see this car leave
12 Turk's Place and drive down this very same dirt road. And
13 then you're gonna see the lights of this car stop. You're
14 gonna see -- you know, first you're gonna see the lights, you
15 know, as it goes down the road. And the only thing you'll be
16 able to see is the lights on the car because it's very dark.
17 That's gonna be the only thing that's gonna be illuminating,
18 the taillights on this car. And of course, it appears from
19 the video that there is a pause, a quite long pause in the
20 video. And then of course, at some point in time, the lights
21 disappear on the car, and then of course at another point in
22 time, the lights reappear.

23 Now, parked somewhere along this dirt road were three
24 ladies, and they're gonna tell you that they were -- at least
25 one of them is going to tell you that they were chatting, they

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1 were looking at their phones. And then all of a sudden, they
2 heard a pop, and they ducked down. They heard what they
3 believed to be the sound of a gun and they ducked down. And
4 then of course, you're gonna hear one of these ladies testify
5 that they looked around the vehicle that they were standing
6 next to, and they could see Mr. Goodman on the ground
7 struggling to get up, and they could see someone standing over
8 him shoot. And they're gonna give a vague description of that
9 person. They're gonna give a vague description of the
10 shooter.

11 And what the government is gonna ask you to is to take
12 this tape that they show, take the testimony from the
13 witnesses, and gonna ask you to make a deductive conclusion.
14 They're gonna ask you to make an educated guess. They're
15 gonna ask you to connect the dots that are not completely
16 connected. And to some extent, they're gonna ask you to leap
17 where there are actually voided spaces, actually where there
18 is unexplained evidence, actually where they have no direct
19 evidence. They're gonna ask you make a leap of logic. And I
20 agree with the government, hold them to their responsibility.

21 This is the most serious criminal cases that we can have,
22 a murder case. I've been doing this for 22 years now, and
23 I've done a lot of them. It's the most serious -- one of the
24 most serious criminal cases that we have, but that fact should
25 not allow you, should not allow you to lessen the

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1 responsibility that the government has. At no point in time
2 you should say, wow, this is a really, really serious case, we
3 need to lessen the burden a little bit for them so they can
4 get over the hump. Our government set these rules. They made
5 the rules. It's our job to make them live up to them. And I
6 think at the conclusion of this case, I think when you look at
7 everything that's involved, I believe that you'll say that,
8 yes, that there's a lot of suspicion here. There's a lot of
9 suspicion here, but it's void of proof beyond a reasonable
10 doubt. That's the standard.

11 Thank you.

12 THE COURT: Mr. Helms?

13 MR. HELMS: Thank you, Your Honor.

14 Your Honor, at this time, the state would call Ms.
15 Chrissy Tompkins.

16 CHRISTINE TOMPKINS, HAVING BEEN SWORN,
17 TESTIFIED AS FOLLOWS:

18 THE CLERK: State your name and spell it for the Court.

19 MS. TOMPKINS: Christine Tompkins, C-H-R-I-S-T-I-N-E, T-
20 O-M-P-K-I-N-S.

21 DIRECT EXAMINATION OF CHRISTINE TOMPKINS BY MR. HELMS:

22 Q: Ms. Tompkins, where are you employed?

23 A: I work with Horry County 911.

24 Q: And what do you do there?

25 A: I am a quality assurance specialist.

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1 Q: What does that mean?

2 A: I handle copies of recordings, and I also do reviews for
3 our call takers on the floor and make sure that they're doing
4 a good job.

5 Q: Is another name for your job potentially records
6 custodian?

7 A: Yes, sir.

8 Q: Okay. How long have you done that?

9 A: I have been in the quality assurance position for a
10 little over two years now, and I've been with the department
11 for eight.

12 Q: And I think we get the gist of it, but what are your
13 general responsibilities?

14 A: Generally, I take requests for Freedom of Information
15 Act, as well as public safety partners, and provide them with
16 tapes and CAD reports, which is the computer-aided dispatch
17 that we use to keep notes.

18 Q: Computer Aided Dispatch, I've used that acronym for years
19 and forgot what it stood for.

20 Okay. So, correct me if I'm wrong. When someone calls
21 911 you maintain the records.

22 A: Yes, sir.

23 Q: That's basically what you're saying?

24 A: Right.

25 Q: Tell me about the process of when someone calls 911, how

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1 those records are maintained.

2 A: When you call 911, the call is recorded from the time
3 that that person makes an outgoing call. When we pick up, it
4 is recorded until the call is disconnected. Those records are
5 kept for a standard of 180 days. And of course, if there's a
6 recording requested, it's accessible for a little longer than
7 that because we do keep copies of any recordings that are
8 requested.

9 Q: I understand. So, those are kept in the normal course of
10 business?

11 A: Yes, sir.

12 Q: I understand. Are they kept in a way that is secure?

13 A: Yes. They are not able to be altered.

14 Q: That's what I was asking. Thank you, ma'am. You've done
15 this before.

16 And the records specifically, I think you mentioned two
17 things they contained. Do they contain recordings?

18 A: Correct.

19 Q: And you mentioned the CAD report.

20 A: Yes.

21 Q: Computer Aided Dispatch.

22 I'm gonna show you what's been marked for identification
23 purposes as State's Exhibit 17.

24 A: That's the ---

25 MR. HELMS: Mr. Brooker, would you like to see this?

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1 BY MR. HELMS:

2 Q: Hang on for one second, ma'am. I'm procedurally wrong.

3 Let me show Mr. Brooker first. Thank you, sir.

4 Now, that's State's Number 17 for identification
5 purposes.

6 Ma'am, do you recognize what I've just shown you?

7 A: I do. It is a recording of the 911 call we received.

8 The date was June 23rd of 2020. And the time was 4:21 -- 4:00
9 in the morning, so, 4:21:25.

10 Q: And have you heard this recording, ma'am?

11 A: I have, sir.

12 Q: And you can vouch for it?

13 A: I can.

14 Q: How do you know? How do you know that that's the
15 recording?

16 A: Those are my initials on there, sir. I listened to it.

17 Q: Yes, ma'am. That makes sense.

18 MR. HELMS: At this time, Your Honor. The state would
19 seek to introduce Number 17 into evidence.

20 THE COURT: Any objection?

21 MR. BROOKER: Without objection, Your Honor.

22 THE COURT: 17 is admitted.

23 STATE'S EXHIBIT NUMBER 17

24 ADMITTED INTO EVIDENCE

25 BY MR. HELMS:

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1 Q: You know this call because you listened to it?

2 A: Yes, sir.

3 Q: And I'm gonna hand it to you again and just reiterate for
4 the jury. What date is that call from?

5 A: June 23rd, 2020.

6 MR. HELMS: Your Honor, at this time, the state would
7 seek to publish State's 17.

8 THE COURT: Yes, sir.

9 BY MR. HELMS:

10 Q: While she's queuing that up, ma'am, under the date there
11 is a time; can you tell the jury what the time is?

12 A: It was 4:21 in the morning. We go by military time, so
13 it's 4:21:25, four hours, 21 minutes, 25 seconds.

14 Q: Okay.

15 (REPORTER'S NOTE: State's 17 is published for the jury.
16 Audio not transcribed herein.)

17 Q: Please answer any questions the defense may have.

18 THE COURT: Mr. Brooker?

19 MR. BROOKER: Thank you, Your Honor.

20 CROSS-EXAMINATION OF CHRISTINE TOMPKINS BY MR. BROOKER:

21 Q: Ms. Tompkins, I'll be very quickly.

22 I think you indicated that you are the, I guess much more
23 than that, but part of your duties is records custodian for
24 the E911 system?

25 A: That's correct.

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1 Q: Okay. And just a very simple question, were you a fact
2 witness to the events that took place that night that was just
3 played -- to the video?

4 A: No, sir.

5 Q: Okay. And you're not telling the jury that you know who
6 committed that murder; is that correct?

7 A: No, sir; I'm not.

8 Q: You're just here to present that 911 ---

9 A: I'm just here to tell you the tape came from 911.

10 Q: Okay.

11 MR. BROOKER: No further questions, Your Honor.

12 THE COURT: Any redirect?

13 MR. HELMS: No, you Your Honor.

14 THE COURT: Thank you. You may step down Ms. Tompkins.

15 MR. HELMS: Your Honor, may Ms. Tompkins be excused from
16 her subpoena?

17 MR. BROOKER: Without objection, Your Honor.

18 THE COURT: Yes, ma'am. Thank you.

19 MS. TOMPKINS: Thank you.

20 MR. HELMS: Call the next witness, Your Honor?

21 THE COURT: Yes.

22 MR. HELMS: At this time, the state would call Officer
23 Paul Hamm.

24 PAUL HAMM, HAVING BEEN SWORN, TESTIFIED AS

25 FOLLOWS:

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1 THE CLERK: State your name and spell it for the Court.

2 MR. HAMM: Officer Paul Hamm, H-A-M-M.

3 DIRECT EXAMINATION OF PAUL HAMM BY MR. HELMS:

4 Q: Officer, good morning. I think we all know by now, but
5 where do you work?

6 A: Horry County Police Department.

7 Q: How long have you worked there?

8 A: A little over four years.

9 Q: What you do?

10 A: I'm a patrol officer.

11 Q: What kind of training do you have to undergo to become a
12 patrol officer for Horry County Police Department?

13 A: If you've never had any previous certifications, you have
14 to go through 12 weeks at the South Carolina Criminal Justice
15 Academy.

16 Q: Have you ever had any previous certifications?

17 A: Yes, sir.

18 Q: And what is your current position, a patrolman?

19 A: Yes, sir.

20 Q: Okay. Were you employed in that position in 2020?

21 A: Yes, sir.

22 Q: Were you working on June 23rd of 2020?

23 A: Yes, sir.

24 Q: On that day, did you have an opportunity to respond to a
25 call on Redenbo Drive?

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1 A: Yes, sir.

2 Q: Do you remember about what time?

3 A: A little after 4:00 in the morning, I believe.

4 Q: Okay. So, the sun wasn't up yet?

5 A: No, sir.

6 Q: Do you know what Redenbo generally is, where it is, what
7 it looks like?

8 A: Uh-huh, (affirmative response).

9 Q: Can you describe that for the jury, please?

10 A: It's a dirt road with very few houses on it and some --
11 it's not a well-maintained road. It's riddled with potholes
12 and everything else, stuff like that. There's a couple of
13 single-wide trailers, I think there's a double-wide trailer,
14 there's ---

15 Q: So, it's a residential area?

16 A: Yes, sir.

17 Q: Okay. Not commercial?

18 A: No, sir.

19 Q: When you arrived, sir, on June 23rd at 4:00 in the
20 morning, what did you see?

21 A: I come around the curve, and I observed a body laying on
22 the ground.

23 Q: Can you describe the body, generally speaking, for the
24 jury?

25 A: Face down in a puddle of blood.

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1 Q: Physical characteristics?

2 A: African American male. The pants were halfway down
3 around his knees, maybe.

4 Q: Okay. And will come back to that in more detail in just
5 a second.

6 Court's indulgence, Your Honor.

7 Q: Officer Hamm, I'm showing you what's been marked for
8 identification purposes now as State's Exhibit 22. And I am
9 purposefully not showing the jury. Can you tell us generally
10 what this is a map of, sir?

11 A: The Cedar Branch area.

12 Q: Okay. And based of your knowledge and experience in that
13 area, does this accurately reflect the area that you responded
14 to on June 23rd?

15 A: Yes, sir.

16 Q: Okay. And this is a fair and accurate representation of
17 that area?

18 A: Yes, sir.

19 MR. HELMS: Your Honor, at this time, the state would
20 seek to introduce and publish State's 22 to the jury.

21 MR. BROOKER: No objection, Your Honor.

22 THE COURT: 22 is admitted.

23 MR. HELMS: Thank you, ma'am.

24 STATE'S EXHIBIT NUMBER 22

25 ADMITTED INTO EVIDENCE

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1 BY MR. HELMS:

2 Q: Now, directionally speaking -- and I am directionally
3 challenged, and if any of these guys on the jury are like me,
4 they are, too. So, tell me where we are. Point me to the
5 scene generally that you arrived at on this map, please, if
6 you can.

7 A: It looks a little different with the foliage in the
8 trees. So, I think you're coming down Cedar Ranch Drive and
9 you're going to break off to the right onto Redenbo, and then
10 it comes up in this area somewhere and kicks back to a dead-
11 end.

12 Q: Okay. What is it in the dead-end?

13 A: A club.

14 Q: What's the club's name?

15 A: Not a hundred percent certain. It's been called several
16 different things over the ---

17 Q: Do you have any idea what it's been called? Do you know
18 it as Turk's Place?

19 A: I've heard it called that, yes.

20 Q: Okay. And is that it right there?

21 A: Yes, sir.

22 Q: Okay. Can you -- is this Redenbo?

23 A: Yes.

24 Q: So, this is the dirt road that everyone is talking about?

25 A: Yes, sir.

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1 Q: Is this where you arrived?

2 A: Yes, sir.

3 Q: And is this where you found the body of Heiden Goodman?

4 A: On the dirt road, yes, sir.

5 Q: All right. Can you point to right about where that would
6 have been on that dirt road, sir?

7 A: If this is the entrance right here ---

8 Q: Uh-huh, (affirmative response).

9 A: You come in, it's almost like a 90-degree turn to your
10 right, right about in this area right here.

11 Q: Okay. So, right about here where the word Redenbo is?

12 A: Yes, sir.

13 Q: All right. And the club is back here (indicating).

14 A: Yes, sir.

15 Q: Now, do you know if the club has video surveillance?

16 A: I didn't at the time; no, sir.

17 Q: Okay. All right. All right.

18 Were there people there when you arrived?

19 A: Yes, sir.

20 Q: Tell me about the lighting. I know you may have touched
21 on it, but is it well-lit?

22 A: No, sir; it is not.

23 Q: It is not well-lit? Okay.

24 So, no streetlights or anything like that?

25 A: No, sir.

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1 Q: This is not a county-maintained road, I would imagine?

2 A: No, sir.

3 Q: Okay. So, you are essentially the first on scene?

4 A: Yes, sir.

5 Q: And when you arrived, you see a body in the middle of the
6 road?

7 A: Yes, sir.

8 Q: Were you equipped with bodycam?

9 A: Yes, sir.

10 Q: Did you activate your bodycam?

11 A: I did.

12 Q: Okay. I'm gonna ---

13 (REPORTER'S NOTE: Counsel confers.)

14 MR. HELMS: Your Honor, there may be an objection, but
15 I'll let Mr. Brooker raise that.

16 STATE'S EXHIBIT NUMBER 18

17 MARKED FOR IDENTIFICATION

18 BY MR. HELMS:

19 Q: I'm showing you what's been marked at this time as
20 State's Exhibit Number 18. Tell me, officer, if you recognize
21 State's Number 18.

22 A: I do; that's my initials.

23 Q: Okay. What is that? What is State's 18?

24 A: It says bodycam for Officer P. Hamm.

25 Q: Have you seen it?

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1 A: Yes.

2 Q: And does it accurately reflect the scene as you saw it
3 when you arrived?

4 A: Yes, sir.

5 Q: Has it been tampered with in any way?

6 A: No, sir.

7 MR. HELMS: All right. Your Honor, at this time I would
8 seek to introduce State's 18 and publish to the jury.

9 MR. BROOKER: We have an objection, Your Honor.

10 THE COURT: Okay. Ladies and gentlemen, I'm going to
11 take this up outside of your presence. If you would please
12 return to the jury room. Please don't begin any
13 deliberations.

14 (REPORTER'S NOTE: Jury exits courtroom @ 10:43 a.m. The
15 following takes place outside the presence of the jury.)

16 BY THE COURT:

17 THE COURT: Yes, sir?

18 MR. BROOKER: Your Honor, if I'm not mistaken, and of
19 course I watched all of these videos. My objection has to do
20 with, one, the depiction of the dead body, I think, lying on
21 the road. And specifically is that my concern is that is is
22 that the images that would be shown in that bodycam video is
23 gonna be quite disturbing. And of course may, I guess, work
24 to shock the jury. And of course the question is is that
25 whether or not the probative value, you know, of showing these

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1 shocking images of this deceased body on the street, you know,
2 whether or not it outweighs any prejudice. I think it does.
3 And of course the -- my second concern and objection, Your
4 Honor, is that it's gonna be kind of a hearsay or either a
5 *Crawford* objection. Obviously is is that when -- if my memory
6 is serving correctly, obviously, you know, when the officer is
7 walking around with this body camera on, and of course he's
8 interacting with people, then of course there's conversations
9 and statements that are being made. And of course is is that
10 those conversations and statements that are being made to
11 people who may be interjecting hearsay testimony, may be
12 talking about things that happened in the past that would be
13 inadmissible under a number of rules underneath the rules of
14 evidence. So, my concern is is that we may also have a
15 *Crawford* issue, may also have a hearsay issue, and then of
16 course may also get into character evidence. Of course it may
17 not -- and I don't think the character evidence at least on
18 this may involve the victim, but of course there may be some
19 conversations about things that occurred in the past, things
20 that you know may have happened that other people may have
21 said that we have no way to control. So, if the video is
22 properly redacted to maybe exclude the image of the body, the
23 body, the deceased body lying there on the ground, or if it's
24 redacted to remove any *Crawford* violations, language, or
25 either any hearsay language, I would not have an objection to

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1 that.

2 THE COURT: Do you want to respond?

3 MR. HELMS: I do, Your Honor.

4 First of all, *Crawford* applies to non-testifying
5 codefendants, Your Honor. And that's a confrontation clause
6 issue. It's not applicable here.

7 Second of all, the purpose of this video is very much to
8 show the body. The reason we're going to show the body is not
9 to inflame the passions of the jury. The orientation of his
10 body, the way that Paul Hamm saw him close in time to the
11 crime is very important, and I'm gonna tell you why, Judge.
12 He is going to have bullets -- he's riddled first of all, of
13 course, and we're not gonna show a lot of different angles,
14 but we need to show that the bullets are mushroomed near his
15 body, Your Honor, to show the way he was shot, to show -- we
16 have an obligation to prove there is no self-defense. We have
17 to proactively disprove that, and that is part of this. So,
18 we're not just showing this to inflame, where showing to show
19 he, (a), has no weapons, Your Honor. Where showing the body
20 to show that he is unclothed, so he cannot have been mistaken
21 to have weapons, Judge. We're showing that the bullets around
22 him are mushroomed, showing he was shot at close range,
23 directly over him. So, there is very much probative value
24 here that outweighs the prejudicial effect, Your Honor.

25 THE COURT: Are there any conversations on the video with

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1 bystanders regarding the defendant?

2 MR. HELMS: Your Honor, if there are, and I don't recall
3 any, and again we provided this in discovery for that very
4 reason to see if there were specific redactions that needed to
5 be made, I don't recall any, and we are not offering it for
6 that. We are not offering it for the truth of any matter
7 asserted of any person in that video. We are offering it
8 strictly for the scene depiction.

9 THE COURT: How long is the video?

10 MR. HELMS: I'm gonna play it up to 10 minutes, Your
11 Honor. Anything past that is redundant, I believe.

12 THE COURT: I mean, am I gonna have to watch this now and
13 determine what's in it and what's not? This really should
14 have been something that we did before today. We've got a
15 jury sitting here waiting on us.

16 MR. HELMS: It's not my objection, Your Honor. I don't
17 think -- I don't think it's necessary, but that's my position.
18 Again, we are not offering it for hearsay. Nothing anyone
19 says is being offered for the truth of that matter asserted,
20 so it can't be hearsay. Not to mention, obviously, the
21 exception of a business record applies; he's established that.

22 MR. BROOKER: Your Honor, if the officer is asking -- if
23 the officer is asking people questions in reference to this
24 investigation and those people are giving answers to questions
25 in reference to this investigation, then of course those

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1 statements would be testimonial, you know, because those
2 statements are being taken for the purposes of a criminal
3 investigation, and that would make ---

4 THE COURT: You don't know what specific statements
5 you're talking about?

6 MR. BROOKER: Yeah. And with respect to this, Your
7 Honor, I guess the only reason why at least we are making this
8 objection now, and of course we may do this, it's a failure of
9 the parties in getting together is that we have no way of
10 knowing what they intend to introduce. And I'm pretty sure
11 that to some extent they don't want to tell us how, you know,
12 present their case.

13 THE COURT: I mean, you've got copies of all of the
14 tapes. So, I don't know any way around it but play me the
15 video and let me see.

16 MR. HELMS: Yes, ma'am.

17 And again, Your Honor, where only gonna play 10 minutes.

18 THE COURT: And we need to not do this for every piece of
19 evidence that's coming before the jury or we're going to never
20 finish this trial this week. So, the extent we need to do
21 this after hours so that we are ready for specific objections,
22 we need to be doing that ahead of making the jury wait while
23 we do this.

24 MR. HELMS: Agreed, Your Honor.

25 (REPORTER'S NOTE: State's Exhibit 18 published to the Court

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1 outside the presence of the jury. Audio not transcribed
2 herein.)

3 MR. HELMS: Your Honor, that's it. As you can see, the
4 only conversations that the officer has with the bystanders is
5 identifying information and Veronica Jackson simply asked,
6 what happened? She is here. She will be testifying subject
7 to cross-examination. Judge, this is the best evidence, and
8 Paul Hamm is here presenting it. He is here for cross-
9 examination, Your Honor. The standard is, is that more
10 prejudicial than probative know what if it's prejudicial. I
11 agree with Mr. Brooker this is prejudicial to Mr. Bromell;
12 that's not the standard, I can't help that. It is more
13 probative to the state because it shows everything I said,
14 Judge. But it also depicts the scene and shows why this
15 defendant chose to shoot this victim where he did.

16 THE COURT: I'm good, Mr. Helms.

17 Mr. Brooker, anything else you want to tell me?

18 MR. BROOKER: I'll just briefly state, Your Honor, is
19 that I think Mr. Helms said that I think the purposes of them
20 presenting this video was, one, is to -- is to show that self-
21 defense is not available because he was shot, I think, eight
22 of the nine bullets, I think he said, were in the back. And
23 of course is is that that's gonna come in through I think the
24 medical examiner, the pathologist, who would demonstrate
25 exactly where, you know, the bullets were fired into his body,

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1 and that eight of nine were in the back. So, and of course
2 is, I think the only other thing he says is that the need to
3 have this video to show, you know, that depicts this, you
4 know, this disturbing scene of the body -- of the victim lying
5 there in the dirt, you know, I think he says is is to show
6 where, you know, where I think projectiles and also shell
7 casings were. And of course is that he can testify to that.
8 And of course there is no objection to -- there has been --
9 and I think we haven't put up -- there has -- we have not
10 argued or at least suggested there is gonna be a self-defense.
11 This is an identity case and of course not a self-defense
12 case. And of course is that everything that he is indicating
13 that the officer can testify to, and of course there is no
14 contradictory testimony to my understanding about this, you
15 know, that there is no ---

16 THE COURT: Mr. Brooker, the objection is overruled, sir.
17 I've watched it. I do find that there is significant
18 probative value to it. I do not find that any prejudicial
19 effect -- I mean, certainly there's going to be prejudicial
20 effects for anything that has probative value, but I don't
21 think that this is overly inflammatory or that the prejudice
22 value outweighs the probative.

23 MR. HELMS: Thank you, Judge.

24 THE COURT: Do y'all need a break before we bring the
25 jury in, since we've had them out?

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1 MR. HELMS: I don't, Judge.

2 THE COURT: Okay. You all good?

3 Ms. Richardson, you're the most important ---

4 THE COURT REPORTER: I'm fine, Judge.

5 THE COURT: You're good.

6 Bring the jury on in.

7 (REPORTER'S NOTE: Jury enters courtroom @ 11:04 a.m.)

8 MR. HELMS: May it please the Court, Your Honor?

9 THE COURT: Yes, sir.

10 MR. HELMS: Thank you, Your Honor.

11 CONTINUATION OF DIRECT EXAMINATION OF PAUL HAMM BY MR. HELMS:

12 Q: Officer Hamm, we were discussing your body camera
13 footage, and you said that this does accurately reflect the
14 scene that night?

15 A: Yes, sir.

16 MR. HELMS: Your Honor, the state would seek to publish
17 State's 18 to the jury.

18 THE COURT: Yes, sir. 18 is admitted.

19 STATE'S EXHIBIT NUMBER 18

20 ADMITTED INTO EVIDENCE

21 BY MR. HELMS:

22 Q: And Officer, I would imagine the timestamp is actually at
23 2020 June the 23rd, at 4:25 in the morning?

24 A: Yes, sir.

25 (REPORTER'S NOTE: State's Exhibit 18 published to the jury.

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1 Audio not transcribed herein.)

2 BY MR. HELMS:

3 Q: How many guns did you find around Victim: H.G.

4 A: None.

5 Q: How many knives?

6 A: None.

7 Q: How many weapons at all did Victim: H.G. near his body?

8 A: None that I saw.

9 Q: I'm going to briefly back to what's already been entered
10 into evidence as State's Exhibit 22. Please, after watching
11 that video, refresh our memory where we were on this map.

12 A: Right about this area. You can see when I walked to the
13 trunk of the car, you can see around the curve, that's where
14 the other officer walked that road off when he walked up,
15 around right in this area.

16 Q: Before you get to Cedar Branch and in the middle of Cedar
17 Branch and Turk's Place, basically right there in between
18 where those trees are?

19 A: Roughly, yeah; a few feet in there, yes.

20 Q: Looking at this map, would you say that's the most
21 desolate, darkest place in the road?

22 A: Yes.

23 Q: Please answer any questions that the defense may have.

24 CROSS-EXAMINATION OF PAUL HAMM BY MR. BROOKER:

25 Q: Is Officer Hamm the appropriate way to address you?

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1 A: That's fine.

2 Q: Okay. That's fine?

3 A: Yes, sir.

4 Q: And I'll be very brief, Officer Hamm.

5 Were you a fact witness to the shooting?

6 A: You mean that I see it with my own two eyes?

7 Q: Yes. Were you a fact witness to the shooting that took
8 place that night?

9 A: It had happened before I got there.

10 Q: So, that would be no, you were not a fact witness?

11 A: No, sir; I was not.

12 Q: And so, I'm assuming is it that because you were not a
13 fact witness to the shooting, you're not telling the jury that
14 you actually saw who actually shot Victim: H.G. is that correct?

15 A: I did not see who actually shot him.

16 Q: Assuming that you're not telling the jury because you
17 didn't see the shot, you're not telling the jury that you saw
18 Laquandian Bromell shoot anybody?

19 A: No, sir; I did not.

20 Q: And if my understanding is correct, your purpose for
21 being there is to help secure the scene, and then of course
22 assist in collecting whatever evidence that was there at the
23 scene that night; is that correct?

24 A: I secure the scene. Detectives come in and they collect
25 the evidence.

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1 Q: So, your role that night was just simply to collect the
2 scene once you arrived?

3 A: Yes, sir.

4 MR. BROOKER: I don't have any further questions, Your
5 Honor.

6 THE COURT: Any redirect?

7 MR. HELMS: No.

8 THE COURT: Thank you, sir. You may step down.

9 MR. HELMS: Can he be excused, Your Honor?

10 THE COURT: Any objection?

11 MR. BROOKER: Without objection, Your Honor.

12 THE COURT: You're excused, sir.

13 MS. LIVESAY: At this time, Your Honor, we're ready to
14 call our next witness if the Court is ready.

15 THE COURT: Sure.

16 MS. LIVESAY: Thank you. At this time, we'd call John
17 Kelly to the stand.

18 JONATHAN KELLY, HAVING BEEN SWORN,
19 TESTIFIED AS FOLLOWS:

20 THE CLERK: State your name and spell it for the Court.

21 MR. KELLY: Jonathan Kelly. That's spelled J-O-N-A-T-H-
22 A-N, K-E-L-L-Y.

23 DIRECT EXAMINATION OF JONATHAN KELLY BY MS. LIVESAY:

24 Q: Mr. Kelly, if you don't mind, tell this Court and the
25 jury where you are currently employed.

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1 A: The Horry County Police Department, and I am currently
2 assigned to cold case and missing persons division.

3 Q: Okay. And how long have you been employed with the
4 police department?

5 A: A little over 12 years.

6 Q: Okay. And what -- if you don't mind, tell us the
7 training that you have undergone to be with the police
8 department and what you've undergone since.

9 A: I attended and graduated from the South Carolina Criminal
10 Justice Academy, and then we have annual in-service continuing
11 education throughout our career to upkeep our certifications
12 and update us on new caselaw, and I have taken some interview
13 classes and some investigative classes.

14 Q: Okay. And what was your role in 2020?

15 A: I was assigned to the homicide division.

16 Q: Okay. And were you working to assist with this
17 particular case in June 2020?

18 A: I was.

19 Q: Okay. And if you don't mind, tell the jury a little bit
20 about what you did.

21 A: I responded out to the scene and was asked to go to a
22 residence next to the club. Based on prior incidents at this
23 location, we were aware that there was surveillance, and they
24 said that the family was cooperative and was gonna let us
25 check out the footage before we downloaded it. So, I went to

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1 the house and met with, I believe, Veronica Jackson -- I think
2 that's her name, Veronica. And at that point, she allowed us,
3 me and Detective Wydra to go into a bedroom in the residence
4 and review the surveillance camera on the DVR. And based on
5 the review of that footage, we were able to determine persons
6 of interest that we thought we might want to talk to.

7 Q: Okay. And did you ultimately get a copy of the
8 surveillance footage?

9 A: We did. Detective Brantley has specialized equipment to
10 download surveillance footage from DVRs, so he responded and
11 took an actual download of the video so we had a hard copy.
12 And also, while I was there, I was wearing a bodycam, so in
13 case of footage wouldn't play or something along those lines,
14 I did record certain parts of the video with my bodycam held
15 up to the screen.

16 Q: Okay. So, did your bodycam capture the portions of the
17 surveillance footage that you watched there on the scene?

18 A: Correct.

19 Q: Okay. Tell this jury what your bodycam caught ---

20 A: Well ---

21 Q: --- or what it recorded of the surveillance footage.

22 A: So, on -- we -- the timestamp on the camera footage is
23 off by about four hours and some minutes. I think four hours
24 and seven minutes. So, the timestamps were incorrect, but
25 essentially based on the timestamps on the footage, it was a

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1 little after 5:00, which would actually be 1:00 ---

2 Q: Okay.

3 A: --- that the defendant arrived at the club. A short time
4 later, another person that was pointed out in the footage ---

5 MR. BROOKER: Your Honor, may we approach just a second?

6 THE COURT: Sure.

7 (REPORTER'S NOTE: Bench conference is held off the record in
8 the presence but outside the hearing of the jury.)

9 BY MS. LIVESAY:

10 Q: Mr. Kelly, let me get back on track. We had a little
11 pause there, a little break. When we left off you were
12 watching the surveillance footage at Veronica's house.

13 A: Correct.

14 Q: Okay. Before we get too far down that road, where is
15 Veronica's house?

16 A: It's directly next to the structure that they call Turk's
17 Spot or Turk's Place. It's the makeshift club.

18 Q: And how close is that to where Victim: H.G. body was found?

19 A: I don't know the exact footage, but maybe -- maybe a
20 hundred yards away.

21 Q: Okay. I'm gonna show you what's been marked as State's
22 Evidence Number 22. Is that familiar?

23 A: Yes, ma'am.

24 Q: Can you show this jury on this where Turk's Place is and
25 where Veronica's house is?

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1 A: So, this -- I believe this blue building, I think that's
2 Turk's Spot, and this is the driveway that you can -- like the
3 parking area that you'll see in the video. And Veronica's
4 house is directly next to it. And Victim: H.G. was somewhere down
5 the road in this area.

6 Q: Okay. So, her house, Turk's Place, and Victim: H.G. body
7 were all on Redenbo?

8 A: Correct.

9 Q: All right there together on the dirt road?

10 A: Correct.

11 Q: Okay. And about what time did you go to Veronica's house
12 to watch the surveillance footage?

13 A: Shortly after 6:00 a.m., I think.

14 Q: Okay. So, pretty close in time to when the murder
15 happened?

16 A: Yeah, it was -- it was pretty much immediately when the
17 murder happened, they sent out a group text to anybody that
18 can respond, and so we went immediately following the murder.

19 Q: Okay. Now, Mr. Kelly, did you watch the surveillance
20 footage while you were at the house?

21 A: I did.

22 Q: Okay. And did you record the portions that you watched
23 on your body camera?

24 A: I did.

25 Q: Okay. Now, I want you to -- don't -- you can't tell me

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1 what somebody else told you, just tell me what you saw when
2 you watched the video surveillance at Veronica's house.
3 A: I saw -- I went towards the end to look for the victim,
4 to see when he left to try to figure out and backtrack from
5 there to try to figure out what might have occurred. He left
6 shortly after -- on the timestamp it was after 8 o'clock, on
7 the timestamp of the video, but again it's four hours fast, so
8 it was actually like 4:00ish in the morning. I observed the
9 victim walk out of the club and cut to the left towards
10 Veronica's house and take a long way around the road as there
11 was two other people standing next to two vehicles. One was a
12 white -- I believe a white Charger, and one was a red Hyundai.
13 I wasn't quite sure that it was a red Hyundai at the time; it
14 looked like a Hyundai. I believe I referred to it as maybe an
15 Altima initially, because it's kind of at a distance. From
16 there, I see Victim: H.G. walk down the street, and it's not well
17 lit and the distance that it is, he got down the street, the
18 red Charger drives off -- excuse me -- the white Charger
19 drives off. And then the person standing next to the red
20 Hyundai is the only one that I observed in or around that car,
21 gets into that car, drives down the road, comes to a stop, and
22 then maybe a minute or so later drives off with his lights
23 blacked out, and then kicks them back on.

24 MR. BROOKER: Your Honor, I'm gonna make an objection at
25 this time. And obviously is is that I understand the

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1 preliminary questions for purposes of trying to -- trying to
2 establish a foundation of getting the video in. I think what
3 the witnesses doing right now is is that he is interpreting
4 the video for the jury, and of course is is that the jury's
5 interpretation of that video may be completely different from
6 his, and I think it is inappropriate for him to do that.

7 THE COURT: Ladies and gentlemen, you're going to see the
8 video yourself, and so of course you can interpret it with
9 your own eyes of what you see on the video.

10 But I'm gonna allow the question. Thank you.

11 MS. LIVESAY: Thank you, Judge.

12 BY MS. LIVESAY:

13 Q: And again, this is what you saw when you watched it.

14 A: This is what I saw. So, based on the last known location
15 on the video of Victim: H.G. walking pretty much in the area where
16 he was found, and a vehicle that went -- had to go in that
17 same direction because it's only -- there's only one exit to
18 the street, but it did appear to me to stop in the general
19 area. That piqued my interest, and at that point I started
20 backtracking from that person focusing in on that person. And
21 through investigation, we determined that the person in the
22 video was -- had a street name of Juicy, or Juicy Fruit. And
23 I reached out to another officer that is well acquainted with
24 people from that area and was familiar with that area, and he
25 was able ---

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1 Q: Let me ask you this.

2 A: Yes, ma'am.

3 Q: Before we get too far off of the video. So, you watched
4 this portion of the video?

5 A: Yes, ma'am.

6 Q: And do you just stop then, or do you try to look at other
7 portions of the video?

8 A: I -- as I said, I just started to go back in the footage
9 to try to see when people arrived, when the vehicles got
10 there, because at that point I wanted to know if the person in
11 the red car, if they arrived alone or if anybody was with
12 them. So, when I jumped forward through the video, I observed
13 the vehicle arrive around 1:00 a.m., and only one person
14 exited the vehicle. It's in such a position in the Windows
15 are not tinted, that you could -- I could see that there did
16 not appear to be any movement in the vehicle. So, I did not
17 suspect anybody was in the vehicle with him.

18 Q: Okay.

19 A: Other than the driver.

20 Q: Okay. So, what did you watch; what did you see?

21 A: I saw that person come out and interact in the club. A
22 short time later the white Charger, who he was speaking to,
23 arrives. Investigation determined that that person went --
24 was known as Roy Vereen.

25 MR. BROOKER: Objection, Your Honor.

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1 THE COURT: That's sustained.

2 BY MS. LIVESAY:

3 Q: Just tell me what you saw. Did you -- what did you see?
4 Did you see who ultimately got in the red car?

5 A: Yes. I saw the person that come out of the red car had a
6 distinctive jacket on that had two or three white stripes
7 running down the length of the sleeve. And when that person
8 came onto the porch, that's when we determined that it was a
9 person that goes by the street name Juicy Fruit.

10 MR. BROOKER: Objection, Your Honor. He's testifying to
11 what someone else told him; that's hearsay.

12 THE COURT: That's sustained.

13 BY MS. LIVESAY:

14 Q: Now, once you watched the video, did you ultimately
15 download the video?

16 A: We did. Detective Brantley physically downloaded it.

17 Q: Okay. And did you watch the video again?

18 A: I did.

19 Q: And in your report does it include when you saw the
20 victim and the defendant on the video?

21 A: I'm sorry. Say that again.

22 Q: Does your report document when you saw the victim and the
23 defendant on the surveillance video?

24 A: Yes.

25 STATE'S EXHIBIT NUMBER 20

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1 MARKED FOR IDENTIFICATION

2 Q: Okay. Now, I'm gonna show you what's been marked as
3 State's Exhibit Number 20. Do you recognize it?

4 A: Yes, ma'am.

5 Q: And what is it?

6 A: This is a disc of surveillance footage review. Is this
7 -- I'm not sure -- is this the bodycam or the actual footage
8 from the ---

9 Q: Okay.

10 A: It is a -- like I said, it's a CDV of mine surveillance
11 review.

12 Q: Okay. So, that would be your review of watching the
13 surveillance footage?

14 A: Correct.

15 Q: And did you initial it?

16 A: I did.

17 Q: And why did you initial it?

18 A: To verify that it was as I took the video. It hadn't
19 been altered.

20 Q: Okay. And that indeed is your review of the surveillance
21 footage?

22 A: Correct.

23 Q: And you viewed it, and it hadn't been tampered with in
24 any form or fashion?

25 A: Correct.

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1 MS. LIVESAY: At this time, the state wishes to enter
2 State's Exhibit Number 20 and publish it to the jury.

3 MR. BROOKER: Your Honor, we would object, and I'll say
4 this, and I don't think we'll have to remove the jury from the
5 courtroom. It's my understanding is is that -- is that
6 State's Exhibit Number 20 is actually the officer's bodycam
7 recording of the actual video. Also understanding is is that
8 they have an actual recording of the video. We would object,
9 one, based upon the officers, I think, bodycam -- bodycam
10 footage of the video actually has commentary, and of course is
11 is that it is not the best evidence, which means that this is
12 not a copy of the actual disc. They have a copy of the actual
13 disc, and of course is, if they have a copy of the actual
14 disc, I think it satisfies the best evidence rule, and of
15 course it does not have the commentary from the officers and
16 of course all the people that's there. And so, we would
17 object to at least this video, at least the officer's bodycam
18 copy of the video, because, one, they had an actual -- an
19 actual copy of the actual video from the equipment, and then
20 of course is that that copy does not have the commentary from
21 all the people that were in the room at the time in which he
22 was copying this. And so, we would ask at least if that the
23 actual copy that they took of the actual video be the one that
24 be entered into evidence as opposed to the second version from
25 his bodycam video that had ---

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1 THE COURT: I'll sustain your objection.

2 Ms. Livesay?

3 MS. LIVESAY: I'm sorry, Judge?

4 THE COURT: Do you want to respond?

5 MS. LIVESAY: I'm sorry?

6 THE COURT: Do you want to respond to his objection?

7 MS. LIVESAY: Just briefly, Your Honor.

8 First of all, this is the best evidence because actually,
9 when the tape got downloaded, portions of it were compressed,
10 which means the portions are speeded up and slowed down. The
11 whole reason we're trying to enter this -- and I can ask Mr.
12 Kelly a few more questions to put it on the record. But, this
13 was the best evidence, because once it got downloaded, it got
14 slightly compressed, which means some portions of the video
15 were in hyperspeed. So, this really is the best evidence
16 because this shows it playing off of her actual home
17 surveillance footage, and it has not been compressed or
18 copied.

19 THE COURT: Okay.

20 Yes, sir?

21 MR. BROOKER: I'm sorry, Your Honor. If you need to go
22 ahead and ask your question, I wanted to at least add one more
23 thing at least to my objection.

24 THE COURT: Sure.

25 MR. BROOKER: And of course, it was actually pertaining

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1 to that. I make another objection as to reason why this would
2 not be best evidence. Of course, the reason why this would
3 not be because my understanding is that on the officer's
4 bodycam recording of this video that actually the video is
5 being manipulated, which means that they're speeding up,
6 they're and slowing down. They are going through, I guess,
7 sections of the video that if it is entered into evidence,
8 then of course it would not be the complete video. So, we are
9 then, at least the defense, we are left simply to accept the
10 narrated version of that video as it was narrated by the
11 officer at that scene when they are speeding up, simply
12 capturing the portions of that video that they think is
13 relevant to them. It is not a -- it's not the complete video.

14 MS. LIVESAY: Your Honor, the video is four hours long.
15 The portions that we have are the portions that are relevant,
16 that are showing when the victim arrives, when the defendant
17 arrives, when the victim leaves, when the defendant leaves.
18 I'm going to play the portion and publish the portion I
19 believe to be relevant. If the Court wishes, I have no issue
20 with putting the entire four-hour footage into evidence. And
21 Mr. Brooker can publish whatever other portions he deems to be
22 relevant.

23 THE COURT: Okay. Can I get y'all to approach just a
24 moment?

25 (REPORTER'S NOTE: Bench conference is held off the record in

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1 the presence but outside the hearing of the jury.)

2 THE COURT: So, Mr. Brooker, your objection is sustained
3 to the extent that any commentary made during the audio would
4 not be appropriate. So, we're going to allow the video
5 without sound, because my understanding is the original video
6 surveillance did not have audio with it.

7 MS. LIVESAY: That's right.

8 MR. HELMS: That's correct.

9 STATE'S EXHIBIT NUMBER 20

10 ADMITTED INTO EVIDENCE

11 (REPORTER'S NOTE: State's Exhibit 20 published for the jury
12 without audio.)

13 BY MS. LIVESAY:

14 Q: Mr. Kelly, if you don't mind. Take a seat back in the
15 witness stand. Thank you, sir.

16 What we watched, does that conclude what you watched at
17 Ms. Veronica's house?

18 A: Yes, ma'am.

19 Q: Okay. And did you ultimately download the completion of
20 the -- all of the video?

21 A: Detective Brantley was able to download it, and then I
22 reviewed it in its totality at the office.

23 Q: And did you document when you saw the defendant and the
24 victim on the surveillance footage?

25 A: I did.

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1 Q: And did you include that in your report?

2 A: I did.

3 STATE'S EXHIBIT NUMBER 19

4 MARKED FOR IDENTIFICATION

5 Q: Okay. Now, I'm gonna show you now what's been marked as
6 State's Exhibit Number 19 that's titled club video. Did you
7 watch the video showing the clips of the defendant and the
8 victim at the location of Turk's?

9 A: I did.

10 Q: And did you watch those clips showing the portions of
11 when the defendant arrives, when the victim arrives, when the
12 defendant left, and when the victim left?

13 A: I did.

14 Q: Okay. And were those clips off the original surveillance
15 footage?

16 A: They were.

17 Q: Okay. And did they accurately depict the clips from your
18 report?

19 A: They did with the exception of when it got downloaded
20 somehow some of them play at a faster speed than one second
21 for one second.

22 Q: Okay.

23 A: And some of them play at a slower speed. It's hard to
24 determine real time. It doesn't have a timestamp on the
25 actual video clips other than the fact that the file name is

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1 the date and time that that file starts. So, you can get a
2 general idea, but you don't have an exact time.

3 Q: Okay. So, it shows the victim and the defendant but
4 because it was downloaded or copied, some of it was sped up,
5 some of it was slowed down.

6 A: Correct. But it does accurately portray the footage that
7 I observed that coincides, just some of it is at a different
8 speed.

9 Q: I understand. And does it show it in the order from
10 beginning to end?

11 A: It does.

12 Q: Of them arriving and leaving?

13 A: Chronologically, uh-huh, (affirmative response).

14 Q: And had it been altered in any form or fashion other than
15 the fact that it does kind of speed up and slow down?

16 A: No.

17 Q: And was that any doing of yours?

18 A: No.

19 Q: Okay. That was just from the fact that it had to be
20 downloaded and portions of it got compressed?

21 A: Correct. And the other times that we have downloaded
22 that system, it had the same result.

23 Q: Okay. And is that why you used your body camera?

24 A: I did the body camera mainly in case we weren't able to
25 download it.

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1 Q: I understand.

2 A: Of if it somehow got erased since it was readily
3 available at that moment, I did the bodycam to preserve it in
4 case it would get erased while we tried to download it.

5 Q: I understand. And do you recognize Exhibit 19 as the
6 clip showing the defendant arriving, victim, and then them
7 leaving?

8 A: I do.

9 MS. LIVESAY: Your Honor, at this time, the state wishes
10 to put 19 into evidence and publish it at the appropriate
11 time.

12 THE COURT: You're not publishing it now?

13 MS. LIVESAY: Yes, ma'am. I've got a few questions and
14 then, yes, ma'am.

15 MR. BROOKER: We would object, Your Honor, based upon two
16 grounds. And of course, those two grounds is that obviously
17 this is fungible evidence that they have to establish a chain
18 of evidence with respect to this. My understanding is, and I
19 think there was testimony, that there was an Officer Brantley
20 who actually took possession of this video recording device
21 and actually, I guess, engaged in a process of trying to
22 download the video device, and of course is is that so there
23 is not a complete -- there is not a chain of custody with
24 respect to this very fungible evidence. And of course, the
25 second objection would be is that I think the officer

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1 testified that the -- I guess the software or either the
2 machine that they used in order to download or copy the
3 original, that it malfunctioned in some way and it alters the
4 copy. And so this is not an original version. It is not an
5 original version or a copy of the original version of the
6 video. And of course, because it has been altered, Your
7 Honor, is that we would argue that it is not admissible.

8 THE COURT: You want to respond?

9 MS. LIVESAY: Yes, Your Honor, just very briefly.

10 First of all, Mr. Brooker is saying this is fungible
11 evidence, and that's just absolutely incorrect. Fungible
12 evidence would be something like DNA or a drug, something
13 that's a white powdered substance. The reason it requires a
14 complete chain of custody is because it's not readily
15 identifiable on its face. Something that would be non-
16 fungible, like this video, would be a video, it would be tool
17 markings, it would be a handgun because it has a serial
18 number, it would be a phone because it hasn't IMEI number.
19 It's anything that's readily identifiable. Something that you
20 can look at and say, yes, this is what I purport to be. So,
21 it is clearly nonfungible. Fungible is something that this
22 officer couldn't look at and say that's what it is. Clearly,
23 it nonfungible. As to the chain, we just viewed portions of
24 the video that was Sean at the house of the young lady who had
25 the video surveillance. All this is is those clips put into

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1 order. When we watched it, we watched it from back to front.
2 They watched when the incident occurred, then they followed
3 that vehicle backwards to see who got out of the vehicle.

4 This ---

5 THE COURT: Let me get y'all to approach just a minute.

6 (REPORTER'S NOTE: Bench conference is held off the record in
7 the presence but outside the hearing of the jury.)

8 BY THE COURT:

9 THE COURT: Okay. Ladies and gentlemen, ordinarily we
10 try not to interrupt the testimony of a witness to break for
11 lunch, but we're gonna make an exception to that today so that
12 we are not keeping you too late before we break for lunch.
13 And we have a couple of issues where gonna take up outside
14 your presence. So, I'm gonna go ahead and release you for
15 lunch. I'm gonna ask ---

16 Do you think we need till 2:30?

17 MS. LIVESAY: Two o'clock is fine with us if it works for
18 y'all. Or whatever is fine with me.

19 MR. HELMS: That'd be fine, Your Honor.

20 THE COURT: I just want to have -- make sure that y'all
21 have time for lunch.

22 MR. HELMS: That'll be plenty for us.

23 THE COURT: Okay. We will resume at 2:30. Why don't we
24 say 2:20, that gives you an hour and a half, and we will do
25 our best to resume right at 2:20. And I know y'all don't need

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1 an hour and a half, but again, we have a few issues of law we
2 need to take up, and then I need to make sure that they get
3 some lunch as well.

4 We'll see you back at 2:20.

5 (REPORTER'S NOTE: Jury exits courtroom @ 12:48 p.m. The
6 following takes place outside the presence of the jury.)

7 THE COURT: Okay. I guess we can maybe do that now
8 before y'all break for lunch. You said it's about 20 minutes.

9 MS. LIVESAY: Okay. Sure.

10 MR. HELMS: Yes, ma'am.

11 THE COURT: Do I need to see this or are you just gonna
12 show it to ---

13 MS. LIVESAY: Sure.

14 MR. HELMS: Well, does the Judge need to see the tape?

15 MS. LIVESAY: I don't know, Judge. That's up to you.

16 The tape is gonna be basically what you just saw just put
17 together. And those, like I say, the timestamp and the camera
18 view is on the recording.

19 THE COURT: Okay.

20 MS. LIVESAY: There's no sound, but I don't mind playing
21 it.

22 THE COURT: And again, that -- this is not from the
23 bodycam, this is from the original video?

24 MR. HELMS: That's right.

25 MS. LIVESAY: Right.

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1 THE COURT: Okay. Then I'm gonna -- let's go ahead and
2 adjourn, and I'll let y'all take a look during the break, so
3 you can review it.

4 MS. LIVESAY: Thank you, Judge.

5 MR. BROOKER: Thank you.

6 THE COURT: Thank you.

7 **RECESS - 12:50 P.M.**

8 *****OFF THE RECORD*****

9 **ON THE RECORD - 2:31 P.M.**

10 (REPORTER'S NOTE: The following takes place outside the
11 presence of the jury.)

12 THE COURT: Okay. We have a jury foreperson. Juror
13 Number 56, Kathleen Cardamone.

14 Okay. You've had a chance, Mr. Brooker, to look at the
15 video in the break?

16 MR. BROOKER: Yes, Your Honor. I did have a chance to
17 look at it, and of course my objections to it still remain the
18 same. Apparently, what this is, my understanding is is that
19 this is a -- this is a -- footage taken from the original.
20 And of course, after looking at it is is that the evidence of
21 footage appear not to be, I guess, the original footage. And
22 I can -- I say that because of one reason. One reason that --
23 I think it's clear, and that is that actually the motion of
24 the video. The motion of the video actually slows down, and
25 of course it accelerates, and it of course it slows down at

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1 times. And so, it changes the perception of the video, it
2 changes the timing. For example, you know, I think at the end
3 of the video where the red car of interest is leaving from the
4 club and it drives up the driveway, and then of course
5 purportedly stops, that video of that particular instance it
6 sped up. I think on the original, that car, I think, stops
7 and sits there for well over a minute, somewhere between one
8 to two minutes. The video is altered, and so the speed is
9 sped up, and so that time period is much quicker. In addition
10 to that, Your Honor, there is no way in the world that I can
11 determine whether or not there is other alterations, several
12 small alterations in the video, and whether or not there is
13 small nuance changes with respect to events that may be a
14 second or two. When you're dealing with a video like that,
15 it's almost impossible to tell. I know, you know, because
16 this video is altered and amended in that way, Your Honor, is
17 that there is no way that someone can testify that every last
18 bit of that video is as the same as the original. And
19 specifically in light of the fact that I think that Officer
20 Kelly testified that the equipment that they were using to
21 make these copies, that that equipment was not working
22 properly, and I think, think Solicitor Livesay also said the
23 same thing with respect to the original version of the copy,
24 that the software for either the equipment itself have altered
25 the copy that they intend to enter in the record, and which it

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1 has made changes ---

2 THE COURT: When you say altered, does -- what I
3 understood the solicitor to say was that the speed was
4 different from the original. So, my feeling would be that it
5 would be consistently fast or consistently slow. I guess what
6 I am concerned with is it seems like it's central as to when
7 you see that car leave, when it stops, and for how long it
8 stops. So, what I need to know is what you're getting ready
9 to show the jury, has that been altered to slow it or to speed
10 it up at certain intervals to emphasize certain portions?

11 MS. LIVESAY: Absolutely not. And in fact, what Mr.
12 Kelly explained earlier, and that I was trying to explain to
13 Mr. Brooker, the whole reason we wanted to play his body
14 camera to show what it looked like on the actual -- at
15 Veronica's house on the original system was because when they
16 did copy it, it did cause, like Mr. Kelly said, some parts
17 sped up, some parts slow down.

18 THE COURT: But when you say -- so, it had four screens
19 that were showing, four different viewpoints, I guess.

20 MS. LIVESAY: They are put together, so it's like
21 watching a movie, but they are put together off the original
22 copy. Our office nor the police department has altered the
23 copy at all. It was just when it was copied for some reason
24 some portions were compressed so they go faster, but nobody
25 altered the tape. The police -- and I can ask him on the

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1 stand, but nobody has altered the tape at all. That tape,
2 those clips, are off the original that they took straight from
3 Veronica's house, the copy they took straight from her house
4 and took to the police department. We then -- they copied it
5 for us, and then we created those clips, and we handed over
6 the original to Mr. Brooker. But nobody has altered anything.
7 That is the copy that we got from her original system. But
8 that is why we wanted to play the body camera footage, and
9 that's why I asked him about it because I wanted the jury to
10 know something did happen in the copying process. But the
11 substance of what's going on is identical. Who's there,
12 coming, going; all of that is identical.

13 THE COURT: Okay.

14 MR. BROOKER: But see, Your Honor, and that puts -- that
15 puts the defense in a difficult position. And the reason why
16 it puts the defense in a difficult position, and I think
17 probably this is the reason why that they have the best
18 evidence rule, and that is that the state can tell me that the
19 copy, the copy has not been altered from the original version.
20 I have never seen the original version. I have to accept
21 their word on it.

22 THE COURT: Well, I understand they've given you a copy
23 of the downloaded disk that has the full video.

24 MR. BROOKER: They gave me a copy -- they gave me, I
25 think, the copy that they made of the original. I think what

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1 their testimony was is that the copy that they made of the
2 original, that the speeds vary. That it changes where
3 sometimes it speeds up, sometimes it slows down. I think
4 that's the whole purpose of the best evidence rule, and that
5 is if you've got the original to bring the original, because I
6 have to take her word and so do you that the copy has not been
7 altered in any way. And specifically, when you're talking
8 about something that is fungible, video is fungible. I've got
9 a software right now in my system where I can cut-and-paste
10 and change video just like that. And so, that's the reason
11 for the best evidence rule.

12 THE COURT: What are you saying would be the best
13 evidence, the actual DVR player from the club?

14 MR. BROOKER: The actual -- the actual ---

15 THE COURT: Because they're -- what I understand is they
16 are producing what they were able to download from the DVR.

17 MR. BROOKER: Absolutely -- you're absolutely right,
18 Judge. But what I'm talking about is is that normally
19 whenever you're producing a copy and that copy is identical to
20 the original, there has been absolutely no alterations from
21 the original whatsoever. And of course, you know, they're
22 someone who is able to testify to that and verify, you know,
23 an expert who does this sort of stuff. And maybe under those
24 particular circumstances, you might have at least confidence
25 that the copy is just as good as the original. But in this

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1 particular situation, I think Officer Kelly has already
2 testified to that the -- that either the software or either
3 the machine that they were using for making these copies, you
4 know, that it was malfunctioning in a way in which of course
5 it's inadvertently suppressed these files, speeds up some
6 parts of the file, slows them down. That's what we know of.
7 But of course is that whether or not it made any -- whether or
8 not this software or this equipment made any other subtle
9 changes, changes when it was -- when it's copying the original
10 on -- when it's making a copy of the original, we don't know
11 that. I don't know that. I can't verify that. I have to
12 accept their word for that. And so does the Court and so does
13 everyone else. So, when the state says, hey, I am telling you
14 this is the original, then of course, what they're asking me
15 to do is is to basically negate my responsibility as an
16 attorney to make sure, you know, that that they purports as
17 this copy is identical to the original. I can't say that,
18 Your Honor. And in fairness, Your Honor, neither can you who
19 has the -- I guess, the obligation of making sure that's
20 what's being introduced has not been altered or changed in any
21 way. But we can't verify that. We have to accept their word
22 that, hey, there has been no alterations to the copy except
23 these minor changes that the system -- that the device or
24 either the software that they've been using to generate this
25 copy, it created these minor changes. That caused me

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1 tremendous concern.

2 THE COURT: Okay. I understand your position. I'm gonna
3 allow the video, laying the proper foundation as to the fact
4 that the speed is faster or slower. If there are any --
5 certainly any other portions that you want the jury to see,
6 then I think that's a hundred percent within your right to
7 have them see more than just the portion that the state is
8 showing. My concern was that the state had not artificially
9 slowed certain portions to emphasis certain portions or making
10 it appear that the car stopped for longer than it did or
11 something along those lines. But subject to the testimony
12 that we've already heard -- and I don't mean like with a
13 nefarious intent, I just mean so that the jury -- when we just
14 watched it, obviously, the officers, as part of their
15 investigation are backing up and moving forward.

16 MS. LIVESAY: I understand.

17 THE COURT: Just that the tape is just playing out in
18 whatever real time it plays out.

19 MS. LIVESAY: I understand.

20 THE COURT: So, that's my ruling.

21 MR. BROOKER: May I ask a question, Your Honor. Is that
22 ruling with respect to the -- I guess to the original, I
23 think, video that they intended to enter into evidence? I
24 think that would be -- is it 20?

25 MS. LIVESAY: I'm gonna introduce -- I was gonna

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1 introduce both, Judge. It's gonna be -- I thought I had them
2 both up here. I do. 19 and 21. If you look, 21 is gonna be
3 this thumb drive, and that's all the hours of the footage.
4 So, that way, if whatever you need, this is all of it. And
5 then I was gonna enter 19, which is gonna be the clips that we
6 saw from the body camera. And those are also the clips that
7 are noted in Detective Kelly's police report.

8 THE COURT: And when you say -- 19 is the clips from the
9 body camera or it's clips from the original?

10 MS. LIVESAY: It's the same. All Detective Kelly did was
11 go back, watch it, and then itemize this is when the victim
12 arrives, this is when the defendant arrives, this is ---

13 THE COURT: Okay. Still I'm not understanding. It's
14 clips from State's Exhibit 20 or it's clips from State's
15 Exhibit 21.

16 MS. LIVESAY: Yes. The -- 21 is gonna be the entire
17 video, all camera views for four hours. So, that way, any
18 portion he wants to play, he's gonna have it right here.

19 And 19 is just the portion showing when the victim and
20 the defendant arrive. They're there. You see them on the
21 porch. And then it shows when they leave.

22 MR. BROOKER: And I think that ---

23 THE COURT: I understand -- I understand what you're
24 saying. But is it clips from his body camera?

25 MS. LIVESAY: No, from the original.

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1 THE COURT: It's from the original. Okay. That's what I
2 wanted ---

3 MS. LIVESAY: Yes, ma'am.

4 MR. BROOKER: And that was my question is is that -- is
5 that ruling with respect to both of these, with respect to 19
6 as well, too, Your Honor?

7 THE COURT: Yes, sir.

8 MR. BROOKER: Okay.

9 MS. LIVESAY: And if you look -- if Mr. Brooker looks,
10 you can see even on some of the other portions, for some
11 reason it is kind of fast and slow. It's not just these
12 portions. It's all of it.

13 MR. BROOKER: I know, and that was my concern is that
14 when I looked at 19 during lunch, and of course at the very
15 end, it's visibly noticeable that it's speed up, because you
16 see a -- you see a dog there, and of course, the dog is
17 running at artificial -- the dog is running at an artificial
18 speed, which means that the video has been sped up. And of
19 course, the time period where the jury may think is
20 significant between the time in which that car stops, where
21 they allege that the shooting took place, that is a critical
22 moment as to how long that car sits there. And of course is
23 is that if it's been sped up to suggest that that car sat
24 there for -- that car sat there for 30 seconds, as opposed to
25 sitting there for 90 seconds, it makes a difference. And

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1 that's where it has been changed.

2 MS. LIVESAY: No, it hasn't been changed.

3 THE COURT: Okay. Well, that's my ruling. And I
4 understand your position. I guess I'd be more concerned if it
5 artificially slowed so it appeared that your client's car
6 stopped there for longer than it actually did. That would be
7 more concerning to me. But I think with the proper foundation
8 that it's admissible.

9 Okay. We're ready for the jury.

10 THE COURT REPORTER: Okay. So, for the record, 19 and 21
11 are in?

12 THE COURT: I don't know if she's offered it on the
13 record yet. I think she offered 19 on the record. And I'm
14 ruling that 19 is in. I don't think she's offered 21 yet on
15 the record.

16 STATE'S EXHIBIT NUMBER 19

17 ADMITTED INTO EVIDENCE

18 MR. BROOKER: Just for a quick -- before they come in,
19 Your Honor, we'd also I think made a motion in reference to
20 chain of custody. I don't know if you've made a ruling on
21 that specifically with respect to the original document -- the
22 original, I think, which is State's 21, I think is the
23 original thumb drive.

24 MS. LIVESAY: It's the copy of the thumb drive that they
25 downloaded from Veronica's house.

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BY THE COURT

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1 MR. BROOKER: That's State's 21; is that correct?

2 MS. LIVESAY: Yes.

3 MR. BROOKER: And of course is that I think that that
4 video was downloaded by the detective, I think, Brantley. And
5 of course, we made a motion to exclude that on the grounds of
6 which because it is fungible evidence, and fungible means
7 something that can be easily changed, that the -- I think the
8 rule says is if it's fungible, then of course the rules is a
9 little bit more stringent and strict with respect to
10 establishing a chain of custody as opposed to if it's
11 nonfungible, something like a gun, you know, that you cannot
12 easily change the -- you know, the makeup or the material of a
13 gun. It's pretty difficult to do. It's an extremely solid
14 object. But this is -- this is pixels and, you know, video
15 footage that can be manipulated extremely easily.

16 THE COURT: I understand your objection. I think that
17 this officer, who is -- did view the video from the original
18 source, can lay the proper foundation. I don't think you had
19 offered 21 yet before we broke. You were offering 19, but I
20 understand you're making the same objection when they offer
21 21.

22 MR. BROOKER: Yes, ma'am.

23 THE COURT: And again, I do think it's admissible.

24 Thank you.

25 STATE'S EXHIBIT NUMBER 21

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JONATHAN KELLY - DIRECT BY LIVESAY

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1 ADMITTED INTO EVIDENCE

2 (REPORTER'S NOTE: Jury enters courtroom @ 2:49 p.m.)

3 THE COURT: Yes, ma'am.

4 MS. LIVESAY: Thank you, Judge.

5 CONTINUATION OF DIRECT EXAMINATION OF JONATHAN KELLY BY MS.

6 LIVESAY:

7 Q: Mr. Kelly, we talked a little bit before we broke for
8 lunch, we talked about what was on Ms. Veronica's surveillance
9 footage. Do you remember that?

10 A: Yes, ma'am.

11 Q: Okay. And did you watch the video surveillance footage?

12 A: I did.

13 Q: And did you actually watch it all back in your office?

14 A: I did.

15 Q: And did you do a report?

16 A: I did.

17 Q: And does the report note when the victim and/or defendant
18 are on the surveillance footage?

19 A: It does.

20 Q: Okay. And have you seen what we have marked as the club
21 video, 19, that shows those particular portions put together?

22 A: I don't remember if I've actually watched ---

23 Q: I think I gave one copy to Mr. Brooker. Did he give it
24 back. That's gonna be the copy that he initialed. Actually,
25 what he ---

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1 A: Yeah. I can see my -- I believe I can see my initials on
2 the front of that envelope.

3 Q: Okay.

4 MS. LIVESAY: Will you mark that one for me?

5 STATE'S EXHIBIT NUMBER 23

6 MARKED FOR IDENTIFICATION

7 BY MS. LIVESAY:

8 Q: I'm showing you what's marked as State's 23. Do you
9 recognize it?

10 A: I do.

11 Q: Whose initials are on it?

12 A: Those are my initials.

13 Q: Okay. And what do those initials indicate?

14 A: That this is footage from the club video.

15 Q: Okay. And has it been tampered with to your knowledge?

16 A: No.

17 Q: Okay. Now, we talked a little bit earlier about when the
18 surveillance footage was downloaded. Did that cause you any
19 problems?

20 A: It did in the sense of I noticed while watching it
21 sometimes it appears that things are moving faster, and
22 sometimes it appears that moving slower than real time. So,
23 it was just basically random times, and there's no way for me
24 to account for that second-for-second, which is part of the
25 reason that I tried to document it with my bodycam so that it

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1 would show the second-for-second real time.

2 Q: Does anything -- the substance of it, is that at all ---

3 A: No, ma'am.

4 Q: Okay. So, just the time got compressed when you
5 downloaded it?

6 A: Correct.

7 MS. LIVESAY: Your Honor, at this time, the state wishes
8 to put 23 into evidence and publish it to the jury.

9 THE COURT: And that's the same thing we were calling 19
10 earlier?

11 MS. LIVESAY: Yes. Yes, ma'am.

12 MR. BROOKER: Subject to previous objection, Your Honor.

13 THE COURT: Subject to your objection.

14 Thank you. Yes, ma'am. 23 is admitted.

15 STATE'S EXHIBIT NUMBER 23

16 ADMITTED INTO EVIDENCE

17 (REPORTER'S NOTE: State's Exhibit 23 published for the jury
18 without audio.)

19 BY MS. LIVESAY:

20 Q: Mr. Kelly, did you see who got in the red/burgundy car?

21 A: I did.

22 Q: Don't tell me anybody's name. Do you know or did you see
23 what that person was wearing?

24 A: I did.

25 Q: What were they wearing?

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1 A: A dark, long-sleeved jacket that had stripes down the
2 side that -- stripes down the side, the white stripes are
3 really the main identifying characteristic at that distance.

4 Q: And don't tell me who, but was that person ever
5 identified?

6 A: Yes.

7 Q: And why was it necessary to identify that particular
8 person?

9 A: That was the last person or vehicle that we believe
10 passed Victim: H.G. before he was killed.

11 Q: And did you know where Victim: H.G. body was ultimately
12 located, where he went down?

13 A: Yes. I had to pass it to get to the club, so I saw where
14 he was.

15 Q: So, you did see where he was?

16 A: Uh-huh, (affirmative response).

17 Q: And where we -- did you go out there; were you on the
18 scene?

19 A: I -- when I got there, I was pretty much immediately
20 tasked with going through the surveillance, so I saw it in
21 passing. I didn't physically walk over and have anything to
22 do with that part of the scene.

23 Q: But you knew where he was located?

24 A: Correct.

25 Q: And is that where the burgundy car stops on the video?

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1 A: It's in the same vicinity.

2 MS. LIVESAY: No further questions for this witness, Your
3 Honor.

4 THE COURT: Mr. Brooker?

5 CROSS-EXAMINATION OF JONATHAN KELLY BY MR. BROOKER:

6 Q: Officer Kelly, what is your proper title?

7 A: Detective or officer is fine.

8 Q: Just detective?

9 A: Uh-huh, (affirmative response).

10 Q: Okay. I want to ask you a couple of questions in
11 reference to, I guess, your involvement in the investigation.

12 A: Yes, sir.

13 Q: And I think you indicated you are a detective?

14 A: Correct.

15 Q: Were you a detective, I think, back on June 23rd of 2020?

16 A: Yes, sir.

17 Q: How long had you been a detective at that time?

18 A: Nine months roughly.

19 Q: I know that you testified that when you came to the
20 scene, and of course you came up to the club that you had to
21 pass Mr. Goodman's body that was on the side of the road; is
22 that correct?

23 A: Correct.

24 Q: Okay. And I think when you were asked about that, and
25 you said well, you really didn't have anything to do with that

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1 part of the investigation.

2 A: Correct. We have CSI techs that would handle that.

3 Q: Okay. So, you didn't handle collection of evidence and
4 that sort of stuff?

5 A: No.

6 Q: So, you know, I'm assuming what you did is is that you
7 talked with people, and you collected the video that was just
8 shared?

9 A: Yeah. I only -- only really had conversation with two
10 people, and that was while I was reviewing the video, which
11 was the homeowner and the person that was tending the bar that
12 night.

13 Q: Okay. And let me ask you at least a couple of questions
14 in reference to the video. And I think if I'm not mistaken, I
15 think State Exhibit Number 20 was your bodycam. I think it
16 was your bodycam video or actually showing, I think, the video
17 footage from the club; is that correct?

18 A: Correct.

19 Q: And then later on that video footage from the club's
20 machines or recording devices were -- was copied; is that
21 correct?

22 A: Correct.

23 Q: Was that copied by you?

24 A: No. It was Detective Brantley, but I was present.

25 Q: Did he copy it there on the scene?

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1 A: Yes, sir.

2 Q: And I think you testified on direct examination that,
3 that either the -- the device that he was using to copy the
4 club video or either the software, that there was a problem
5 with it?

6 A: I don't know that that there was a problem with the
7 device or the software or if it's just that this DVR system
8 itself is maybe not a name brand. I honestly can't remember
9 the brand name, but their -- I don't know what particular
10 thing in the chain of technology caused the alteration of the
11 speed of the video. I can't say that it's our software or our
12 hardware. It could be something to do with the actual DVR
13 itself. I don't know.

14 Q: Is Detective Brantley, I think you said he's the one who
15 made a copy of this, is that his job? Is he an expert in this
16 area?

17 A: He has a laptop, he's one of few people that have a
18 particular laptop that has programs on it to review videos. I
19 don't know if he's qualified as an expert, but he's -- has a
20 specific laptop dedicated for that. It's not his sole
21 responsibility. That's just one thing that he's capable of,
22 because we can only install so many video programs -- video
23 viewing programs on our computers. They have to be really
24 restrictive because of the sensitive information that's on
25 them.

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1 Q: Is he trained to do that? Is he trained to -- and I
2 guess my question is, is that is he trained to know how to
3 use, I guess, his device and his software to copy another
4 video without altering that video in any way?

5 A: I would say I can't testify to his training, but it would
6 be reasonable. Generally, at the police department, you don't
7 get extra equipment unless you have training on that
8 equipment. So, it'd be a reasonable inference that he is --
9 has received some level of instruction in order to operate the
10 equipment. I don't know that that would -- I don't know that
11 that would qualify him as an expert, but ---

12 Q: Sure, I understand. And I guess what I'm trying to
13 figure out is whether or not -- whether or not he would have
14 some knowledge above than, you know, what -- I guess, any
15 other officer would, like yourself.

16 A: I think that's a reasonable inference, but I can't speak
17 to his specific training, because I don't know what he had to
18 do to get the laptop.

19 Q: Are you trained to do that work, to download videos?

20 A: I've never received any specialized training, but just --
21 my generation is literate when it comes to technology, so I'm
22 generally able to do that on my own.

23 Q: Can you tell the Court -- I know that you testified to
24 that when the video was downloaded, when this video was
25 downloaded, that for whatever reason that you can't explain,

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1 that it causes the speed of the video to change at certain
2 points, in which it speeds up certain points and which it
3 slows down, do you understand what caused that change?

4 A: I do not understand what caused that change. And this
5 particular device is the only one that I have seen do that.
6 Not to say that other ones don't, but this is the only one
7 that I have personally worked where I was able to notice that.

8 Q: Do you know whether or not the software in the device
9 that Detective Brantley was using was functioning properly?

10 A: I wouldn't have a way of hearing about that.

11 Q: And the reason why I'm asking that question is is that if
12 the speed of the video was altered in any way, and I think you
13 testified that yes the speed of the video was altered, and I
14 think if -- I think it's on State's Exhibit ---

15 MS. LIVESAY: Your Honor, at this time, I've got to
16 object. I appreciate him wanting to explain it, but this is
17 really more appropriate for questioning.

18 THE COURT: I'm gonna allow the question.

19 MR. BROOKER: Let me see what my last question was, Your
20 Honor. I've lost my train of thought for a second.

21 BY MR. BROOKER:

22 Q: I guess my question is is that I know that you testified,
23 you testified on direct examination that there was a -- that
24 there was a change in the speed; is that correct?

25 A: There is a change in the speed, correct.

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1 Q: And I think on the last video that we saw, and this was
2 the video in which there was a -- I think it's State's Exhibit
3 Number 23, if my memory serves me correct -- but that's the
4 video in which -- in which -- that's that 20-minute video in
5 which these three or four other separate videos were actually
6 put together in some sort of sequence.

7 A: Correct.

8 Q: Do you remember seeing that, that last video that we
9 played ---

10 A: Correct.

11 Q: --- that was played?

12 A: Yes, sir.

13 Q: And of course, did you see on the end of that video where
14 I think at the very end where there is a dog that's walking in
15 front of the club?

16 A: Yes, sir.

17 Q: And did you see the dog's accelerated speed?

18 A: It's plainly evident that it is faster than a one-for-one
19 ratio.

20 Q: Okay.

21 A: Yes. The dog is moving at a high rate of speed.

22 Q: And that's -- and of course is, that was done somewhere
23 during the transfer process or the copying process; is that
24 correct?

25 A: Unintentionally, yes, but that is -- had to have happened

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1 at some point in the chain of downloading and copying it.

2 Q: Now, and I'll ask you this question and you tell me if
3 you don't know. Now, you just admitted that there was a
4 physical change in the video with respect to the speed. Do
5 you know whether or not or can you testify that there was no
6 other change in the video with respect to color spectrum, with
7 respect to missing pixels, or small pixels of specific scenes?

8 A: I'm not a forensic analyst of the data images, but I
9 personally did not notice a difference.

10 Q: You didn't know the difference in shade?

11 A: I did not note a difference in shade. Would you like me
12 to answer it further. I don't know if you want me to add to
13 it. In a -- the room that I watched it in is on a TV, which
14 would also be substantially different than viewing it on a
15 monitor for a laptop. So, it may have been -- if there was a
16 color difference, I wouldn't have noticed. But if there was,
17 it could just have easily be explained by the fact that if you
18 watch one TV versus another TV, they may look slightly
19 different.

20 Q: Okay. And I'm not talking about -- like I say, you may
21 not know this and I'm asking because I don't know -- I'm
22 talking about with respect to the change in the -- I guess,
23 the minute shades or colorings, even a slightest change.
24 Would you be able to tell that scientifically?

25 A: I wouldn't.

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1 Q: And of course is is that I noticed that when the video --
2 when the video was played that everybody has kind of robotic
3 moves. Did you notice that?

4 A: Uh-huh, (affirmative response). Yeah. I believe it's
5 the frame rate. You know, if you're watching something at 60
6 frames per second, it's gonna look smooth movement,
7 surveillance -- some surveillance systems operate at a slower
8 frame per second.

9 Q: When the original -- when you were making this copy, was
10 there any change in the frame rate that you note
11 scientifically?

12 A: I didn't notice. I also wasn't paying attention for
13 that, though.

14 Q: Now, State's Exhibit Number 23, and I think I asked you
15 about this. That was this collage of these different videos
16 that you put together. Who put that together?

17 A: The solicitor's office.

18 Q: Now, if my memory is correct, I think on the -- on the
19 original surveillance recording, I think it had something like
20 three or four screens that were running simultaneously?

21 A: Correct.

22 Q: And of course, that State's Exhibit Number 23 where that
23 collage was put together, do you know if that collage or
24 collective video was put together using these three or four
25 screens, do you know how the order or the sequence was

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1 determined if these were simultaneous screens, like which
2 screen would go first, and of course which screen would be
3 placed second -- would be subsequent? Do you know how they
4 made the determination to arrange the sequence from these
5 different video footages that are running simultaneously?

6 A: When you download the footage from the DVR, it -- it's
7 basically motion activated. So, it records things in smaller
8 clips, video clips, it's not one continuous file that you can
9 click on that. So, what I saw on the TV that we just played
10 was -- appeared to me to be in chronological order of the way
11 the events happened.

12 Q: And you said appeared to be in chronological order?

13 A: Correct.

14 Q: Okay. And explain -- why do you use the word appeared to
15 be chronological order?

16 A: It just -- it looked in chronological order to me.

17 Q: Okay. It looked in chronological order?

18 A: Correct.

19 Q: You were not there when it was generated?

20 A: I was not there when that -- no, when that disc was
21 physically created, no.

22 Q: So, you can't testify to personal knowledge that it was
23 in chronological order?

24 A: I can testify that according to my notes, it looked in
25 chronological order. From my review of the video

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1 surveillance, if there was anything out of order, I did not
2 notice.

3 Q: Just a couple of more questions, I promise.

4 A: Yes, sir.

5 Q: Now, you were not a fact witness to the events that was
6 -- the events that led up to Mr. Goodman's death; is that
7 correct?

8 A: Can you ---

9 Q: I'm sorry.

10 A: What do you mean by that?

11 Q: I'm sorry. I'll rephrase that. You didn't understand
12 it, I mean, I asked ---

13 A: Right.

14 Q: You were not a fact witness to the events surrounding Mr.
15 Goodman's death; is that correct?

16 A: I observed the surveillance footage from the night of his
17 death.

18 Q: I'm talking ---

19 A: Leading up to that -- leading up to the point where he
20 walks to the dark area of the camera.

21 Q: And when I mean a fact witness, were you there?

22 A: I was not physically present at the club until after the
23 shooting occurred.

24 Q: Okay. And that's what I'm trying to establish. You were
25 not physically present at the time that this shooting took

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1 place?

2 A: Correct.

3 Q: So, so what you're doing is, and I'm assuming is, is that
4 like any other investigator is is that you come after the
5 fact, and then you collect -- you collect whatever is there
6 for you to collect; is that correct? Including this video is
7 one of the things that was collected?

8 A: Right, correct.

9 Q: And then of course is, the purpose of that is is that so
10 that you can try and put together a theory of what took place
11 that night; is that correct?

12 A: Well, gather evidence for facts, and then wherever that
13 fact pattern would lead us, that's where we go.

14 MR. BROOKER: If you can indulge me for just question --
15 just a second, Your Honor. I just want to make sure that I
16 don't have any further follow-up questions for Detective
17 Kelly.

18 BY MR. BROOKER:

19 Q: Now, not broadly -- I don't want to ask an open-ended
20 question, and this is not intended to be, I think what you've
21 -- what you've described your part of the investigation was, I
22 think you said that you talked with two persons, and then of
23 course is is that you watched this video. And then of course
24 you were -- didn't personally collect it, but was in -- was
25 present, I think, when Officer Brantley collected it, and then

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JONATHAN KELLY - REDIRECT BY LIVESAY

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1 you also had your bodycam, and you also viewed it with your
2 bodycam as you were watching it. Is that correct?

3 A: Right. Yes, sir.

4 Q: Did you have any other involvement in this investigation
5 other than what you've explained on direct examination?

6 A: Not that I recall, other than just talking about it in
7 the office, but no, not that I can recall.

8 MR. BROOKER: If you can indulge me for just a second,
9 Your Honor. Let me make sure I don't have any further
10 questions.

11 THE COURT: Yes, sir.

12 MR. BROOKER: No further questions for Investigator
13 Kelly, Your Honor.

14 THE COURT: Any redirect?

15 MS. LIVESAY: Thank you, Judge. Just a few.

16 REDIRECT EXAMINATION OF JONATHAN KELLY BY MS. LIVESAY:

17 Q: Mr. Kelly ---

18 A: Yes, ma'am.

19 Q: Did you do anything to intentionally alter the
20 surveillance footage?

21 A: No, ma'am.

22 Q: Were you present with Detective Brantley downloaded it?

23 A: Yes, ma'am.

24 Q: Did you see him do anything to intentionally alter the
25 footage?

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1 A: No, ma'am.

2 Q: Okay. The homeowner, who is the homeowner?

3 A: Veronica Jackson.

4 Q: Was she present when you downloaded it?

5 A: She was.

6 Q: Okay. And when she -- was she present when you watched
7 it with her?

8 A: Yes, ma'am.

9 Q: Okay. And so she'd be able to testify to the accuracy?

10 A: That's correct.

11 Q: Okay. Now, did you receive -- do you carry a cellphone?

12 A: I do.

13 Q: Okay. And do you carry a county-issued phone?

14 A: I do.

15 Q: Okay. And did you receive any special training on how to
16 use that phone?

17 A: No.

18 Q: And how often do you use the phone?

19 A: All day long.

20 MS. LIVESAY: No further questions for this witness, Your
21 Honor.

22 THE COURT: Anything further, Mr. Brooker?

23 MR. BROOKER: No follow-up, Your Honor.

24 THE COURT: Thank you, sir. You can step down.

25 MR. KELLY: Thank you, ma'am.

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VERONICA JACKSON - DIRECT BY LIVESAY

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1 MR. HELMS: Can Mr. Kelly be excused, Your Honor?

2 THE COURT: Any objection to Mr. Kelly being excused, Mr.
3 Brooker?

4 MR. BROOKER: I don't have any objection, Your Honor.

5 THE COURT: Thank you, sir.

6 MR. KELLY: Thank you.

7 MS. LIVESAY: You ready for the next one, Judge?

8 THE COURT: Yes.

9 MS. LIVESAY: Thank you, Your Honor. At this time, the
10 state is gonna call Veronica Jackson to the stand.

11 VERONICA JACKSON, HAVING BEEN SWORN,
12 TESTIFIED AS FOLLOWS:

13 THE CLERK: State your name and spell it for the Court.

14 MS. JACKSON: Veronica Lokesha Jackson: V-E-R-O-N-I-C-A;
15 Lokesha, L-O-K-E-S-H-A; Jackson, J-A-C-K-S-O-N.

16 DIRECT EXAMINATION OF VERONICA JACKSON BY MS. LIVESAY:

17 Q: Ms. Jackson, if you don't mind, tell this jury where you
18 live.

19 A: 4337 Rendebo Drive, Loris, South Carolina.

20 Q: And can you point to it on a map?

21 A: Uh-huh, (affirmative response).

22 Q: Okay. I'm gonna show you State's Evidence Number 22.

23 Get a look at it and get your bearings. Are you familiar with
24 that area?

25 A: Uh-huh, (affirmative response).

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VERONICA JACKSON - DIRECT BY LIVESAY

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- 1 Q: Okay. Now, if you don't mind, I want you to tell this
2 jury where your house is.
- 3 A: (Indicating.) It's right here.
- 4 Q: And where is the place that's been referred to as Turk's?
- 5 A: (Indicating.)
- 6 Q: Now, how are you involved with Turk's?
- 7 A: Well, I'm not really involved with Turk's. But it's on
8 half of my property. And Turk's Spot is on a different tax
9 map number.
- 10 Q: Okay. And do you -- are there any cameras at Turk's?
- 11 A: Yes.
- 12 Q: Okay. And does the cameras feed to a surveillance system
13 at your house?
- 14 A: Yes.
- 15 Q: Okay. And do you know Victim: H.G. [REDACTED]
- 16 A: Uh-huh, (affirmative response).
- 17 Q: Okay. You've got to say yes or -- I can see you shaking
18 your head, but this lady has got to put it in there.
- 19 A: Yes, yes.
- 20 Q: So, you know the victim Victim: H.G. [REDACTED]
- 21 A: Yes.
- 22 Q: Okay. Now, do you know Laquandian -- do you know the guy
23 sitting at that table?
- 24 A: I know him.
- 25 Q: What do you know -- what do you call him?

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1 A: I call him Juice.

2 Q: Okay. Okay. And do you remember the night that Victim: H.G.
3 was killed?

4 A: Yes.

5 Q: And have you seen the surveillance, the body camera, when
6 you met with the police and showed them the surveillance
7 footage?

8 A: Yes, but I didn't know that he had ---

9 Q: You didn't know he had a body camera?

10 A: Huh-uh, (negative response).

11 Q: I understand. But that's you on the tape?

12 A: Uh-huh, (affirmative response).

13 Q: And is that your house?

14 A: Yes.

15 Q: Okay. Now, were you in -- have I showed you the body
16 camera?

17 A: Uh-huh, (affirmative response).

18 Q: Okay. And is the body camera accurate?

19 A: Yes.

20 Q: That's what went on, that's what you saw on the video
21 surveillance?

22 A: Yes.

23 Q: Now, I'm gonna show you what's been marked as State's
24 Evidence Number 20, which is the body camera. Are your
25 initials on that folder?

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- 1 A: Yes.
- 2 Q: And did you initial saying this is accurate?
- 3 A: Yes.
- 4 Q: This is what I saw?
- 5 A: Yes.
- 6 Q: Okay. Now, I also showed you a video of clips from your
7 surveillance footage?
- 8 A: Yes.
- 9 Q: Did you watch that?
- 10 A: Yes.
- 11 Q: Okay. I'm gonna show you now State's Exhibit 19. Did
12 you initial that?
- 13 A: Yes.
- 14 Q: And were you initialing to say that was accurate?
- 15 A: Yes.
- 16 Q: Okay. So, you were sitting there when the police were
17 watching the video surveillance?
- 18 A: Yes.
- 19 Q: Okay. Now, did you see yourself at some point on the
20 surveillance?
- 21 A: Yes.
- 22 Q: Okay. And did you see Victim: H.G. on the
23 surveillance?
- 24 A: Yes.
- 25 Q: And could you point him out?

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1 A: Yes.

2 Q: Did you know some of the other people that were on the
3 surveillance tape?

4 A: Some.

5 Q: Okay. Some. Because you live in that area?

6 A: (Indicates affirmatively.)

7 Q: Okay. And could you point out who some of those people
8 were to this jury?

9 A: Yes.

10 Q: Okay.

11 THE COURT: And, ma'am, again, let me remind you to say
12 yes or no. Thank you.

13 BY MS. LIVESAY:

14 Q: Do you mind stepping down so you can see the video?

15 And do you have a problem with that, Judge?

16 THE COURT: No, that's fine.

17 MS. LIVESAY: I'll make sure she speaks up.

18 And I'm putting in there State's Evidence Number 23.

19 BY MS. LIVESAY:

20 Q: Ms. Veronica, if you don't mind, just come stand right
21 here with me and that way these folks can look along with us.

22 (REPORTER'S NOTE: State's Exhibit 23 is published for the
23 jury. No audio.)

24 MS. LIVESAY: If you don't mind, just jump over just a
25 little bit until we see when the red car gets there.

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1 BY MS. LIVESAY:

2 Q: Now, Ms. Veronica, do you see a gentleman or a male with
3 a red shirt on?

4 A: Yes.

5 Q: Maybe not yet. Hold on.

6 You see the guy with the red shirt? Do you know who that
7 is?

8 A: (Indicates affirmatively.)

9 Q: Who is it?

10 A: Sherman.

11 Q: What's his first name?

12 A: Winfred Sherman.

13 Q: Winfred Sherman. Where does he live?

14 A: He stay across on the other side.

15 Q: He lives on that road?

16 A: Uh-huh, (affirmative response).

17 Q: Did you see the guy get out of the red car?

18 A: (Indicates affirmatively.)

19 Q: Do you know who that is?

20 A: (Indicates affirmatively.)

21 Q: Who is it?

22 A: Juice.

23 Q: I didn't hear you, I'm sorry.

24 A: Juice.

25 Q: Okay. You had your back to me.

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1 And who's the guy in the red shirt?
2 A: Winfred Sherman.
3 Q: You've got to speak up, Ms. Jackson.
4 A: Winfred Sherman.
5 Q: Okay. Who's the guy walking in behind him?
6 A: Juice.
7 Q: And is that the guy that got out of the red car?
8 A: (Indicates affirmatively.)
9 Q: Could you fast-forward just a little bit until we ---
10 Do you recognize that young man walking up?
11 A: (Indicates affirmatively.)
12 Q: Who is that?
13 A: Victim: H.G.
14 Q: And this is him there?
15 A: Uh-huh, (affirmative response).
16 Q: How long have you known him?
17 A: I would probably say like three years.
18 Q: Okay. Now, tell these folks who is the guy with the
19 white tank top on, with the white shirt?
20 A: The guy -- the security guard?
21 Q: Who is it?
22 A: You're talking about the security guard?
23 Q: Yeah. The one -- what's he doing there with Victim: H.G.
24 A: Searching him.
25 Q: And does Leo search everybody before they enter the club?

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1 A: Yes.

2 MS. LIVESAY: Can you hear her?

3 BY MS. LIVESAY:

4 Q: She can hear you. Okay. Just making sure she's getting
5 that down.

6 So, he searches everybody that comes in the club?

7 A: Yes.

8 Q: Okay. And there's a woman, too, that I see kind of
9 patting people down. Who is that?

10 A: That's his girlfriend.

11 Q: You see them?

12 A: (Indicates affirmatively.)

13 Q: And is that Leo's wife?

14 A: Yes.

15 Q: Now, how many camera views are there on the surveillance
16 footage?

17 A: There's a couple.

18 Q: How many?

19 A: There's a couple.

20 Q: Okay. And are we looking at them now? Are these
21 pictures off your surveillance footage?

22 A: Yes.

23 Q: Okay. And tell me about the cameras. Can you see them,
24 are they visible?

25 A: Yes. You can see them.

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1 Q: Okay. So, when people walk in there, do they know their
2 own camera?

3 A: Some of them thought it was fake.

4 Q: Some people think it's fake?

5 A: Uh-huh, (affirmative response).

6 Q: Okay. If you don't mind -- have a seat. Thank you for
7 that. And I've got a few more questions.

8 In that video we just looked at, have you seen it before?

9 A: Yes.

10 Q: And who showed it to you?

11 A: The officer that came into view it. I wanted to know who
12 was the person that -- what happened. So, I was like, well, I
13 got cameras ---

14 Q: Hold on. Hold on. Don't get all into that, Ms. Jackson.
15 Let me ask you something.

16 This video footage, did it come off of your video
17 cameras?

18 A: Yes.

19 Q: And you've seen it before?

20 A: Yes.

21 Q: And has it ever, to your knowledge, been altered?

22 A: No.

23 Q: And when you watched it, substance of it, was it altered?

24 A: No.

25 Q: The same stuff you saw at your house?

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1 A: Yes.

2 Q: Okay. Now, that red car that you saw Juice get out of,
3 had you seen that car before?

4 A: No.

5 Q: Okay. And do you see Juice in the courtroom today?

6 A: Yes.

7 MR. BROOKER: Objection, Your Honor. We need to
8 approach.

9 THE COURT: Sure.

10 (REPORTER'S NOTE: Bench conference is held off the record in
11 the presence but outside the hearing of the jury.)

12 BY MS. LIVESAY:

13 Q: Ms. Jackson, I'm gonna back up a little bit. The video
14 we just watched, did it come off your surveillance footage?

15 A: Yes.

16 Q: And were you able to identify several folks in the video?

17 A: Yes.

18 Q: And were you able to identify who got out of the red car?

19 A: Yes.

20 Q: Who got out of the red car?

21 A: Juice.

22 Q: Okay. It's okay. I know I'm -- I'm just trying to get
23 us back on track. Is Juice ---

24 THE COURT: Can you just clarify ---

25 Q: --- in the courtroom today?

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VERONICA JACKSON - DIRECT BY LIVESAY

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1 A: Yes.

2 Q: Where is he?

3 THE COURT: Can you just clarify, when you say got out of
4 the red car, at what point?

5 MS. LIVESAY: Okay. I'm sorry. Yes.

6 BY MS. LIVESAY:

7 Q: At what point did you see and know that Juice was the one
8 that got out of the red car?

9 A: Because he shook -- he shook Winfred Sherman hand and
10 they both walked onto the club's porch.

11 Q: So, when you saw them walk onto the porch, you knew the
12 guy in the red shirt, and you know the guy that was walking
13 right behind him?

14 A: Yes.

15 Q: And you identified the guy behind him as Juice?

16 A: Uh-huh, (affirmative response).

17 Q: Is Juice in the courtroom today?

18 A: Yes.

19 Q: Where is he?

20 A: (Indicating.)

21 Q: Sitting at that table with Mr. Brooker?

22 A: Yes.

23 Q: Okay. How long had you known the victim Victim: H.G.

24 A: I know Victim: H.G. about three years.

25 Q: Okay. And I saw him walking on the video, did he have a

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1 car?

2 A: I don't quite remember at that time did he have a
3 vehicle, because he wouldn't have been walking if he had a
4 vehicle, so I know definitely he didn't have a vehicle at the
5 time.

6 Q: Okay. And so, he was walking to the club, walking from
7 it?

8 A: Yes.

9 Q: And did you want to come to court today?

10 A: No.

11 Q: Okay. And the office I work for, the solicitor's office,
12 do you like our office?

13 A: No.

14 Q: It's all right. I'm not gonna take personally, Ms.
15 Jackson.

16 Now, but you are here?

17 A: I'm here.

18 Q: Okay. And you did give them people your surveillance
19 footage?

20 A: I did.

21 Q: Okay. And now, tell these folks why don't you want to be
22 here?

23 A: Cause I'm a peaceful person, and I don't like to be in
24 drama or being pointed at as a snitch or being -- my family
25 being in danger or anything like that. I just -- it's not

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VERONICA JACKSON - CROSS BY BROOKER

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1 like I'm afraid, but I just don't ---

2 MR. BROOKER: Objection, Your Honor.

3 A: --- like to be in the middle ---

4 THE COURT: That's sustained.

5 BY MS. LIVESAY:

6 Q: Are you under subpoena?

7 A: Yes.

8 Q: Would you have come otherwise?

9 A: No.

10 Q: Okay. And but what you've told these people, have you
11 been honest?

12 A: Yes.

13 Q: And did you voluntarily tell the police about the
14 surveillance footage?

15 A: Yes.

16 MS. LIVESAY: No further questions for Ms. Jackson.

17 THE COURT: Mr. Brooker?

18 CROSS-EXAMINATION OF VERONICA JACKSON BY MR. BROOKER:

19 Q: Just a couple of questions, Ms. Jackson, and I'll be
20 brief.

21 The first question I want to ask you about Turk's Place.
22 You were asked whether or not you had anything to do with
23 Turk's Place, and you said no. That's not true, is it?

24 A: (Inaudible.)

25 Q: I'm sorry?

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1 A: You say that's not true?

2 Q: That's not true, is it?

3 A: It's not true.

4 Q: It's not true; you do have something to do with Turk's
5 Place, right?

6 A: (Inaudible.)

7 THE COURT: If you'll answer out loud, sorry, please, Ms.
8 Jackson.

9 A: No.

10 BY MR. BROOKER:

11 Q: You said you don't have anything to do with Turk's Place?

12 A: No.

13 Q: Okay. Did you recently receive the petition along with
14 your son and some other -- and some other of your family
15 members from the solicitor's office to close down Turk's
16 Place?

17 A: A couple of times, but I wasn't involved. They had me
18 mixed up with somebody else.

19 Q: Did you recently receive a petition from the solicitor's
20 office that was filed by the solicitor's office to close down
21 Turk's Place?

22 MS. LIVESAY: Your Honor, at this time, I'm gonna have to
23 object ---

24 A: Six months. It was closed down for six months.

25 MS. LIVESAY: Object to relevancy.

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1 THE COURT: Hang on just a minute.

2 MS. LIVESAY: Object to relevancy. That's a civil
3 proceeding that has nothing to do with this case.

4 MR. BROOKER: We can approach, Your Honor.

5 THE COURT: I'm gonna allow the question.

6 BY MR. BROOKER:

7 Q: Now, when they sought to close down Turk's Place, you
8 were listed on that petition, is that correct, as a defendant.

9 A: Defamation.

10 Q: So, when the solicitor's office lists you as a defendant
11 on that petition to close down Turk's Place, they just got it
12 wrong; you didn't have anything to do with it?

13 A: That's correct.

14 Q: And I think you said that Turk's Place is on your
15 property; is that correct?

16 A: Half of my property.

17 Q: Half of your property.

18 Now, the surveillance cameras that we saw that night, I
19 think in which I think State's Exhibit, I think, Number 23 is
20 the one that was recent -- the one that was played for you.

21 Is is that those camera systems actually lead to your
22 property; is that correct?

23 A: Correct. There's ---

24 Q: And the equipment -- I'm sorry. I didn't mean to
25 interrupt you.

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VERONICA JACKSON - CROSS BY BROOKER

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1 A: There's two different properties. You've got Joe Jackson
2 estate, and we have Arlon (spelled phonetically) Jackson
3 estate. I'm on Arlon Jackson estate. My brother's club is on
4 Joe Jackson estate.

5 Q: But you have nothing to do with it, but of course is is
6 that the video footage from that club goes to your ---

7 A: Because I need -- for my protection and my peace, I have
8 cameras.

9 Q: Now, a couple of more questions, Ms. Jackson, and I'll be
10 finished. I'm not talking about the video or anything like
11 that. I'm talking about your personal knowledge or what you
12 personally saw. Did you personally see Victim: H.G. get shot?

13 A: No.

14 Q: And you're not here to testify to the jury that you
15 personally saw that event; is that correct?

16 A: No.

17 Q: And I think you said that law enforcement came into your
18 home, and they download the footage?

19 A: Yes.

20 Q: And I think you were asked by Ms. Livesay whether or not
21 you reviewed that footage. I think there was specifically a
22 couple of video footage exhibits that you were asked whether
23 or not you had reviewed. Is that correct?

24 A: Correct.

25 Q: Okay. And I think -- did you initial the ones that you

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1 reviewed?

2 A: Yes.

3 Q: Okay. And when did you -- when did you review those
4 video footage?

5 A: After I went down there and witnessed Victim: H.G. laying down
6 there dead, I wanted to find out who was on my property and
7 what happened. So, I asked the officer to ---

8 Q: Don't -- and let me rephrase my question. You can answer
9 that if you want to, but that's not what I was asking about.
10 I'm talking about the video footage that you initialed. I
11 think you said you initialed those video footages.

12 A: Yes.

13 Q: And said that you have looked at those to confirm that
14 they were accurate?

15 A: Yes.

16 Q: Okay. And of course, those would've been the copies of
17 the video footages that the State has or the government has;
18 is that correct?

19 A: Yes.

20 Q: Did you go up to the solicitor's office to review those
21 video footages?

22 A: Yes.

23 Q: How many times did you go up to the solicitor's office to
24 review those video footages?

25 A: Just two.

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1 Q: When you went up to the solicitor's office to review the
2 video footage, did you talk with anyone in the solicitor's
3 office?

4 A: Besides Ms. Nancy, and Chris.

5 Q: Okay. Did you talk about your testimony with them?

6 A: No.

7 Q: Never talked about your testimony with them on the two
8 times in which you met with them?

9 A: Just the video.

10 MR. BROOKER: If you can indulge me for just second. Let
11 me make sure that I have no more questions for Ms. Jackson.

12 BY MR. BROOKER:

13 Q: Thank you, Ms. Jackson. No further questions.

14 MS. LIVESAY: Thank you, Judge. Just a few questions.

15 REDIRECT EXAMINATION OF VERONICA JACKSON BY MS. LIVESAY:

16 Q: Ms. Jackson, Mr. Brooker asked you about coming to the
17 solicitor's office to meet with me. Do you remember that?
18 And do you remember meeting with me, and do you remember
19 meeting with Mr. Helms, and did we show you these two videos?

20 A: Yes.

21 Q: Okay. And you watched them completely, me and you sat in
22 there.

23 A: Yes.

24 Q: And then did I ask you was it accurate?

25 A: Yes.

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- 1 Q: Okay. And did I ask you if it was accurate to initial
2 it?
- 3 A: Yes.
- 4 Q: And did you initial it?
- 5 A: Yes.
- 6 Q: Did we talk about anything else?
- 7 A: No.
- 8 Q: Did I tell you what to say?
- 9 A: No.
- 10 Q: Okay. And if I did, would you?
- 11 A: I would've told the truth.
- 12 Q: That's what I figured. Now, we watched some of that
13 video, okay, that you initialed. And I asked you to identify
14 some of them people. At some point, do you see Latreka Green
15 on the video?
- 16 A: Cause she came blowing the horn, and that's how -- I was
17 already up from the gunshots. And I went to the backdoor and
18 she was -- and I ran out barefooted, so eventually I had to go
19 home and put shoes on, but that's when I went outside, and she
20 was telling me ---
- 21 Q: What kind of car does Latreka drive?
- 22 A: A Yukon.
- 23 Q: I'm sorry?
- 24 A: She was driving a white Yukon.
- 25 Q: A white Yukon. And does the video show that car coming

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1 up to your house and to Turk's?

2 A: Yes.

3 Q: Okay. And she's coming up there and she knocks on your
4 door?

5 A: She -- she didn't knock on the door, she blewed the
6 horn, and I just peeped out the door, and then she was -- and
7 I went out to see what was going on.

8 Q: Okay. And that was after the shooting?

9 A: (Indicates affirmatively.)

10 MS. LIVESAY: No further questions for Ms. Jackson.

11 THE COURT: Anything further, Mr. Brooker?

12 MR. BROOKER: No further questions for Ms. Jackson, Your
13 Honor.

14 THE COURT: Thank you, ma'am. You can step down.

15 MS. LIVESAY: Can she be excused, Judge?

16 THE COURT: Any objection, Mr. Brooker?

17 MR. BROOKER: I don't have any objection, Your Honor.

18 THE COURT: Thank you, ma'am. You're excused.

19 MS. LIVESAY: Thank you, Ms. Jackson.

20 THE COURT: And ladies and gentlemen, let's take about a
21 10-minute break, and let you stretch your legs before we move
22 to the next witness.

23 Please don't begin discussing the case.

24 (REPORTER'S NOTE: Jury exits courtroom @ 4:04 p.m.)

25 THE COURT: Okay. We'll be at recess for 10 minutes or

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VERONICA JACKSON - REDIRECT BY LIVESAY

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1 so.

2 MR. HELMS: Yes, ma'am.

3 **RECESS - 4:05 P.M.**

4 *****OFF THE RECORD*****

5 **ON THE RECORD - 4:17 P.M.**

6 (REPORTER'S NOTE: The following takes place outside the
7 presence of the jury.)

8 MR. HELMS: Our next three witnesses, we do not
9 anticipate to be long witnesses. By the same token, our next
10 three witnesses, what I told the jury was true, Judge, not
11 everybody is happy to be here. Those next three witnesses
12 fall into that category. However, they are here present in
13 the courtroom. We did secure their presence and would like to
14 get through them if we can. Again, we don't anticipate them
15 being long.

16 THE COURT: Okay.

17 MR. HELMS: That's all.

18 The next witness is the federal inmate, Your Honor. He's
19 in custody.

20 THE COURT: Okay. If we could bring the jury in.

21 MR. HELMS: He's here.

22 (REPORTER'S NOTE: Jury enters courtroom @ 4:18 p.m.)

23 MR. HELMS: Your Honor, at this time, the state would
24 call Mr. Winfred Sherman.

25 WINFRED SHERMAN, HAVING BEEN SWORN,

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WINFRED SHERMAN - DIRECT BY HELMS

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1 TESTIFIED AS FOLLOWS:

2 THE CLERK: If you could state your name and spell it for
3 the Court.

4 MR. SHERMAN: Winfred Sherman. You just want my name?
5 Winfred Sherman.

6 THE COURT: Spell your last name for us, please, sir.

7 MR. SHERMAN: Sherman, S-H-E-R-M-A-N.

8 THE COURT: Thank you.

9 MR. SHERMAN: Hey, but like I was saying, I mean, I ain't
10 really got too much to say, man, like I said, I told the
11 people ---

12 THE COURT: Mr. Sherman, wait for questioning. Thank
13 you.

14 MR. SHERMAN: Okay.

15 THE COURT: Thank you.

16 DIRECT EXAMINATION OF WINFRED SHERMAN BY MR. HELMS:

17 Q: Mr. Sherman, I know that you don't want to be here; is
18 that right?

19 A: Correct.

20 Q: Where do you currently live?

21 A: I ain't got nothing to say, man.

22 MR. HELMS: Your Honor?

23 THE COURT: Answer the question, please, sir.

24 A: I ain't got too much to say.

25 THE COURT: Where are you living?

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WINFRED SHERMAN - DIRECT BY HELMS

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1 A: Where I live at?

2 THE COURT: Uh-huh, (affirmative response).

3 A: I live at Cedar Branch, 4243 Redenbo Road.

4 THE COURT REPORTER: Can you not lean up so close to the
5 microphone, please.

6 BY MR. HELMS:

7 Q: Yeah just sit back. You don't have to talk into the mic.
8 It'll pick you up.

9 Right now you're in federal custody; is that right?

10 A: Yes.

11 Q: Okay. And you were convicted of drug charges?

12 A: Yeah.

13 Q: And you're serving a sentence for that right now?

14 A: Yes.

15 Q: Okay. Mr. Sherman, you were transported here today,
16 right?

17 A: Uh-huh, (affirmative response).

18 Q: And again, you were given a subpoena to be here?

19 A: (Indicates affirmatively.)

20 THE COURT: If you'll answer out loud, Mr. Sherman.

21 A: Yes.

22 BY MR. HELMS:

23 Q: Okay. Mr. Sherman, do you remember June 23rd of 2020?

24 A: Yeah.

25 Q: Okay. Do you remember being at Turk's that night?

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WINFRED SHERMAN - DIRECT BY HELMS

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1 A: Yeah.

2 Q: Okay. Do you remember talking to police about being
3 there?

4 A: That morning, they woke me up.

5 Q: And can -- that was after the killing of Victim: H.G.

6 A: Yeah.

7 Q: When you talked to law enforcement, did they show you a
8 video?

9 A: Yes. Nah, they ain't show me no video.

10 Q: Okay. Have you been made aware that there is a video?

11 A: Yeah, I seen it after the fact.

12 Q: So, you've seen the surveillance footage?

13 A: Yes.

14 Q: Okay.

15 Lacy, if you'll just pull up ---

16 And, Your Honor, I'm gonna show the Defendant's States 23
17 at this time and just a still shot, not the whole thing. It's
18 already been admitted into evidence.

19 BY MR. HELMS:

20 Q: Mr. Sherman, I'm gonna show you what's been entered into
21 evidence as State's Exhibit 23, this is just a -- and you can
22 press play if you need me to, but this is a pause from that
23 video. Do you recognize the person in that red shirt?

24 A: Me?

25 Q: Okay. Is that a question or is that you?

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WINFRED SHERMAN - DIRECT BY HELMS

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1 A: That's me.
2 Q: Okay.
3 Press Play.
4 Do you remember standing by this red car?
5 A: Yeah.
6 Q: Who was driving the red car?
7 A: Which red car?
8 Q: This burgundy car right here that you're leaned up
9 against? Was the defendant, Mr. Bromell, driving that car?
10 A: Yeah.
11 Q: Who else was in that car with him?
12 A: I don't remember.
13 Q: You don't remember. Did you see anybody else in that car
14 with him? Can you name names of the people that were in the
15 car?
16 A: I don't remember.
17 Q: Okay. Was it -- do you know if there was anyone else in
18 the car?
19 A: No.
20 Q: Did you see anyone else driving that red car that night
21 other than Mr. Bromell?
22 A: I don't remember. I went in the house. I wasn't out
23 there long.
24 Q: You weren't out there long?
25 A: (Indicates negatively.)

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WINFRED SHERMAN - DIRECT BY HELMS

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1 Q: Were you out there when Victim: H.G. was out there?

2 A: Yeah.

3 Q: Did you see him that night?

4 A: Yeah.

5 Q: Did you talk to Mr. Goodman?

6 A: Yeah.

7 Q: Did y'all fight about anything?

8 A: No.

9 Q: Did you have any ill will towards Mr. Goodman?

10 A: No.

11 Q: Mr. Sherman, did you shoot and kill Mr. Goodman?

12 A: No, sir.

13 Q: Mr. Sherman, as we're watching, you're walking up to the
14 porch of Turk's Place, who is that following you from the red
15 car? And it's gonna switch the view now to the porch.

16 MR. HELMS: And, Lacy, when I say so just if you'll hit
17 pause, please.

18 Hang on one second. I think we're about 10 seconds away.

19 All right. Lacy.

20 BY MR. HELMS:

21 Q: Is that you?

22 A: Yes.

23 MR. HELMS: Press play, please.

24 BY MR. HELMS:

25 Q: You're getting patted down here. Did you have any

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1 weapons on you?

2 A: No.

3 MR. HELMS: Pause, Lacy.

4 BY MR. HELMS:

5 Q: Who is that gentleman?

6 A: Mr. Bromell.

7 Q: Do you see him the courtroom?

8 A: Yes.

9 Q: Where is he?

10 A: Right there.

11 Q: Thank you.

12 Please answer any questions the defense may have, sir.

13 CROSS-EXAMINATION OF WINFRED SHERMAN BY MR. BROOKER:

14 Q: Just a couple of very simple questions -- is it Mr.
15 Sherman?

16 A: Yeah.

17 Q: Mr. Sherman, did you -- did you witness Victim: H.G. murder?

18 A: No, sir.

19 Q: So, you're not here telling this jury who shot Victim: H.G.

20 A: Say again?

21 Q: You're not here trying to tell this jury who shot Victim: H.G.
22 is that correct?

23 A: I mean, I mean, I ain't see nothing, and I don't know
24 nothing.

25 MR. BROOKER: If you'll indulge me for a second, Your

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1 Honor. I may not have any further questions for him.

2 No further questions.

3 THE COURT: Any redirect, Mr. Helms?

4 MR. HELMS: No, ma'am.

5 THE COURT: Thank you, sir. You may step down.

6 MR. SHERMAN: I can go?

7 THE COURT: Yes, sir.

8 MR. HELMS: Your Honor, he can be released, obviously,
9 from his subpoena?

10 THE COURT: Yes.

11 MR. HELMS: Thank you, ma'am.

12 MS. LIVESAY: Are you ready for the next witness, Your
13 Honor?

14 THE COURT: Yes.

15 MS. LIVESAY: At this time, the state calls Latreka
16 Green.

17 And can we bring this up -- go ahead and be bringing this
18 TV up, Judge, while we're ---

19 THE COURT: Sure.

20 MS. LIVESAY: I know it's getting close to 5 o'clock.

21 LATREKA GREEN, HAVING BEEN SWORN,

22 TESTIFIED AS FOLLOWS:

23 THE CLERK: State your name and spell it for the Court.

24 MS. GREEN: My name is Latreka Green. It's L-A-T-R-E-K-
25 A, Green, G-R-E-E-N.

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1 DIRECT EXAMINATION OF LATREKA GREEN BY MS. LIVESAY:

2 Q: Ms. Green, do you mind taking off your mask. I'll keep
3 my distance.

4 MS. LIVESAY: Did you get her full name?

5 THE COURT REPORTER: Yes.

6 MS. LIVESAY: Okay.

7 BY MS. LIVESAY:

8 Q: And if you don't mind, tell this jury a little bit about
9 where you live.

10 A: I live in Cedar Branch.

11 Q: Okay. Are you -- how many kids do you got?

12 A: I have nine.

13 Q: Nine kids?

14 A: Uh-huh, (affirmative response).

15 Q: And how long have you lived on Cedar Branch?

16 A: My entire life.

17 Q: Okay. And are you familiar with Turk's?

18 A: I mean, it's in the hood, yeah.

19 Q: Okay. You've been there before?

20 A: Yes.

21 Q: And could you show it to us on the map, if I showed it to
22 you? I'm showing you now is State's Evidence Number 22.

23 A: Right here (indicating).

24 Q: So, that's Turk's. And you live where?

25 A: My house is further down.

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1 Q: Okay. But it's on this road here, Cedar Branch.

2 A: It's on Cedar Branch Road.

3 Q: Okay. Now, back in -- do you know Victim: H.G.

4 A: I know him as him being in the community, yes.

5 Q: Okay. And that's the victim in this case.

6 A: That got killed; yes, ma'am.

7 Q: Okay. If you could pull it down just a little bit, Ms.
8 Green. Thank you.

9 And how long had you known Victim: H.G.

10 A: A couple of years that he'd been out there, about two or
11 three years that he had been out there before he got killed.

12 Q: Okay. Okay. And did you have a nickname for him?

13 A: Halo (spelled phonetically).

14 Q: Halo?

15 A: Uh-huh, (affirmative response).

16 Q: And about how old was Hedo?

17 A: Halo was just getting out of school then -- actually, I
18 don't really even know his age now, how he is now, but I know
19 he's like in his 20s.

20 Q: How old?

21 A: In his 20s.

22 Q: Okay. Okay. And do you know the defendant?

23 A: I know him as been out in public, yes.

24 Q: Okay. And what do you know his name to be or what do you
25 call him?

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1 A: I will call Juicy.
2 Q: Okay. You call him Juicy?
3 A: Juicy Fruit, Juice, Juicy Fruit.
4 Q: Okay. And do you remember the night that Halo was
5 killed?
6 A: Yeah. I was in my vehicle.
7 Q: Okay. And where were you in your vehicle at?
8 A: On Redenbo Drive.
9 Q: Okay. I'm gonna ask you to step down because this map is
10 not super big.
11 A: Yes, ma'am.
12 Q: And show me about where you were. Okay?
13 MS. LIVESAY: Is that okay with you, Judge?
14 THE COURT: Yes.
15 MS. LIVESAY: Thank you, ma'am.
16 BY MS. LIVESAY:
17 Q: All right. This is State's Evidence Number 22.
18 So, show me about where your -- show me first where
19 Turk's is.
20 A: (Indicating.)
21 Q: Hold on now. Lean it back just a tidbit.
22 A: I ---
23 Q: It's okay. It's okay. The map is too small. Show again
24 where Turk's is.
25 A: It's right here, the blue top.

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1 Q: So, the blue roof?
2 A: Yeah.
3 Q: Okay. And about where was your car parked?
4 A: You can't really see it, but up in the trees, but it's up
5 in these trees right here.
6 Q: Okay. Lean back just a little bit and show again so that
7 lady over there ---
8 A: It was right up around these trees right here. Right up
9 in here.
10 Q: All right. And I'm gonna ask you one more time now, I'm
11 gonna point it this way. Show them where your truck was one
12 more time.
13 A: There. Right in here by these trees.
14 Q: Okay. So, you were parked right off of Redenbo?
15 A: Yes, ma'am.
16 Q: Okay. And about -- who else was out there? Hold on.
17 Hang right there for me. Hang right there for me, because I'm
18 gonna show you something up here.
19 Who else was out there with you?
20 A: Me and my cousin, both of my cousins.
21 Q: What are their names?
22 A: Courtney Hemingway and Cortisha Hemingway.
23 Q: Okay. And what were y'all doing?
24 A: We just sitting -- we was sitting at my truck. Courtney
25 was in her car. Shay was standing in the middle, and we just

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1 just laughing and talking, on our cellphones. We didn't ever
2 touch the club.

3 Q: Okay. And about -- did you see or hear Victim: H.G. that night
4 when y'all were sitting out there off Redenbo?

5 A: Yes. He was walking. He was on the phone, and he was
6 cursing, talking trash on the phone whoever he was on the
7 phone with. He just walked backwards and forth like two or
8 three times.

9 Q: Now, so you had seen him a few times before he was killed
10 that night?

11 A: Yes, ma'am.

12 Q: Okay. And you were sitting out there. Now, what kind of
13 car was your car?

14 A: My truck -- my car was the white Suburban.

15 Q: Okay. And what was the other car that was out there?

16 A: The other car was a gold/tan looking Camry.

17 Q: Okay. And who was driving that?

18 A: Courtney.

19 Q: Okay. Courtney Hemingway.

20 A: Uh-huh, (affirmative response).

21 Q: Okay. So, tell me eventually, do you drive up to Turk's?

22 A: Yes.

23 Q: Okay. Tell me what happens that causes you to drive up
24 to Turk's?

25 A: When -- we was laughing and talking, and it sounded like

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1 a -- like gunshots, but I wasn't for sure because my window
2 was cracked -- I mean, my window was rolled up. And then I
3 realized there was gunshots, I jumped out my vehicle, and I
4 ducked beside my car, ducked beside my truck.

5 Q: Okay. And did you see or hear Halo pass by you before
6 the gunshots?

7 A: Before the gunshot, I did not hear him, but I also know
8 that he was the only person that was walking backwards and
9 forth up and down that dirt road.

10 Q: Okay. So, he was the only person walking down the dirt
11 road?

12 A: He was the only person that was walking up and down that
13 dirt road.

14 Q: Okay. And then you hear the gunshots?

15 A: Then the gunshot -- the mug of the gunshot, I jump out my
16 truck, I duck, I start screaming. I was telling the girls to
17 be quiet, don't scream because I was scared that the shooter
18 was gonna end up shooting towards our way. And then after
19 that happened, then after we hear like door closed, the car
20 pulled off and turned his lights off and on, off and on, till
21 they got to the top of the road. Then they made left, going
22 -- actually going back towards my house, because my house is
23 towards Number 9 way. So, it was going back towards my house.
24 And that was it. And then ended up jumping in our vehicles
25 and we went up to the club so somebody could come back and

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1 help us.

2 Q: Okay. So ---

3 A: Cause we didn't know nobody was shot or not.

4 Q: Okay. So, let me -- can you show me your car on this

5 video?

6 A: Yes, ma'am.

7 Q: Now, is this -- can everybody see the video? Okay.

8 Do you know who that is? Can you tell?

9 A: No shirt on?

10 Q: Uh-huh, (affirmative response).

11 A: Halo.

12 Q: That your truck?

13 A: That's my truck.

14 Q: The white one?

15 A: That's my truck.

16 Q: And who is this?

17 A: And that's Courtney's car.

18 Q: That's who?

19 A: Courtney Hemingway car.

20 Q: Okay. So, the white truck is yours?

21 A: Uh-huh, (affirmative response).

22 Q: And this is Courtney Hemingway?

23 A: Uh-huh, (affirmative response).

24 Q: And y'all were both sitting over here on the road?

25 A: Yes, ma'am. By the mailbox, and it's a big oak tree

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1 sitting there by two mailboxes -- no, it's a mailbox standing
2 up by the tree and by the water pump. There's a water pump
3 over there.

4 Q: How soon did you turn your lights on and head towards
5 Turk's?

6 A: When I seen the car was on -- after it turned the lights
7 off and on, when the car touched the main Cedar Branch road, I
8 cranked my vehicle, as you see on the video, I went over
9 there.

10 Q: Are you crying, Ms. Green?

11 A: Yes.

12 Q: You're upset?

13 A: I'm okay.

14 Q: Okay. If you don't mind, have a seat back at the witness
15 stand. Thank you.

16 So, soon as you hear the shots ---

17 A: Yes, ma'am.

18 Q: And the car hits to take that left, you immediately turn
19 on your lights and go to Turk's?

20 A: Yes, ma'am.

21 Q: Okay. And did you see Halo that night after, after he
22 was killed?

23 A: Yes, ma'am.

24 Q: Okay. And did you stay until the police got there?

25 A: Yes, ma'am.

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1 Q: Okay. And did you give the police your information?

2 A: Yes, ma'am.

3 Q: And if you don't mind, pull this down -- you're so --
4 what you've got to say is important.

5 Now, did you want to come to court today?

6 A: No, I did not.

7 Q: Okay. And are you under subpoena?

8 A: Yes, ma'am.

9 Q: And would you have come if you were not under subpoena?

10 A: In a way I would; in a way I wouldn't. It just ain't --
11 I don't want to, I'm just stuck -- I don't want no ---

12 Q: Ma'am?

13 A: I wouldn't say yes I will and I won't say no, I wouldn't;
14 I got stuck in between. So, I don't have no other choice to
15 be here as today as me coming here today, because you subpoena
16 me.

17 Q: Do you want to be here?

18 A: I really don't, but I'm here because it was something
19 that I have heard or know anything of, I'd want somebody to do
20 the same thing to my kids or my nieces and nephews, too.

21 Q: And have -- what you told this jury, was it the truth?

22 A: Yes, ma'am.

23 Q: Okay.

24 MS. LIVESAY: No further questions, Your Honor.

25 THE COURT: Mr. Brooker?

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1 MR. BROOKER: Thank you, Your Honor.

2 CROSS-EXAMINATION OF LATREKA GREEN BY MR. BROOKER:

3 Q: Ms. Green, I want to ask you a couple of things in
4 reference to that night.

5 A: Okay.

6 Q: I think you just testified under direct examination,
7 correct me if I misinterpret what you testified to, you
8 correct me ---

9 A: Yes, sir.

10 Q: I think you testified to the fact that -- what's the name
11 of that road, is it Redenbo?

12 A: Redenbo.

13 Q: Redenbo. You testified that you were out on Redenbo
14 Road; is that correct?

15 A: Yes, sir.

16 Q: And that you were sitting, and you were talking with your
17 cousins?

18 A: Yes, sir.

19 Q: And y'all were not -- y'all were not up at the club, but
20 y'all were kind of on that dirt road some distance from the
21 club; is that correct?

22 A: Yes, sir.

23 Q: And I think you testified that Victim: H.G. was pacing back and
24 forth, and he was just having a heated conversation with
25 someone on the phone?

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1 A: He was on the phone talking, arguing on the phone.

2 Q: And I think it was your testimony, you correct me if I'm
3 wrong, is that -- were y'all looking at your cellphones and
4 that's -- what were y'all doing when he was pacing back and
5 forth or when he went past you?

6 A: We was on our phone, lollygagging. We never touched the
7 club. We never went to the club.

8 Q: Okay. Now, that area right in here, was it dark?

9 A: Yes. It's pitch-black dark. There's no lights in that
10 area.

11 Q: And you said that the only person that y'all saw walking
12 past your vehicle was Victim: H.G.

13 A: Yes. He was just constantly walking past, backwards and
14 forwards, backwards and forwards, backwards and forwards.

15 Q: Now, are there homes out there in that area?

16 A: What do you mean is it holes in the area?

17 Q: Not holes but homes.

18 A: Homes?

19 Q: Yes.

20 A: Yes, sir. There's a couple of homes on that road.

21 Q: There's a couple of homes on that road. Okay.

22 A: Yes, sir.

23 Q: And of course, that night, I think -- I think Turk's was
24 that little club that was just down from where y'all were?

25 A: Yes, sir.

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1 Q: And of course, there was a lot of people who had been
2 there ---

3 A: Yes, sir.

4 Q: --- that night?

5 A: Yes, sir.

6 Q: And the reason why I'm asking that question is, I know
7 that your testimony, that y'all only saw Victim: H.G. is that
8 correct?

9 A: Yes, sir.

10 Q: Okay. Up above where y'all were, did you know whether or
11 not there was anybody up above on foot?

12 A: No. It wasn't nobody else on foot. They wasn't no cars
13 in the area. All the cars was coming back up towards the club
14 like.

15 Q: And I understand -- I'm not asking about cars. What I'm
16 saying is is that did you scan the area up above y'all to try
17 and identify whether or not there was other people above you?

18 A: There was no other people on that road that was walking,
19 no -- you got cars, it's a curve. Up there where my car was
20 parked at, it's a curve. You got to go deep around that
21 curve. There's a spotlight, it might no show far, but it'll
22 show enough right to that little curve part just on that
23 curve, but you can't really tell because it's pitch-black dark
24 from right there where my truck actually on the other side,
25 like where that big gap at, there's a tree and it's a mailbox.

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1 From there right all the way back, really, to the top of the
2 road is no lights, no nothing right there.

3 Q: And I'm understand that and that's why I'm asking you
4 that question is is that if it's pitch black back up in there,
5 how can you be absolutely certain that there was no one -- no
6 one out up above where y'all were?

7 A: Because when -- actually when you want to -- okay, you're
8 asking me this question, okay, I'm gonna tell you. When the
9 car drove up, the car had to stop, the car had parked, put it
10 in park, they had to get out, they had to do what they got to
11 do, and then they jumped back in. That's how I know a vehicle
12 was on that road leaving back out because they turned the
13 lights off and on. It state, too, on the video.

14 Q: And did you see a vehicle coming up?

15 A: No, not as when it came -- not as it just show that it
16 went, how I would know that the vehicle because I had to watch
17 the video to see. I couldn't even tell you what was what.

18 Q: So, and that's what right now I want to ask you about. I
19 want to ask you -- I don't want to ask you about the video
20 now, I want to ask you about what you seen and heard. Okay?
21 Okay. Did you see a car drive past y'all while y'all were
22 standing there?

23 A: If I'm in my phone, sir, I can't see and they by -- by
24 past me. You could see in my view -- on my windows, my tint
25 is very, very dark.

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1 Q: Did you know a car has passed you?

2 A: No, I have not known a car had passed me. I looked at the
3 video.

4 Q: And I think you said as y'all were watching the video,
5 then you heard a pop?

6 A: Yeah. It's like a mugging pop.

7 Q: Like a mugging pop?

8 A: Like pop, pop, and then I realized -- I stuck head like
9 is somebody shooting. And then I end up jumping out my truck,
10 I even left my light on. I jumped out the truck. I jumped
11 back up to knock my lights off, and jumped back down, and
12 jumped out with no shoes on my feet and stood beside my car
13 until the shooting finished stopping, until the car drove off.

14 Q: Did you see who was shooting?

15 A: I did not see who was shooting, but I know the vehicle
16 that took off from right here was the vehicle that shot and
17 killed him.

18 Q: So, what you're saying is is that when you jumped out of
19 the truck and -- I want to make sure now, because right now
20 I'm not talking about the video, I'm talking about -- don't
21 tell me what -- about the video. I'm talking about what you
22 seen. Did you see a vehicle pull off?

23 A: Yes, I seen the vehicle pull off. We not even worrying
24 about the video, I told you I told them everything from the
25 beginning when they first questioned me with the first

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1 response come, I told them the same thing, so my story not
2 gonna never change. It's just that after I seen the video
3 that's what made me really with emotion just while ago because
4 I seen the video. That's my first time seeing that video with
5 my truck, cause they didn't show me that. That was the piece
6 that they kept out from me, cause I told them I didn't want to
7 see it.

8 Q: You're talking about the video that you were just -- that
9 you were just shown?

10 A: Yeah. That was my first time me seeing that video with
11 my truck pulling up to the club.

12 Q: Do you remember telling law enforcement that that when
13 the first shot was fired that you ducked down and that you
14 never saw a vehicle, and the only way that -- the only way
15 that you knew that there was a vehicle is that later on that
16 on the video you saw the taillights of the vehicle?

17 A: Later on in the video, no. I told them when I -- when
18 they first response to me, this is what I told them, and I
19 don't want to get on the stand, I don't want nobody confusing
20 me neither, so in the meanwhile when they first got there, I
21 told them exactly what happened. When I seen the car, when I
22 -- with the mugging started, and I realized it was shooting, I
23 ducked down. I reached up to cut off my light, I ducked back
24 down again.

25 Q: Let me stop you there. I want to make sure you said when

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1 you seen the car ---

2 A: When I seen ---

3 MS. LIVESAY: Can she finish her answer, Judge?

4 MR. BROOKER: She can. I just want to make sure that I'm
5 -- I understood her correctly.

6 A: Yeah, because in the meanwhile, I mean, I'm trying to
7 answer all these questions, don't puzzle me. Please don't
8 puzzle me.

9 BY MR. BROOKER:

10 Q: I'm not trying to do that at all.

11 A: Okay. Okay. That's fine. Keep pushing. Ask me
12 questions.

13 Q: I'm trying to make sure that I understand and make sure
14 that the jury understands. So, I'm not trying to confuse you,
15 trust me; I'm not trying to confuse you at all.

16 A: Okay. So, what are you asking me then, sir?

17 Q: Okay. Did -- you said that at some point in time you saw
18 a car?

19 A: When the car was leaving out with the lights turning off
20 and on.

21 Q: That's when you saw it?

22 A: That's when I seen the vehicle, and I didn't even get a
23 look at it like the color or anything of that. The only thing
24 I can remember is the lights turning off and on, and going to
25 the main -- the top of Redenbo Drive and making that left to

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1 bust on Cedar Branch Road.

2 Q: Did you see a person get out of that car?

3 A: How was I gonna see somebody get out the car when I only
4 hear mugging shots, so I can't tell you that I seen somebody
5 get out the car if I hear mugging shots and I'm seeing the
6 light turn off and on leaving out. I never even seen the car
7 bypass me.

8 Q: Ma'am, I'm just trying to be thorough. Don't get upset.
9 I'm not trying to confuse you, I promise.

10 A: I'm being thorough, too. I'm just saying.

11 Q: I'm not trying to confuse you.

12 A: Okay. Okay.

13 Q: So, you never see anybody get out of the car; is that
14 correct?

15 A: No.

16 Q: Did you ever see anybody get back into the car?

17 A: No, but I seen the car when the car drove off. And I
18 know for a fact they putting the car in drive, and I can hear
19 the car speeding off. And I looks up, the car going around
20 the curve and cutting its lights off and on.

21 MR. BROOKER: Could you indulge me for just a second,
22 Your Honor.

23 THE COURT: Sure.

24 BY MR. BROOKER:

25 Q: Ms. Green, would it help to refresh your recollection of

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1 what you told law enforcement if you were to hear your
2 statement?

3 A: What did I say to law enforcement?

4 Q: You don't remember telling them that you didn't see
5 anything, and that the only thing that you remember seeing is
6 the lights of the car as it pulled away?

7 A: What did I just tell you? What did I just tell you? I
8 just told you the exact -- the same thing.

9 Q: Ms. Green, did you ever mention to law enforcement that
10 you hear a door close or anything like that?

11 A: You got everything in front of you. You tell me whether
12 if I said it or not, you just asked me the question. I'm just
13 saying...

14 Q: Do you remember telling law enforcement that you didn't
15 see nothing, the only thing ---

16 A: I didn't tell the officer -- I did not tell no officers
17 them that at all, no whatsoever, sir.

18 Q: I want to be fair. That's why I'm asking ---

19 A: And I'm being fair, too. And I won't ---

20 THE COURT: Let him ask the question.

21 A: Okay. Okay. Okay. We got ---

22 Q: Do you ever remember telling law enforcement that you
23 didn't see anything. That the only thing that you saw was the
24 taillights of the vehicle as it was pulling away. That's the
25 only thing that you saw.

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1 A: No, I -- no.

2 Q: You don't ever remember telling them that?

3 A: Huh-uh, (negative response).

4 Q: Would it refresh your memory to hear the statement that
5 you gave to law enforcement?

6 A: Refreshing my statement. And make sure you got the right
7 voice, too.

8 Q: Yes, ma'am.

9 MR. BROOKER: Your Honor, we would move at this
10 particular period of time to, to allow her to listen to the
11 statement that she made to law enforcement because I think
12 that last statement when I asked her did she remember telling
13 law enforcement ---

14 THE COURT: Let me get y'all to approach.

15 (REPORTER'S NOTE: Bench conference is held off the record in
16 the presence but outside the hearing of the jury.)

17 BY THE COURT:

18 THE COURT: Okay. Ladies and gentlemen, we have a matter
19 of law that we're gonna take up. If we can excuse you back to
20 the jury room for a few minutes. Please don't begin
21 discussing the case.

22 (REPORTER'S NOTE: Jury exits courtroom @ 4:54 p.m. The
23 following takes place outside the presence of the jury.)

24 MR. BROOKER: You want me to go ahead and play the
25 statement, Your Honor?

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BY THE COURT

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1 THE COURT: This is just an audio?

2 MR. BROOKER: This is just an audio, Your Honor.

3 THE COURT: Sure.

4 MR. BROOKER: There is no written statement from her.

5 MS. LIVESAY: Your Honor, if I can, I don't know if this
6 is gonna quicken the process or not. But I would like to have
7 this marked as a state's exhibit, which is gonna be the
8 summary report of Ms. Green's -- from the police, the
9 statement she gave police. My understanding is Mr. Bromell
10 [sic] wants to play the recording because he believes her
11 statement to be inconsistent. Is that correct?

12 MR. BROOKER: That's correct.

13 STATE'S EXHIBIT NUMBER 24

14 MARKED FOR IDENTIFICATION

15 MS. LIVESAY: And what she's testified to on the -- I'm
16 sorry -- I'm sorry, Ms. Kay.

17 What she testified to on the stand was that she saw --
18 she heard the gunshots, she got down, she got back up and
19 turned the light off, and saw the car fleeing the scene. I
20 think was can all agree on that. Right straight from the
21 police report, Page 1, this is Latreka Green. She says that
22 she -- she said they heard the heard gunshots, she got ---

23 THE COURT: Tell me where -- tell me what you're reading
24 from.

25 MS. LIVESAY: This is -- I'm sorry. This is the Horry

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BY THE COURT

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1 County Police Department summary of Latreka Green's statement
2 that they took from her.

3 THE COURT: Okay. But I understand -- before you read
4 what it is, you have the actual audio?

5 MR. BROOKER: I have the actual audio.

6 THE COURT: And are you asking us to play the audio for
7 this witness?

8 MR. BROOKER: Your Honor, yes. I guess it was -- the
9 consensus is that we need to have an in camera inspection of
10 this in order to make a determination as to whether or not the
11 statement that she gave law enforcement was inconsistent with
12 what she testified to. And I think that that's what my
13 understanding was; is that correct?

14 THE COURT: My only -- my only question here is whether
15 you're trying to impeach her with the statement through the
16 summary or are you trying to ---

17 (REPORTER'S NOTE: Mr. Brooker's cellphone rings.)

18 MR. BROOKER: I'm sorry, Your Honor. I turned my volume
19 up because I was about to play this video.

20 Go ahead, Your Honor.

21 THE COURT: If you're impeaching her, then we need to
22 hear what you're impeaching her with.

23 MR. BROOKER: Absolutely, Your Honor. And that's why I'm
24 getting ready to play the video so that -- so that you can
25 hear it and make that assessment as to whether or not it's

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BY THE COURT

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1 inconsistent.

2 THE COURT: Okay. Go ahead and play it.

3 MR. BROOKER: Because that seems to be the disagreement.

4 THE COURT: But that's not -- ma'am, that's not her
5 statement. That's what an officer wrote down was her
6 statement.

7 MR. BROOKER: Yes.

8 MS. LIVESAY: Yes, but this is two different incidents.
9 My understanding is this is the first time police talked to
10 her. The recording that he's trying to play is a follow-up
11 interview, which would be an additional interview. I say that
12 to say what police took down, which was the initial first time
13 they talked to her.

14 THE COURT: Okay. Let me see it.

15 MS. LIVESAY: Her statement is consistent with what she
16 said today.

17 THE COURT: Can I take a look at it?

18 MS. LIVESAY: Oh, of course you can, Judge. And of
19 course, the date on it is 6/23, which is the date of the
20 murder.

21 THE COURT: Okay.

22 MR. BROOKER: The only reason why I can't use that, Your
23 Honor, is is that because that is her not her statement. A
24 narrative of -- a narrative of a conversation that law
25 enforcement had with her is not considered to be her

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BY THE COURT

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1 statement.

2 THE COURT: Well, I think if you're attempting to impeach
3 her with that, then the state can certainly on redirect can go
4 into the statement that she gave law enforcement, but if you
5 want to play the audio, that's fine. Let's hear what -- if
6 you'll tell me the date that this recording ---

7 MR. BROOKER: Let me take a look and see.

8 I know it was a couple of days after the shooting, but
9 let me look and see if it's dated.

10 Your Honor, this is not -- this is not dated. And this
11 is what was given to us by the state as part of the discovery.
12 I don't see where it's dated.

13 MR. HELMS: The interview will have the date. It is a
14 prefix in its actual interview, Your Honor.

15 THE COURT: Okay.

16 MR. BROOKER: Would you like for me to play it, Your
17 Honor?

18 THE COURT: Sure.

19 (REPORTER'S NOTE: Interview of Ms. Green published for the
20 Court. Audio not transcribed herein.)

21 MR. BROOKER: Your Honor, if you want me to fast forward
22 to where the interview begins. I think something like the
23 first five minutes I think she had a conversation with her --
24 I don't know if it's her son or daughter, because she was in
25 the shower. And then of course she comes to the door and

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BY THE COURT

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1 speaks with the officers.

2 THE COURT: Okay. That's fine.

3 MR. BROOKER: I'll move up and try and find that.

4 (REPORTER'S NOTE: Interview of Ms. Green published for the
5 Court. Audio not transcribed herein.)

6 MR. BROOKER: And see that's the point, Your Honor, is
7 that she said the only time that she get to see the vehicle is
8 the ass of it -- ass end of it when they saw the video. And
9 so, it appears as if she is saying in that statement that they
10 saw the end of the vehicle -- they saw the rear of the vehicle
11 based upon the video.

12 THE COURT: Mr. Brooker, I'm sorry, I'm just failing to
13 see where there's anything inconsistent with what this witness
14 has just said on the stand.

15 MS. GREEN: (Inaudible.)

16 THE COURT: And please refrain -- Ms. Green, if you will
17 let me handle this. Okay?

18 I didn't hear one thing inconsistent with that statement
19 and what she just testified to that she did not see the
20 vehicle. She didn't see it drive up. She didn't see it drive
21 by. She didn't see the shooting. She heard the gunshots, and
22 she didn't see the vehicle until they were already pulling
23 away. Of course, at this point she has seen the video,
24 because she just made some kind of mention to it in the
25 statement, but that's exactly consistent with her initial

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BY THE COURT

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1 statement was that she gave to law enforcement.

2 MR. BROOKER: Can I finish playing the video, Your Honor?

3 THE COURT: I guess help me understand what's
4 inconsistent.

5 MR. BROOKER: What's inconsistent, Your Honor, is is that
6 she's saying that they see -- I think she's saying -- and I'll
7 play it again, just that portion. She said the only thing
8 that they saw, and I won't use the -- the rear of the vehicle,
9 and she noticed that, she knew that from seeing the video. I
10 think she testified to is that -- because I asked her. I
11 said, well, let's not worry about the video right now. I want
12 to know exactly what you saw, not the video. And of course is
13 I think her testimony was is is that they -- is that she saw
14 the vehicle, personally saw the vehicle drive away. And I
15 think she said turn the lights off, turn them on, and then of
16 course as it went down Cedar Branch Road. And of course is is
17 that is not what is contained within her statement. If -- I
18 think there is about five minutes left. Do you want me to
19 play the rest of it, Your Honor?

20 THE COURT: Sure.

21 (REPORTER'S NOTE: Interview of Ms. Green published for the
22 Court. Audio not transcribed herein.)

23 MR. BROOKER: And you see, Your Honor, that's where I am
24 getting confused. And it is confusing because it -- if when
25 you listen to that audio tape, and I wish it would've been

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1 done a little bit more cleaner, as far as as that law
2 enforcement separating personal knowledge from video
3 knowledge, but if you listen to that video tape is is that
4 there are a number of times in which he seems to suggest that
5 her knowledge of the vehicle leaving comes from the video
6 tape. And then of course that's where I'm confused at.
7 That's why I want clarification from. And if we can get
8 clarification from that, for purposes of the jury, I'm fine,
9 but that's where the confusion is.

10 THE COURT: So, I mean, I heard her say that she wanted
11 to see the video because the only thing she got to see was the
12 end of the vehicle leaving out. So, if you want to ask her
13 about seeing the taillights come on and off, I think that's
14 fine. You can ask her if that's the statement that she gave
15 to law enforcement. I guess, we can let the jury decide if
16 there was any inconsistent statement.

17 MR. BROOKER: If we can clarify that, Your Honor. And
18 that's -- that's where, you know, and I'm not trying to be
19 difficult here. I'm not trying to be hostile to her. I'm
20 just trying to make sure that I understand what the facts are
21 and make sure that the jury understands what the facts are.
22 And of course is if we can -- if we can get just a
23 clarification question with respect to, you know, whether or
24 not -- whether or not she saw the taillights leaving, and this
25 car going around Cedar Branch is that whether or not that is

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1 from -- whether or not that is from viewing the video or
2 whether or not that is from personal knowledge, and whether or
3 not ---

4 THE COURT: I think she's been asked that and answered it
5 several times, but you can -- why don't you ask her right now
6 before the jury comes back in and we'll bring the jury in.

7 MR. BROOKER: Yes, she's been asked and answered that,
8 but of course if you see the video ---

9 THE COURT: She's not gonna necessarily answer it the way
10 you want her to answer it, sir.

11 MR. BROOKER: I don't ---

12 THE COURT: If you want to impeach her with the audio, we
13 can do that. That's up to you. I did not think that it was
14 inconsistent. But if there's a nuance to that that you want
15 to bring out, then bring the jury in, and we'll play the audio
16 and ask her was that her statement and then they can determine
17 whether it was an inconsistent statement.

18 MR. BROOKER: If you don't ask -- if you don't ask it,
19 Your Honor, if you don't think it's inconsistent, that's good
20 enough for me, Your Honor. I will rephrase my question.

21 THE COURT: Well, it's not up to me. The jury is the one
22 who is gonna determine the credibility of witnesses.

23 MR. BROOKER: Absolutely. Absolutely.

24 THE COURT: If you want -- here are your choices. We can
25 bring the jury back in, you can play the video -- or play the

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1 audio, you can ask her if that was her statement that she gave
2 to law enforcement that night. Do you recall giving this
3 statement to law enforcement? And she has a right to be able
4 to answer that and explain her answer. And then I'm gonna let
5 the state ask did you give this statement the same day on
6 redirect, and we can let the jury decide whether it was
7 inconsistent or not.

8 MR. BROOKER: I'll rephrase the question, Your Honor,
9 before we result to that. Okay? And then of course, whatever
10 answer she gives me, then I'll -- if we need to play it, I'll
11 say we need to play it, and we'll play it to the jury. If
12 not, I'll have a seat.

13 THE COURT: Okay.

14 Yes, sir?

15 MR. HELMS: The only thing I'd like to put on the record,
16 before we go down this rabbit hole, Your Honor, there is a
17 rule directly on point for this scenario.

18 THE COURT: I'm looking at it.

19 MR. HELMS: Yep. The rule is 613, Judge, and it says
20 extrinsic evidence of a prior inconsistent statement is
21 admissible if the witness is advised of the substance, time,
22 and place of the statement, and either denies making the
23 statement, states she does not fully recall, or does not
24 unequivocally admit to making the statement. My only question
25 is have we got this.

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1 THE COURT: Do you want to ask her that question, sir?

2 MR. BROOKER: I'm sorry, Your Honor. I was -- I was --
3 he was trying to ask me a question. I'm sorry. If you want
4 to -- what was the question again?

5 MR. HELMS: Well, it's not so much a question as a
6 statement. There is a rule directly on point. It's 613. And
7 it requires before extrinsic evidence, which is what the
8 defense is trying to put in here, can be admitted to impeach
9 this witness, she has to be asked about the statement that
10 he's referring to.

11 THE COURT: Yeah. I don't think that he has
12 unequivocally said he's trying to play that to jury; is that
13 my understanding?

14 MR. BROOKER: Yes, that is the correct understanding. I
15 just ---

16 THE COURT: Okay. So, here's what I suggest we do. We
17 bring the jury in. You ask her whatever you want to ask her.
18 If you determine from her response that you want to try to
19 impeach her with this statement, you're then gonna ask her, do
20 you recall giving this statement. Did you ask -- basically
21 get her to confirm consistent with Rule 613 did she make the
22 statement, did she not make the statement. That's the only
23 time that the extrinsic evidence of that statement comes
24 before the jury. So, again, I guess we will see from her
25 response with the jury back in here as to whether or not you

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1 want to actually introduce the extrinsic evidence -- extrinsic
2 evidence of the statement.

3 MR. BROOKER: Okay, Your Honor. And if you could please
4 explain to her that I'm not trying to be hostile to her. I'm
5 just trying to make sure that I understand and that the jury
6 understands. And if I could just get my questions out.

7 THE COURT: Sure.

8 Okay. Let's bring the jury in.

9 If you makes you feel any better, sir, I don't think her
10 tone with you is any different than it was with law
11 enforcement in the statement.

12 MR. BROOKER: I'm sorry, Your Honor?

13 THE COURT: I don't think that her tone with you is any
14 different than it was with law enforcement on -- at the time
15 they took the statement, if that makes you feel any better.

16 And if y'all will remind me, we need to mark that as a
17 Court's exhibit, the audio tape.

18 COURT'S EXHIBIT NUMBER 1

19 MARKED FOR IDENTIFICATION

20 MS. LIVESAY: Mr. Helms is trying to let the witnesses
21 know that there's been some delay, but we're not gonna cut
22 them loose until we have something definitive. So, they're
23 just letting them make arrangements.

24 (REPORTER'S NOTE: Jury enters courtroom @ 5:21 p.m.)

25 CONTINUATION OF CROSS-EXAMINATION OF LATREKA GREEN BY MR.

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LATREKA GREEN - CROSS BY BROOKER

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1 BROOKER:

2 Q: Okay, Ms. Green. I'm gonna rephrase my question. I just
3 want to make sure that I understand. And I'm doing it for the
4 benefit of the jury; I'm not trying to harass you. I promise
5 you I'm not trying to harass you. Okay?

6 Okay. And what I want to do is to make sure that I make
7 the -- that I understand the distinction between what you
8 personally know and what the video -- that's what I'm trying
9 to figure out. Okay.

10 And so, if I ask the question wrongly and you don't
11 understand it, just please let me know. I promise I'll
12 rephrase it, and I promise I'm not trying to trick you or
13 confuse you. Okay. If you feel confused, if you would please
14 let me know, and I'll rephrase the question. Okay.

15 A: You gonna get started?

16 Q: Yeah. I'm gonna ask you a question and so we can get
17 clarification.

18 I think it's my understanding, you correct me if my
19 understanding is wrong, you correct me if my understanding is
20 wrong, is is that you saw -- you saw Victim: H.G. walking, pacing
21 back and forth, and of course he was on the phone with someone
22 having an argument.

23 A: Yes.

24 Q: Is that correct?

25 A: Yes.

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1 Q: Okay. I understand that correct. And then of course is
2 is I think -- I think my understanding is is that at some
3 point in time, you and of course your cousins were looking at
4 your phone, and of course, was watching something on the
5 phone; is that correct?

6 A: Yes.

7 Q: Did I get that right?

8 A: Yes.

9 Q: Okay. And while y'all were watching and looking at
10 something on your phone in your vehicle, you said you were
11 sitting in your vehicle; is that correct?

12 A: Yes.

13 Q: And you heard a pop, gunshot; is that correct?

14 A: Yes.

15 Q: And I think you said that you kind of ducked down or at
16 least tried to shut the light off in the interior of your
17 vehicle?

18 A: No, I ducked down, and I cut my light off, I ducked back
19 down again.

20 Q: Okay.

21 A: And I hid down. The door closed, he pulled off, where
22 the case may be, I seen the lights go off and on.

23 Q: And that's the extent of what you observed?

24 A: That's what I observed on what you just had heard, that
25 was after the fact. This is not the first response. This is

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1 after they done came back to my house. This is after a whole
2 full couple of -- about eight, nine, 10, 11 hours that I had
3 been up.

4 Q: That's okay. That's what we're just trying to figure
5 out.

6 A: Well, I'm just saying ---

7 Q: Is what you -- is what you observed, what you physically
8 observed that happened.

9 A: That's what I'm telling you.

10 Q: And what you just explained to me, that's everything that
11 you observed; is that correct?

12 A: Exactly what I observed.

13 MR. BROOKER: Okay. Let me check to make sure that I
14 don't have any further questions, Your Honor. I think -- I
15 think I understand.

16 THE COURT: Thank you, Mr. Brooker.

17 MR. BROOKER: No further questions, Your Honor.

18 THE COURT: Any redirect?

19 MS. LIVESAY: Just a couple of questions, Ms. Jackson.

20 MS. GREEN: Ms. Green.

21 REDIRECT EXAMINATION OF LATREKA GREEN BY MS. LIVESAY:

22 Q: Now, you spoke ---

23 THE COURT: This is Ms. Green.

24 MR. HELMS: Green. Green.

25 Q: Oh, sorry. Ms. Green.

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1 You answered some questions from Mr. Brooker about what
2 you saw and what you did that night. Do you remember that?

3 A: Uh-huh, (affirmative response).

4 Q: Okay. Did you tell him the truth?

5 A: Yes, I did tell him the truth.

6 Q: Okay. And do you got any reason to lie?

7 A: Kind of like, for what? I meant, the only thing he got
8 back is what he played on the audio, this was after the fact.
9 I fell asleep in the tub. When they bringing that right there
10 up, for them to come back and question me, but when the first
11 response, that was everything that I told them what I seen on
12 my own.

13 Q: Okay. So, tell me ---

14 A: Cause they didn't even take us in there to see the video
15 right then and there.

16 Q: Okay.

17 A: That was hours later.

18 Q: I understand. So, tell me what we saw on the video, we
19 know that's on the video. So, hold on, let me ask you.

20 A: Okay.

21 Q: What vehicle is your car on the video?

22 A: The white Suburban.

23 Q: Okay. The white Suburban. So, we know without a doubt
24 that you're driving a white Suburban.

25 A: Yes, ma'am.

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LATREKA GREEN - REDIRECT BY LIVESAY

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1 Q: And where were you parked?

2 A: Over there when you coming down Redenbo Drive, stop sign,
3 come around it's a curve, come straight down, time you pass
4 that curve right there, that pine tree.

5 Q: Okay.

6 A: A little bit over right there, it's like a little space
7 driveway where the people go down the road, they sit down the
8 road, it's a spot right there. That's where Halo got killed
9 at.

10 Q: Okay.

11 A: A little but more is a driveway because it's -- up there,
12 where I showed you where my house -- my car was parked at up
13 in the trees, it's a house right there.

14 Q: Okay.

15 A: You go all the way up to the club yard, but my car was
16 parked right there when you come around that curve ---

17 Q: Okay.

18 A: And you come down after past that pine tree, that gap
19 space right over that driveway that go up to that house, my
20 car is parked right there beside the mailbox.

21 Q: Okay. And your white Suburban is the one we see the
22 lights come on?

23 A: When you see the lights come on, you see me driving fast,
24 because I like to ran into the club.

25 Q: Okay. And so, we know you parked right off that dirt

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1 road?

2 A: Yes, ma'am.

3 Q: And your car, when I look at the video, I see the lights
4 -- theyr'e pointing to the road, they're pointing on Redenbo,
5 they're pointing to the dirt road.

6 A: Yes, ma'am. It's -- actually where I was parked at, this
7 is the road, I was backed up. So, this is the highway, across
8 the street ain't nothing but woods.

9 Q: Okay. So, you were facing ---

10 A: We still on Redenbo Drive.

11 Q: So, you were facing the dirt road?

12 A: Yeah. I'm facing the dirt road and the trees.

13 Q: Okay. So, you were looking at the dirt road?

14 A: Yeah.

15 Q: So, you can see who is coming and going if you're
16 looking?

17 A: If I was looking, I would have seen everybody came in and
18 out. Nine out of 10, when I go down there, I'm only
19 protecting because my house is right over -- stuff happen, I'm
20 just prepared for my kids. They to stay in the house. They
21 have fights or whatever down there. I'm just making sure
22 nobody didn't get hurt if I'm out and about there at that
23 spot. So, I normally, I would be paying attention who coming
24 in and out.

25 Q: Okay. And how soon did you crank up that white Suburban

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LATREKA GREEN - REDIRECT BY LIVESAY

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1 and turn them lights on after the shooting?

2 A: Soon as I heard that door close and the car went driving
3 up the road, it went driving, took off speeding, went around
4 that curve, and they cut the lights off and on.

5 Q: Okay.

6 A: I cranks my truck up, put my car in drive, I flees up
7 there to the Turk's Spot till I like to ran my truck like to
8 ran on top of the steps to go inside the ---

9 Q: Okay. So, soon as the car leaves, you are at Turk's
10 reporting?

11 A: Yeah.

12 Q: Okay. And did you come back up to the scene?

13 A: Yeah, I walked -- me and Veronica Jackson, because she
14 was on the phone with the 911 lady.

15 Q: Okay. And did you see Halo on the road?

16 A: I seen Halo on the ground, laying down, face down, pants
17 halfway pulled up his behind, and he was bleeding and foaming
18 out the mouth.

19 Q: Okay. Okay. And when you light your car up, and you
20 driving to Turk's, do you pass another car?

21 A: I don't pass no nother car.

22 Q: Okay.

23 A: At my knowledge, not after there'd been a bunch of
24 gunshots ringing off. So, I'm not thinking -- I'm getting to
25 the main people, like who was the last person here, who was

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LATREKA GREEN - REDIRECT BY LIVESAY

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1 what's what. Somebody just got -- I don't know if anybody got
2 shot, anybody got killed out here, but we need to go. So, I
3 ended up putting my shoes back on, getting -- look in my
4 truck, get my shoes on, went -- going back towards down there
5 -- we ran back down there. And when we got there, my
6 cellphone light wouldn't even let me turn it up, because it
7 was pitch black -- I guess, maybe the Lord just didn't want me
8 to see -- let me see him that type of way, because I don't
9 know him like that. I never seen no -- I don't never see
10 nobody get shot and killed where I got to back behind them and
11 just look at them while they there. You see what I'm saying?
12 But that particular night, and so tears -- so, I had Veronica
13 to walk with me, and then I know how she have anxiety real
14 bad, so I got her to come back up there with me as she was --
15 on the phone call with the 911 people. They told us not to
16 get in -- for us to get from out because they have now been a
17 crime scene.

18 MR. BROOKER: Your Honor, if she just wouldn't testify as
19 to what someone told her or what they told her; it'd be
20 hearsay.

21 THE COURT: Okay. If you want to move on to the next
22 question.

23 MS. LIVESAY: I understand.

24 BY MS. LIVESAY:

25 Q: Let me ask you one more question, Mr. Green. How many

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LATREKA GREEN - RECROSS BY BROOKER

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1 times did you talk to the police?

2 A: The first time when they first got there, I remember
3 socializing with the police and explaining them what had
4 happened. And then they got this recording that they got.
5 That is when the second time they come to my house, this is
6 the after fact. After I done left from down there when they
7 come to my house.

8 Q: And when you talked to them the first initial time?

9 A: I never -- those guys, yeah, I was in there with them.

10 Q: And did you tell them what you've told us?

11 A: I have told them the same thing what I have told you.

12 MS. LIVESAY: No further questions, Your Honor.

13 THE COURT: Thank you. Anything else, Mr. Brooker?

14 MR. BROOKER: Just very brief follow-up based upon that
15 testimony.

16 RECROSS-EXAMINATION OF LATREKA GREEN BY MR. BROOKER:

17 Q: I think you testified just a minute ago that -- that the
18 Suburban that your car, your vehicle was actually facing the
19 dirt road; is that correct?

20 A: Yes, sir.

21 Q: Okay. And were you sitting in the -- in the front seat
22 of your car or passenger seat; where were you sitting at in
23 your car?

24 A: Sir, if I wasn't sitting in the front seat of my car, how
25 could I cut my light off.

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LATREKA GREEN - RE-CROSS BY BROOKER

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1 Q: Well, I don't know ---

2 THE COURT: Ms. Green, just answer the question.

3 Q: I've got to ask these questions. I wasn't there.

4 A: Yes, sir. I did. I was in the front seat of my car in
5 the driver's seat.

6 Q: You were in the front seat of your car?

7 A: Yes.

8 Q: Okay. And of course is it that your car would've been
9 facing -- would've been facing the road; is that correct?

10 A: Yeah, just facing the dirt road.

11 Q: Okay. And where was -- I think -- were your cousins,
12 were they all in the car with you?

13 A: No, they was not in the car with me. They got their own
14 -- she had her own vehicle. Her vehicle was parked towards
15 the house, and my car was parked towards the road. Cortisha
16 was in the middle of both of our vehicles.

17 Q: Okay. All right. All right. And just one more follow-
18 up question. I know that you said that you didn't see a car
19 ride by past you ---

20 A: Yeah, I was like this right here in my phone. I got my
21 head dropped like this in my phone. How can I see anything
22 going past.

23 Q: I understand.

24 A: Oh, okay.

25 Q: Okay. This is around about, what, 4:00 in the morning,

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LATREKA GREEN - RECROSS BY BROOKER

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1 somewhere around there?

2 A: It was three-something that morning, about close to 4
3 o'clock, when the club closed.

4 Q: Somewhere between -- close to 4 o'clock? Okay.

5 Now, don't get upset at me, I got to ask you this
6 question. Were you under the influence of anything?

7 A: No, I was not. I was sober.

8 Q: Okay.

9 MR. BROOKER: I don't have any further questions for Ms.
10 Green.

11 THE COURT: Thank you, ma'am. You can step down.

12 MS. GREEN: Thank you.

13 MS. LIVESAY: Can she be excused, Judge?

14 MR. BROOKER: I don't have any objection, Your Honor.

15 THE COURT: Yes, ma'am. You can be excused.

16 MS. GREEN: Thank you.

17 THE COURT: Thank you.

18 MS. LIVESAY: We got time for one more, Judge?

19 THE COURT: Ladies and gentlemen, we have one more
20 witness that's under subpoena that we'd like to go into. It's
21 5:35, so I -- but I know some of y'all may have childcare, et
22 cetera, issues. Is there anybody that really has to go today
23 that we cannot get to this witness today?

24 (REPORTER'S NOTE: No response.)

25 THE COURT: Whatever we do today is less we have to do

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CORTISHA HEMINGWAY - DIRECT BY LIVESAY

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1 tomorrow, so ---

2 Okay. Go ahead and call your next witness.

3 MS. LIVESAY: Thank you, Your Honor.

4 THE COURT: Thank you, ladies and gentlemen.

5 MS. LIVESAY: At this time, the state call Cortisha
6 Hemingway.

7 CORTISHA HEMINGWAY, HAVING BEEN
8 SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: If you will state your name and then spell
10 your last name.

11 MS. CORTISHA HEMINGWAY: It's Cortisha Hemingway, H-E-M-
12 I-N-G-W-A-Y.

13 THE COURT REPORTER: Spell your first name, too, please.

14 MS. CORTISHA HEMINGWAY: C-O-R-T-I-S-H-A.

15 DIRECT EXAMINATION OF CORTISHA HEMINGWAY BY MS. LIVESAY:

16 Q: Hey, Cortisha, if you don't mind, try to speak up. I
17 know you're kind of soft-spoken and this crowd has got to hear
18 everything you're saying.

19 A: Okay.

20 Q: How old are you?

21 A: Twenty-five.

22 Q: How old?

23 A: Twenty-five.

24 Q: Okay. And are you working anywhere?

25 A: Yes.

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CORTISHA HEMINGWAY - DIRECT BY LIVESAY

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1 Q: Where do you -- you don't have to tell me exactly where,
2 but about what area?

3 A: Barefoot Landing in North Myrtle Beach.

4 Q: Okay. And how long you been working there?

5 A: Like four, going on five years.

6 Q: Okay. And do you have any kids?

7 A: I have three.

8 Q: Okay. And you live in Horry County?

9 A: Yes.

10 Q: Okay. Now, do you know the victim, Victim: H.G.

11 A: Yes, ma'am.

12 Q: Okay. And what did you call him?

13 A: Halo or Victim: H.G.

14 Q: Okay. You called him Victim: H.G. and how long had you known

15 Victim: H.G.

16 A: I think probably since I was little, growing up. We went
17 to school together.

18 Q: Okay. So, y'all were in school together?

19 A: He was like a year under me, a year or two under me.

20 THE COURT: Ms. Hemingway, if you will get a little
21 closer to the microphone and speak up a little bit louder.

22 Thank you, ma'am.

23 BY MS. LIVELY:

24 Q: How long had you known him?

25 A: Since probably middle school or high school, but most

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CORTISHA HEMINGWAY - DIRECT BY LIVESAY

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- 1 likely middle school. He's like a year or two under me.
- 2 Q: Okay. So, for most of your life?
- 3 A: Yeah.
- 4 Q: Okay. And do you know the defendant?
- 5 A: I went to school and to high school.
- 6 Q: Okay. You've seen them out?
- 7 A: Like -- you're saying like where we live at? Where I
- 8 live that or in school or anything?
- 9 Q: Ma'am?
- 10 A: What do you mean by do I see him out?
- 11 Q: Do you -- have you -- this defendant, have you ever seen
- 12 them before?
- 13 A: Oh, yeah. I seen him before. We went to school
- 14 together.
- 15 Q: Okay. And what do you call him?
- 16 A: He goes by Juice.
- 17 Q: Okay. And do you remember the night that Victim: H.G. was
- 18 killed?
- 19 A: Yes, ma'am.
- 20 Q: Okay. And were you out there on Redenbo Road?
- 21 A: Yes, ma'am.
- 22 Q: Okay. Had you been to Turk's?
- 23 A: Yes, ma'am.
- 24 Q: Okay. And who all -- where were you?
- 25 A: I was right there on Redenbo, like by -- under the oak

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1 tree, like a big oak tree on that road.

2 Q: Who were you standing around?

3 A: My mother and my aunt.

4 Q: And what are their names?

5 A: Taronda (spelled phonetically) and Courtney.

6 Q: And if you don't mind, give me the first and last name.

7 A: Courtney Hemingway and Taronda Green.

8 Q: Okay. And were you in a car?

9 A: I was standing out by the car.

10 Q: And what kind of car was around you?

11 A: My mother car was on the left, that was Camry, and my
12 aunt car was a white Suburban, I think.

13 Q: Okay. And what were y'all doing out there?

14 A: We were just talking. It was after a party, so we just
15 chillin.

16 Q: And how long had you been at Turk's?

17 A: I got there like 12:00 or 1 o'clock.

18 Q: Okay. And what time did you leave?

19 A: I stayed all night.

20 Q: Okay. At some point though, you went down the road to
21 hang out with Latreka, right, the people you just named?

22 A: Uh-huh, (affirmative response).

23 Q: Okay. So, what time did you actually leave Turk's and
24 walk up the road to hang out with them?

25 A: It's was probably like 1:00-something, probably 1:00 or

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1 2:00.

2 Q: Okay. And were you under the influence when you were out
3 there with them?

4 A: I was drinking.

5 Q: Okay. And were you fall-down drunk?

6 A: No, ma'am.

7 Q: Okay. Were you -- did you know where you were?

8 A: Yes, ma'am.

9 Q: Okay. And were you so impaired you didn't know what was
10 going on?

11 A: I knew what was going on.

12 Q: Okay. You knew what was going on.

13 A: Uh-huh, (affirmative response).

14 Q: And about how long had you been standing out there with
15 Latreka, and you said the other person was who?

16 A: Courtney.

17 Q: Courtney. How long had you been standing out there with
18 them?

19 A: Probably like 30-35 minutes.

20 Q: Okay. And were you drinking when you were standing
21 around them?

22 A: No, ma'am.

23 Q: Okay. So, you had stopped drinking when you walked down
24 there to talk to them?

25 A: Uh-huh, (affirmative response).

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1 Q: And was it just y'all down there?

2 A: Well, it was just us in the area.

3 Q: Okay. So, there weren't a lot of people around?

4 A: No.

5 Q: And while you were down there, at some point, did you see
6 or hear Victim: H.G.

7 A: Yes, ma'am.

8 Q: Tell -- tell me about that.

9 A: Well, he walked past us a couple of times back and forth.
10 He was on his phone speaking to somebody. The last time I
11 seen him he was walking towards the road with his -- at the
12 end of Redenbo Drive. He walked by our cars -- well, my momma
13 and them car, he walked by us while he was on the phone.

14 Q: Okay. And did he have his shirt on?

15 A: No.

16 Q: He didn't have no shirt on?

17 A: Huh-uh, (negative response).

18 Q: Okay. And what did Victim: H.G. look like?

19 A: Light-skinned, tall, he got weight on him but he's not
20 big like, you know, weight.

21 Q: Okay. And when you saw him walk back down the road, he
22 didn't have no shirt on?

23 A: Huh-uh, (negative response).

24 Q: Did he have pants on?

25 A: He had pants on.

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1 Q: Okay. Pants, no shirt?

2 A: Yes, ma'am.

3 Q: Okay. And what happens the last time you see him walk
4 down the road?

5 A: Well, I seen when he walked by he was on the phone, he
6 was talking. Like -- probably like a minute or so, a minute
7 or less, cars was passing by. And then you hear like a
8 gunshot. And I was standing in the cars, and normally we hear
9 gunshots all the time, so, I heard that gunshot, and then I
10 backed up to see. I backed up to see around my aunt's car.
11 And then I seen somebody standing over him shooting him.

12 Q: So, let me make sure I'm straight. You hear at least one
13 gunshot?

14 A: Uh-huh, (affirmative response). And then it was like a
15 little pause.

16 Q: And then when you hear the first one, what do you do?

17 A: I had backed up -- like I was standing in between the
18 cars and I backed up enough to where I could peek my head
19 around the truck.

20 Q: Okay. You backed up and you look around, and you see
21 somebody shooting?

22 A: Uh-huh, (affirmative response).

23 Q: Can you see Victim: H.G. on the ground?

24 A: Uh-huh, (affirmative response).

25 Q: And can you see somebody standing over him shooting?

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1 A: Uh-huh, (affirmative response).

2 Q: What was -- could you ---

3 THE COURT: And that's a yes?

4 A: Yes.

5 Q: You got to -- this lady here has got to take everything
6 down, so don't blame it all on me.

7 A: Right.

8 Q: Okay. What is Halo doing, if anything, when you see him
9 on the ground?

10 A: When I looked back behind the truck to look, he was like
11 lifting up. Like say if he was laying down, and your top part
12 of your body is lifting up, like you're trying to crawl or
13 something, and he just ---

14 Q: And could you see good enough to know that it was Halo on
15 the ground?

16 A: Yeah. I mean, he just had walked by us.

17 Q: And you could see good enough to see he was trying to --
18 tried to get up?

19 A: Uh-huh, (affirmative response).

20 Q: Could he get up?

21 A: I don't know if he could get up or not. I just know he
22 was trying to get up.

23 Q: Did you see a description of the person who was standing
24 over him shooting?

25 A: Well, I remember him having -- his jacket had like white

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1 stripes on the side of it, and I remember him having hair.

2 Q: Could you tell if he was white or black?

3 A: I couldn't say. It was dark.

4 Q: And you say you saw him wearing a jacket with stripes?

5 A: Uh-huh, (affirmative response).

6 Q: Where are the stripes?

7 A: On the side of the arm.

8 Q: So, you see him wearing a jacket with white stripes down
9 the arm?

10 A: Uh-huh, (affirmative response), yes.

11 Q: And could you tell if he was tall or short?

12 A: I couldn't really tell. I mean, they wasn't that tall.

13 Q: He was not that tall?

14 A: He wasn't a tall guy.

15 Q: Okay. And what, if anything did you see -- you said
16 something about his hair. What if anything do you remember
17 about that?

18 A: I just remember like him having hair like hair sticking
19 up, I could say, like maybe dreads or something.

20 Q: Okay. So, you remember some hair sticking up on his
21 head.

22 A: Uh-huh, (affirmative response).

23 Q: And you remember a jacket with white stripes going down
24 the sleeve?

25 A: Uh-huh, (affirmative response).

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1 Q: And you said he was not very tall?

2 A: No, ma'am.

3 Q: And you say you don't know if he was white or black?

4 A: I mean, he won't -- it was dark. And I mean, if they --
5 if he was white, I would be able to tell, but it was dark that
6 night.

7 Q: Okay. But you -- even though it was dark, those things
8 you could see?

9 A: Uh-huh, (affirmative response).

10 Q: What happens once you see the shooting?

11 A: I just went in like a panic mode, like that, I went
12 nerve-racking, I just dropped, and I left afterwards. I got
13 in the car and we went back to Turk's.

14 Q: What car did you get in?

15 A: The Camry.

16 Q: Okay. So, not the white Suburban?

17 A: Huh-uh, (negative response).

18 Q: Okay. And go back -- so, did the white Suburban go to
19 Turk's?

20 A: Yes.

21 Q: Okay.

22 A: They both went.

23 Q: Okay. So, the white Suburban and then the Camry that
24 you're in?

25 A: Uh-huh, (affirmative response).

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1 Q: Who were you in the car with?

2 A: My momma, Courtney.

3 Q: Okay. And what's her last name?

4 A: Hemingway.

5 Q: Okay. How soon after the shooting happened do you go to
6 Turk's?

7 A: Like right then and there; like after we stop hearing the
8 gunshots, we got in the car and left, or I got in the car and
9 left cause they was already in the car.

10 Q: Okay. And do you know if the shooter -- did you see, did
11 he run off, did he get in a car; did you see any of that?

12 A: Huh-uh, (negative response). I just dropped, like once I
13 seen what was going on, I just dropped.

14 Q: Ms. Hemingway, did you want to come to court today?

15 A: Huh-uh, (negative response); no.

16 Q: And are you under subpoena?

17 A: Yes.

18 Q: And if you were not under subpoena, would you be here
19 today?

20 A: No, ma'am.

21 MS. LIVESAY: No further questions.

22 THE COURT: Mr. Brooker?

23 MR. BROOKER: Thank you.

24 CROSS-EXAMINATION OF CORTISHA HEMINGWAY BY MR. BROOKER:

25 Q: You'll be glad to know, Ms. Hemingway, I don't have that

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1 many questions.

2 Ms. Hemingway, I think you just told Ms. Livesay that you
3 was not able to determine the race of the shooter; is that
4 correct?

5 A: It was dark.

6 Q: I got you. And the shooter, was he facing away from you?

7 A: I think it was like a side angle.

8 Q: I'm sorry?

9 A: I was at a side angle, so I seen it from the side.

10 Q: Side angle?

11 A: Yes.

12 Q: And I want to make sure that I understand you correctly.
13 It's my understanding that you were standing with your mom,
14 and standing with your aunt; is that correct?

15 A: Yes.

16 Q: And y'all were doing something, maybe looking at the
17 phones or whatever you were doing; is that correct?

18 A: Yes, sir.

19 Q: And that's when you heard a gunshot?

20 A: Yes, sir.

21 Q: And I think you said at some point in time you -- you
22 peered out from behind, I think, your aunt's SUV; is that
23 correct?

24 A: Yes.

25 Q: And you could see Victim: H.G. on the ground, and of course

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BY THE COURT

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1 appears as if he was trying to get up; is that correct?

2 A: Yes, sir.

3 Q: And you saw a person standing over him or near him
4 shooting him; is that correct?

5 A: Yes, sir.

6 Q: And I think you said that at the time you saw the person,
7 the person was already standing over Victim: H.G.

8 A: Yes, sir.

9 Q: Okay. Did you see the person get out of the vehicle?

10 A: No, sir.

11 Q: Did you see the person get back in the vehicle?

12 A: No, sir.

13 Q: If you could indulge me for just a second, Ms. Hemingway.
14 I may not have any further follow-up questions for you. Let
15 me just check and see. Okay?

16 A: Uh-huh, (affirmative response).

17 Q: Thank you very much, Ms. Hemingway. No further
18 questions.

19 MR. BROOKER: No further questions, Your Honor.

20 THE COURT: Okay. Any redirect?

21 MS. LIVESAY: Nothing from the state, Your Honor.

22 THE COURT: Thank you, ma'am. You can step down.

23 MS. LIVESAY: Can she be excused, Judge?

24 MR. BROOKER: Without objection, Your Honor.

25 THE COURT: Absolutely.

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BY THE COURT

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1 BY THE COURT:

2 THE COURT: Okay. Ladies and gentlemen, this is a good
3 time for us to adjourn for the evening. Once again, if you'll
4 be back at the same time tomorrow, please don't begin
5 discussing the case overnight.

6 We'll see you in the morning.

7 JUROR: It's been very hard to hear these last few
8 witnesses. Is there any way that microphone can be turned up
9 or get them talk louder or ---

10 THE COURT: We'll get them to talk louder; yes, sir.
11 Thank you.

12 (REPORTER'S NOTE: Jury exits courtroom @ 5:50 p.m.)

13 THE COURT: I just want to make sure y'all heard. The
14 juror just said that he'd like for us to make sure the
15 witnesses speak up so they can hear.

16 MS. LIVESAY: Okay.

17 MR. HELMS: Understood, Your Honor.

18 THE COURT: Okay.

19 MR. HELMS: Your Honor, is that gentleman in the back ---

20 THE COURT: No, this was the -- he's a plumber.

21 MR. HELMS: Oh, he's ---

22 THE COURT: Yes. And I can tell you his name tomorrow,
23 but he's the tall gentleman ---

24 MR. HELMS: I know who you're talking about now.

25 THE COURT: Okay. Anything before we adjourn?

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BY THE COURT

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1 MR. HELMS: Nothing from the state, ma'am.

2 MR. BROOKER: Nothing, Your Honor.

3 THE COURT: I do have to ask, do we feel like our chances
4 are good to finish this case this week?

5 MR. HELMS: Yes, ma'am.

6 MR. BROOKER: I would think it is, Your Honor.

7 THE COURT: What I might suggest is maybe we'll bring the
8 jury lunch tomorrow so we can have a little shorter lunchbreak
9 and plan to not take as long of a lunchbreak tomorrow just so
10 we can get the bulk of the case.

11 MR. HELMS: And I think we will, Judge.

12 MS. LIVESAY: We'll finish tomorrow.

13 MR. HELMS: Yes, ma'am.

14 THE COURT: Okay.

15 All right. Thank y'all. Have a good night.

16 MR. BROOKER: Thank you, Your Honor.

17 MR. HELMS: Thank you, Judge.

18 **RECESS - 5:52 P.M. - END OF DAY TWO**

19 *****OFF THE RECORD*****

20 **APRIL 13, 2022 - DAY THREE**

21 **ON THE RECORD - 9:38 A.M.**

22 (REPORTER'S NOTE: The following takes place outside the
23 presence of the jury.)

24 THE COURT: Do we have a matter we need to take up?

25 MR. BROOKER: I think, Your Honor, is that they have

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BY THE COURT

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1 photographs that I think that they're gonna be seeking to
2 introduce, I guess, during one of their witnesses. And of
3 course, these are photographs of the decedent, and of course
4 is is that, you know, it may be a good idea if we take those
5 up right now as opposed to sending the jury out once they try
6 and introduce those photographs into the record.

7 THE COURT: You've reviewed the photos?

8 MR. BROOKER: I have reviewed them. Of course is that we
9 have objections to a lot of them.

10 THE COURT: Okay. Any specific numbers that you want me
11 to look at?

12 MR. BROOKER: Yeah. The numbers that they have written
13 on the back, I don't think they've been premarked yet, and we
14 can take a look at them. The ones that we have objection to,
15 and these are -- numbers on the back?

16 MR. HELMS: Yes, sir.

17 MR. BROOKER: I think there's 5, 6, 9, 10, 11, 12 through
18 17, 18, I think 27 through 34.

19 THE COURT: And I'm sorry. You said 12 through 17?

20 MR. BROOKER: Yes, ma'am.

21 MR. HELMS: 12 through 18?

22 MR. BROOKER: 12 through 18, I apologize, 12 through 18,
23 and then 27 through 34.

24 THE COURT: If you'll give me just a minute, I'll take a
25 look at them and I'll hear from the state.

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BY THE COURT

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1 MR. HELMS: Yes, ma'am, Your Honor.

2 THE COURT: And I'm glad to go ahead and hear from you, I
3 just figured I'd look at them as well.

4 MS. LIVESAY: Yes, ma'am. The pictures that were taken
5 are the pictures from the crime scene with the markings
6 showing where the evidence was collected. These -- none of
7 them are autopsy pictures, and none of them are overly
8 gruesome. They are showing where he was laying and where he
9 was laying in relationship to the road, where he was laying in
10 relationship to Turk's, and where he was laying in
11 relationship to the evidence that was collected around him
12 including the shell casings and the fired bullets.

13 THE COURT: Can I ask, am I looking at the number that's
14 circled?

15 MR. BROOKER: I think you're looking at the number that's
16 circled, Your Honor. At least those are the ones that I wrote
17 down, the number that's circled on the back.

18 THE COURT: So, in other words, there's a number at the
19 top, like 0013 and then there's a number that's circled
20 underneath it. Is it ---

21 MS. LIVESAY: The number circled underneath is just the
22 order it's in in that PowerPoint, but the top number is gonna
23 be the number from crime scene that it was named as in the
24 crime scene folder.

25 THE COURT: Yeah. What I need to know is when he tells

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BY THE COURT

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1 me 5, 6, 9, is that the circled number, is that the top ---

2 MR. BROOKER: It's the circled number.

3 THE COURT: Circled number, okay. Got you.

4 Okay. I've taken a look at the photos. I do find that
5 they're admissible. I mean, certainly, they are depicting his
6 position of the body, I assume the positioning of the shell
7 casings, the bullet wounds, et cetera. And I understand that,
8 Mr. Brooker, that you think it would be, I guess, upsetting is
9 the word I'm looking for, or graphic, but I do think that they
10 have probative value.

11 Anything else, sir?

12 MR. BROOKER: Yeah, just for purposes of appeal, if I
13 could just at least fully explain my explanation as to why
14 we're objecting to most of them. I don't have them right in
15 front of me.

16 THE COURT: You want to grab them?

17 MR. BROOKER: Absolutely, Your Honor. Thank you.

18 I think they're in the same order. I'll keep them in
19 order.

20 MR. HELMS: Thank you.

21 MS. LIVESAY: Thank you.

22 MR. BROOKER: And for purposes of the record, Your Honor,
23 would you like for me to make reference to the exhibit numbers
24 that are identified on top or at least the circled numbers on
25 the back that we were using?

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1 THE COURT: The circled numbers.

2 MR. BROOKER: The circled numbers, okay. And I'll do
3 them both for the record.

4 Your Honor, I think the first photograph, I think, which
5 the circled number on the back is Number 1, State's Exhibit 2,
6 we have no objection. I think State's Exhibit 26, circled
7 number 2, no objection.

8 THE COURT REPORTER: I haven't finished putting the
9 stickers on them.

10 MR. BROOKER: Oh, you haven't finished. Okay. Circled
11 number 3, no objection. Circled number 4, we have no
12 objection, even though that depicts the body. And of course,
13 that depicts the entire scene. And of course is that I can
14 understand why they would have that one in there because it's
15 a complete layout of the scene including the dirt road leading
16 away from Turk's Place. I think the next one, which is 4,
17 circled number 4, again, does have the decedent's body laying
18 on the ground, but of course is, the depiction of the entire
19 scene, the dirt road, potentially they could use that to
20 explain where the cars were. Number 6, again, a depiction of
21 the body, the layout of the dirt road leading, I think, away
22 from Turk's Place. And, of course, number 7, leads back to
23 Turk's Place. I can understand that. Number 8, I can
24 understand that. With respect to number 9, Your Honor, I
25 think we're looking at circled number 9. And of course,

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1 circled number 9 is just showing where he falls. And of
2 course is, it's showing his body, a close-up, which in those
3 -- and where his body in relationship to the road, where his
4 body in relationship to Turk's Place, where his body is in
5 relationship to the highway leading from Turk's Place, all of
6 that is depicted in the previous photographs that we have no
7 objection to. And so, with respect to number -- with respect
8 to number 9, it's just a close-up of the decedent's body.
9 Number 10 is the same thing. It's a close-up of the
10 decedent's body, and of course is is that it doesn't depict
11 where the evidence is. I don't know what's the probative
12 value of that is because it in all of the other photographs
13 that we didn't object to ---

14 MR. HELMS: Your Honor, if I may, in the interest of
15 judicial efficiency, the Court has ruled. Are we letting the
16 defense argue after the Court has ruled or before the Court
17 has ruled? My understanding is the Court has ruled and we
18 should move on in light of that. The objection has been noted
19 for the record. Mr. Brooker made it contemporaneously, and
20 the state would just ask that we be allowed to move on in
21 light of the Court's ruling.

22 MR. BROOKER: Well, the Court has ruled, Your Honor, but
23 we're entitled to -- we're entitled to make our record for any
24 purposes of appeal.

25 THE COURT: And I understand your objection is that you

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1 think that these are -- some of them are repetitive, that
2 they're graphic. It looks to me that there are two sets of
3 photos. There's photos that are showing the location of both
4 the wounds and the casings and projectiles before they've been
5 marked by law enforcement, and then there's another series of
6 photos that are showing the same photos after the markers have
7 been placed by law enforcement to then identify where all the
8 pieces of evidence are. So, I understand your objection on
9 the graphic nature that is being -- that there are multiple
10 pictures of the body. And I think you're protected for the
11 record without going through every single photo.

12 MR. BROOKER: And I won't, Your Honor. I won't go
13 through everything. And obviously it is that they're
14 cumulative, there are multiple pictures depicting the same
15 thing. They are graphic. There's multiple pictures depicting
16 of the decedent's body. And then of course in addition to
17 that is is that I think the state says that the purpose of
18 this is to show where the bullets fall, and obviously is that
19 is that these close-ups of the decedent's body, if that was
20 done to prove a specific issue, that was -- a specific issue,
21 that was being contested or a specific issue that they had to
22 prove, then I would understand, well, okay, sometimes graphic
23 pictures will come in if those graphic pictures are there to
24 prove a specific issue that needs to be proved by the state,
25 but of course, where the bullets are in his body are

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1 irrelevant to prove death. I can understand if they wanted to
2 show one and says, hey, we want to do against -- we want to
3 eliminate the possibility of self-defense, so we're gonna use
4 one of these pictures to show that he was shot in the back,
5 which is cumulative. I think the medical examiner is gonna
6 testify that he had eight bullets to the back. I don't know
7 what they intend to prove, but I respect your -- I thank you,
8 Your Honor, for giving me the time at least to put that on the
9 record, just in case if it's necessary.

10 Thank you, Your Honor.

11 THE COURT: Thank you.

12 Okay. I think we're ready for the jury now.

13 MS. LIVESAY: Yes, ma'am.

14 (REPORTER'S NOTE: Jury enters courtroom @ 9:51 a.m.)

15 MS. LIVESAY: Thank you, Judge. At this time, the state
16 calls Ms. Becky Phillips to the stand.

17 REBECCA PHILLIPS, HAVING BEEN SWORN,

18 TESTIFIED AS FOLLOWS:

19 THE CLERK: State your name and spell it for the Court.

20 MS. PHILLIPS: My name is Rebecca Phillips, R-E-B-E-C-C-
21 A, P-H-I-L-L-I-P-S.

22 DIRECT EXAMINATION OF REBECCA PHILLIPS BY MS. LIVESAY:

23 Q: And Ms. Phillips, if you don't mind, I know we see the
24 badge around your neck, but where are you currently employed?

25 A: I am currently employed at the Horry County Police

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1 Department assigned to the Crime Scene Investigation Unit.

2 Q: And how long have you been in law enforcement?

3 A: I've been in law enforcement, this is my 21st year, and I
4 have been assigned to crime scene for about two-and-a-half
5 years.

6 Q: And tell us about your training and career before you
7 took over crime scene.

8 A: Before crime scene, I was a road officer. I worked in
9 warrant division for a few years, became a property crimes
10 detective, and then spent 10 years in narcotics.

11 Q: Okay. And how long have you been crime scene?

12 A: About two-and-a-half years.

13 Q: Okay. And have you undergone training prior to starting
14 in crime scene?

15 A: Yes, I have.

16 Q: And if you don't mind, tell me a little bit about the
17 training you've done prior prior to being in crime scene
18 investigation.

19 A: I've been to the police academy and a Class I officer. I
20 have been to multiple conferences and training in reference to
21 narcotics investigation.

22 Q: And how long or how many scenes at this point have you
23 gone to as a crime scene investigator?

24 A: Many, because there's not many of us; probably 30 to 40
25 if not more.

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1 Q: Okay. And were you a crime scene investigator in June of
2 2020?

3 A: I was.

4 Q: Okay. And did you assist on the case on Redenbo Drive?

5 A: I did. I was the main CSI investigator.

6 Q: Okay. And when you say CSI, do you mean crime scene
7 investigator?

8 A: Crime scene investigator.

9 Q: Okay, wonderful. What time -- do you remember about what
10 time you got there?

11 A: I received a call around 5 o'clock in the morning.

12 Stating that there was an incident, a shooting that occurred
13 on Redenbo Drive, and that the victim was still on scene. And
14 I arrived around a little bit before 6 o'clock.

15 Q: Okay. And when you arrived, what was the first thing you
16 did?

17 A: It was daylight at the time when I arrived. I checked to
18 see if the crime scene was secure. It was secured with crime
19 scene tape. And started getting my initial information from
20 the officers on scene.

21 Q: Okay. And then once you collected that initial
22 information, what did you do?

23 A: A search warrant was obtained for the area. It's a
24 coquina road. Did not know at the time whether or not it was
25 county maintained, but it was in the Loris section of Horry

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1 County. I started documenting the scene by taking photographs
2 of the area from outside and then worked my way in.

3 Q: Okay. And did you photograph the scene just as you
4 arrived, just as you saw it?

5 A: Yes.

6 Q: And at some point, as the crime scene investigator, did
7 you mark the items of evidence in that area?

8 A: I did, yes.

9 Q: Okay. And did you document those items with photographs?

10 A: Correct; yes, I did.

11 Q: And ultimately, were those items collected from the
12 scene?

13 A: Yes.

14 Q: Okay. I'm gonna show you now what's been marked as
15 State's Exhibit 25 through 58. If you don't mind, take a look
16 and tell me if you recognize those photographs.

17 A: They are my photographs that I took on scene that morning
18 from the exterior or the overalls, then I worked my way into
19 where the victim was laying in the roadway and the evidence
20 marked with my evidence numbers and documented with this
21 photos.

22 Q: And have they been tampered with in any form or fashion?

23 A: No, ma'am.

24 MS. LIVESAY: Your Honor, at this time, the state wishes
25 to put 25 through 58 and publish to the jury.

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1 THE COURT: Subject to your previous objection, Mr.
2 Brooker?

3 MR. BROOKER: Yes, ma'am.

4 THE COURT: Yes, they are admitted.

5 STATE'S EXHIBIT NUMBER 25 THROUGH 59

6 ADMITTED INTO EVIDENCE

7 MS. LIVESAY: Thank you.

8 And can you mark this, too, Ms. Kay?

9 BY MS. LIVESAY:

10 Q: Do recognize what I'm showing you now?

11 A: Yes. That's an overall photograph of the victim lying in
12 a roadway along with my evidence markers with the evidence
13 still in place.

14 Q: Okay. And is this photograph actually included in 25
15 through 58.

16 A: Yes.

17 Q: And does this document all the shell casings and fired
18 bullets that were around the victim?

19 A: Yes.

20 Q: And does it document where the victim was laying in
21 relationship to those items of evidence?

22 A: Yes.

23 MS. LIVESAY: Your Honor, at this time, the state wishes
24 to put 59 into evidence and publish it at the appropriate
25 time.

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1 THE COURT: Subject to the same objection, Mr. Brooker?

2 MR. BROOKER: Yes, ma'am.

3 THE COURT: 59 is admitted.

4 STATE'S EXHIBIT NUMBER 59

5 ADMITTED INTO EVIDENCE

6 BY MS. LIVESAY:

7 Q: At this time, Ms. Phillips, do you mind stepping down so
8 you can go through these photographs?

9 A: Sure.

10 MS. LIVESAY: And, Your Honor, do you mind if she steps
11 down?

12 THE COURT: I do not.

13 MS. LIVESAY: Thank you.

14 BY MS. LIVESAY:

15 Q: You can come up if you want and stand right here, just
16 make sure you talk loud.

17 A: Can I -- this is the representation in the same
18 photographs.

19 You want me to go through each one?

20 Q: Here you go. You can use this if you want.

21 A: So, this first photograph is an overall photograph of
22 Cedar Branch Road. This road is heading north towards Highway
23 9.

24 Q: So, is this the road you turn off of to go into Redenbo?

25 A: Correct.

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- 1 Q: Okay.
- 2 A: That's the roadway pointing south on Cedar Branch Road.
- 3 Q: Okay. So, again, this is Cedar Branch?
- 4 A: Uh-huh, (affirmative response).
- 5 Q: And this is the road you turned off of to turn onto
- 6 Redenbo?
- 7 A: Correct.
- 8 Q: Okay. Now, hold on, is that a -- this is tape, correct?
- 9 A: Correct.
- 10 Q: So, there's no like middle markings or anything on this
- 11 road?
- 12 A: No, ma'am.
- 13 Q: What are we looking at here?
- 14 A: This is the corner of Cedar Branch and Redenbo Drive.
- 15 You can see the sign that clearly marks Redenbo. It's a
- 16 coquina/dirt driveway or road.
- 17 Q: Okay. So, when you turn off the Cedar Branch, you turn
- 18 onto Redenbo when you get on the dirt road?
- 19 A: Correct.
- 20 Q: Okay.
- 21 A: This is Redenbo. Once you turn into Redenbo, the road
- 22 curves to the right that goes to a dead end, where there is a
- 23 business at the end. And you can clearly see the crime scene
- 24 tape and the victim in the road.
- 25 Q: And now we are on Redenbo?

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- 1 A: Redenbo, uh-huh, (affirmative response).
- 2 Q: Okay.
- 3 A: That is just an inline photo facing towards the end of
4 the cul-de-sac with the victim partially in the roadway.
- 5 Q: Now, are there any streetlights around where the victim
6 is?
- 7 A: No.
- 8 Q: Are there any streetlights on Redenbo that you're aware
9 of?
- 10 A: There is, but it was at the end of the road towards the
11 business.
- 12 Q: Okay.
- 13 A: At the cul-de-sac.
- 14 Q: Okay.
- 15 A: This is the view facing back out to the curve as it
16 curves to the left to go back out to Cedar Branch. That is
17 Redenbo.
- 18 Q: Okay. So, Cedar Branch is out here?
- 19 A: Correct.
- 20 Q: So, we still on Redenbo right here?
- 21 A: Correct.
- 22 Q: So, this curves around and then Cedar Branch is out
23 there?
- 24 A: Yes, ma'am.
- 25 Q: Okay.

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1 A: This is a photograph towards the business at the end of
2 the cul-de-sac. It's past the crime scene, it's past the area
3 that's marked with the crime scene tape.

4 Q: Okay. And what is this here, do you know?

5 A: That is a business doing -- building doing business as
6 Turk's Place. It's a club.

7 That's another view of the front porch and area of Turk's
8 Place.

9 Q: Okay. And these cars to your knowledge, this white
10 Suburban, this Camry, these cars were there, have been there,
11 nobody was allowed to leave once the crime scene was taped
12 off?

13 A: Correct.

14 Q: Okay. So, you -- this catches everybody that was in here
15 during that time. Once the crime happened, the tape goes up,
16 nobody leaves.

17 A: Once the officers get there and they respond, they put
18 the crime scene tape up, yes.

19 Q: Okay.

20 A: That's the victim lying partially in the roadway on
21 Redenbo facing towards the cul-de-sac.

22 Q: So, when you say partially in the roadway, this is where
23 you drive -- I'm assuming looking at this truck here, you
24 drive between here and here; is that right?

25 A: Yes. And people would park -- you can see the tire

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1 markings where people would park here and then walk down to
2 the club.

3 Q: Okay.

4 A: And this is just an overall view of the victim lying in
5 the roadway.

6 Q: Okay. And how about right here?

7 A: There's a cellphone submerged in the puddle.

8 Another view of the victim lying in the roadway.

9 Q: And did anybody do anything with the body to your
10 knowledge prior to you getting there?

11 A: No, not to my knowledge.

12 Q: Okay. To your knowledge, this is his final resting
13 place?

14 A: Yes, ma'am.

15 Q: Okay. Let me ask you something, do you or did you see
16 any weapon around the victim's body?

17 A: No, ma'am.

18 Q: Okay. And did you see any weapons even near his body?

19 A: No, ma'am.

20 Q: And what are we looking at here?

21 A: Those are two bullet wounds in his back.

22 Q: And the shirt here, is this shirt the way you found it
23 when you got there?

24 A: Yes.

25 Q: All right. And what we got here?

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1 A: That's the cellphone in the puddle -- submerged in the
2 puddle, and as he bled, that's why the water is discolored.

3 Q: And let me ask you something, when you take a first
4 glance at this, do you see anything around the body that is of
5 importance to you?

6 A: We took -- when I took the overalls, we did take
7 photographs or I did notate that the shell casings, there's
8 shell casings in the puddle, around the puddle, around his
9 hands there is projectiles. These are all items of evidence;
10 of course, his clothing; the cups because they are close to
11 the body and that's why I collect those.

12 Q: And if you don't mind, go ahead and point out to the jury
13 on this photograph where you see some shell casings.

14 A: There's one sitting on its end here; there's one here;
15 there's one here; several of them, of course, is in the
16 puddle; there's I think a projectile here in this photograph;
17 there's another projectile towards his other hand.

18 Q: Okay. Now, let me ask you something. You're calling
19 this a shell casing.

20 A: Yes.

21 Q: And you're calling this a projectile.

22 A: Yes.

23 Q: What's the difference?

24 A: The projectile is just what comes out of the bullet once
25 it's fired. The shell casing is just what the bullet is

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1 contained in.

2 Q: Okay. So, the shell casing is what's ejected out of the
3 gun?

4 A: Yes.

5 Q: And this is the actual bullet that's fired?

6 A: That's fired.

7 Q: Okay.

8 THE COURT REPORTER: Can you identify those for the
9 record by the number, the red sticker, please.

10 A: Okay. We're on State's Exhibit 38.

11 Q: What is this?

12 A: That is a projectile.

13 Q: And what -- and the projectile is what was fired out the
14 barrel of the gun?

15 A: Correct.

16 Q: Okay. You see anything in this picture that's of
17 evidentiary value to you?

18 A: State's Exhibit 39, near his right hand is another
19 projectile. Right here.

20 Q: And when you say projectile you mean the bullet ---

21 A: Fired bullet.

22 Q: Okay. And when you load the bullet in your gun, does it
23 look like this?

24 A: No. That is a result of it hitting something, and it
25 will -- I don't know what the technical term is for ---

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1 Q: Do you see anything metal around his body?

2 A: No.

3 Q: How about the ground? Would the ground do that to it?

4 A: It can because it is a coquina road.

5 Q: Okay.

6 A: It's a very compressed road.

7 Q: Okay. So, if you fired down at this road, it can cause
8 this kind of damage to the bullet?

9 A: It can. That's State's Exhibit 40.

10 State's Exhibit 41, this is an overall photograph that
11 documents the association and the placement of the items of
12 evidence that I had collected on the scene.

13 Q: Okay. Now, are these items that are marked, do they
14 include the shell casings and the fired bullets?

15 A: Yes.

16 Q: Okay. So, I don't see any markers back this way?

17 A: No, ma'am.

18 Q: So, shell casings, no fired bullets were back this way?

19 A: We didn't -- we searched and did not locate any.

20 Q: Okay. Now, let me ask you something, you were out here,
21 so you probably know more about the measurements. I'll wait
22 and ask that in a minute. This is -- this picture doesn't
23 really depict it, but this is all the evidence marked outside
24 the body that you collected?

25 A: Correct.

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1 Q: All right.

2 A: This is State's Exhibit 42. It's another overall
3 photograph taking it from his feet to his head that shows some
4 of the association between the items of evidence. The only
5 one you can't see is the one, I think, behind the left hand in
6 the photograph.

7 Q: Okay. That's gonna be what?

8 A: I think the projectile or the fired bullet.

9 Q: Okay. And so, all the evidence you collected was up here
10 around his head area?

11 A: Correct.

12 Q: Okay.

13 A: State's Exhibit 43.

14 Q: I'm sorry. I'm gonna grab -- they're closeups, so we're
15 not gonna know where they are. Go ahead.

16 A: It is a spent casing.

17 Q: So, this is Number 1?

18 A: Item 1, yes.

19 Q: Okay. Number 1 in here ---

20 A: Is over on the left side towards his left side.

21 Q: And -- go ahead.

22 A: Go ahead.

23 Q: And that's the casing that pops out of the gun?

24 A: Yes.

25 Q: Okay. And how far about would you say that casing is

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1 from the body?

2 A: A couple of feet.

3 Q: So, not very far from the body?

4 A: No, not very far.

5 Q: Okay. And this was actually the furthest shell casing
6 from the body?

7 A: Correct.

8 Q: So, the furthest casing away from this victim was two
9 feet?

10 A: It's probably a little bit more than two feet, but very
11 close. It didn't go far.

12 Q: Okay. How about the second one, Number 2.

13 A: Number 2? State's Exhibit 44, Number 2, is just a little
14 closer to the body.

15 Q: And what is it?

16 A: That is a .40 caliber shell casing, another casing.

17 Q: And when you say a little closer to the body, how close
18 is that shell casing would you say approximately to that
19 victim's side?

20 A: Probably maybe two feet. I know I said two feet to start
21 with, but it's -- it's really -- I didn't take measurements
22 from the body, I took measurements from two other items.

23 Q: Okay. But ---

24 A: On the right of them.

25 Q: Okay. So, maybe around two feet is what you're saying?

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1 A: Yeah. It's still close to the body.

2 Q: And that's the casing that was projected out of the gun
3 when the bullet was fired?

4 A: Yes.

5 Q: Okay. So, pretty close to the body?

6 A: Yes.

7 Q: Okay.

8 A: That is State's Exhibit 45. It's another spent casing
9 documented as my Item Number 3, and it's north of the body.
10 So, there was some space between 1 and 2, but it's still in
11 the general area, about two feet, approximately two feet.

12 Q: Okay. So, again, extremely close to the body?

13 A: Yes. 4 is closer -- 4, State's Exhibit 46, another spent
14 casing. That one was close to where the phone was in the
15 puddle. It was outside the area of the puddle.

16 Q: Okay. So, this was found in the same area that his
17 cellphone was?

18 A: Uh-huh, (affirmative response); yes, ma'am.

19 Q: So, pretty close to the body, wouldn't you say?

20 A: Yes, ma'am.

21 Q: And again, this casing was projected out of the gun
22 barrel?

23 A: Yes.

24 State's Exhibit 47, spent shell casing, it's a little bit
25 left to Item 4, or Marker 4, still close to the body, still

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1 around the puddle and the victim's head.

2 Q: And again, that's the shell casing that popped out of the
3 gun?

4 A: Yes.

5 Q: Okay.

6 A: State's Exhibit 48, Item 6, it is a spent shell casing.

7 It is partially submerged in the puddle, and it's closer to
8 the victim's left hand.

9 Q: Okay. So, are these casings moving closer to the victim
10 or are they moving further away from the victim?

11 A: The way that I collected them, they are moving closer to
12 the victim.

13 Q: Okay. And this one actually is in the same puddle or
14 close to it that his phone is in?

15 A: Correct.

16 This is State's Exhibit 49, Item -- my Item 7. It is a
17 spent casing, but it's more towards the right side of the
18 victim, near his head and near his right hand.

19 Q: Okay. And how about how close is that shell casing?

20 A: Probably about a foot and a half.

21 Q: So, pretty close?

22 A: Yeah.

23 This is State's Exhibit 50, Item Number 8. It is a fired
24 bullet or what we call a projectile. And it is to -- it's
25 almost around the same area as Item Number 2.

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1 Q: Whis is where?

2 A: Which is on the left side about two feet away on the left
3 side of the victim's body.

4 Q: Okay.

5 A: State's Exhibit Number 51, it is Item 9. You can't see
6 it on this photograph, because it is blocked by his left hand,
7 but this another fired bullet or projectile.

8 Q: So, this is what came out of the barrel of the gun?

9 A: Correct.

10 Q: And how close would you say that was to the body?

11 A: An inch.

12 Q: Okay.

13 A: This is Item 10, State's Exhibit 52. This is another
14 fired bullet, projectile near the wrist of the victim's right
15 hand.

16 Q: Okay. And again, is that the way the bullet looks when
17 you put it in your magazine to load it?

18 A: No.

19 Q: Okay.

20 A: This is a photograph, State's Exhibit 52, that shows the
21 association between the Items 9, you can partially see Number
22 10 down here, and 12, which I believe is the red solo cup near
23 the victim's head.

24 Q: And does this show the relationship between the fired
25 bullet and the shell casings?

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- 1 A: Around the puddle, just at the edge on the right side of
2 the screen, yes.
- 3 Q: Okay. Okay. So, these are the shell casings?
- 4 A: Yes.
- 5 Q: And these are the fired bullets?
- 6 A: Correct.
- 7 State's Exhibit 54 is a photograph, overall photograph
8 pointing or showing his upper body and the association between
9 some of the evidence items near his head.
- 10 Q: And what have you got marked here?
- 11 A: That is items that are going to be out of his pocket.
- 12 Q: Is that a pack of cigarettes?
- 13 A: Yes.
- 14 Q: Okay.
- 15 A: This Item -- State's Exhibit 55. It is a photograph of
16 Item 16, what I've marked as 16, which are the contents of his
17 pocket on the left side.
- 18 Q: So, you turned his pocket out?
- 19 A: Yes.
- 20 Q: What was in his pocket?
- 21 A: Candy, cellphone accessory; I think that's all that was
22 in there.
- 23 Q: Any of those items in his pocket look dangerous to you?
- 24 A: No, ma'am.
- 25 Q: 17?

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1 A: 17 is the contents of his right pocket that includes
2 State's Exhibit 56, and it includes some candy and a dental
3 accessory.

4 Q: Anything in his other pocket look dangerous to you?

5 A: No, ma'am.

6 Q: Okay. So, no weapons of any kind were found in the boy's
7 pockets? Some bubble gum, a phone charger, and a part of a
8 pretzel; is that about right, what came out of his pocket?

9 A: On 17, that's a -- that's not a pretzel. That's a dental
10 accessory.

11 Q: So, this is -- this is like a thing you put on your
12 teeth?

13 A: It's a grill, yes.

14 Q: So, he had a grill in his pocket.

15 A: Yes.

16 Q: And some bubble gum?

17 A: Yes.

18 These are just items marked, his clothing, and his socks
19 and his shoes.

20 Q: Okay. So, you collected his jeans, his shoes, and the
21 belt.

22 A: Yes, ma'am.

23 Q: Okay. And it's -- is that customary to collect the
24 victim's clothes?

25 A: This victim was going to MUSC, so, yes.

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1 Q: Okay.

2 A: We do, so we don't lose any evidence.

3 Q: What's this a picture of?

4 A: This is State's Exhibit 58. This is a photograph overall
5 of his back and his upper body. At first, I did not see the
6 bullet wounds in his upper shoulders due to his shirt and the
7 way that he wore his shirt. So, once we removed some of the
8 items of clothing, I discovered there was more bullet wounds
9 in the shoulder.

10 Q: How many holes do you see in his back?

11 A: There's five right there in this photograph.

12 Q: Okay. And you see some blood coming from here?

13 A: Yes.

14 Q: Did you see any hole anywhere below this part of his
15 body?

16 A: I did not, no.

17 Q: Okay. And did you see any shell casings or evidence
18 below the head and this upper part of his body?

19 A: There was no firearm evidence or anything to suggest
20 anything from below his waist.

21 Q: Okay. And does he have any kind of weapon in his pockets
22 or around his body?

23 A: No, ma'am.

24 Q: And were any of the shell casings or fired bullets found
25 any more than three feet from around his head area?

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1 A: No, ma'am. And we searched the area.

2 Q: Thank you, Ms. Phillips. If you don't mind, have a seat.
3 I've got a few more questions.

4 The items you had marked, in the picture, did you collect
5 those items?

6 A: I did.

7 Q: If you don't mind, can you look at these items and tell
8 me if you're familiar with them.

9 A: Sure. Yes. These are items, my items Number 1 through
10 7, which are the spent shell casings from the scene.

11 Q: And are these the spent shell casings that you collected
12 from around Victim: H.G. body?

13 A: Yes.

14 STATE'S EXHIBIT NUMBER 3 THROUGH 9

15 MARKED FOR IDENTIFICATION

16 MS. LIVESAY: Your Honor, at this time, the state wishes
17 to put 3 through 9 into evidence and publish to the jury.

18 THE COURT: Any objection, Mr. Brooker?

19 MR. BROOKER: No objections, Your Honor, after they've
20 established a proper chain of custody. And so, I guess, it
21 would be an objection unless they can establish the chain of
22 custody.

23 MS. LIVESAY: Okay. I didn't understand that, Judge.

24 THE COURT: He said his objection is chain of custody.

25 MS. LIVESAY: Okay. Well, she's just the first person in

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1 the chain that collected it. We're not gonna testify to any
2 results yet.

3 THE COURT: Okay.

4 MS. LIVESAY: Is that -- we're just putting them into
5 evidence now that she collected them, that these were the
6 shell casings collected.

7 MR. BROOKER: Yeah. I think they would have to go into
8 evidence after the chain of custody has been established. And
9 so, I guess, she's the first person, I guess, in establishing
10 that?

11 MS. LIVESAY: She's the person that puts them into
12 evidence because she collected them. Am I being clear or I'm
13 not ---

14 THE COURT: You are, but I guess at some point, are you
15 gonna have another person testifying as to ---

16 MS. LIVESAY: I'm gonna create the chain for the results
17 from SLED to come in and talk about the ballistics report.

18 THE COURT: Okay. So, before the ballistics report comes
19 in ---

20 MS. LIVESAY: That's right.

21 THE COURT: Somebody's got to establish a chain. But she
22 can testify she put those in those bags.

23 MS. LIVESAY: That's right. And that she collected them.

24 MR. BROOKER: I understand that she can testify to that,
25 but Your Honor, but my understanding of the rule is is that if

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1 there's other people in the chain of custody, then she would
2 testify to, I guess, her handling, and then of course whenever
3 you complete the chain of custody, then of course then you
4 would introduce it into the record at that time is my
5 understanding of how to move forward.

6 MS. LIVESAY: There's nobody else in the chain of custody
7 of collecting the bullets, but Ms. Phillips.

8 THE COURT: I understand, but do you need those for some
9 other purpose at this point?

10 MS. LIVESAY: Yes, ma'am. They have to go in evidence
11 now, and then what's -- the tool markings on them are what the
12 lady from SLED will testify to. And the people, when it goes
13 from Horry County to SLED, those ---

14 THE COURT: Let me get y'all to approach just a minute.
15 (REPORTER'S NOTE: Bench conference is held off the record in
16 the presence but outside the hearing of the jury.)

17 BY THE COURT:

18 THE COURT: Okay. Ladies and gentlemen, we're gonna take
19 up an issue of law. If I can, rather than have y'all sit here
20 while we talk up at the bench, please don't begin discussing
21 the case.

22 (REPORTER'S NOTE: Jury exits courtroom @ 10:25 a.m. The
23 following takes place outside the presence of the jury.)

24 THE COURT: Okay. So, the objection is -- to the items
25 coming in, the objection is the chain of custody has not been

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BY THE COURT

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1 established.

2 MR. BROOKER: Yes; yes, ma'am.

3 THE COURT: Mr. Helms?

4 MR. HELMS: Your Honor, this witness is just about to
5 testify that these are the items she collected from the scene.
6 That's the extent.

7 MS. LIVESAY: And she's gonna put them into evidence.

8 MR. HELMS: Yeah, but as far as the -- go ahead, please.

9 MS. LIVESAY: I think the confusion is she -- these
10 casing have her name on it, investigating officer, this is the
11 envelope she put it in and she put it into evidence. There's
12 nobody else that can authenticate it and put it into evidence
13 because nobody else can testify that this the shell casing
14 collected off Redenbo Road other than Ms. Phillips.

15 THE COURT: Okay. But this is the issue that I have. If
16 she testifies and you put it into evidence now, and then if
17 you cannot -- when the ballistics person is coming to testify,
18 if he can't or she ---

19 MS. LIVESAY: We'll have the chain between her and the
20 ballistics person.

21 THE COURT: I understand. But what if you can't, and now
22 it's already in evidence, I think is what his issue is if
23 there is an issue in the chain.

24 MS. LIVESAY: Well, it would still be appropriately into
25 evidence. If I can't establish the appropriate chain for the

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1 ballistics person, then the ballistics wouldn't be able to
2 testify. But this would still be appropriately into evidence.
3 Now, the fact that there's tool markings on it, and that they
4 went to SLED, if I don't establish the appropriate chain,
5 which is nonfungible, which means we don't need every person
6 in the chain, then the ballistics person could not testify.
7 But this would still be appropriate in evidence. Now, what's
8 on it and what it means at a later date at SLED, then I do
9 have to establish some sort of chain, but this would still be
10 appropriate in evidence from her saying I collected it, this
11 is what it is, and I put it into evidence.

12 THE COURT: Mr. Brooker?

13 MR. BROOKER: Your Honor, this is quite actually very
14 simple. I really don't have an objection to the bullets.
15 They've already seen them in the video. But I have to make
16 the objection in order to protect him for purposes of appeal.
17 The way that they would do this is is that because it is a
18 nonfungible item, you don't have to have everybody here in the
19 chain, but you do have to testify to the chain. So, she would
20 have the testify that she collected them at the scene, that
21 she turned them over to the evidence -- to somebody in the
22 evidence. This is the person that she testify -- this is the
23 person that she, you know, that she turned them over into
24 evidence, and he put them in an evidence locker. I mean, you
25 don't have to have everybody here in the chain, but you have

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1 to testify to what that chain is in order to get the physical
2 items into evidence. I'm not trying to make this difficult or
3 trying to stop them from getting it into evidence, but I don't
4 want to waive anything, because otherwise, when I -- if he
5 gets convicted and it comes back up on PCR, the first thing a
6 PCR attorney is gonna ask me is is that did they establish a
7 chain. Her collecting at the scene doesn't complete the
8 chain. She turns them over to an evidence collector -- to
9 somebody in evidence, who that person is, and she can testify
10 about who that person is and how they're handled, because the
11 whole purposes of chain of custody is to make sure that an
12 item that is collected at scene on day one, and then two years
13 later ends up into the courtroom, that that is the same item
14 that was collected at the scene. And that's why the rule
15 requires that you be able to explain what happens to it after
16 you pick it up from the scene to make sure that ---

17 THE COURT: You don't have any problem with that?

18 MS. LIVESAY: I have a problem that Ms. Phillips, I can't
19 get the shell casings into evidence through her because she
20 ---

21 THE COURT: He's not saying that. He's just saying
22 you're gonna ask her what she did with it, she put it in the
23 bag, where it went after her, that it went to evidence or
24 wherever it went.

25 MS. LIVESAY: Yes. Yes, I'm gonna ask her all that.

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1 THE COURT: And you're gonna establish how -- kind of
2 what the chain of events are with respect to that before you
3 offer it into evidence is what he's asking. And I think
4 that's fine.

5 MS. LIVESAY: I don't mind asking her that to put it into
6 evidence, but I don't think it's required, but I don't mind
7 doing it. It certainly doesn't offend me.

8 THE COURT: Thank you.

9 Okay. We're ready for the jury. Thank you.

10 And will y'all tell me the numbers on this again?

11 MS. LIVESAY: 3 through -- am I right -- it is 3 through
12 9.

13 THE COURT: Thank you.

14 (REPORTER'S NOTE: Jury enters courtroom @ 10:31 a.m.)

15 BY MS. LIVESAY:

16 Q: Ms. Phillips, do you recognize 3 through 9?

17 A: I do. They are the spent casings that I documented with
18 photography, numbered, and collected from the scene.

19 Q: Okay. Now, there's an envelope in this plastic bag.

20 A: Yes.

21 Q: If you don't mind, tell this jury what's marked on the
22 envelope and the Court.

23 A: With each item, there is an item number, what the actual
24 item number is, a description, the date that it was collected,
25 and my name as the collector, the case number. And on the

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1 back it has evidence tape to include the date and my initials.

2 Q: Okay. And does it show -- do all the shell casings
3 include that information?

4 A: Yes.

5 Q: Okay. And so that envelope, that white envelope that
6 we're looking at in the bag is the envelope, the actual
7 envelope that you put the shell casing in?

8 A: Yes.

9 Q: And it is marked with your name and 6/23/2020, which is
10 when it was collected?

11 A: Correct.

12 Q: And the item number?

13 A: My item number, yes.

14 Q: Okay. So, when these folks look at this envelope and it
15 says Item 1 -- hold on one second. This right here is Item 1?

16 A: Correct.

17 Q: Okay. So, the number on that white envelope corresponds
18 with the number in the picture?

19 A: Correct.

20 Q: Okay. And did you seal that envelope?

21 A: I did.

22 Q: Okay. And what did you do with the envelope once you
23 sealed it?

24 A: Once I sealed the envelope -- or, it wasn't sealed -- the
25 envelope was -- the spent casing was packaged on scene. I

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1 transported that item to the Horry County Police Department I
2 our laboratory. And it was processed from there and sealed
3 with evidence tape.

4 Q: And so, you actually took it to the evidence department
5 at M.L. Brown?

6 A: Correct.

7 Q: And is that the normal procedure?

8 A: Yes.

9 Q: Okay. And while it was in your custody and control, was
10 it ever tampered with in any form or fashion?

11 A: No.

12 Q: Okay. And then once you put it in the evidence locker,
13 it is there then to go wherever it needs to go for potential
14 further testing?

15 A: Correct.

16 Q: And do you know anything about the results of the further
17 testing?

18 A: I do, but not ---

19 Q: But do you have any personal knowledge?

20 A: No, no personal knowledge.

21 Q: So, you're not equipped to look at that shell casing and
22 say anything?

23 A: No, other than it's just a spent cartridge, fired bullet.

24 Q: Okay. And you just collected, made sure it's sealed up,
25 and put it into evidence?

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1 A: Correct.

2 MS. LIVESAY: Your Honor, at this time, the state wishes
3 to put 3 through 9 into evidence.

4 THE COURT: Mr. Brooker?

5 MR. BROOKER: Just over -- subject to previous objection,
6 Your Honor.

7 THE COURT: 3 through 9 are admitted.

8 STATE'S EXHIBIT NUMBER 3 THROUGH 9

9 ADMITTED INTO EVIDENCE

10 BY MS. LIVESAY:

11 Q: Now, do you see any information that you can just see
12 with the human eye on the back of the shell casing?

13 A: Just from general knowledge, you'll see a strike mark
14 where it hits the primer on the back of the shell casing.

15 Q: Does it tell you anything about the caliber of the bullet
16 or the make and the model?

17 A: It does. It will tell you who the make and the model is,
18 and that -- what caliber it is.

19 Q: Okay. And so, this jury can look at the back of this
20 shell casing and tell the make and model and the caliber?

21 A: Correct.

22 Q: Okay. Tell them the caliber?

23 A: It's a .40 caliber.

24 Q: Okay. And what type of bullet is it? Who is the
25 manufacturer?

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- 1 A: I want to say Smith & Wesson. Can I refer to my chain?
- 2 Q: Sure.
- 3 A: It was marked WIN and S&W.
- 4 Q: Okay. And the caliber is a .40?
- 5 A: Correct.
- 6 Q: And that's what you collected as Item Number 1?
- 7 A: Yes.
- 8 Q: Okay. Tell me about Item 2.
- 9 A: Same.
- 10 Q: .40 caliber?
- 11 A: Correct.
- 12 Q: Same exact make and model?
- 13 A: Yes. They were all the same make and model, and .40
- 14 caliber.
- 15 Q: So, State's Evidence 3 through 9 are all shell casings
- 16 and they -- am I correct they were all .40 caliber?
- 17 A: Correct.
- 18 Q: And all the same make and model?
- 19 A: Correct.
- 20 Q: Okay. And total, there are how many shell casings
- 21 collected?
- 22 A: There were seven collected from the scene.
- 23 Q: Okay. Now, I'm gonna show you State's 12 -- I'm sorry,
- 24 10, 11, and 12. What am I looking at here?
- 25 A: They are the fired bullets and projectiles from the

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1 scene.

2 Q: Okay. And there's a little box in there with it. What
3 information is on that little box?

4 A: And each box, there's my evidence number that corresponds
5 to the photograph, the document where I documented the item
6 with the photograph and there's my Item 9, the date that is
7 was collected, and what it was. And my evidence tape with my
8 initial on the back is on each one.

9 Q: And so that's the actual box that you put the fired
10 bullet in that was collected around the victim in this case?

11 A: Correct.

12 Q: Okay. And you put your name on it and the corresponding
13 information?

14 A: Correct.

15 Q: And you sealed it with some evidence tape?

16 A: Correct.

17 Q: What did you do with it then?

18 A: It was transported to the Horry County Police Department
19 and our lab for evidence.

20 Q: And did you transport it to the lab?

21 A: Yes.

22 Q: Okay. And is that lab in a locked area?

23 A: Yes.

24 Q: And while it was in your custody and control, did you
25 ever tamper with it in any form or fashion?

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1 A: No, ma'am.

2 Q: Okay. And are you qualified to look at this fired bullet
3 and really tell anything about it?

4 A: Me, no.

5 Q: Okay.

6 A: Other than it's just fired bullet.

7 Q: Okay. And so it sits in evidence until somebody
8 transports it to further testing?

9 A: Correct.

10 MS. LIVESAY: Okay. Your Honor, at this time, the state
11 wishes to put 10, 11, and 12 into evidence.

12 THE COURT: Mr. Brooker?

13 MR. BROOKER: 10, 11, and 12?

14 MS. LIVESAY: These are the fired bullets from around the
15 body.

16 MR. BROOKER: The fired bullets. Just subject to the
17 previous objections relating to the previous ones, I think,
18 chain of custody.

19 THE COURT: 10, 11, and 12, are admitted.

20 Thank you.

21 STATE'S EXHIBIT NUMBER 10, 11, AND 12

22 ADMITTED INTO EVIDENCE

23 MS. LIVESAY: Thank you, Your Honor.

24 BY MS. LIVESAY:

25 Q: Now, after you collected -- well, you first marked,

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1 collected all the evidence right there around the body?

2 A: Correct.

3 Q: What did you do next?

4 A: I usually take photographs as I go, after processing the
5 victim -- the coroner comes. Once I collect all my evidence,
6 the coroner takes the victim, and then I'll take an initial --
7 or an ending photograph with the victim removed.

8 Q: Okay. And is that the only area that you searched or
9 investigated?

10 A: No. We searched around the body, in the field, in the
11 roadway, in the -- the other side of the roadway where the
12 crime scene tape was, there was a residence there, we searched
13 there.

14 Q: Did you find any shell casings there?

15 A: No, ma'am.

16 Q: Did you find any fired bullets there?

17 A: No, ma'am.

18 Q: Okay. Let me ask you something, there was some mobile
19 homes kind of around that area, you know what I'm talking
20 about?

21 A: Yes, ma'am. Uh-huh, (affirmative response).

22 Q: Let me see if I can find it. You can probably find it
23 quicker than me, but -- that one.

24 A: There's a mobile home there.

25 Q: Okay. So, let me ask you -- I'm gonna show the jury --

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1 it's gonna be 28 and 20, and that shows a mobile home over
2 here. And you're telling me that there's a trampoline here
3 and some sort of mobile home on this side of the picture as
4 well?

5 A: Correct.

6 Q: So, on both sides of the road, you have some sort of
7 residence?

8 A: Yes.

9 Q: And how many shell casings, again, did you collect?

10 A: Seven.

11 Q: And how many fired bullets?

12 A: Three on scene.

13 Q: Now, tell this jury how many holes were in these mobile
14 homes that were right there on the road?

15 A: None that I'm aware of.

16 Q: I'm sorry?

17 A: None that I'm aware of. None.

18 Q: So, there's weren't any holes in any mobile homes?

19 A: No, ma'am.

20 Q: Okay. Now, there was a picture that you had that Ms. --
21 Ms. Green, yesterday, she testified about her white Suburban.
22 And you see a white Suburban and a Camry in this picture?

23 A: Yes, down at the end of the cul-de-sac, where the club
24 was.

25 Q: Okay. And this is kind of clearly after the police are

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1 there and everything is taped off?

2 A: Yes, ma'am.

3 Q: Did you know these cars were right there when the
4 shooting happened, parked right in where by the shooting
5 happened; did you know that?

6 A: I did not know that.

7 Q: Tell these jurors how many holes were in these cars.

8 A: I did not view any, and there was no complaints of any.

9 Q: Okay. So, no evidence that these two cars that were
10 right there, eyewitnesses, heard the shooting, were right
11 there by the roadway and there were no holes there?

12 A: Not that I saw.

13 Q: No holes in the mobile homes?

14 A: No, ma'am.

15 Q: So, the only thing that caught a bullet was the victim.
16 That was the only thing that had a hole in it.

17 A: During that day on that scene, yes; that was the only
18 thing.

19 Q: Now, after you examined all around that area, in these
20 pictures, and there's been a lot of talk about Turk's. That
21 was the place everybody was at before. So, did you go down
22 there and look around?

23 A: Yes. There was a search warrant that was obtained, and
24 once I -- it was around 9 o'clock, I was notified by the case
25 agent there was another search warrant obtained for Turk's

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1 Place. And we did go and document Turk's Place with
2 photographs.

3 Q: Okay. Did you collect any evidence at Turk's Place?

4 A: I did not.

5 Q: Okay. Were there any shell casings, bullets, guns at
6 Turk's Place?

7 A: No, ma'am.

8 Q: Okay. And did you go anywhere else to investigate or to
9 assist after you left Turk's Place?

10 A: No, ma'am.

11 Q: Okay. Did you collect any other evidence to assist with
12 this particular investigation?

13 A: No, ma'am.

14 Q: And as the crime scene investigator, do you interview
15 people?

16 A: I do not.

17 Q: Okay. So, your sole purpose is to document and collect
18 evidence?

19 A: Yes, preserve evidence.

20 Q: I understand.

21 MS. LIVESAY: No further questions for this witness, Your
22 Honor.

23 THE COURT: Mr. Brooker?

24 CROSS-EXAMINATION OF REBECCA PHILLIPS BY MR. BROOKER:

25 Q: Good morning, Ms. Phillips.

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1 A: Good morning.

2 Q: How should I address you? What's the best way to address
3 you. What is your title?

4 A: I'm a sergeant now, but at the time I was a senior
5 detective.

6 Q: So, do you want me to call you Sergeant Phillips?

7 A: That's fine.

8 Q: Okay. And I think, Sergeant Phillips, you testified on
9 direct examination, correct me if I'm wrong, is that you work,
10 I guess, in the crime scene division, or you did at that time?

11 A: I do; I did.

12 Q: And the purpose of the crime scene division was to
13 basically collect any items of interest or either evidence at
14 the scene?

15 A: To preserve the evidence and document and collect
16 anything of value, evidentiary value, on scene.

17 Q: And of course, when you're collecting evidence or
18 property of interest at the scene, I'm assuming that it could
19 be physical or nonphysical; is that correct? Like for
20 instance, do you -- would you also collect fingerprints, would
21 you also collect DNA swabs or that sort of stuff if that was
22 applicable in connection with the scene that you were
23 collecting from?

24 A: Correct. It is something that we can and will do on a
25 scene if it's necessary.

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1 Q: Okay. And I think I know what your answer is gonna be to
2 my -- if I could grab -- what your answer is gonna be, but I
3 have to ask for the benefit of the jury. I think I have in my
4 hand what's -- I think they're all out of order -- Exhibits --
5 State Exhibits 28, 29, 32, 25, 26, 27, 30, 31, 33, 34, 35, 36,
6 37, 38, 39, 40 -- and I'm doing this for the benefit of the
7 record -- 41, 42, 43, I think 44, 45, 46, 47, 48, 49, 50, 51,
8 52, 53, 54, 55, 56 -- there's a lot of them -- 57, 58, and I
9 think that's it. These are photographs that you took -- you
10 took at the scene outside of Turk's Place; is that correct?

11 A: It was in the roadway on Redenbo Drive -- Redenbo Drive
12 in Loris.

13 Q: Okay.

14 A: Those are my photographs.

15 Q: Okay. Now, and I'm not gonna go through them
16 individually. With respect to these, and I'll ask you with
17 respect to these photographs, did you find any item in these
18 photographs that, that was somehow traced back to Laquandian
19 Bromell?

20 A: I did not other than I collected the items on the scene
21 that were around the victim. To whether or not it's tested
22 and goes back to your client or not, I collect what is on
23 scene. I collect what is evidentiary value on scene.

24 Q: Okay. Okay. Other than that, you're not a part of --
25 you're not a part of trying to use this information to try to

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1 -- to try to, I guess, solve the case. Is that correct?

2 A: No, sir. I'm not the -- I am the crime scene
3 investigator. I am not the detective that is the case agent
4 for the department.

5 Q: You just collect it. You don't determine ---

6 A: I document it, I collect it, I preserve it, and it goes
7 on from there.

8 Q: And the investigator then determines how he would use
9 this information in trying to, I guess, resolve the case. Is
10 that correct?

11 A: Correct.

12 Q: So, and you were not a fact witness in connection with
13 this shooting, were you not?

14 A: I was called later. I was not. I was called later after
15 the incident occurred.

16 Q: Okay. And so -- silly question, but just for the purpose
17 of the record, you didn't see the shooting, did you?

18 A: I did not.

19 Q: And you're not here to tell the jury that you saw the
20 shooter and can identify who the shooter is?

21 A: I cannot; I did not.

22 Q: Okay. If you can indulge me just for a minute, I may not
23 have any further questions for you.

24 Just a couple of other questions, I think pertaining to
25 the physical evidence that was entered into the record. And I

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1 think -- and I think you've already testified to this. I
2 think you testified to the fact that y'all collected seven
3 spent shell casings; is that correct?

4 A: Correct, sir.

5 Q: And that these spent shell casings are .40 caliber spent
6 shell casings; is that correct?

7 A: Correct.

8 Q: Okay. Did you collect a gun or anything that you could
9 use to compare at least the spent shell casings, and of course
10 the rounds that was recovered from the scene?

11 A: I did not.

12 Q: Was any gun ever -- as far as you are aware of, was any
13 gun ever collected in connection with this case?

14 A: I don't believe so, no.

15 MR. BROOKER: Indulge me for just a second, Your Honor.

16 THE COURT: Uh-huh, (affirmative response).

17 MR. BROOKER: No further questions, Your Honor.

18 THE COURT: Redirect?

19 MS. LIVESAY: No further questions from the state, Your
20 Honor.

21 THE COURT: Thank you, ma'am. You can step down.

22 MR. HELMS: May she be excused, Judge?

23 THE COURT: Any objection?

24 MR. BROOKER: Without objection, Your Honor.

25 MS. PHILLIPS: Thank you.

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1 MR. HELMS: May it please the Court, Your Honor?

2 THE COURT: Uh-huh, (affirmative response).

3 MR. HELMS: At this time, the state would call Ms. Becky
4 Phillips with the Horry County Police Department.

5 Lori Dudley, I'm sorry. She just left.

6 Lori Dudley to the stand.

7 I'm getting warmed up here.

8 LORI DUDLEY, HAVING BEEN SWORN,

9 TESTIFIED AS FOLLOWS:

10 THE CLERK: Thank you.

11 State your name and spell it for the Court.

12 MS. DUDLEY: Lori Dudley, DUDLEY.

13 DIRECT EXAMINATION OF LORI DUDLEY BY MR. HELMS:

14 Q: Ms. Dudley, tell this jury we know each other.

15 A: We know each other.

16 Q: I don't think they believe it.

17 Ma'am, where do you work?

18 A: I work for the Horry County Police Department.

19 Q: And what do you do there?

20 A: I'm the evidence supervisor at the county police.

21 Q: How long have you been there?

22 A: Twenty-five years.

23 Q: You don't look old enough.

24 A: Thank you.

25 Q: What are your responsibilities as the evidence

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1 supervisor, ma'am?

2 A: The care, custody, and control of all the property and
3 evidence that come into the Horry County Police Department are
4 under my direction.

5 Q: That sounds like a tall order.

6 A: It is.

7 Q: So, obviously, ma'am, you were employed in that position,
8 in that capacity during the investigation of this case and
9 your department's handling of it?

10 A: Yes.

11 Q: Did you have an opportunity -- well, let me ask you like
12 this. In terms of the normal course of your responsibilities,
13 is sometimes transporting evidence part of your
14 responsibility?

15 A: Yes, it is.

16 Q: And who might you transport evidence to?

17 A: We would transport evidence to the State Law Enforcement
18 Division. It's the laboratory that we use.

19 Q: And what kind of -- what do you use that laboratory for?
20 Why do you take evidence to the State Law Enforcement
21 Division?

22 A: We take evidence to commonly known as SLED for forensic
23 testing.

24 Q: And will you tell the jury, please, what SLED stands for?

25 A: State Law Enforcement Division.

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1 Q: Okay. And in terms of this case, did you have a
2 opportunity to take anything to SLED, ma'am?

3 A: Yes, I did.

4 Q: Okay. I'm gonna show you what's already been entered
5 into evidence as State's 3, 4, 5, 6, 7, 8, and 9. Can you
6 take a look at these items, ma'am, and tell me if you
7 recognize those items.

8 A: Yes, I do.

9 Q: And did you take those items to SLED, ma'am?

10 A: Do you have the SLED paperwork?

11 Q: Yes, ma'am. If I can show you ---

12 (To the Court) If I may show her that to refresh her
13 memory, Your Honor?

14 THE COURT: Uh-huh, (affirmative response).

15 A: Yes, I do.

16 Q: Okay. And do you -- does it say when you took those
17 items to SLED, ma'am?

18 A: 7/6/20 is the date listed.

19 Q: Okay. And let me ask you this, where did you get them --
20 where did you get those items to take to SLED?

21 A: Evidence at the Horry County Police Department.

22 Q: Okay. And tell this jury a little bit about evidence.
23 What do you mean when you say evidence at the Horry County
24 Police Department.

25 A: Evidence is a unit at the Horry County Police Department.

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1 It has key card access only for the employees of that unit.

2 Q: Okay. Would you call that unit a secured unit?

3 A: Yes. It's a controlled unit.

4 Q: Okay. And I think you just said that it's employees
5 only.

6 A: Yes.

7 Q: Okay. I think that answers that question.

8 Ma'am, I'm gonna show you now what's been marked for
9 identification purposes -- well, let me go through it this
10 way. I'm gonna show you 10, 11, and 12, and that's already
11 been entered into evidence.

12 Ma'am, I want you to take a look at this and tell this
13 jury if you took those items to SLED?

14 A: Yes. It also says my name on the chain of custody.

15 Q: Okay. And just so we're clear, ma'am, what are you
16 looking at when you're looking at the items and cross
17 referencing there?

18 A: Each item that comes back from SLED has their SLED lab
19 number on it, and then it has the item number that correlates
20 with it.

21 Q: Okay. And you documented this?

22 A: Yes. It's documented on the paperwork.

23 Q: Thank you very much, ma'am.

24 There were some other items, ma'am, that Horry County
25 collected, and I'm gonna show you those.

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1 And I'm showing you these for identification purposes
2 only, State's 14, 15, and 16. Please keep those separate,
3 ma'am.

4 STATE'S EXHIBIT NUMBER 14, 15, AND 16

5 MARKED FOR IDENTIFICATION

6 Q: But tell me if you know what those items are.

7 A: Items 13, 14, and 15, firearms evidence.

8 Q: Okay. Yes, ma'am. And specifically, what are these
9 items, by the way? What do these look like to you?

10 A: Projectiles.

11 Q: Okay. Fired projectiles?

12 A: Yes.

13 Q: Okay. And, ma'am, if I could just hold that piece of
14 paper that you were referring to and tell this jury one more
15 time what this is?

16 A: A SLED chain of custody.

17 Q: Okay.

18 MR. HELMS: And, Madame Court Reporter, if you could just
19 mark this, I'll be quiet.

20 STATE'S EXHIBIT NUMBER 60

21 MARKED FOR IDENTIFICATION

22 BY MR. HELMS:

23 Q: And for identification purposes, will you confirm that
24 that's been marked as State's Number 60?

25 A: It's marked State's Number 60.

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1 Q: Okay. For identification. Thank you.

2 Let me ask you this question. These items that you take
3 to SLED, you said they're kept in a secure location in
4 evidence. Do you tamper with these items when you take them
5 to SLED?

6 A: No, I do not.

7 Q: Would you -- did these items appear to be tampered with
8 when you took them to SLED?

9 A: No, they're sealed when they come into evidence and SLED
10 will not accept them without a seal intact.

11 Q: Would you accept them if they appeared to be tampered
12 with?

13 A: No, I would not.

14 Q: And is that part of your duty is to make sure?

15 A: Yes, it is.

16 Q: No more questions. Please answer anything that defense
17 may have.

18 THE COURT: Mr. Brooker?

19 CROSS-EXAMINATION OF LORI DUDLEY BY MR. BROOKER:

20 Q: Ms. Dudley, it's just -- my understanding is is that you
21 work with Horry County Police Department at least in the
22 evidence division or department?

23 A: Yes, sir.

24 Q: And is that your job is just to -- to I guess collect
25 and, of course, store evidence that's brought in?

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1 A: Yes, sir.

2 Q: The investigation that you're here testifying to, and of
3 course, that was the death of Victim: H.G. I think, on June
4 23rd of 2020. Other than what you've just involved -- other
5 than what you just testified to, were you involved in this
6 case in any other way?

7 A: No, sir; I was not.

8 Q: Okay. It sounds like a silly question, but you're not --
9 you wasn't an eye witness to that shooting, were you?

10 A: No, sir; I was not.

11 Q: So, you're not here telling the jury that you saw who
12 shot Victim: H.G. is that correct?

13 A: I am not.

14 Q: Okay. No further questions.

15 THE COURT: Any redirect?

16 MR. HELMS: Yes, ma'am, very quickly.

17 REDIRECT EXAMINATION OF LORI DUDLEY BY MR. HELMS:

18 Q: As it concerns those items that we talked about earlier,
19 I want to ask you to refer one more time back to State's
20 Identification 60. Refer for me to Page 9 of 11 on this and
21 tell me, starting with Item 13, what you took from there to
22 SLED.

23 A: One sealed envelope containing fired bullets described as
24 bullets recovered from right back of victim.

25 Q: Okay. Keep going, please, to the next item.

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1 A: Item 14, one sealed envelope containing fired bullet
2 described as bullet recovered from chest of victim.

3 Q: What was the first item number for the jury's
4 edification?

5 A: Item 13.

6 Q: And tell them one more time what that was.

7 A: One sealed envelope containing fired bullet described as
8 bullet recovered from right back of victim.

9 Q: Yes, ma'am. Keep going again. Item ---

10 A: Item 14, one sealed envelope containing fired bullet
11 described as bullet recovered from chest of victim.

12 Q: Yes, ma'am. Keep going.

13 A: Item 15, one sealed envelope containing fired bullet
14 described as bullet recovered from left back of victim.

15 Q: Yes, ma'am. Now, I'm gonna show what's been marked for
16 identification as State's 14 through 16. And I want you to
17 identify -- and you said these are obviously what now?

18 A: Fired projectiles.

19 Q: Okay. Can you tell me where these projectiles were
20 recovered from, ma'am?

21 THE COURT: And can I get you to clarify, was that 13
22 through 15 or 14 through 16?

23 MR. HELMS: This is 14 through 16, Your Honor, that I'm
24 showing the witness now. State's 14 through 16.

25 A: I'm sorry. What was the question again?

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1 BY MR. HELMS:

2 Q: And start with 14, ma'am, and tell me where that was
3 recovered from.

4 A: Item 5.

5 Q: Identify it as the State's Exhibit, yes, ma'am.

6 A: I'm sorry. State's Exhibit 14, fired projectile, back
7 bullet, and it says Goodman Victim: H.G.

8 Q: And where was it -- does it say where it was recovered
9 from?

10 A: Autopsy.

11 Q: Specifically?

12 A: Back bullet.

13 Q: Okay. Ma'am, and refer to Item 15, please.

14 A: Item 15, it says Victim: H.G. autopsy, chest bullet.

15 Q: And Item 16, ma'am?

16 A: Item 16 says, Victim: H.G. autopsy, back bullet.

17 Q: Okay, ma'am. Please answer any more questions the
18 defense may have.

19 MR. BROOKER: I have no further questions.

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

21 MR. HELMS: May she be released from her subpoena?

22 THE COURT: Any objection?

23 MR. BROOKER: No objection, Your Honor.

24 THE COURT: Yes, ma'am.

25 MR. HELMS: Your Honor, at this time -- next witness,

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1 Judge?

2 THE COURT: Uh-huh, (affirmative response).

3 MR. HELMS: Yes, ma'am. At this time, we would call Ms.
4 Suzanne Cromer.

5 SUZANNE CROMER, HAVING BEEN SWORN,

6 TESTIFIED AS FOLLOWS:

7 THE CLERK: State your name and spell it for the Court.

8 MS. CROMER: My name is Suzanne Cromer, C-R-O-M-E-R.

9 DIRECT EXAMINATION OF SUZANNE CROMER BY MR. HELMS:

10 Q: All right. Ms. Cromer, what do you do for a living?

11 A: I'm employed by the South Carolina Law Enforcement
12 Division, commonly referred to as SLED, as a firearm and
13 toolmark examiner in the forensic services laboratory.

14 Q: How long have you been there?

15 A: I've been with SLED for 23 years.

16 Q: And what do your duties entail?

17 A: What I do is called firearm's identification. I look at
18 ammunition components, bullets, cartridge casings, shotgun
19 shells to determine whether they were fired by or loaded into
20 and extracted from a specific weapon. If I do not have a
21 specific weapon, I can look at those ammunition components
22 from a crime scene and give investigators an idea of how many
23 guns or what type or firearms they're looking at. I also do
24 serial number restorations on firearms. I do -- I'm over the
25 National Integrated Ballistic Information Network for SLED,

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1 which is a digital database of images of cartridge cases that
2 can seemingly relate to unrelated crimes.

3 Q: I think I understand. Briefly tell this jury about your
4 educational background.

5 A: I have a bachelor's degree from Clemson University. I
6 did some graduate work at the University of South Carolina in
7 criminal justice. During that time, I did an internship in
8 the SLED firearms department. I was hired on at SLED and
9 started their in-house training program for firearm or
10 toolmark examiners. It's more of an apprenticeship if you
11 will where we study under other court-qualified firearms
12 examiners. We take series of written tests, oral tests,
13 practical exercises for every module of our training manual.
14 Upon completion of the whole manual, we are given a
15 comprehensive final exam, which includes casework and essay,
16 practical knowledge, and terms. And that is graded by your
17 training officer and your lieutenant before you are allowed to
18 receive casework on your own. I've also taken classes with
19 the Association of Firearm and Toolmark Examiners, which is an
20 international organization for our profession. They typically
21 meet once a year for a week-long seminar to discuss relevant
22 issues in our field. They also offer extra workshops. I've
23 been privileged enough to attend several of those week-long
24 seminars, and take extra workshops such as submachine gun
25 conversions, barrel making, highpoint firearm familiarization,

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1 ethics, just to name a few. I've also toured numerous firearm
2 manufacturers, such as Ruger, Smith and Wesson, FN, Daniel
3 Defense, Para USA. I've also toured tool manufacturers such
4 as Mayhew Tools, Ontario Knife Factory, Kabar Cutco, just to
5 name a few. I've also taken classes with the Bureau of
6 Alcohol, Tobacco, and Firearms, on that National Integrated
7 Ballistics Information Network, and on serial number
8 restoration. I am also a certified trainer for the NIBIN
9 Network, and I also represent North and South Carolina in that
10 users congress, and I've gone of several of those users
11 congress meetings.

12 Q: You may have answered this question in that colloquy
13 already, but are you a member of any professional
14 organizations?

15 A: Yes. I am a regular member of the Association of Firearm
16 and Toolmark Examiners.

17 Q: Have you testified before?

18 A: Yes, sir; I have.

19 Q: Have you testified as an expert witness before?

20 A: Yes, I have.

21 Q: Okay. Have you testified in this courtroom?

22 A: Yes, I have.

23 Q: Have you testified as an expert witness in this
24 courtroom?

25 A: Yes, I have.

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1 MR. HELMS: Your Honor, at this time, I would submit Ms.
2 Cromer as an expert in ballistics and firearm analyzation.

3 MR. BROOKER: Without objection.

4 MR. HELMS: Thank you.

5 THE COURT: Ladies and gentlemen, what that means is
6 normally a witness is permitted only to testify to things that
7 they observed, what they say, what they heard, and they're not
8 allowed to give opinion testimony. But an exception to that
9 is for an expert who we have deemed to be an expert witness in
10 some particular field, meaning by the virtue of their
11 education, experience, or some combination, that they have
12 become an expert in that field, and they are allowed to give
13 you opinion testimony. You can give that testimony whatever
14 weight you feel it's entitled to.

15 MR. HELMS: Thank you, Judge.

16 BY MR. HELMS:

17 Q: Ma'am, what makes generally speaking firearms
18 analyzation, comparison and all that good stuff possible,
19 generally?

20 A: Well, what we're doing is we're looking at the markings
21 left on those ammunition components by the manufacturing
22 process of the firearm. So, when we're looking at like, say,
23 a fired cartridge case, that fired cartridge case can be
24 marked on by a semi-automatic pistol in five different areas,
25 including the breech face of the gun. The breech face of the

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1 gun is the part that holds the head of the cartridge still
2 during the firing process. So, any imperfections that were
3 left during that manufacturing process can be imprinted on the
4 head of that cartridge case. Also, the firing pin, the firing
5 pin comes to the breech face, hits that cartridge to start the
6 ignition process. If there's any defects on that firing pin,
7 that can be transferred to that cartridge case. There is what
8 we call the ejector and the extractor. The extractor is like
9 little a little claw that holds that cartridge case into the
10 slide of the firearm, and that can leave markings on that
11 cartridge case as well. And what's it's gonna do is it's
12 gonna hold that cartridge case into the slide of the firearm
13 until it hits what we call the ejector, and that's going to
14 kick it out of an ejector port. And then lastly, the part can
15 be marked is the actual chamber of the firearm as well can --
16 if there's any imperfections in that chamber, those can be
17 imprinted on the sides of those cartridge cases during the
18 firing process because of the expansion of the gases from the
19 burning gun powder, it'll cause that cartridge case to expand.
20 So, it'll expand into those. And then when it is moving in
21 the firearm, it can be scratched onto that cartridge case.

22 Bullet examination is a little different. I call it
23 climbing the ladder to my scope. You have rifling that's
24 input inside the gun barrel by the manufacturing person --
25 process. Rifling is a series of what we call lands and

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1 grooves, raised and depressed areas. And it's put there by
2 the manufacturer to put that bullet in a rotary motion. Very
3 similar to a quarterback who throws a football, he wants it to
4 go to -- into a tight spiral, so it'll go more accurately
5 towards it's target. Well, that is the premise with the
6 rifling, it gets that bullet to spin so it'll go more
7 accurately towards its target. Well, manufacturers can use
8 many different combinations of lands and grooves. You can
9 have three, five, six, nine, ten, there you go. And then also
10 you can have different types of rifling. You can have what we
11 call polygonal rifling, which is more rounded edges in the
12 barrel, or you can have conventional rifling, which is more
13 cut at a 90-degree angle. So, any of those rifling marks and
14 defects that occur inside the barrel during that rifling
15 process can be imprinted on that bullet.

16 Q: I know this is an over-simplification of what you just
17 said, but is it fair to say that a gun can leave what's
18 tantamount to a fingerprint on a bullet and a cartridge?

19 A: Correct. I like to call it a signature, because if you
20 think about it, the first time you signed your name on a legal
21 document, you took your time, you did it really nice, very
22 smooth, and then over time it kind of changes. So, the
23 signature of a gun can change a little bit, but you still can
24 tell the first one to thousandths.

25 Q: Does that allow you -- does all that capability and

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1 comparison allow you to compare cartridges to cartridges?

2 A: Yes.

3 Q: Projectiles to projectiles?

4 A: Yes, it does.

5 Q: Gun and -- are you able to make, generally speaking,
6 determinations if you have guns as to whether a gun fired a
7 certain projectile or bullet?

8 A: Correct. We can.

9 Q: That's if you have the gun.

10 A: If we have the gun. We render one of four conclusions.
11 Positive, yes it was fired by this gun; or yes, these were all
12 fired by one firearm. Negative, no, it was not fired by this
13 gun; or no, these were fired by the same firearm.
14 Inconclusive, meaning that there's just not enough information
15 for us to make a determination either way. So, we can't rule
16 it out, but we can't say it was either. Or unsuitable, it's
17 too damaged; it doesn't have any of those markings that we
18 need for identification purposes.

19 Q: Yes, ma'am. Did you bring your chain with you, or ---

20 A: Yes, I have a copy.

21 Q: So, you can refer to that.

22 A: Okay.

23 Q: I'm gonna ask you to refer to that at this time, ma'am,
24 since you brought it with you, and tell this jury if you had
25 an opportunity to do any work on this case that we're here for

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1 today?

2 A: Yes, I did.

3 Q: And tell the jury what you did, ma'am, generally
4 speaking.

5 A: I examined several fired .40 caliber cartridge cases and
6 several fired projectiles.

7 Q: Yes, ma'am. I'm gonna show you now what's already been
8 discussed as State's -- and it's identification at this point
9 -- 14 through 16.

10 A: Okay.

11 Q: Take a look at these items and tell me if you can
12 identify them and if you've ever seen them before.

13 A: State's Exhibit Item 14 was my item 13. It is a fired
14 .40 caliber bullet. It's in a sealed container with my
15 initials and seal date.

16 Q: Yes, ma'am. And that's State's Exhibit 14, you say?

17 A: Yes.

18 Q: Tell us about 15.

19 A: State's Exhibit 15 was my Item 14. Again, it's still in
20 a sealed container with my initials, seal date, and I
21 determined that to be a fired .40 caliber or 10mm auto
22 projectile.

23 Q: Tell us about Item 15.

24 A: Item ---

25 Q: State's Exhibit.

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1 A: State's Exhibit 16 was my Item 15.

2 Q: There you go.

3 A: Again, let me check my notes.

4 Q: Page 2 or 3.

5 A: Yes. Okay. This is a fired 9mm Luger caliber
6 projectile. Again, it's still in a sealed container with my
7 initials and seal date.

8 Q: Okay, ma'am. And from whom did you receive these items?

9 A: I received these items from our evidence control
10 department.

11 Q: Yes, ma'am.

12 A: Let me check my chain really quick. I received them from
13 our evidence control technician, Vera Martinez.

14 Q: And tell me about that. When items are dropped off at
15 SLED, generally, where do they go?

16 A: Items are dropped off at SLED in our evidence control
17 department. So, what they do is they log them into our
18 system, they put the requests on them. So, if it needs to
19 come to us, if it needs to go to latent prints, or DNA,
20 they're going to put that into the system. And then our case
21 assignment person will see that there's an assignment for
22 firearms, and it'll get assigned to an examiner, and then we
23 will go down and pick up the evidence.

24 Q: Okay. And Ms. Dudley, do you know Ms. Dudley?

25 A: Yes, I do.

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1 Q: She just testified that she dropped certain items off.

2 Is that where they drop items off at SLED?

3 A: Yes.

4 Q: Is that where you picked the items up?

5 A: Yes, it is.

6 Q: Is that where you picked these items up?

7 A: Yes, it is.

8 Q: Did you compare these items?

9 A: Yes, I did.

10 Q: Okay.

11 MR. HELMS: Your Honor, at this time, I would seek to
12 introduce -- let me make sure I get the numbers right -- 14,
13 15, and 16.

14 THE COURT: Mr. Brooker?

15 MR. BROOKER: Just subject to chain of custody, or at
16 least objection just to chain of custody, Your Honor.

17 THE COURT: Can I get y'all to approach just a minute?

18 MR. HELMS: Yes, ma'am.

19 (REPORTER'S NOTE: Bench conference is held off the record in
20 the presence but outside the hearing of the jury.)

21 MR. BROOKER: Your Honor, I waive any chain of custody
22 objections to State's 14, 15, 16.

23 THE COURT: Okay. They are admitted.

24 MR. HELMS: Thank you, Your Honor.

25 STATE'S EXHIBIT NUMBER 14, 15, AND 16

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1 ADMITTED INTO EVIDENCE

2 BY MR. HELMS:

3 Q: Ma'am, and as we -- let's just try to keep this as simple
4 as we can, while we're talking about State's 14, 15, and 16,
5 you said you were able to review these items?

6 A: Yes, I was.

7 Q: You were able to compare these items?

8 A: Yes, I did.

9 Q: Were you able to make any determination as to State's 14,
10 15, and 16?

11 A: Yes, I was. I concluded that State's 14 and 15 were
12 inconclusive with each other, although I noted similarities in
13 those rifling impressions, I was unable to determine whether
14 they were fired by the same firearm or not.

15 State's Exhibit 16 was the 9mm Luger caliber projectile,
16 and that was not fired by the same firearm that fired the .40
17 caliber.

18 Q: Yes, ma'am. All right. And just so we're clear, hold
19 that 16 up, and that was the one that was fired from a
20 different caliber?

21 A: Correct.

22 Q: Okay.

23 A: It was totaling different rifling -- first off, it's a
24 different caliber, but it's also different rifling
25 specifications.

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1 Q: Okay. Thank you.

2 Ma'am, I'm going to show you what's been entered into
3 evidence as State's 11, 12, -- 10, 11, and 12. Please look at
4 those and tell the jury if you recognize those items.

5 A: State's Exhibit 10 was my Item 8. This is another fired
6 .40 caliber projectile. Again, it's in -- still in a sealed
7 condition with my initials and seal date.

8 Q: And go ahead to the next one, please.

9 A: Okay. State's Exhibit 11 was my Item 9. Again, still in
10 a sealed container with my initials and seal date. It's
11 another fired .40 caliber projectile.

12 State's Exhibit 12 was my Item 10. And it is a fired .40
13 caliber projectile and one fragment. Again, still in a sealed
14 container with my initials and seal date.

15 Q: You were able to compare -- and these specifically, what
16 are those items?

17 A: These are fired .40 caliber or 10mm auto fired bullets.

18 Q: Okay. And you were able to review these?

19 A: Yes, I was.

20 Q: And what kind of determination were you able to make when
21 comparing these items?

22 A: These items were also inclusive with each other and with
23 the two other previously talked about .40 caliber projectiles.
24 Again, I noted similarities in the rifling -- in the rifling
25 specifications, meaning that all of these fired .40 caliber

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1 bullets have the same rifling specifications. When I say
2 that, it's kind of important because when we talk about
3 firearms examination on bullets, it's kind of like climbing a
4 ladder to your microscope where that exam is done. First off,
5 they're all the same caliber. I can take a step up.

6 Next, is it the same type of rifling? Is it that
7 conventional or polygonal rifling? They all had polygonal
8 rifling. I can move up further.

9 They all had the same number of lands and grooves, six
10 lands and grooves. So, I can take another step.

11 And which direction of twist. That's another step. So,
12 it is that rifling making this bullet spin to the right or to
13 the left? And these all had what we call six land and groove
14 right twist polygonal rifling. And I did note similarities,
15 but they were inclusive with each other as to whether they
16 were fired by the same firearm.

17 Q: Okay. Ma'am, I'm gonna show you -- and I'm going in
18 reverse order for some reason, but I'm going to show you
19 State's 3, 4, 5, 6, 7, 8, and 9. Please take a look at these
20 items, ma'am, and tell me if you've seen those before.

21 A: State's Exhibit Number 3 was my Item Number 1. It is a
22 fired .40 Smith and Wesson caliber cartridge case.

23 State's Exhibit 4 was my Item 2. It is another fired .40
24 Smith and Wesson caliber cartridge case.

25 State's Exhibit 5 was my Item 3. It's another fired .40

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1 Smith and Wesson caliber cartridge case.

2 State's Exhibit 6 was my Item 4. It again is another
3 fired .40 Smith and Wesson caliber cartridge case.

4 State's Exhibit 7 was my Item 5. Again, another fired
5 .40 Smith and Wesson caliber cartridge case.

6 State's Exhibit 8 was my Item 6. Again, another fired
7 .40 Smith and Wesson caliber cartridge case.

8 State's Exhibit 9 was my Item 7. And it's another fired
9 .40 Smith and Wesson caliber cartridge case.

10 Q: Now, ma'am, you received these items as well as a part of
11 this investigation?

12 A: Yes, I did.

13 Q: And you've reviewed these items?

14 A: Yes.

15 Q: Can you tell this jury, and these have already been
16 entered into evidence as items collected from around the body.
17 Are you aware of that?

18 A: I ---

19 Q: If you're not, that's okay.

20 A: I believe I was.

21 Q: Okay. Upon determining these -- and these are --
22 specifically, these are what? These are not projectiles;
23 these are ---

24 A: Fired cartridge cases.

25 Q: Okay. And we've already made clear that that houses the

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1 projectile?

2 A: Correct.

3 Q: Okay. What determination were you able to make of these?

4 A: When I did my microscopic exam of those seven fired
5 cartridge cases, I determined that they were all fired by one
6 firearm.

7 MR. HELMS: Let me ask my partner if she's got any
8 questions?

9 BY MR. HELMS:

10 Q: Please answer any questions the defense has. And thank
11 you.

12 CROSS-EXAMINATION OF SUZANNE CROMER BY MR. BROOKER:

13 Q: Good morning, Ms. Cromer. How are you?

14 A: Good morning.

15 Q: I won't be long. I promise.

16 Ms. Cromer, and I'm gonna make sure that I understand
17 everything that you testified to, so I apologize if I ask you
18 to repeat things that you've already testified to.

19 I think it's my understanding, and of course, do you have
20 your -- do you have your report with you?

21 A: I do.

22 Q: Okay. It's my understanding that items on that report,
23 Items 1 through 7, those are the seven projectiles that were
24 collected from the crime scene; is that correct?

25 A: Those are seven fired cartridge cases.

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1 Q: I'm sorry. I didn't mean projectiles, but cartridge
2 cases that was found from the evidence scene; is that correct?

3 A: That is correct.

4 Q: From the crime scene, okay. And I think you testified
5 that it appears as if all of those cartridges may have been
6 fired by the same gun, or am I wrong?

7 A: That is my opinion, yes.

8 Q: Okay. Could they have been fired by any other gun?

9 A: Well, they were all fired by one firearm. I don't know
10 which firearm, but based on the breech face markings and the
11 firing pin impression, it's my opinion that they were all
12 fired by one firearm.

13 Q: Okay. Those seven cartridges were fired by one gun,
14 okay. And I think also, Items 8, I think, 8 through 15 on
15 that report, those are -- those are actually fired bullets; is
16 that correct?

17 A: I had Items 8 through 10, and then 13 through 15.

18 Q: Okay. 8 through 10, and of course, 8 through 10 was
19 collected at the crime scene; is that correct?

20 A: They were labeled from the scene.

21 Q: Those were bullets that were collected at the scene. And
22 then of course, I think 13, 14, and 15 were bullets that were
23 taken from the victim's body; is that correct?

24 A: Yes; that's correct.

25 Q: Okay. And I want to ask you about something that you

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1 mentioned on -- as part of your report. And I'll read it, and
2 of course, on Page 2, of your report, I think where it says
3 results, and then of course, bullet point Number 2. It says
4 due to insufficient corresponding individual identifying
5 characteristics, a result -- the results of comparisons
6 between Items 8 through 10, 13, and 14, fired bullets that
7 were inconclusive although some similarities were noted. It
8 says it could not be determined whether or not the Items 8
9 through 10, 13, and 14 fired bullets were fired by one firearm
10 or by other firearms with similar rifling characteristics. If
11 my understanding is correct, so what you're saying is is that
12 those -- I think it's a total of how many fired bullets?
13 Those six fired bullets, if my understanding is correctly,
14 you're saying is is that scientifically you cannot determine
15 whether or not they were all fired by the same gun?

16 A: Five bullets, yes, I could not determine. I was
17 inconclusive. They met all of those same rifling
18 characteristics to make it to the full exam, so again they had
19 the same lands and grooves, the same type of rifling, the same
20 direction of twist, and they did have some similarities that
21 were noted, but I could not make a conclusive statement either
22 way. I could not definitively say whether they were fired by
23 one firearm, or they fired by different firearms.

24 Q: Okay. So, they could've been fired by one firearm; they
25 could've been fired by multiple firearms?

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1 A: Correct.

2 Q: Okay. I just wanted to make sure that that's my
3 understanding. Okay.

4 Now, I think with respect to Item 15, going down your
5 report, I think this is on -- I think it's on Page Number 3.
6 You said, due to differences in general rifling
7 characteristics -- it's the first bullet point on the third
8 page, Items 15 was not fired by the same firearms that fired
9 Items 8 through 10, 13, and 14. So, my understanding is is
10 that bullet 15 in the report, I think that's one of the
11 bullets that was found in the victim's body, you're saying
12 that you are confident that that bullet was fired by a
13 different gun?

14 A: I am.

15 Q: Okay. And scientifically, there's no way that bullet 15
16 could've been fired by the same bullet as 8 through 10, and
17 13, and 14?

18 A: Not in my opinion. The other bullets were, again, .40
19 caliber, which is a much larger caliber. My Item 15 was 9mm.
20 And again, they were two totally different rifling
21 specifications. The .40 caliber bullets were six right
22 polygonal rifling. The 9mm Luger caliber bullet was five
23 right conventional rifling.

24 MR. BROOKER: If you can indulge me for just a second,
25 Your Honor. Let me make sure that I don't have any further

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1 questions.

2 I don't have any further questions, Your Honor.

3 THE COURT: Any redirect?

4 MR. HELMS: Yes, ma'am. Very briefly.

5 REDIRECT EXAMINATION OF SUSANNE CROMER BY MR. HELMS:

6 Q: I just want to clear about one piece of evidence, ma'am,
7 and that's Number 16. Have you got it up there with you? Or
8 do I have it over here?

9 A: You should have it over there.

10 Q: Okay. State's 16, that was the outlier it appears,
11 right?

12 A: Correct.

13 Q: Tell this jury one more time why this is an outlier?

14 A: Because it's a different caliber firearm, I mean,
15 projectile.

16 Q: Can you tell by looking at it where that was recovered
17 from? Do you know where that was recovered from?

18 A: It's labeled left back bullet from autopsy.

19 Q: All right. So, that was recovered from the back of the
20 victim?

21 A: Correct.

22 Q: Do you know if this bullet came from the same incident as
23 all -- as these other projectiles and firearms ---

24 A: No, I don't.

25 Q: --- fired bullets?

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1 A: No, I don't.

2 Q: Okay. So, for all you know, this is from a separate
3 incident?

4 A: Correct.

5 Q: Thank you.

6 MR. HELMS: Nothing else.

7 THE COURT: Anything further, Mr. Brooker?

8 MR. BROOKER: No further questions, Your Honor.

9 THE COURT: Thank you, ma'am. You may step down.

10 MR. HELMS: May it please the Court?

11 THE COURT: Yes, sir.

12 MR. HELMS: Your Honor, at this time, we would call
13 Detective Ken Marcus with the Horry County Police Department.

14 BY THE COURT:

15 THE COURT: Before we start with Officer Marcus, this is
16 gonna be a fairly lengthy witness, let's take a break. Let's
17 take about a 10-minute break before we come back in.

18 Please don't begin discussing the case.

19 MR. HELMS: Understood.

20 THE COURT: Sorry about that.

21 MR. MARCUS: That's okay.

22 (REPORTER'S NOTE: Jury exits courtroom @ 11:37 a.m.)

23 **RECESS - 11:37 A.M.**

24 *****OFF THE RECORD*****

25 **ON THE RECORD - 11:49 A.M.**

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1 (REPORTER'S NOTE: Jury enters courtroom @ 11:49 a.m.)

2 THE COURT: Okay. Now, we're ready.

3 MR. HELMS: Thank you, Your Honor.

4 At this time, the state would call Detective Ken Marcus
5 with the Horry County Police Department.

6 KENNETH MARCUS, HAVING BEEN SWORN,

7 TESTIFIED AS FOLLOWS:

8 THE CLERK: State your name and spell it for the Court.

9 MR. MARCUS: It's Kenneth Marcus, and that's M-A-R-C-U-S.

10 DIRECT EXAMINATION OF KENNETH MARCUS BY MR. HELMS:

11 Q: Mr. Marcus, where do you work?

12 A: Horry County Police Department.

13 Q: And how long have you done that?

14 A: Since 2007.

15 Q: What do you do?

16 A: I am currently a detective with our cold case and missing
17 persons unit.

18 Q: All right. Have you always done that?

19 A: No.

20 Q: What did you do before that?

21 A: I was a investigator in our homicide unit; an
22 investigator in our special victims unit; I was a school
23 resource officer; a shift supervisor on the road; and a patrol
24 officer for several years.

25 Q: And June of 2020, what was your -- well, let me ask you

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1 this real quick, because I have to. Do you got to through a
2 lot of training to what you've done?

3 A: Yes.

4 Q: Okay. Run that down real quick.

5 A: You've got to go through a -- several-week basic training
6 at the Criminal Justice Academy, between nine and 12 weeks.
7 After that, you go through several months of field training
8 with a field training officer. For several other jobs that
9 I've had, I've had to go back to the academy for several weeks
10 of training for this investigative job that I've taken so far,
11 on top of going through a week or two with specified -- or at
12 the academy, I've also gone through several classes with the
13 SPI, it's a -- not a course or a ---

14 Q: SBI is State Bureau of Investigation?

15 A: No, no, no. Southern Police Institute out of the -- it's
16 based out of the College of Louisville ---

17 Q: SPI, I understand.

18 A: SPI.

19 Q: Yes, sir.

20 A: Went through a two-week course with them as well as a
21 one-week course with International Homicide Investigator's
22 Association.

23 Q: Is it fair to say through the course of your career,
24 you've consistently climbed up through the ranks?

25 A: Yes.

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1 Q: Okay. Thank you.

2 What was your job title in June of -- in June of 2020?

3 A: I was a homicide detective in June of 2020.

4 Q: Did you have an opportunity as a homicide detective in
5 June of 2020 to work on this case?

6 A: Yes, I did.

7 Q: Okay. What was your involvement?

8 A: So, I was the case agent or the lead investigator for
9 this particular case.

10 Q: In short, does that basically mean you are and were the
11 point person on this case?

12 A: I was the gentleman who would take all the information
13 that was being gathered by other resources with this
14 investigation of the detectives that would go out and speak
15 with people or look at evidence, gather footage. The crime
16 scene investigator would take everything that they found and
17 bring that information back to me, and then I would lead the
18 investigators as a group in the direction that the evidence
19 led us.

20 Q: On this case in particular, just generally speaking, what
21 did you do?

22 A: I was the -- for this case in particular, reviewing all
23 the evidence that was brought back to us. I did interview one
24 witness -- I'm sorry -- two witnesses at the scene. I spent
25 some time with the crime scene investigators while they were

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1 processing the scene, and also had the opportunity to
2 interview one of the witnesses that we heard from earlier, and
3 the defendant, Mr. Bromell.

4 Q: You actually got to speak with the defendant, Mr.
5 Bromell?

6 A: Yes. I conducted a post-Miranda interview with Mr.
7 Bromell.

8 Q: What about the autopsy?

9 A: Oh, I'm sorry. I did attend the autopsy a day later.

10 Q: I knew that.

11 Did you collect anything at the autopsy?

12 A: I did.

13 Q: Okay. I'm gonna show you what's already been entered
14 into evidence as State's Exhibit 14, 15, and 16. Are these
15 some of the items you collected?

16 A: These are three of several items that I collected from
17 MUSC where the autopsy was conducted.

18 Q: Okay. And what did you do with these items?

19 A: I transported them back to our evidence department and
20 checked them in with our property and evidence clerks.

21 Q: Okay. Did you tamper with them?

22 A: No.

23 MR. HELMS: And, Your Honor, in a perfect world, probably
24 now would've been the time I would've entered those into
25 evidence, after the chain was completed in that regard, and I

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1 apologize for being premature, but I wanted to make sure that
2 we have noted on the record I have established the chain here.

3 Thank you.

4 BY MR. HELMS:

5 Q: Now, when you secured these items from the autopsy, who
6 did you get them from?

7 A: The pathologist and the technician that was assisting
8 them. They did the autopsy there. They brought those items
9 to me, signed them over to me, and then I took them to the
10 evidence department.

11 Q: So, they took them from the body, gave them to you, and
12 you took them to evidence?

13 A: That's correct.

14 Q: Thank you very much. Just wanted to clear that up.

15 Now, I want to go to your involvement with not the
16 witnesses, but the defendant. You had an opportunity to
17 interview this defendant, correct?

18 A: Yes.

19 Q: Tell this jury a little bit about the circumstances
20 surrounding that interview.

21 A: So, on the ---

22 Q: How it came to be, please.

23 A: --- 24th of -- I'm sorry. After we spent numerous hours
24 on the 23rd of 2020 investigating this, we -- or this
25 incident, we established probable cause to believe that the

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1 defendant was responsible for this shooting. We presented
2 those facts that we had learned up to that point, the evening
3 of the 23rd, and obtained an arrest warrant for the defendant.
4 The morning of the 24th, the defendant was located at his
5 residence in the Freemont Community of Horry County and taken
6 into custody. After he was taken into custody, he was brought
7 back to the M.L. Brown Building where we were able to sit down
8 with him in an interview room and discuss the incident with
9 him.

10 Q: The M.L. Brown Building, tell me about the surroundings
11 at the M.L. Brown Building. What did you do with him?

12 A: The M.L. Brown Building is the -- we have four or five
13 buildings for the Horry County Police Department throughout
14 the county and the M.L. Brown Building is our central office.
15 It houses most of our investigative division, property and
16 evidence, things along those lines, but it also has our
17 interview rooms. He was transported to the interview room,
18 one of the interview rooms, taken out of the hand restraints
19 that he had, was offered to use the restroom, have some water
20 or something to eat if he would like. And then we sat down
21 and conducted a post-Miranda interview with him at that point.

22 Q: Did you let him use the restroom?

23 A: Yes.

24 Q: Did you offer him anything to drink?

25 A: Yes.

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1 Q: Now, let's be clear. Was he free to go at this time?

2 A: No, he was not. He was in our custody.

3 Q: Okay. All right. Did you promise the defendant
4 anything?

5 A: No.

6 Q: Did you threaten the defendant in any way?

7 A: No.

8 Q: Did he proceed to speak with you?

9 A: He did.

10 Q: Commonly, in television and movies, we hear about what's
11 known as Miranda rights. Did you read those to him?

12 A: I did.

13 Q: Did he -- was he responsive to your questions?

14 A: Yes, he was.

15 Q: I mean, and when I say responsive to your questions, when
16 you asked him what the weather was like outside, he wouldn't
17 say blue; I mean he gave you appropriate answers for
18 questions?

19 A: Yes, he did.

20 Q: Did he seem to understand what you were saying to him?

21 A: Yes.

22 Q: Did you understand what he was saying to you?

23 A: Yes.

24 Q: You didn't beat him with a phonebook or anything like
25 that?

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1 A: No.

2 Q: Did you actually give him a Miranda form to sign?

3 A: Yes.

4 Q: Okay. I'm showing you now what's been marked State's
5 Exhibit 2. Do you recognize that document?

6 A: I do.

7 Q: What is that document?

8 A: This is a advisement of Miranda rights form. When we
9 conduct an interview at our police department with -- because
10 of the controlled environment that it's in, we always advise
11 people of their Miranda rights before we start an interview
12 with someone. And there is spots on this form for us to
13 explain all of the Miranda rights, and have the person that
14 we're interviewing acknowledge whether or not they understand
15 them, and then they sign that as a affirmative acknowledgement
16 of their Miranda rights.

17 Q: Did he acknowledge that he understood his Miranda rights?

18 A: Yes.

19 Q: Did he waive his Miranda rights?

20 A: Yes.

21 Q: And did he proceed to speak with you?

22 A: Yes.

23 Q: All right. Now, did he appear to be under the influence
24 of alcohol or drugs?

25 A: No, he did not.

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1 Q: Did you ask him if he was under the influence of alcohol
2 or drugs?

3 A: I did.

4 Q: Did he say he was?

5 A: He said that he was not under the influence of any
6 alcohol, drugs, or prescription medication.

7 Q: Do you remember about how long you talked to him?

8 A: I believe the -- 25 or 30 minutes, no more than 40.
9 There was some pauses in the interview.

10 Q: What did you talk about?

11 A: This particular incident.

12 Q: Did you confront him with the evidence that you had?

13 A: Yes.

14 Q: Okay. And specifically, what was the evidence you
15 confronted him with?

16 A: We confronted him with several items of evidence. We
17 reviewed the surveillance video that showed he was at the
18 club, Turk's Place, prior to the shooting; the vehicle that he
19 was observed getting in and out of; several statements that we
20 had received saying he was present; and a still shot that was
21 obtained from the video that we had identified as him in that
22 still shot.

23 Q: When you showed him -- before you showed him the still
24 shot, did he admit to being present?

25 A: He did admit to being present.

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1 Q: Okay. When you confronted him with the evidence of him
2 driving the burgundy car, did he admit or deny it?

3 A: He admitted to driving a burgundy car.

4 Q: Did he say anybody was with him in that car?

5 A: He said no one was with him. He arrived alone, didn't
6 see anybody in particular while he was there, didn't go to see
7 anybody in particular while he was there or spend any time
8 with anybody, and said initially that he left.

9 Q: Did he admit to seeing the victim that night?

10 A: He did.

11 Q: Did he say -- let me rephrase the question. Did you have
12 anything indication that there was any hostilities exchanged
13 prior to the shooting between the victim and the defendant?

14 A: There was a moment on the video that we reviewed, that I
15 reviewed the day before where you can see the victim sitting
16 on the front porch of the club, the defendant walking by,
17 facing the defendant, and he said something to him. And there
18 was an instant demeanor change in the victim after that
19 interaction.

20 Q: Did you confront the defendant with that video?

21 A: I did.

22 Q: Is that the video that's in evidence now?

23 A: Yes.

24 Q: What was his response?

25 A: He wasn't sure what he said.

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1 Q: Okay. Did you confront him with the entirety of the
2 video?

3 A: Just the clippits that were specific to his interactions
4 with the victim, him arriving, and the leaving.

5 Q: Did you show the end of the clip to the defendant?

6 A: We described it to him.

7 Q: Did he acknowledge that he was the one that gets in the
8 burgundy Pontiac?

9 A: Yes. The burgundy car, yes.

10 Q: You said you showed him a still shot of himself?

11 A: I showed him a still shot of a person of interest in the
12 case. It was an image that other people had identified as Mr.
13 Bromell. He looked at the picture and then acknowledged that
14 that was him.

15 Q: What was he wearing in that picture?

16 A: It was a dark-in-color jacket with shite stripes that run
17 from the shoulder down to the edge of the sleeves.

18 Q: And where did you get that picture?

19 A: From the surveillance video at the club.

20 MR. HELMS: Right now I want to, before I forget, enter
21 into evidence State's Number 2 if it hasn't already been
22 entered, Your Honor.

23 Has it -- no.

24 Your Honor, I don't think it has, so I want to tender it
25 into evidence, and this is the Miranda form signed by the

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1 defendant.

2 THE COURT: Any objection, Mr. Brooker?

3 MR. BROOKER: No objection, Your Honor.

4 THE COURT: 2 is admitted.

5 STATE'S EXHIBIT NUMBER 2

6 ADMITTED INTO EVIDENCE

7 BY MR. HELMS:

8 Q: I'm going to show you what's been marked for
9 identification purposes as State's 61. Tell me if you
10 recognize what I showed you.

11 A: I do.

12 Q: What is it?

13 A: That is an image, a still shot that was taken from the
14 club or from the surveillance footage of the club. It is the
15 still shot that I showed the defendant.

16 Q: Is that -- did he acknowledge this as him?

17 A: Yes.

18 MR. HELMS: Your Honor, the state would tender State's 61
19 in evidence, and ask to publish.

20 THE COURT: Any objection to 61?

21 MR. BROOKER: Just, I think subject to previous
22 objections that was made as related to this photograph.

23 THE COURT: 61 is admitted.

24 STATE'S EXHIBIT NUMBER 61

25 ADMITTED INTO EVIDENCE

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KENNETH MARCUS - CROSS BY BROOKER

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1 MR. HELMS: Am I allowed to publish, Your Honor?

2 THE COURT: Yes, sir.

3 BY MR. HELMS:

4 Q: Did you have any other suspects in this case?

5 A: No.

6 Q: After the completion of your interview with Mr. Bromell,
7 what did you do with -- what did you do?

8 A: I believe there were two search warrants that were
9 obtained for his fingerprints and a DNA standard from him
10 which were processed by crime scene personnel there, and then
11 he was -- he was transported to the J. Reuben Long Detention
12 Center by, I think, a patrol officer who was in the building.

13 Q: So, Detective, just to recap your interview, he admitted
14 to being present?

15 A: Yes.

16 Q: He admitted to being that guy in the picture?

17 A: Yes.

18 Q: Did he admit his name was Juice?

19 A: Yes.

20 Q: Did he admit he was driving that red car alone?

21 A: Yes.

22 Q: Please answer any questions counsel may have.

23 MR. BROOKER: If you could indulge me for just a second,
24 Your Honor?

25 THE COURT: Sure.

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1 CROSS-EXAMINATION OF KENNETH MARCUS BY MR. BROOKER:

2 Q: Detective Marcus, I think you testified that you were the
3 lead investigator in connection with this case?

4 A: Yes.

5 Q: How long have you been a law enforcement officer?

6 A: How long have I been ---

7 Q: Yes, sir.

8 A: Since 2007; so, approximately, 15 years.

9 Q: I figured probably a while. In, I think, 2000 -- in
10 2020, June of 2020, I think you said you were a homicide
11 investigator?

12 A: Yes.

13 Q: Okay. How long had you been a homicide investigator at
14 that time?

15 A: At that time, I had been -- so, approximately nine
16 months, 10 months.

17 Q: Do you have any special training -- before you transition
18 from one job into becoming a homicide detective, is there any
19 special training that you go to -- go through through the
20 academy that is specifically geared towards training you to be
21 a homicide investigator?

22 A: Prior to making the transition, unfortunately, no;
23 however, after making the transition or during the course or
24 our normal duties, we are selected for training classes and
25 sent.

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1 Q: So, you were promoted to the job of homicide detective
2 before you actually received training as a homicide detective?

3 A: The specific class that I received in the field, excuse
4 me, of homicide investigations, I believe I attended a couple
5 of months after this.

6 Q: Okay. All right. So, your first training was after --
7 after the investigation of this particular case?

8 A: For homicides specifically; not necessarily violent
9 crimes.

10 Q: Absolutely. And that's what I'm talking about for
11 homicides. And I want to ask you a couple of questions in
12 reference to this investigation that I think you just answered
13 on direct examination. I know that you testified to the fact
14 that on direct examination that you obtained a warrant for
15 Laquandian's arrest; is that correct?

16 A: Yes.

17 Q: And you went to his home and, of course, arrested him; is
18 that correct?

19 A: The following morning, yes.

20 Q: The following morning, and that was -- that would've been
21 the 24th.

22 A: The morning of the 24th.

23 Q: Okay. And of course is, in addition to arresting him at
24 his house, you also got a search warrant to search his home,
25 and of course, any vehicles that was on the property?

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KENNETH MARCUS - CROSS BY BROOKER

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1 A: That's correct.

2 Q: And did you in fact search his home?

3 A: The police department did; I did not. I specifically did
4 not.

5 Q: And I should've asked, did law enforcement search his
6 home as a result of the search warrant; I didn't mean you
7 personally.

8 A: Yes, we did.

9 Q: Okay. Okay. And when you searched his home, did you
10 find a 9mm weapon, 9mm caliber handgun?

11 A: I do not believe so. However, I do not have that
12 particular paperwork with me at the moment.

13 Q: Did you find a .45 caliber handgun at his home?

14 A: I do not believe so, no.

15 Q: I think also I think the jacket in question, I think,
16 that photograph is -- is there a photograph in evidence?

17 I think what's been identified in State's Exhibit 61, and
18 I think that's the -- that's this picture that was taken from
19 the -- I'm sorry. That's the photograph that was taken from
20 the surveillance footage; is that correct?

21 A: Yes.

22 Q: The still of that?

23 A: Yes.

24 Q: When you searched his home the next day, did you look or
25 ever find that jacket?

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1 A: No. It was not recovered from the home.

2 Q: I think also, if my memory serves me correctly -- if you
3 can indulge me for just a second, Your Honor?

4 THE COURT: Uh-huh, (affirmative response).

5 BY MR. BROOKER:

6 Q: That there was items that were collected from the scene
7 of the shooting; is that correct?

8 A: Items were collected by our crime scene investigator from
9 the scene, yes.

10 MR. BROOKER: If you could indulge me for just a second,
11 Your Honor. I apologize.

12 BY MR. BROOKER:

13 Q: I think, if my memory serves me correctly, is it that
14 there were two red, I think, cups that was collected that was
15 at the scene?

16 A: I would have to see the chain of evidence to be able to
17 confirm that, but I do recall seeing red like solo cups.

18 Q: Yeah. Okay. Do you need to take a look at -- I don't
19 mind if you take a look at it, if you need to refresh your
20 recollection.

21 A: I do, because I can't tell you whether or not she
22 collected them. I do recall seeing those cups.

23 Q: Okay.

24 MR. BROOKER: If I can approach, Your Honor?

25 THE COURT: Sure.

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1 A: Item 12 and 14 on these forms lists red Solo cups.

2 BY MR. BROOKER:

3 Q: Okay. And of course, those were two red, I think, Solo
4 cups that was found right next to Victim: H.G. body; is that
5 correct?

6 A: Yes.

7 Q: Okay. And I think y'all collected those cups; is that
8 correct?

9 A: Yes. Our crime scene investigator collected those cups.

10 Q: Okay. Was those cups ever sent to SLED to see if they
11 could pull off any DNA, touch DNA, or saliva from those cups?

12 A: I don't know for sure if they were sent. I can tell you
13 that those cups, during our investigation, the information we
14 had received pointed us in one direction. So, I do not
15 believe -- I don't know for sure if those cups were sent or
16 not, to be honest with you. We put a request in to have
17 evidence processed, and then our property and evidence clerk
18 would send that to SLED to be processed.

19 Q: Okay. Do you remember watching -- and I -- do you
20 remember watching the -- I think it was the surveillance
21 footage from the club?

22 A: Yes.

23 Q: And do you remember watching, I think, the surveillance
24 footage where we Victim: H.G. I think, leaves the club, this is at
25 the end of the night where he leaves the club. I think he

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1 walks over to -- to a storage house, sits down, and then of
2 course leaves, and then proceeded to walk down the road?

3 A: Yes. The one off to the left of the ---

4 Q: Absolutely. Absolutely.

5 A: If you're coming from the club, it's off to the left.

6 Q: And in that security footage, and I may be wrong, but I
7 don't believe I saw red cups in his hand when he walked off.
8 I think he was on a cellphone, is that -- do you recall that?

9 A: I don't recall any cups on his hands, no.

10 Q: Okay. Well, if he didn't have any cups in his hand when
11 he walked down the road, and then of course, you know, minutes
12 later he is shot and killed, did you ever thought that
13 possibly the assailants could've dropped those red cups at the
14 scene next to his head, and that DNA from the assailants could
15 be -- could be contained on those cups?

16 A: It is a possibility. That particular area where Victim: H.G.
17 was found was also a known parking area for people who come
18 and go from the club itself. So, it's also possible that
19 those cups were from other patrons. We weren't even sure that
20 those cups were probative to that particular incident itself,
21 because Victim: H.G. wasn't observed leaving with any cups. And the
22 witnesses that we spoke to said they didn't observe any cups
23 being held by the person who was standing over him shooting.

24 Q: Okay. Those persons, I think, are you talking about --
25 you're talking about Ms. Hemingway -- I don't -- what Ms.

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1 Hemingway's first name is -- Cortisha Hemingway.

2 A: Ms. Cortisha Hemingway was one of the people we
3 interviewed.

4 Q: And you were in the courtroom when she testified; is that
5 correct?

6 A: Yes; that's correct.

7 Q: And then of course, when she testified, I think -- she
8 testified that she was not -- that it was extremely dark out
9 there, and she never testified to seeing the hands of the
10 shooter; is that correct?

11 A: I don't recall that she said anything about his hands
12 specifically, no, just his general description, and that he
13 was standing over the victim shooting him with a gun.

14 Q: You correct if my recollection is different from yours.
15 Isn't it true that she testified that ---

16 MR. HELMS: Objection, Your Honor, pitting.

17 MR. BROOKER: Your Honor, I can ask him about testimony
18 that he witnessed while he was in the courtroom. This is not
19 for the purposes of corroborating or, what is it, enhancing
20 anyone's testimony.

21 THE COURT: Let me hear the question.

22 BY MR. BROOKER:

23 Q: Okay. The question I was gonna ask him is, is that you
24 were in the courtroom when she testified about what she saw;
25 is that correct?

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1 A: She testified to what she saw, yes.

2 Q: Okay. And of course is it that is it your recollection
3 that she testified that, that her vision of the shooting was
4 is it that she saw Victim: H.G. struggling to get up, and she saw
5 this individual standing over him shooting him; is that
6 correct?

7 A: She described an individual standing over him wearing a
8 dark jacket with stripes that went down the sleeve, some type
9 of poof or puff with his hair, and that it was a, I believe, a
10 dark-skinned or a dark individual standing there shooting him,
11 yes.

12 Q: I don't think she testified as to race. Do you recall
13 her saying that she could not identify the race of the person?
14 I think she described his height.

15 A: A shorter individual.

16 Q: Okay. Now, now, I know that you said that you don't know
17 whether or not those cups could've been dropped by patrons
18 that were at the club that's totally unrelated to the scene?

19 A: That's correct. And to explain a little bit more about
20 why they weren't tested. SLED gives us the ability to test
21 only so much DNA evidence in a particular case, because they
22 get so many requests for DNA evidence. Typically, it's only
23 five items of evidence. However, when we have a violent crime
24 that was witnessed, we have an idea of who that subject is,
25 when we have -- essentially, we're not looking at a completely

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1 unknown assailant, we have some reason to believe who an
2 assailant is based off of other facts, SLED will sometimes
3 deny testing for DNA evidence. So, we reserve how many times
4 we can send out DNA evidence to be tested based off of those
5 cases that are -- that meet that criteria for them, for their
6 lab.

7 Q: But it's my understanding that there was no request for
8 DNA -- DNA analysis by SLED in this case; is that correct?

9 A: If we did not request that evidence, it was because we
10 already know what their requirements are for that to be done.
11 So, we already have an idea that there is -- will be this,
12 we're not going to call them and say, hey, can you test this
13 even though you normally will not.

14 Q: So, they didn't deny you; you just didn't send it and
15 make the request?

16 A: I cannot answer that 100 percent because I'm not the
17 person who would physically send that to SLED and make that
18 request. That would be our property and evidence clerk.

19 Q: But you were the lead investigator in connection with
20 this case means that you control the investigation of this
21 case; is that correct?

22 A: I direct the investigation and help the other resources
23 to follow the evidence. I make sure everybody brings back
24 that information and it all gets compiled and that we're all
25 going in the same direction.

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1 Q: As the lead investigator in connection with this case,
2 could you have requested to have those cups -- those cups
3 analyzed by SLED to make a determination as to whether or not
4 they contained DNA that did not belong to Victim: H.G.

5 A: Yes, I could have made that request.

6 Q: Do you think that your inexperience contributed to your
7 not making that request.

8 A: No, I do not. This particular incident was not my first
9 homicide investigation.

10 Q: I think you also testified on direct examination that
11 y'all questioned Laquandian Bromell, I think, for I think you
12 said it was somewhere between 25 to 40 minutes?

13 A: The actual interview itself took approximately 40 minutes
14 from beginning to end. However, there were a few couple-of-
15 minute pauses during that time.

16 Q: And that's what I'm talking about, the actual questioning
17 portion of it was between 25 to 40 minutes.

18 A: About 25 minutes time in front of Mr. Bromell actually
19 speaking with him.

20 Q: I got you.

21 And of course is, I think you said that Mr. Bromell
22 admitted to -- to being the person, I think, in the photograph
23 that's identified in State's Exhibit 61?

24 A: Yes.

25 Q: Now, did you ask him whether or not he -- or whether or

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1 not -- whether or not he shot -- whether or not he shot Victim: H.G.
2 during that interview?

3 A: I did.

4 Q: Did you ask him that question a lot?

5 A: I asked him that question -- I asked him that question
6 actually once or twice.

7 Q: Did he ever -- did he ever admit to shooting Victim: H.G.

8 A: No.

9 Q: Okay. He repeatedly denied ---

10 MR. HELMS: Objection, Your Honor. He's asking for a
11 self-serving statement.

12 THE COURT: I'm gonna allow the question. You asked him
13 about what the statements were, and -- so, I'm gonna allow the
14 question. Thank you.

15 BY MR. BROOKER:

16 Q: He repeatedly denied that he had shot Victim: H.G. is that
17 correct?

18 A: He did deny repeatedly that he shot Victim: H.G. that's
19 correct.

20 Q: Throughout the entire 25 minutes or whatever it was that
21 you -- that you questioned him?

22 A: Yes.

23 Q: Now, I know also -- and I promise I'm almost finished. I
24 don't have a whole lot of questions.

25 I think also there was -- that you testified to -- to the

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KENNETH MARCUS - REDIRECT BY HELMS

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1 fact that y'all collected, I think, those bullets that were
2 recovered from ^{Victim: H.G.} body from the -- I think the
3 pathologist with MUSC?

4 A: Yes. The pathologist had removed, I believe, three
5 projectiles from ^{Victim: H.G.} body, and they were given to me and
6 I transported them to our evidence department.

7 Q: And I may've been mistaken, I think, when I asked you
8 about the -- whether or not a gun was recovered from
9 Laquandian's residence. Just to be certain, I think I may've
10 said a .45 caliber. Was a .40 caliber gun collected from his
11 residence?

12 A: No.

13 MR. BROOKER: If you can indulge me for just a second,
14 Your Honor. Let me make sure that I don't have any further
15 questions.

16 THE COURT: Yes, sir.

17 MR. BROOKER: No further questions, Your Honor.

18 THE COURT: Any redirect?

19 MR. HELMS: Yes, ma'am.

20 REDIRECT EXAMINATION OF KENNETH MARCUS BY MR. HELMS:

21 Q: Detective Marcus.

22 A: Yes, sir.

23 Q: He talked about your inexperience, who do I call when I
24 have a question?

25 A: Usually, me.

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1 Q: How many homicide investigations have you been a part of?

2 A: At least 24 in the year of 2020 alone.

3 Q: All right. That's good.

4 A: It was a busy year.

5 Q: You talked about the things you found and didn't find --
6 and when I say you, I mean the police department.

7 A: Yes.

8 Q: And you spoke to that. You didn't find a gun. Did you
9 find .40 caliber gun?

10 A: No.

11 Q: A 9mm gun?

12 A: No.

13 Q: Find any kind of gun?

14 A: No.

15 Q: Had you found a gun, would you have turned it into SLED
16 to be compared to the bullets and stuff?

17 A: Yes.

18 Q: Okay. The car, the red car, the burgundy, did you
19 recover that at his house?

20 A: No.

21 Q: Did you ever find that car?

22 A: No.

23 Q: Had you of found that car, would you have tested it?

24 A: Yes. We would've processed the car for evidence.

25 Q: DNA and all that good stuff?

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1 A: Fingerprints, casings, anything else relevant, clothing
2 that the gentleman was wearing that night, anything relevant
3 to this case.

4 Q: Speaking of which, I showed you State's 61; do you
5 remember seeing this?

6 A: Yes.

7 Q: You remember saying he admitted to this being him?

8 A: Yes.

9 Q: Did he admit to wearing that jacket?

10 A: Yes.

11 Q: Did you find the jacket at his house?

12 A: No, we did not.

13 Q: You followed -- let me ask you this. Why did you go to
14 arrest and question him?

15 A: Because the surveillance video corroborated the
16 information given to us by the witnesses on scene.

17 Q: Is this a DNA case?

18 A: No.

19 MR. HELMS: Nothing further, Judge.

20 THE COURT: Mr. Brooker, anything else, sir?

21 MR. BROOKER: Just very briefly in reference to the red
22 car.

23 RECROSS-EXAMINATION OF KENNETH MARCUS BY MR. BROOKER:

24 Q: When you talked with him, did you ask him about the red
25 car?

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KENNETH MARCUS - RECROSS BY BROOKER

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1 A: Yes.

2 Q: Okay. Did he tell you -- tell you the car that he was
3 driving, did he tell you who the owner of that car was?

4 A: The vehicle that he informed us he was driving -- if I
5 may refer to my notes for just a second. Said he was driving
6 a burgundy Pontiac sedan, and that the -- his cousin Shatara
7 Soles owned the vehicle.

8 Q: Did you ever try and go and locate that vehicle?

9 A: Yes, we did.

10 Q: Did you ever locate that vehicle?

11 A: No, we did not. And the vehicle that he described that
12 he was driving didn't quite match the make and model that we
13 could observe in the video. The vehicle that we observed in
14 the video was actually a burgundy Hyundai vehicle, and we
15 believe that actually belonged to a Lashira Bennett, who he is
16 familiar with. He also did try to locate that vehicle from
17 Ms. Lashira Bennett, however, she -- we could not locate the
18 vehicle, and she declined to produce that vehicle to us.

19 Q: Just a simple question.

20 A: Sure.

21 Q: As law enforcement, if you thought that vehicle was
22 involved in a homicide, you do know that you have a right to
23 go to a judge and ask the judge for a search warrant in order
24 to gain access to that vehicle to search it?

25 A: Absolutely, we do. And when we do that, we locate the

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1 property that the vehicle is on prior to obtaining that
2 warrant, because if the vehicle is at one residence or another
3 residence or outside the county, we have to obtain the -- get
4 the search warrant from a judge of that jurisdiction to be
5 able to seize that car from that property. So, we have to
6 locate that car first, hold on to it, and then obtain that
7 search warrant to be able to lawfully seize it from the
8 property.

9 And through several days of effort to attempt to locate
10 that vehicle at several different residences, we were unable
11 to find it, both here and in North Carolina.

12 Q: But you said the vehicle that he -- the vehicle that he
13 said he was driving, you said that when you looked at that
14 vehicle, that that vehicle was a different vehicle than what
15 y'all thought was in the video?

16 A: I'm sorry. Say the last part. I didn't want to ---

17 Q: I want to make sure that I understand you correctly. You
18 said that the vehicle that he had -- that he said that he was
19 driving that night, you said that when you did go take a look
20 at that vehicle, that vehicle looked to be different than the
21 vehicle contained in the -- in the video footage?

22 A: Yes. The rear of the vehicle, the structure of the
23 headlights, bumper, how the trunk area appears, looked
24 different than the vehicle that he described that, in his
25 interview, that he was driving.

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KENNETH MARCUS - RECROSS BY BROOKER

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1 Q: What color was the vehicle that he described?

2 A: He described it being burgundy.

3 Q: Okay. I'm saying, when you went out and looked at it,
4 what color was it?

5 A: I'm sorry, say that -- the question again?

6 Q: When you went out and saw the vehicle that said he was
7 driving, what color was it?

8 A: We never located the vehicle that he said he was driving.

9 Q: I'm a little bit confused. I thought you said that you
10 went out and spoke with a person.

11 A: No. We never located Ms. Shatara Soles. We never
12 located this Pontiac sedan that he describes, and we never
13 located the vehicle that we observed in the video, which was
14 different than a Pontiac sedan, or it's known owner, or person
15 in its custody and control known at that time, which was
16 Lashira Bennett.

17 Q: Did I hear you correctly when -- did you talk with Ms.
18 Soles?

19 A: No, we did not. We did not locate or speak with Ms.
20 Soles.

21 Q: Did you try to locate Ms. Soles?

22 A: Yes, we did. The information he'd given us, we couldn't
23 locate the driver's license or a government name for, address,
24 or anything to go and locate her. And we did ask him where we
25 could go and locate her at, and I believe he just gave the

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BY THE COURT

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1 general area, but not a specific residence or contact.

2 Q: I got you.

3 MR. BROOKER: If you can indulge me for just a second,
4 Your Honor, I'm gonna make sure I don't have any more follow-
5 up questions.

6 I don't have any further questions, Your Honor.

7 THE COURT: Thank you, sir. You can step down.

8 BY THE COURT:

9 THE COURT: All right. Ladies and gentlemen, we have
10 brought lunch in for you. So, we're gonna excuse you for
11 lunch.

12 Again, please don't begin discussing the case. And I'll
13 let the bailiff know what time we're gonna reconvene.

14 (REPORTER'S NOTE: Jury exits courtroom @ 12:33 p.m. The
15 following takes place outside the presence of the jury.)

16 THE COURT: Does 1:30 give y'all enough time?

17 MR. HELMS: Yes, ma'am.

18 THE COURT: Okay. We'll reconvene at 1:30.

19 RECESS - 12:34 P.M.

20 *****OFF THE RECORD*****

21 ON THE RECORD - 1:37 P.M.

22 (REPORTER'S NOTE: Jury enters courtroom @ 1:37 p.m.)

23 MS. LIVESAY: Thank you, Your Honor. At this time, the
24 state is gonna call Detective Edwards to the stand.

25 CHRISTOPHER EDWARDS, HAVING BEEN SWORN,

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CHRISTOPHER DREW EDWARDS - DIRECT BY LIVESAY

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1 TESTIFIED AS FOLLOWS:

2 THE CLERK: State your name and spell it for the Court.

3 MR. EDWARDS: It's Christopher Drew Edwards. Last name
4 is E-D-W-A-R-D-S.

5 DIRECT EXAMINATION OF CHRISTOPHER DREW EDWARDS BY MS. LIVESAY:

6 Q: And Mr. Edwards, if you don't mind, tell the jury where
7 you're currently employed.

8 A: The Horry County Police Department.

9 Q: And how long have you been with the police department?

10 A: Fifteen years.

11 Q: And what -- what are your current responsibilities?

12 A: I'm currently assigned to the narcotics and vice section.

13 Q: Okay. And what kind of training have you undergone and
14 what responsibilities have you had with the police department?

15 A: I attended the basic Criminal Justice Academy in Columbia
16 to get my certification as a police officer. I've attended
17 several classes through the DEA when I did drug interdiction,
18 in like 2000 and 2013 timeframe. I was -- 2019 I transferred
19 to the investigation division. I attended basic homicide
20 through -- basic homicide investigations. I attended
21 interview classes.

22 Q: Okay. And what were you doing in 2020 with the police
23 department?

24 A: I was assigned to the homicide and robbery division.

25 Q: Okay. And when you were assigned to that task force, did

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CHRISTOPHER DREW EDWARDS - DIRECT BY LIVESAY

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1 you assist on the case that we're here today for?

2 A: Yes, ma'am.

3 Q: Okay. And as part of your assistance, did you go to the
4 defendant's residence on Pine Needle?

5 A: Yes, ma'am.

6 Q: And was the residence searched?

7 A: Yes, ma'am.

8 Q: Okay. And did you see somebody take photographs?

9 A: Yes, ma'am.

10 Q: And did you point out items that needed to be collected?

11 A: Yes, ma'am.

12 Q: Okay. I'm gonna show you now what's been marked as
13 State's Exhibit 62, 63, and 64. If you don't mind, take a
14 look at this pictures and tell me if you can identify them.

15 A: Yeah. So, these photographs were of a bed and bedroom
16 believed to be Mr. Bromell's. That's a black -- I can't
17 really make it out -- it was an Android phone that was plugged
18 in to the charger.

19 Q: And did you point that out to be collected?

20 A: Yes. Detective Marcus said he wanted cellphones
21 collected from the residence ---

22 Q: Okay.

23 A: --- that we could associate with Mr. Bromell.

24 Q: Okay. And that particular room, was that associated with
25 Mr. Bromell?

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1 A: Yes, ma'am.

2 Q: Okay. And was the phone collected?

3 A: Yes, ma'am.

4 Q: And was it sealed up when it was collected?

5 A: Yes, ma'am.

6 MS. LIVESAY: Your Honor, at this time ---

7 BY MS. LIVESAY:

8 Q: And these pictures are how you saw it on that day?

9 A: Yes, ma'am.

10 Q: Okay. So, originally, the picture is here you're showing
11 the pillow over it?

12 A: Yeah.

13 Q: And then the picture to document what's under the pillow
14 and what was collected?

15 A: Yes, ma'am.

16 MS. LIVESAY: Your Honor, at this time, the state wishes
17 to put into evidence 61, 2 -- I'm sorry, no -- 62, 63, and 64
18 into evidence and publish to the jury.

19 THE COURT: Any objection?

20 MR. BROOKER: If you could indulge me for just a second.
21 No objection, Your Honor.

22 THE COURT: They're admitted.

23 STATE'S EXHIBIT NUMBER 62, 63, AND 64

24 ADMITTED INTO EVIDENCE

25 MS. LIVESAY: Thank you. And I'm gonna publish them to

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1 the jury.

2 BY MS. LIVESAY:

3 Q: And so when you first see it, you just see the cord; is
4 that correct? And then when y'all removed the pillow, the
5 phone is here being charged up?

6 A: Yes, ma'am.

7 Q: Now, let me ask you something. When evidence is
8 collected at M.L. Brown, is it documented?

9 A: Yes, ma'am.

10 Q: And is that the normal course of business?

11 A: Yes, ma'am.

12 Q: And is that record kept in the normal course of business?

13 A: Yes, ma'am.

14 Q: And is it kept in a way that it can't be altered?

15 A: Yes, ma'am.

16 Q: I'm gonna show you now ---

17 MS. LIVESAY: I'm sorry, Ms. Kay. Can you mark that for
18 me. I apologize. I thought I had it marked. I'm sorry.

19 Thank you, ma'am.

20 BY MS. LIVESAY:

21 Q: I'm showing you now what's been marked State's 68. Do
22 you recognize what I'm showing you?

23 A: Yes. It's our standard evidence record form.

24 Q: Okay. And that's kept -- it's kept in the ordinary
25 course of business?

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1 A: Yeah. Anytime we collect anything, if we found property,
2 we collect it but we return it to somebody, we would do one of
3 these to return property. If we turn it into our evidence
4 section, we would fill one of these out to document that.

5 Q: Okay. And that's to document the property that is taken
6 from a particular address?

7 A: Yes, ma'am.

8 Q: Okay. To have it accounted for. Now, does that document
9 show where those items were collected from?

10 A: Yeah. 176 Pine Needle Drive in Longs.

11 Q: Okay. And is that address where Mr. Bromell was picked
12 up from?

13 A: It was.

14 Q: And is that address the address where the phone located?

15 A: Yes, ma'am.

16 Q: And does the chain include an identifying number showing
17 that this phone has this particular IMEI number?

18 A: Yes, ma'am.

19 THE COURT: I'm sorry. That was what number?

20 MS. LIVESAY: I ---

21 THE COURT: What was the number of that exhibit?

22 MS. LIVESAY: IMEI number, Your Honor.

23 A: 68.

24 THE COURT: 68.

25 BY MS. LIVESAY:

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1 Q: Now, I'm gonna show you what's been marked as State's
2 Exhibit 13. Do you recognize that envelope in there?

3 A: Yes, ma'am.

4 Q: And what is that? Tell the jury.

5 A: Whenever we collect evidence, we usually separate it
6 depending on what kind of case it is into separate envelopes
7 and mark it with the item number, any identifying numbers we
8 can find on the piece of property.

9 Q: Okay. And so, that's the packaging for that phone?

10 A: Yes, ma'am.

11 Q: And does the package for the phone include the
12 description of the phone and the IMEI number?

13 A: Yes, ma'am.

14 Q: Okay. And what -- the IMEI number is a long number like
15 a serial number?

16 A: Yeah. That's -- cellphones use that number to identify
17 it.

18 Q: Each cellphone.

19 A: Yeah.

20 Q: And is that like a social security number for the phone?

21 A: Yes, ma'am.

22 Q: Okay. So, that's particular to that phone?

23 A: Yes.

24 Q: Okay. If you don't mind, give me the last four digits of
25 the IMEI number on that phone.

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1 A: 9874.

2 Q: And is that IMEI number on the chain as the phone
3 collected from the defendant's house?

4 A: Yes, ma'am.

5 Q: And what are the last four on the chain?

6 A: 9874.

7 Q: Okay. So, that is the phone that was collected from the
8 house?

9 A: Yes, ma'am.

10 Q: That you pointed out to evidence.

11 A: Yes, ma'am.

12 Q: Okay.

13 MS. LIVESAY: Your Honor, at this time, the state wishes
14 to put State's 13 into evidence. I mean, there's nothing to
15 publish at this time clearly, I mean, just the phone.

16 THE COURT: Any objection?

17 MR. BROOKER: Can I see 13?

18 MS. LIVESAY: Sure you can.

19 MR. BROOKER: May we approach, Your Honor?

20 (REPORTER'S NOTE: Bench conference is held off the record in
21 the presence but outside the hearing of the jury.)

22 THE COURT: And you'd like to put an objection on the
23 record?

24 MR. BROOKER: Yes, Your Honor.

25 THE COURT: Tell me what the basis of your objection is?

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1 MR. BROOKER: Yes, Your Honor. Initially, the basis of
2 the objection is going to be based on the grounds that -- and
3 there has not been a proper foundation that's been laid to
4 identify that as Mr. Bromell's phone. Until there has been a
5 -- until there has been at least some sort of proper
6 foundation that in which we can specifically identify that as
7 being Mr. Bromell's phone, then of course is is that I don't
8 want them to -- don't want to enter that into evidence so that
9 anything on that phone can be attributable to him.

10 THE COURT: Okay. And I think that's proper grounds for
11 cross-examination, but not necessarily to the admissibility of
12 this phone. So, your objection is -- I understand your
13 objection is relevance.

14 MR. BROOKER: Yeah, it's -- and you're actually right,
15 Your Honor, that is a succinct way to put it. It's gonna be
16 based upon, it's gonna be based upon relevance.

17 THE COURT: Okay. I'm gonna allow it into evidence. I
18 think that that's certainly grounds for cross-examination.

19 MS. LIVESAY: Thank you, Your Honor.

20 STATE'S EXHIBIT NUMBER 13

21 ADMITTED INTO EVIDENCE

22 BY MS. LIVESAY:

23 Q: And again, Mr. Edwards, just so we can kind of get back
24 on track. Sometimes, we have to have these legal matters.
25 Where was this phone found?

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- 1 A: In the bedroom we believed to be Mr. Bromell's.
- 2 Q: Okay. And what was the physical address?
- 3 A: 176 Pine Needle Drive.
- 4 Q: Okay. Okay. Pine Needle Drive?
- 5 A: Yes, ma'am.
- 6 Q: Okay. And when you go in there, is Mr. Bromell in there?
- 7 A: He was taken into custody there.
- 8 Q: Okay. And was he -- what was going on? Was he asleep?
- 9 Was he awake? Was he watching TV? What was going on?
- 10 A: I can't remember exactly what -- it was early in the
- 11 morning.
- 12 Q: It was early in the morning. But was he there?
- 13 A: Yes.
- 14 Q: Okay.
- 15 THE COURT: Mr. Edwards, can you speak up a little
- 16 louder?
- 17 A: Yes, ma'am.
- 18 Q: Who else was there?
- 19 A: U.S. Marshalls Taskforce.
- 20 Q: Who else was in the house?
- 21 A: His mother.
- 22 Q: Okay. So, it was him and his mom?
- 23 A: Yes, ma'am.
- 24 Q: Okay. And did you go through the house?
- 25 A: Yes.

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- 1 Q: Were you able to determine which room was his momma's?
- 2 A: Yes.
- 3 Q: Okay. I'm assuming they looked a little different?
- 4 A: They did.
- 5 Q: Okay. And which room did the phone come out of?
- 6 A: Mr. Bromell's.
- 7 MR. BROOKER: Just ---
- 8 Q: Did you ---
- 9 THE COURT: Hang on just a minute.
- 10 MR. BROOKER: Objection to the speculation, Your Honor.
- 11 THE COURT: If you can rephrase it.
- 12 MS. LIVESAY: I understand, Your Honor.
- 13 BY MS. LIVESAY:
- 14 Q: Now, did you actually do anything with the phone as far
- 15 as trying to extract any information or did you just say, hey,
- 16 make sure you get that?
- 17 A: I just made sure it was collected.
- 18 Q: Thank you, Investigator Edwards.
- 19 CROSS-EXAMINATION OF CHRISTOPHER DREW EDWARDS BY MR. BROOKER:
- 20 Q: Just very briefly, Investigator Edwards.
- 21 A: Yes, sir.
- 22 Q: I think you said that this cellphone was collected at --
- 23 at I think -- was it 176 Pine Needles?
- 24 A: Yes, sir.
- 25 Q: And that was at the residence that -- that Mr. Bromell

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1 was arrested at?

2 A: Yes, sir.

3 Q: And of course is, and I think you said that this was his
4 mother's home?

5 A: I believe so.

6 Q: And you took this out of -- you took this -- did you take
7 this phone off of Mr. Bromell?

8 A: No, sir. It was on a bed. It was collected by a crime
9 scene investigator.

10 Q: Was it collected by you?

11 A: No, sir.

12 Q: Who was it collected by?

13 A: On the chain, Steven Daly (spelled phonetically).

14 Q: And what did Mr. Daly do with it?

15 A: He placed it into evidence.

16 Q: Do you know who took it from Mr. Daly?

17 A: It looks like Merrill Hawkins (spelled phonetically)
18 signed for it in our evidence section.

19 Q: And do you know where it went after that?

20 A: It stayed in our evidence section until July 8th, 2020,
21 when Detective Marcus signed it out to serve a search warrant
22 for its download.

23 Q: And that was Detective who?

24 A: Ken Marcus.

25 Q: Detective Marcus took it out?

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1 A: Yes, sir.

2 Q: Okay. Do you know where it went from there?

3 A: Ben Wells, with the sheriff's department.

4 Q: And then where did it go from there?

5 A: It was returned to our evidence section.

6 Q: Now, you testified that this phone was -- you testified
7 that this phone belonged to Mr. Bromell?

8 A: That it was found in his room.

9 Q: And what basis in which you state that that was his room?

10 A: If I remember correctly, there was like some photos of
11 him, his mother, a gentleman from Freemont hanging on the
12 wall.

13 Q: So, you're basing that based upon the photos on the wall?

14 A: Yeah.

15 Q: Are you basing that on anything else other than -- that
16 you can tell me?

17 A: No, sir.

18 MR. BROOKER: If you can indulge me for just a second,
19 Your Honor?

20 THE COURT: Sure.

21 MR. BROOKER: No further questions, Your Honor.

22 THE COURT: Any redirect?

23 MS. LIVESAY: No further questions for Mr. Edwards.

24 THE COURT: Thank you, sir. You can step down.

25 MS. LIVESAY: The next witness, Your Honor, is Anthony

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1 Knecht.

2 MR. HELMS: And, Your Honor, just in case he has to
3 return to duty during the course of these proceedings, can he
4 be released from his subpoena, Officer Edwards?

5 MR. BROOKER: Without objection, Your Honor.

6 MR. EDWARDS: Thank you.

7 MICHAEL ANTHONY KNECT, HAVING BEEN SWORN,
8 TESTIFIED AS FOLLOWS:

9 THE CLERK: State your name and spell it for the Court.

10 MR. KNECHT: My name is Michael Anthony Knecht. That's M-
11 I-C-H-A-E-L, A-N-T-H-O-N-Y, Knecht, K-N-E-C-H-T.

12 DIRECT EXAMINATION OF MICHAEL ANTHONY KNECHT BY MS. LIVESAY:

13 Q: Okay. Where are you currently employed?

14 A: Verizon Wireless.

15 Q: And how long have you been employed with Verizon?

16 A: Since January 7th, 2007.

17 Q: Okay. And what are your job responsibilities currently
18 with Verizon?

19 A: In this capacity, I'm a custodian of records. I also
20 deal with court cases, arbitration, Better Business Bureau,
21 and small claims court.

22 Q: Okay. And Verizon, I mean, we all kind of know, but what
23 is Verizon?

24 A: Verizon is a cellular service that accesses individuals
25 to telephone text messages, data, anything that you can do

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1 with the internet.

2 Q: Okay. And does Verizon keep records to phone numbers and
3 cellphones and SIM cards that use Verizon towers and Verizon
4 services?

5 A: Yes.

6 Q: And are those records kept in the normal course of
7 business?

8 A: Yes, they are.

9 Q: And are they kept in a manner that cannot be tampered
10 with?

11 A: That is correct.

12 Q: Okay. And have you -- has Verizon provided us with phone
13 records?

14 A: They have.

15 Q: And have you reviewed those records?

16 A: I have.

17 Q: And have they been tampered with in any form or fashion?

18 A: They have not.

19 Q: I'm gonna show you State's Exhibit 65, 66, and 67. Do
20 you recognize these two documents, and do you recognize this
21 CD with the records on it?

22 A: I do recognize all three.

23 Q: And if you don't mind, are those all records that are
24 kept with Verizon Wireless?

25 A: Yes. All the records that were provided are kept in the

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1 normal course of customers' data transactions.

2 Q: And does that CD include all the phone records for a
3 particular SIM card or phone?

4 A: They do.

5 Q: And the two documents that you are looking at are those
6 printouts from these particular phone records?

7 A: They are in fact.

8 Q: Okay. And I'm gonna show you -- and as part of those
9 records, does Verizon keep who these records belong to as far
10 as the IMEI number and the SIM card number?

11 A: They do.

12 Q: And could you look at this phone and tell this Court and
13 this jury whether or not these records belong to this phone?

14 A: Based off the information, yes, I can.

15 Q: Okay. If you don't mind, here is this phone. Sorry.
16 I'm showing him -- I'm showing him State's Evidence Number 13.

17 A: That is correct. The SIM card number matches the SIM
18 card number on Exhibit 65.

19 Q: Okay. So, these records belong to the SIM card that
20 belongs to that phone?

21 A: That's correct.

22 Q: Okay.

23 MS. LIVESAY: Your Honor, at this time, the state wishes
24 to place 65, 66, and 67 into evidence and publish at the
25 appropriate time.

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1 THE COURT: Mr. Brooker?

2 MR. BROOKER: Objection, Your Honor.

3 THE COURT: And tell me the basis of your objection.

4 MR. BROOKER: Yes, Your Honor. One objection -- one
5 basis of the objection would be, Your Honor, is that the
6 proper foundation has not been laid, Your Honor. Specifically
7 is is that -- can we approach, Your Honor, so we don't have
8 this in ---

9 (REPORTER'S NOTE: Bench conference is held off the record in
10 the presence but outside the hearing of the jury.)

11 BY THE COURT:

12 THE COURT: Ladies and gentlemen, I'm going to excuse you
13 to the jury room while we take up an issue of law.

14 Please don't begin discussing the case.

15 (REPORTER'S NOTE: Jury exits courtroom @ 2:00 p.m. The
16 following takes place outside the presence of the jury.)

17 THE COURT: Okay. Yes, sir?

18 MR. BROOKER: Thank you, Your Honor.

19 Your Honor, our objection is based upon *Carpenter* --
20 obviously is is that, and of course I'm sure everybody in the
21 courtroom knows this is is that prior to *Carpenter*,
22 cellphones, at least cellphone records were deemed to, you
23 know, that individuals who, you know, have cellphone service
24 with a cellphone provider was deemed to not have an
25 expectation of privacy and those cellphone records obtained or

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1 maintained by the cellphone provider. Since *Carpenter*, when
2 *Carpenter* was passed, *Carpenter* changed that and says, you
3 know, that an individual has an expectation of privacy in all
4 of the cellphone communication including cell site data
5 location, cellphone records that are maintained by the
6 cellphone provider. And that those cellphone -- those
7 cellphone records are only -- are only producible this way to
8 a proper search warrant. And of course is is that for one is
9 is that there has been absolutely no evidence -- evidence put
10 on the record that these cellphone records have been secured
11 by a properly executed search warrant served on Verizon. And
12 two, it's our position is is that if that cellphone -- if --
13 that the warrant that they obtained in connection with this
14 particular case is insufficient -- is not a properly executed
15 warrant. And of course is is that therefore, does not allow
16 them to be able to produce these records in violation of his
17 Fourth Amendment rights.

18 And secondly, Your Honor, is is that still there has been
19 absolutely no foundation evidence that suggests that this --
20 that the records on that phone belongs to Mr. -- belongs to
21 Mr. Bromell, other than the fact that we got these out of a
22 room -- we got this cellphone out of a room in which we
23 believe belongs to him. Most cellphones that when you have
24 one, and of course if you subscribe to services, but that
25 service has to be subscribed in someone's name, there has to

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1 be a party of which that number is attached to. And of
2 course, there has been no evidence whatsoever that's been --
3 you know, that's been -- that's been no testimony that's been
4 put on the record to say that the -- that the number that's
5 assigned to that phone or that the subscriber to that number
6 is actually Mr. Bromell. I think all of this stuff has to be
7 satisfied before you can even begin to enter these into
8 evidence. And of course is is that they have not. I mean, no
9 one has talked about a search warrant, properly issued search
10 warrant. No evidence has been introduced that they've been
11 served with a search warrant.

12 MS. LIVESAY: Thank you, Judge. Just very briefly.

13 First of all, as to the issue of presenting any sort of
14 testimony regarding a search warrant, that would be completely
15 inadmissible in the trial of this case. Introducing the
16 search warrant would be completely inadmissible, because the
17 search warrant contains nothing but hearsay information to
18 prove probable cause. We are at the trial stage, which means
19 I only have to present evidence that is admissible and
20 relevant as to whether or not this man is guilty of murder.
21 The time to raise any sort of issue regarding phone records, a
22 statement, anything recovered from a home, that's called a
23 motion to suppress. That's when those things are addressed.
24 Mr. Brooker, never filed a motion to suppress. I don't have
25 to present any testimony to this jury about any kind of search

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1 warrant, and in fact doing so would be improper evidence in
2 front of the jury because it would include nothing but hearsay
3 statements. Now, as far as a search warrant, we can certainly
4 mark it for purposes of the record. I have it right here.
5 The search warrant was obtained by Detective Ken Marcus. It
6 was turned over to Mr. Brooker along with the records. So, he
7 has a copy of the search warrant, and he has a copy of the
8 records. Certainly, there is probable cause. We know there
9 is probable cause because it was signed by a magistrate, and
10 then it was executed.

11 THE COURT: Is that the search warrant for the house, or
12 is that the search warrant to Verizon for the records?

13 MS. LIVESAY: Yes, ma'am. And I'll mark it, and I can
14 pass it up.

15 MR. HELMS: Nancy, her question is is that the search
16 warrant for the house or for the phone?

17 MS. LIVESAY: This is for the phone. Not for the phone,
18 for the phone records. Now, we have a search warrant for the
19 home, but that is a separate search warrant.

20 THE COURT: I got you.

21 MS. LIVESAY: But my understanding is he is arguing a
22 search warrant for the phone records.

23 MR. BROOKER: Yeah, that's correct, Your Honor. We are
24 arguing that these cellphone records was not properly secured,
25 because this search warrant that they issued is insufficient.

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1 And I'll explain, Your Honor, we can put on the record. Of
2 course is is that the reason why we didn't have this argument
3 is is that -- and it may have been my misunderstanding, but of
4 course is is that I wasn't aware of the fact that they were
5 going to enter these, these cellphone records into it;
6 otherwise, we would've done this pre -- we would've done this,
7 I think, at the start of this trial. I think what you've been
8 handed is the search warrant that was sent to Verizon. And I
9 think that, Your Honor, if you take a look at this -- the
10 cellphone -- excuse me -- the search warrant. This is the
11 search warrant that's -- that was issued to the records
12 custodian -- custodian of records to Verizon in Bedminster,
13 New Jersey. This search warrant was signed by a magistrate's
14 judge here in Horry County. And of course this is an issue
15 that I think is gonna probably get a lot of attention because
16 these motions are being filed more often. I've gotten one
17 myself that's up on appeal. And that is is that the -- South
18 Carolina has a statute, and of course is is that there is a
19 federal -- and I forget the name of the case -- there's a
20 federal case that deals with this. South Carolina has a
21 statute that basically says that magistrate's judges can't
22 issue search warrants beyond their jurisdiction. Which means
23 is that a magistrate's court, if he or she issues a search
24 warrant is that it has to be a search warrant for property
25 that is within Horry County. It can't be outside of Horry

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1 County. And of course is is that when they get this search
2 warrant signed by a local magistrate judge, and I think there
3 is a federal case, and it eludes me at the moment, I can get
4 it to you. That federal case in which the -- in which the
5 federal court heard this particular issue when a federal
6 circuit court judge issued a search warrant that was outside
7 of the jurisdiction of that magistrate's judge. And of
8 course, what the federal court says that if a search warrant
9 is issued and is issued by a judge, and that judge has
10 statutory -- has a statutory jurisdiction that confines that
11 judge's jurisdiction to a particular region, then that judge
12 cannot issue a search warrant for search of property outside
13 of that particular region. And it says is is that that search
14 warrant would actually be unconstitutional because that search
15 warrant goes beyond the authority of the judge who issues it.
16 My understanding is, and I don't know whether or not --
17 whether or not -- at least I was told by another judge is that
18 this has also had some conversation, I think, with the Court
19 Administration or with the Supreme Court on how to handle
20 these things because so many of these search warrants that are
21 being issued and going outside the state of South Carolina
22 seeking cellphone records from cellphone companies all over
23 the United States. And of course then -- and I disagree with
24 what that judge told me. That judge told me that his
25 instructions were -- is is that he was told by the Supreme

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1 Court or either Court Administration that it would be
2 sufficient for a circuit court judge to sign such a warrant,
3 but not a magistrate's judge. I disagree with even that
4 because I think even if a circuit court judge had signed this
5 warrant, is is that a circuit court judge's jurisdiction would
6 be limited to the state of South Carolina and if this is going
7 to New Jersey -- but that's for another day. But it is clear
8 that when they have a magistrate's judge to sign a warrant
9 that is going to New Jersey, that that is clearly outside of
10 the jurisdiction of that judge. And of course, the federal
11 court -- and I'll get that name for you -- I have dealt with it
12 in the previous case that I had earlier this year --- says
13 that that statute would be -- that search warrant would be
14 unconstitutional because is is that the Judge would have
15 exceeded his or her authority in requesting a search outside
16 of his or her jurisdiction.

17 THE COURT: Okay. If y'all will bear with me just a
18 minute. My very diligent law clerk has just told me that
19 there is a case that just appeared in the advance sheets today
20 -- so, let me look at it -- addressing a T-Mobile search
21 warrant for records out of New Jersey. So, let me just take a
22 look if y'all don't mind.

23 Are y'all familiar with the case?

24 MR. HELMS: No, ma'am. I didn't read the advance sheets
25 today.

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BY THE COURT

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1 MR. BROOKER: I have not read the ones today.

2 THE COURT: I can't believe you haven't read today's
3 advance sheets, now, come on.

4 Okay. In this case -- let me get to the name of it.
5 Okay. This is *State v. Justin Jamal Warner*. It's just filed
6 today from Anderson County. And the magistrate signed a
7 search warrant for T-Mobile records that were, I guess, housed
8 in the state of New Jersey. It says an Anderson County
9 Magistrate issued a warrant to T-Mobile authorizing the
10 seizure of subscriber information from the person's cell
11 number for a specific date range, also tower locations to
12 include physical addresses and/or GPS coordinates. The
13 warrant indicated that it sought records located at an address
14 in New Jersey.

15 Skipping ahead, this was in connection with a motion to
16 suppress. It notes that there is a warrant requirement. And
17 then it looks like Page 42 of the opinion says the primary
18 focus of the dispute before the Trial Court over the validity
19 of the warrant was whether an Anderson County Magistrate had
20 the authority to issue the warrant to an out-of-state entity
21 for records that are not physically located in this state. It
22 refers to the jurisdiction statute 17-13-140. I think that's
23 the jurisdiction statute that you were referring to, Mr.
24 Brooker.

25 MR. BROOKER: Yes.

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1 THE COURT: The warrant was issued to T-Mobile, and they
2 say, we assume for purposes of our analysis T-Mobile stores
3 the applicable records in New Jersey. The important fact is
4 T-Mobile clearly does business in South Carolina, in
5 particular Anderson County. T-Mobile therefore is subject to
6 the jurisdiction of Anderson County Magistrate. The warrant
7 sought records reflecting information generated in South
8 Carolina through the interaction Warner's cellphone and cell
9 towers in Anderson County. While the T-Mobile office to which
10 officers were told to send the word him is located in New
11 Jersey. Section 17-13-140 specifically provides that property
12 in this section may be seized from the person, possession, or
13 control of any person who shall be found to have such property
14 in its possession or under its control. It goes on to say T-
15 Mobile is in possession and control of property that Section
16 17-13-140 permits to be seized. And that T-Mobile is a person
17 doing business in Anderson County for legal purposes. Thus,
18 T-Mobile is subject to the jurisdiction of our courts, and we
19 find it is not beyond the power of the magistrate to issue the
20 warrant. And it looks like they go on to the sufficiency of
21 the probable cause cited in the warrant.

22 So, it looks like our Supreme Court has at least spoken
23 to that. Hot off the presses today. I think that pretty well
24 answers that question. It has obviously been a pretty hotly
25 contested issue in this state.

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BY THE COURT

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1 MR. BROOKER: It has.

2 THE COURT: Do you all want to address the objection
3 based on the -- no evidence at this point -- Mr. Brooker's
4 argument that there is no evidence the cellphone belonged to
5 him? I notice that this requests information about the
6 ownership of the phone.

7 MS. LIVESAY: Your Honor, as to the records like most
8 cellphones now, there's no subscriber information that says
9 Mr. Bromell, but we established through Mr. Edwards that the
10 phone was taken from a room. It was hooked to a charger on
11 the bed. And it was in a room that they determined to be the
12 defendant's room because his pictures were up in the room.
13 So, we then did a search warrant, or the police department
14 did, for that particular IMEI number to Verizon which yielded
15 those records.

16 Now, the next witness will be the person that actually
17 does a forensic review of the phone, which will tie, of
18 course, that loose end up. It was found in his room. And
19 then we will tie up what's on the phone to identify that that
20 phone was actively being used by this defendant. But I do
21 believe we have established that it was on the bed, it was
22 currently charged up, being charged, and it was in the room
23 where this defendant was located in that house, and that
24 particular room had his pictures up in it. So, I think we've
25 got enough to show that this phone. The only two people in

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1 the house were him and his mom, and the phone was in this
2 particular room of that house with his pictures up.

3 MR. BROOKER: And I understand that, Your Honor, is is
4 that -- but I think in order to say that, because there's
5 pictures on the wall. And I -- and if you heard me, I think I
6 asked the officer what information was he using to -- to
7 attribute that phone to Mr. Bromell. And of course is is that
8 his testimony was is that because they saw his pictures on the
9 wall in that room, and so therefore they believed that to be
10 his room. And therefore, they believed that to be his phone.
11 That is a huge leap of logic. And so, what that -- if you
12 follow that logic, Your Honor, then of course is is that if
13 you were to, for example, go to my house, I have pictures of
14 myself all over my house. My mother has pictures of me all
15 over her house. And if they were to go to my mom's house and
16 search a room and find my pictures all over the wall, then of
17 course is is that that wouldn't be evidence that what they
18 found in that room belongs to -- belongs to me. There has to
19 be something stronger to suggest that that cellphone belongs
20 to him and no one else. Specifically in light of the fact in
21 a situation where -- in light of the facts that cellphones are
22 so mobile, cellphones are used, and of course is is that they
23 are shared and exchanged by so many different people, is is
24 that they have to have more than just simply say we find it on
25 the room in which his pictures were in that room. That is

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1 insufficient, I think, in order to establish ownership of that
2 phone and ownership of the contents on it.

3 THE COURT: Do you have a response?

4 MS. LIVESAY: I think my first argument is whether or not
5 we can prove it's -- the defendant's phone is really --
6 whether or not we can prove it to the jury. If we can't
7 ultimately tie that phone to him, that will be something that
8 Mr. Brooker can address in closing arguments. It's our burden
9 of proof; either we can make or we can't make it. We are
10 saying at this point this phone was found that his house. We
11 are going to provide further information, and we will either
12 prove to them that this is his phone and these are the things
13 on his phone, or we cannot. But I believe that whether or not
14 they believe it's his phone, that's a question of fact for the
15 jury. I don't think I have to prove it to Mr. Brooker or
16 anybody else. And if we can't meet that burden, he can
17 certainly address it in closing arguments or through cross-
18 examination of the witness. But we have more additional
19 information coming. And my contention is whether or not we
20 can lock it to him is just like everything else. Just like
21 the call, just like the video, just like the witness
22 testimony. It is up to them whether or not they believe that
23 that evidence ties Mr. Bromell to the murder. Just like this
24 phone, can we tie it to him or not? That is our burden to
25 prove to the jury.

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BY THE COURT

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1 MR. BROOKER: And again, Your Honor, I won't belabor
2 this. I'll take less than 30 seconds, but, Your Honor, I
3 absolutely disagree with that. Before that they can be
4 allowed to enter this into evidence is is that -- into
5 evidence in his murder trial. They have to prove that this
6 has relevance, that this belongs to him because that's what
7 they're -- that's what they're going to be telling the jury.
8 And of course is is that I think if you take that logic I
9 think that was just argued by Ms. Livesay -- then if you
10 accept that logic, then anything on earth that they want to
11 contribute to them regardless of how flimsy ownership is, what
12 she's saying is that they should be allowed to put it the
13 jury, the judge should stay out of the way and not determining
14 whether or not it's admissible. And of course, let a jury
15 decide. And so, if they want to take my tie and argue that my
16 tie belongs to him and is somehow involved in this murder
17 scene, then of course is is that you should stay out of the
18 way. Relevancy is not an issue. And of course, they would
19 make the argument to the jury. And of course, if a jury
20 believes that this tie belongs to Mr. Bromell, and that's up
21 to the jury. That's not how it works.

22 First, they have to get past the judge, they have to get
23 past the rules of evidence. They have to prove ownership, and
24 then therefore -- therefore, relevancy. Because if it's not
25 his cellphone, if it's not his cellphone, if the contents on

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1 this cellphone is not his, then it would have no relevancy in
2 his murder trial.

3 THE COURT: I understand. I understand your argument,
4 sir.

5 At this point, I do find that there is sufficient
6 circumstantial evidence of ownership for it to go in front of
7 the jury. That does not disclose you from cross-examination
8 and arguing about whether or not this belongs to him.

9 MR. HELMS: Thank you, Your Honor.

10 THE COURT: Anything else before we bring the jury in?

11 MS. LIVESAY: Thank you, Judge.

12 MR. HELMS: No, Your Honor.

13 MS. LIVESAY: We're ready.

14 THE COURT: We're ready for the jury.

15 (REPORTER'S NOTE: Jury enters courtroom @ 2:26 p.m.)

16 MS. LIVESAY: THANK YOU.

17 BY MS. LIVESAY:

18 Q: I'm gonna bring us a little bit back to speed.

19 These records are from Verizon, correct?

20 A: Yes, ma'am.

21 Q: Marked 65, 66, and 67.

22 A: That's correct.

23 Q: And are those the records that are kept in the normal
24 course of business at Verizon Wireless?

25 A: That is correct.

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1 Q: And have you reviewed the records?

2 A: I have.

3 Q: And are they accurate?

4 A: They are.

5 Q: Have they been tampered with in any form or fashion?

6 A: They have not.

7 Q: Okay. And do those records belong to this SIM card?

8 A: They do.

9 Q: And if you don't mind, tell the Court how you know that.

10 A: The SIM card has an identification number on it. And the
11 identification number matches Exhibit 65 under the device ID
12 that shows a match.

13 Q: That serial number to this device they gave you?

14 A: That is correct.

15 Q: And this document Number 65 is the Verizon records?

16 A: That is correct.

17 Q: And that's how you are able to identify these records go
18 to that SIM card?

19 A: That is correct.

20 MS. LIVESAY: Your Honor, at this time, the state wishes
21 to put 65, 66, 67 into evidence.

22 MR. BROOKER: Subject to previous objection, Your Honor.

23 THE COURT: They are admitted.

24 STATE'S EXHIBIT NUMBER 65, 66, AND 67

25 ADMITTED INTO EVIDENCE

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1 BY MS. LIVESAY:

2 Q: Now, Verizon Wireless -- I want to ask you this because I
3 just learned this myself. Can I go in and just purchase a SIM
4 card like this?

5 A: Yes.

6 Q: Okay. And I can take that SIM card I purchased and just
7 put it in any phone?

8 A: That is correct.

9 Q: And that SIM card will then provide me with Verizon
10 Wireless service?

11 A: That is correct.

12 Q: And that means I can make phone calls, text messages,
13 look on the internet?

14 A: That is correct.

15 Q: And Verizon has, I'm assuming, cell towers all over?

16 A: Yes.

17 Q: So, that's the service that would be using access to
18 these cell towers to get phone calls, messages, internet
19 reception?

20 A: That is correct.

21 Q: Okay. Now, I want to ask you, these records include
22 phone calls, text messages, internet, anything that you're
23 using Verizon services for; is that correct?

24 A: That is correct.

25 Q: You guys are over there taking it all down, keeping it in

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1 a record?

2 A: That is correct.

3 Q: Really more for billing purposes, I'm assuming; is that
4 correct?

5 A: For accuracy of billing purposes; that is correct.

6 Q: I understand. You make sure I get my bill every month.

7 A: That's where we get the ---

8 Q: I understand. I understand. You make sure I get charged
9 for every phone call and text message.

10 A: That's correct.

11 Q: And sometimes you get called in here because those
12 records are relevant for the Court?

13 A: That is correct.

14 Q: Okay. Now let me ask you something. Do the records also
15 contain when the service starts? Does it tell you when I
16 start getting Verizon as my service to a particular SIM card?

17 A: That is correct. In these pieces of evidence, it says
18 activation date. So, that would be the date that the service
19 started.

20 Q: Okay. So, the murder occurred in this particular case on
21 June 23rd of 2020. So, tell me when the SIM card for this
22 phone became in use.

23 A: According to Exhibit 65, 6/23/2020.

24 Q: Okay. And is there one record for this SIM card prior to
25 6/23/2020?

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1 A: No, there is not.

2 Q: Okay. So, brand new, brand spanking new.

3 A: That is correct.

4 Q: Okay. Now, let me ask you this, the murder occurred at 4
5 o'clock -- 4:00 a.m., 6/23/2020; 4:00 a.m. in the morning,
6 early morning hours. Can you look at the records and tell
7 this crowd when this SIM card was used for the first time?

8 A: Yes.

9 Q: When was it?

10 A: It's not included in this record, but it does give a date
11 of 6/23/2020. So, in order for me to answer the question
12 fully, I would have to cross reference my ---

13 Q: Can you do that? Is that something that would take you a
14 minute or could you do it?

15 A: I would be able to use your records that we provided you
16 to analyze those records. I was given a copy myself before
17 the trial to analyze.

18 Q: And have you breezed through them at all?

19 A: I have.

20 Q: Okay. And do you remember about the first time that the
21 SIM card was used?

22 A: SIM cards are broken down into usage in several factions,
23 whether it be data session, which is gonna be IP address
24 alone, a text message, or a voice call. Without having the
25 data in front of me, I want to say like the first text message

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1 was around 10:00, or its first data stream was between 8:00
2 and 10:00.

3 Q: And that was a.m.?

4 A: That was a.m.

5 Q: On 6/23?

6 A: That is correct.

7 Q: Okay. And let me ask you something, would you feel -- do
8 you need a laptop to look through the records real quick?

9 A: If you have a laptop document, but the things you're ---

10 Q: Okay. And is this something you could within five
11 minutes breezing through the records?

12 A: Yeah. I could do it automatically.

13 Q: Okay. Is that okay, Judge? Can I get him my laptop so
14 he can breeze through the records?

15 MR. BROOKER: We're gonna have an objection to that, Your
16 Honor. This is amazing.

17 BY THE COURT:

18 THE COURT: Okay. Ladies and gentlemen, let me have you
19 step out of the room if you don't mind for a few minutes.

20 Please don't begin discussing the case.

21 (REPORTER'S NOTE: Jury exits courtroom @ 2:32 p.m. The
22 following takes place outside the presence of the jury.)

23 THE COURT: What's your objection?

24 MR. BROOKER: Your Honor, the objection is is that they
25 are asking him to physically generate evidence on the stand

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1 that we have been previously provided a copy of.

2 THE COURT: My understanding, if they are asking him to
3 look at 65, 66, and 67, which are in evidence ---

4 MS. LIVESAY: That were provided.

5 MR. BROOKER: Yeah. Well, I'm not talking about -- I'm
6 not talking about him looking at that. But my understanding
7 is that what he's gonna do is he's gonna take their records.
8 He's gonna put this into -- into software, and that software
9 then is going to generate -- is going to then generate data
10 ---

11 THE COURT: I don't think that's what she's asking him.

12 MS. LIVESAY: I'll ask him ---

13 THE COURT: Ask him how's he gonna get that ---

14 IN CAMERA EXAMINATION OF MICHAEL ANTHONY KNECT BY MS. LIVESAY:

15 Q: Are you just gonna look at the records?

16 A: When I put the CD in the computer, in their Excel format
17 that we provided you. So, I would open Excel, which is
18 already there and let you know.

19 Q: And just visually look at the records?

20 A: That's correct.

21 MR. BROOKER: He's gonna put the disc and just visually
22 look at the records?

23 MS. LIVESAY: Yes.

24 MR. BROOKER: Okay. Okay. If that's all he's gonna do
25 is visual look at the records, then I have no problem with

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BY THE COURT

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1 that.

2 BY THE COURT:

3 THE COURT: Because I mean they wouldn't have any
4 specialized software on their computer that Verizon -- I
5 wouldn't think.

6 MR. HELMS: No, ma'am. He's just gonna look at the -- to
7 refresh his memory. That's all we're doing.

8 MS. LIVESAY: I hate to do ---

9 MR. BROOKER: I think that that's all it is is that if
10 he's looking at what Your Honor has already entered into
11 evidence and nothing more, then I don't have a problem with
12 that other than -- you know, I'm not waiving my previous
13 objection.

14 THE COURT: Previous objection, you're not waiving that.

15 MR. BROOKER: Yeah, I'm not waiving my previous
16 objection.

17 MS. LIVESAY: And while they're out, I'll go ahead and
18 hook this up.

19 THE COURT: Yeah. Let's go ahead and take 10 minutes,
20 since we've already got the jury out.

21 MR. HELMS: Yes, ma'am. Thank you, Judge.

22 **RECESS - 2:35 P.M.**

23 *****OFF THE RECORD*****

24 **ON THE RECORD - 2:41 P.M.**

25 (REPORTER'S NOTE: Jury enters courtroom @ 2:44 p.m.)

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1 MR. BROOKER: May we approach very briefly, Your Honor?

2 THE COURT: Okay.

3 (REPORTER'S NOTE: Bench conference is held off the record in
4 the presence but outside the hearing of the jury.)

5 CONTINUATION OF DIRECT EXAMINATION OF MICHAEL KNECHT BY MS.

6 LIVESAY:

7 Q: Okay. Just to get us back on track. You've got a
8 laptop, and you were looking at the Verizon phone records for
9 this -- the SIM card that was in this phone.

10 A: That's correct.

11 Q: And we know that the SIM card initiated on the day of the
12 murder, 6/23/2020; is that correct?

13 A: That's correct.

14 Q: Okay. And we know the murder happened at 4 o'clock. So,
15 when is this SIM card actually used for the first time? We
16 know it's the day of the murder, but what time?

17 A: The file text message detail at 6/23 at 10:32 a.m. is the
18 first text message that the phone generated.

19 Q: So, there are no phone records prior to 4:00 a.m. when
20 the murder happened?

21 A: That is correct.

22 Q: All the records are sometime on 6/23 after the murder
23 happened?

24 A: That is correct.

25 Q: And that is the first time that SIM card was ever used by

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1 Verizon Wireless?

2 A: That is correct.

3 Q: So, we don't know what this phone was doing or where it
4 was at around 4:00 a.m. on 6/23/2020; is that correct?

5 A: That's correct.

6 Q: And we don't know anything about it until hours after the
7 murder; is that correct?

8 A: That's correct.

9 Q: Do those phone records also hold tower records, like what
10 tower you're using, what sector you're using?

11 A: Let me look at just the ones that I got from -- the point
12 that it was being used. For example, the text messaging
13 record would say the switch from which it was sent or received
14 from.

15 Q: Okay.

16 A: So, that would be an indication of the subscriber's home
17 location.

18 Q: Okay. And how about a phone call? If I make a phone
19 call, does Verizon keep what tower I'm using?

20 A: Yes.

21 Q: So, if I make a phone call, you would probably be able to
22 tell if I'm in South Carolina or New York?

23 A: Yes.

24 Q: And sometimes you can tell what part of town I'm in,
25 correct?

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1 A: That's correct.

2 Q: And those records are all kept by Verizon Wireless as
3 well, correct?

4 A: That's correct.

5 Q: Okay. But we wouldn't have any of that information about
6 any kind of location on 6/23/2020 around 4 o'clock when the
7 murder happened -- is that correct -- from those records?

8 A: That's correct.

9 Q: We are not gonna know anything until hours later?

10 A: That's correct.

11 MS. LIVESAY: No further questions, Your Honor.

12 THE COURT: Mr. Brooker?

13 CROSS-EXAMINATION OF MICHAEL ANTHONY KNECHT BY MR. BROOKER:

14 Q: Could you give me your last name, please?

15 A: Knecht.

16 Q: Knecht. Did I say that right? Knecht.

17 A: Yes, sir.

18 Q: Okay. All right. Okay.

19 Mr. Knecht, just gonna ask you a couple of questions in
20 reference of that cellphone. Can you tell me who the owner of
21 that cellphone is?

22 A: I cannot based off of the records.

23 Q: Okay. What do you mean you can't tell me who the owner
24 of that cellphone is based off the cellphone records? What do
25 you mean by that?

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1 A: The SIM card can be purchased at a Verizon Wireless store
2 or an authorized retailer, and you're not required to give a
3 name to purchase the SIM card.

4 Q: Okay. So, that's a -- so, you're saying there's a new
5 SIM card in that phone?

6 A: That's correct.

7 Q: Okay. Now, you were asked the question whether or not
8 there was any information in that -- on that SIM card that has
9 any -- around, I think June 23rd, of 2022, around 6:00 a.m. in
10 the morning. That's gonna be around 4:00 a.m. in the morning.
11 I think you were asked that question.

12 A: Yes. I was asked that question.

13 Q: Is there any information on that SIM card around that
14 time?

15 A: No. According to the information -- the first text
16 message that left the phone was 10:32. So, I'm not seeing any
17 indication in the earlier hours that that SIM card was
18 actually used with that device.

19 Q: And what does that tell you about this homicide?

20 A: That a SIM card was used after the homicide.

21 Q: Okay. That a SIM card was used after the homicide.

22 Okay. Does that tell you who -- from that information that
23 you have there, does it tell you who committed this murder?

24 A: No, sir.

25 MR. BROOKER: If you will indulge me for just a second,

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NATHAN HOWITT - DIRECT BY LIVESAY

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1 Your Honor. I may not have any further questions.

2 THE COURT: Sure.

3 BY MR. BROOKER:

4 Q: Thank you, Mr. Knecht, I believe.

5 MR. BROOKER: No further questions, Your Honor.

6 THE COURT: Any redirect for this witness?

7 MS. LIVESAY: No further questions, Your Honor.

8 THE COURT: Thank you, sir. You may step down.

9 And I have no problem with him being released if that's

10 ---

11 MR. HELMS: Yes, Your Honor.

12 MR. BROOKER: Without objection, Your Honor.

13 MR. KNECHT: Thank you.

14 MS. LIVESAY: Thank you.

15 Thank you, Judge. At this time, we're gonna call Nate
16 Howitt to the stand.

17 NATHAN HOWITT, HAVING BEEN SWORN,

18 TESTIFIED AS FOLLOWS:

19 THE CLERK: State your name and spell it for the Court.

20 MR. HOWITT: Nathan Howitt, H-O-W-I-T-T.

21 DIRECT EXAMINATION OF NATHAN HOWITT BY MS. LIVESAY:

22 Q: Mr. Howitt, where are you currently employed?

23 A: Myrtle Beach Police Department.

24 Q: And how long have you been with the police department?

25 A: Approximately 15 years.

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NATHAN HOWITT - DIRECT BY LIVESAY

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1 Q: And what's your training and experience with the police
2 department?

3 A: Currently assigned to the crime scene investigations
4 unit. I have training in forensics, specifically cellphone
5 forensics, multiple certifications and trainings.

6 Q: Okay. And tell me a little bit about cellphone
7 forensics.

8 A: Cellphone forensics is -- we have devices that can
9 connect to phones and pulls off information. It could be text
10 messages, call logs, a web history search, just whatever is
11 stored on your phone, these devices will take out.

12 Q: Okay. And when it's pulled off the device, what happens?
13 Does it get put in report, is it jumbled up, or what have we
14 got?

15 A: We run it through a program, typically Cellebrite
16 Physical Analyzer, and it generates a human readable report
17 that everyone can see and kind of understand.

18 Q: And is that report basically the equivalent of looking
19 through a cellphone?

20 A: It's in a pdf document or a program, but yes,
21 essentially.

22 Q: And it shows phone calls, text messages, web searches,
23 all that?

24 A: Yes, ma'am.

25 Q: Okay. Now, can the report be altered in any form or

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1 fashion?

2 A: No, ma'am. Once I extract it, it's generated, and that's
3 -- it's not like a Word document where I can go in there and
4 change stuff.

5 Q: Okay. So, once it's pulled off the phone, there's no way
6 to alter anything in the report?

7 A: The raw data? It's an automated process. There's no --
8 it's machine language, it's nothing that I can alter.

9 Q: I understand. And does the report include in it
10 information off the phone to confirm this report goes with
11 this phone?

12 A: Yes, ma'am. There's different identifiers, type of
13 phone, IMEI number, things of that nature that will identify
14 that report to that specific phone.

15 Q: Okay. And did you assist by doing a forensic cellphone
16 search in this particular case?

17 A: Yes, ma'am.

18 Q: Okay. Now, you told this crowd earlier you worked for
19 which police department?

20 A: The Myrtle Beach Police Department.

21 Q: Okay. And so, do you know that this is a Horry County
22 case?

23 A: Yes, ma'am.

24 Q: So, the only involvement Myrtle Beach had is just to
25 extract information off the phone?

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NATHAN HOWITT - DIRECT BY LIVESAY

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1 A: Yes, ma'am. Sometimes they get brought in to assist
2 outside agencies.

3 Q: Okay. So, this is not unusual for you to drop phones for
4 an agency here, Georgetown, or some other agency?

5 A: Anywhere in the Fifteenth Circuit, usually, yes, ma'am.

6 Q: Now, I'm gonna show you what's been marked as State's
7 Exhibit Number 71. Can you tell the Court what that is?

8 A: That's gonna be the cellphone dump that I created.

9 Q: Okay. And do you -- can you tell the Court and identify
10 the cellphone that you dumped that created that report?

11 A: Yes, ma'am.

12 Q: I'm gonna show you State's Evidence Number 13. Can you
13 look at this and tell me whether or not this is the phone you
14 extracted information off of?

15 A: Yes, ma'am. This is the phone that I did the extraction
16 on.

17 Q: And the report that you are -- that the Cellebrite
18 software created, did it include an IMEI number?

19 A: It did.

20 Q: And is that number basically a social security number for
21 a cellphone?

22 A: It's sort like -- it's a serial number, per se. It's not
23 exactly what it is, but it's unique to the phone.

24 Q: Okay. So, that particular phone has that number?

25 A: Yes.

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1 Q: And did the report identify the number that's on that
2 phone that you're holding?

3 A: Yes, ma'am.

4 Q: And is that a way to confirm that the information in the
5 report belongs to that particular phone?

6 A: Yes, ma'am.

7 Q: Okay. And did you look through State's Evidence 71?

8 A: I have.

9 Q: And is that the forensic search, the report created from
10 the search of that phone?

11 A: Yes, ma'am.

12 Q: And has it been altered in any form or fashion?

13 A: No, ma'am.

14 MS. LIVESAY: Your Honor, at this time, the state wishes
15 to place 71 into evidence and publish certain parts of the
16 report, not all of it, of course.

17 MR. BROOKER: Just subject to previous objections, Your
18 Honor.

19 THE COURT: Okay. 71 is admitted.

20 MS. LIVESAY: Thank you.

21 STATE'S EXHIBIT NUMBER 71

22 ADMITTED INTO EVIDENCE

23 BY MS. LIVESAY:

24 Q: Now, before we start looking at certain items from the
25 phone, were you able to locate identifiers on the phone that

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1 show who us using the phone?

2 A: Yes, ma'am. During the extraction, it does identify user
3 accounts. It could be Snapchat, Messenger, mail, but
4 different things that could identify a person to the phone.

5 Q: Okay. And did this particular report include those
6 identifiers?

7 A: Yes, ma'am.

8 Q: And did you locate pictures that have been taken on the
9 phone?

10 A: Yes, ma'am.

11 Q: And did you locate searches that were on the phone?

12 A: Yes, ma'am.

13 Q: Okay. If you don't mind, Mr. Howitt, can you step down
14 and we'll publish these portions to the jury.

15 If you have no objections, Judge?

16 THE COURT: That's fine.

17 Q: Now, if you don't mind, tell us what we're looking at on
18 this first page.

19 A: This is the first page of the Cellebrite report. This
20 would be my name, Horry County Police number. Then we have
21 source extractions. I complete three separate extractions
22 here, what we call a full-file system, user data, and then
23 extraction on the SIM card of the device.

24 Q: So, this is just kind basic identifiers ---

25 A: Yes, ma'am.

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1 Q: --- of what you did. Okay.

2 And what are we looking at here?

3 A: This gives you a little bit more information about the
4 phone, like the IMEI number will be on here. The ---

5 Q: Is the device model up there?

6 A: Yes; I'm sorry. It's gonna be a Samsung device, a Galaxy
7 -- this is device identifiers.

8 Q: And do you see here the device IMEI number?

9 A: Yes, ma'am.

10 Q: Okay. And does that number match the number on the
11 phone?

12 A: I don't have the phone in front of me, ma'am, but I
13 believe it does.

14 Q: Okay. And what are we looking at here?

15 A: This is gonna be one of the user accounts that identifies
16 who was using the phone. Up here it says username, L.J.
17 Bromell.

18 Q: Okay. And that's the username. And what's the timestamp
19 on it?

20 A: June 23rd, 2020, at 2:51 p.m., and that's eastern time.

21 Q: And does it show the last use date, just the date?

22 A: Yes, ma'am. Down here there is last use date of June
23 24th, 2020, at 4:21 a.m.

24 Q: Okay. And this is just showing a username that's
25 associated with the phone?

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1 A: Yes, ma'am.

2 Q: And what are we looking at here?

3 A: This is gonna be information from Snapchat. It's a
4 program that used on phones. You can take photographs and
5 send to people that are your friends. Here you gonna see the
6 username of the person who owns the phone where it's
7 identified as owner. Username is Juicel000 -- I can't read
8 that last part. DUI -- I'm sorry ---

9 Q: That's okay.

10 A: D-U-W-O-P.

11 Q: Okay. And this is Snapchat?

12 A: Right. It's an application for the phone.

13 Q: Okay. And the username on Snapchat is Juicel000.

14 A: Yes.

15 Q: And then Duwop?

16 A: Yes, Duwop.

17 Q: Now, if you don't mind, since it's up here, what are we
18 looking at here?

19 A: That's Cash App. It's another application you can use to
20 send money.

21 Q: Okay. And is there a date associated with that?

22 A: There's a delivery date up here of June 23rd, 2020, at
23 2:17 p.m. standard eastern time.

24 Q: And the Cash App, this is telling us what the owner
25 received, the sign-in code?

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1 A: Yes, ma'am.

2 Q: Okay. So, he's receiving a sign-in code on 6/23/2020?

3 A: Yes, ma'am.

4 Q: What are we looking at here?

5 A: This is gonna be his email account. Like I said, it's
6 gonna be two -- two that's linked to the phone, with a email
7 address associated with the phone, JBromell92@gmail.com

8 Q: Okay. So, this is the email associated with this phone?

9 A: Yes, ma'am.

10 Q: Now, what are these?

11 A: These are gonna be photos from the Snapchat database.
12 Again, Snapchat is an application used to send pictures to
13 friends. So, these are -- this is taken out of Snapchat image
14 database, and these are all photographs that are physically on
15 the phone.

16 Q: So, the Cellebrite can actually collect things from the
17 apps on your phone?

18 A: Yes. They're stored on a database. The Cellebrite
19 cellphone extraction will yank the images off, and then it
20 puts it in a report so we can see them.

21 Q: Okay. And can you blow up these pictures to see who is
22 in the picture?

23 A: Yes, ma'am. These are just miniature thumbnails for the,
24 the report.

25 Q: And this is one of the pictures on the phone?

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1 A: Yes, from the Snapchat database.

2 Q: Okay. And are there some other images on the phone?

3 A: Yes, ma'am.

4 Q: And are these other images on the phone?

5 A: Yes. These are from the Snapchat database.

6 Q: Okay. And does these images look like the person with
7 the phone is kind of taking a picture of himself?

8 A: It appears they're taking a selfie, yes.

9 Q: So, this looks like a picture, you know what I mean, you
10 can kind of look at reflection and what not?

11 A: Yes, ma'am. This is a picture probably taken in a mirror
12 of himself.

13 Q: And did you collect any web searches off this phone?

14 A: Yes. There were searches from Google that were found on
15 the phone.

16 Q: Okay. Tell me about these searches.

17 A: Down here, it's -- these are Google searches. I know
18 it's listed numerous times, but it's actually one search.
19 What happens is when you type something into Google, if you
20 misspell it, Google will try to fix it for you and find the
21 correct -- what you're really trying to search for. The
22 person who used this phone, actually searched for this, do
23 Clorox kill bloo. And Google looked at it and says, well,
24 this isn't spelled correctly. I'm gonna try to fix it for
25 you. So, Google searched for, does Clorox get rid of blood.

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1 Q: So, what was typed in was do Clorox kill bloo?

2 A: That's correct, but Google translated it and says this
3 isn't -- we're not -- I don't think we're gonna get good
4 results, so it translates -- it changed it to this.

5 Q: So, was there a search done on the phone for, does Clorox
6 get rid of blood?

7 A: Yes.

8 Q: Okay. And does it show the date that that search was
9 done?

10 A: Yes.

11 Q: And what is the date?

12 A: June 23rd, 2020.

13 Q: Okay. So, the day that the murder occurred in this case?

14 A: I'm not familiar with the date of the murder, but it was
15 searched on June 23rd, 2020.

16 Q: Okay. Now, it says here, UTC-4. Tell this jury so they
17 know what they're looking at. What are they looking at?

18 A: Well, it's eastern time. You know how there's time
19 zones, east coast, central, mountain. The way all phones are
20 is UTC-0 and it has to make an adjustment so it's in a correct
21 time zone. So, when you see -- anytime you see UTC-4 or 5,
22 depending on daylight savings time, EAS is east coast time.

23 Q: So, when exactly were the searches done?

24 A: June 23rd, 2020, at 11:55 p.m.

25 Q: All right. And just so we're clear, why is the time

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1 different here?

2 A: It refreshed. The Safari program or your web browser
3 will sometimes refresh. So, you're getting it -- you're
4 searching it twice, but it's not in user input twice.

5 Q: Okay. So, here's what was put in, and then here is what
6 ultimately somebody hit enter and searched Google for?

7 A: Well, this is what was put in, and this -- Google
8 automatically changed it, there was no other user input. The
9 user typed in this and hit search. Google automatically
10 changed it to this.

11 Q: Okay.

12 A: If that makes sense.

13 Q: It does. It does.

14 So, the attempted search was for, do Clorox kill bloo?

15 A: That's correct.

16 Q: And then Google went ahead and filled it in and said,
17 this is what we think you're trying to say, does Clorox get
18 rid of blood?

19 A: Yes, ma'am.

20 Q: Okay. And did that conclude the information off this
21 phone as far as identifiers, images, and things that occurred
22 on 6/23/2020?

23 A: Yes, ma'am.

24 Q: Thank you, Mr. Howitt. Would you mind having a seat?

25 Now, Mr. Howitt, I want to make sure that we double check

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1 this. The IMEI number -- and you -- and now that the phone is
2 right here, can you double check to make sure that that IMEI
3 number is the IMEI number associated with this report that we
4 just looked through.

5 A: I'll be honest, I cannot -- it's really small print. My
6 eyes aren't the best anymore, the older I get. I use -- in
7 the computer forensics lab, usually, I take a photograph and
8 blow it up that way.

9 THE COURT: Do you want to try my reading glasses?

10 A: Thank you.

11 Yes, ma'am. The IMEI number matches up.

12 Thank you, ma'am.

13 Q: So, the stuff that -- the report, the items from the
14 report that we just looked at was from the search of this
15 phone?

16 A: Yes, ma'am.

17 Q: One second, Mr. Howitt.

18 I'm showing you now, State's Exhibit 70. Do you
19 recognize it?

20 A: Yes, ma'am. It's a copy of the Cellebrite report.

21 Q: And are these the excerpts that we just published to this
22 jury?

23 A: Yes, ma'am.

24 MS. LIVESAY: Okay. Your Honor, at this time, the state
25 wishes to put 70 into evidence. That's just the excerpts that

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1 we showed.

2 THE COURT: Mr. Brooker?

3 MR. BROOKER: Subject to previous objections, Your Honor.

4 THE COURT: Number 70 is admitted.

5 STATE'S EXHIBIT NUMBER 70

6 ADMITTED INTO EVIDENCE

7 MS. LIVESAY: No further questions for this witness, Your
8 Honor.

9 MR. BROOKER: If you could indulge me for just a second,
10 Your Honor. I'm looking for this report on my computer.

11 If you could indulge us for just a second, Your Honor.
12 I'm trying to find this report.

13 CROSS-EXAMINATION OF NATHAN HOWITT BY MR. BROOKER:

14 Q: Can I get your name again, please?

15 A: Sure. It's Nathan Howitt, H-O-W-I-T-T.

16 Q: Okay. Howitt. Did I pronounce that right, Howitt?

17 A: Howitt.

18 Q: And what is your area of expertise, Mr. Howitt?

19 A: I work in the CSI section of the Myrtle Beach Police
20 Department.

21 Q: And what do you do in the CSI division?

22 A: Well, it could be a number of things. It could be
23 photograph crime scenes, digital scans, last night I worked a
24 fatality accident, I can do the -- we document blood spatter,
25 shooting reconstruction; anything that's forensic in nature.

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1 I'm also AFIS operator, which means I do fingerprint
2 examinations. And then I also do cellphone examinations.

3 Q: And what is your training as far as doing cellphone
4 examinations?

5 A: Sure. Through Cellebrite, I'm a CCO, certified
6 Cellebrite operator; I'm a CCPO, Cellebrite certified physical
7 -- I'm sorry -- CCPA, Cellebrite certified physical analyst.
8 I'm sworn in as a task force officer of United State's Secret
9 Service. Through Secret Service, I've had MDEX, Mobile Data
10 Examiner. So, that's my training with cellphone forensics.

11 Q: Okay. Now, the Allebrite [sic] system, that's the
12 software that you use to download or at least information off
13 of cellphones?

14 A: Yes, sir. I use Cellebrite Premium to do the extraction.

15 Q: Cellebrite. And how does Cellebrite work?

16 A: It's a pretty simple process. We plug the phone into the
17 machine, and it identifies what phone it is, and then it
18 complete -- starts -- you have to hit a button, but it'll
19 start an extraction on the phone. There's not a lot of user
20 interface. It's pretty automated.

21 Q: So, this is -- so this is done by software?

22 A: It's a machine software, yes, sir.

23 Q: Okay. And that's what I'm trying to figure out is is
24 that so you plug it in and of course is is that, I guess you
25 hit the correct buttons, and then of course the software does

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NATHAN HOWITT - CROSS BY BROOKER

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1 everything?

2 A: Yes, sir.

3 Q: Do you know how the software works?

4 A: Just on user interface point. The backend stuff, that's
5 all proprietary, so that'd be -- you'd have to have an expert
6 from Cellebrite or one of the designers explain that portion.
7 But my is mainly, I connect it and hit a button to start it.

8 Q: And what happens is is that what it does is is that it
9 takes -- it takes information off of the SIM card of the
10 cellphone?

11 A: Well, the SIM card and the phone itself; yes, sir.

12 Q: All right. And of course is that I think in your
13 testimony, I think in this report, I think it took off of the
14 report, I think some accounts that was contained on that
15 cellphone or either on the SIM card?

16 A: That'd be user accounts; yes, sir.

17 Q: User accounts. And of course, I think you spoke of two
18 user accounts. I think -- well, you spoke of, I think, a Cash
19 App user account, and said that there was a Cash App user
20 account that was identified on the phone, or either on the SIM
21 card?

22 A: Yes. There was a Cash App.

23 Q: And there was a social media ---

24 A: I believe a Gmail account that we talked about.

25 Q: Gmail account, and then of course and was it another

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1 social media, a Snapchat or something like that?

2 A: Snapchat, yes, sir.

3 Q: And I think you said that -- that those Snapchat accounts
4 identified -- identified that particular cellphone or either
5 that particular SIM card as I guess the -- and I want to make
6 sure that I understand. You said in those accounts, that the
7 -- that the -- that the accounts that were found on the phone,
8 when those accounts were registered, it identified that
9 particular cellphone as connected -- connected to the
10 accounts?

11 A: That information is physically on the phone. If that's
12 what you're asking me. Those pictures were physically on that
13 phone.

14 Q: Yeah, yeah. I know about the pictures. The pictures are
15 physically on the phone. I'm trying to figure out -- and I
16 may be misunderstanding your testimony. You said that there
17 was something in the -- in the -- I guess accounts of
18 Snapchat, there was something -- and I guess it was an
19 application, a Snapchat application or something like that,
20 that identified that as the phone connected to those accounts?

21 A: There's user or owner information that's -- that's stored
22 physically on the phone.

23 Q: Okay. And that's where I'm trying to make the
24 distinction is, is that -- let me -- I'm not asking this
25 right. If you're not understanding what I'm trying to get at,

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1 then that means that the problem is with me and not with you.
2 Okay? So, let me find out a way to ask this in a way which
3 you understand.

4 What I'm trying to find out is is there something about
5 those accounts, information that you took off the cellphone
6 about those accounts, that specifically link those accounts,
7 that -- with that particular phone?

8 A: The ---

9 Q: I'm not talking about the pictures. I'm talking about is
10 is there something that's contained -- information that's
11 contained within -- within those accounts that identify those
12 accounts as being linked with that particular phone?

13 A: The Cellebrite software has gone through and found user
14 accounts that belong to this phone.

15 Q: And I understand that. And the reason why I'm asking
16 that question is is that whenever you have a Cash App account,
17 is is that you can log into your Cash App account on -- from
18 just about any phone; is that correct?

19 A: I would believe so, sir. Yes, sir.

20 Q: Okay. So, I could take your phone and log into my Cash
21 App account as long as -- as long as I have the -- you know,
22 the username and password and that sort of stuff?

23 A: I don't personally have a Cash App account, but I believe
24 what you're saying is to be correct.

25 Q: And of course, same thing with -- same thing with, I

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1 guess, with -- with Instagram. I could take your cellphone
2 and log into my Instagram account; is that correct?

3 A: Yes. That would be correct.

4 Q: Okay. And that's what I'm trying to make a distinction
5 between is is that on -- I'm trying to -- other than, other
6 then these accounts, these accounts being on that phone, is
7 there something that suggests -- that suggests that this phone
8 belongs exclusively to Bromell, other than having these
9 accounts listed on that phone?

10 A: Other than the accounts and the -- the photos?

11 Q: Yeah.

12 A: I think the SIM card -- the ICCID number came back
13 belonging.

14 Q: And how does the -- how does the -- how does that number
15 specifically tells you that this phone belongs to Bromell,
16 that Bromell is the ownership of that phone?

17 A: That's a question more for the service provider, but with
18 the SIM card, it gives you access to get on the telephone
19 number. So, if I go to T-Mobile or whatever, and they give me
20 a SIM card, I put it in my phone, I'll have access to get on
21 the user network.

22 Q: Now, when you said that's a question for the cellphone
23 provider, you're saying is is that that as far as the
24 ownership -- as far as the ownership of that phone, you're
25 saying that I would need to ask the cellphone provider that

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NATHAN HOWITT - CROSS BY BROOKER

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1 question that ---

2 A: I don't have that information, like where that SIM card
3 was provided from, I don't have that information. That's not
4 something that comes back in my report.

5 Q: Okay. That's not something that comes back in the
6 report?

7 A: No. SIM card number, the ICCID number comes back on the
8 report, but it -- but if you want to go further to find out
9 who the card is registered to, that -- that's something for
10 the service provider. That's not something I can tell.

11 Q: And that's what I'm trying to ask you, too, is is that
12 who is that SIM -- you don't know who that SIM card is
13 registered to?

14 A: No, sir.

15 Q: Okay. So, my understanding is that the only thing that
16 you can do is is that you can look at -- you can look into
17 that phone, and then of course is is that if that phone has
18 social media accounts that's associated with that phone, you
19 can look and see, you know, hey, these are the -- these are
20 the accounts that are on that phone?

21 A: Yes, sir.

22 Q: Okay. And of course, that's what I'm trying to do is is
23 that because I'm trying to understand whether or not there is
24 any other way in which you can identify ownership other than
25 to look on the phone and say, hey, there's social medial

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NATHAN HOWITT - CROSS BY BROOKER

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1 accounts on that phone that -- that we believe is Bromell's
2 social media accounts. Is that what you did there?

3 A: That's correct. The user accounts that I saw.

4 Q: I got you. I got you. You're looking at the user
5 accounts and then of course you're saying because his --
6 because there are user accounts on that phone that's connected
7 with him.

8 A: Yes, sir.

9 Q: Any other way to determine ownership?

10 A: Other than the photos; no, sir; not that I know of. It's
11 a 5,000-page report, sir, I wouldn't -- I don't know
12 everything that's in the report, sir.

13 Q: The report that you generated?

14 A: The pdf, I believe, is a little over 4,000 pages.

15 Q: That you generated?

16 A: That the physical analyzer generated, I believe, is
17 around 4,000 pages.

18 Q: Now, just another very simple question, and then of
19 course I'm almost finished. Does this phone, the information
20 that you took off of this phone, does that information
21 indicates who actually killed Victim: H.G. -- I think, Victim: H.G.
22 Goodman on June 23rd of 2022. Does it tell you who the
23 murderer is?

24 A: I don't know any of those details, but I don't believe
25 so, sir.

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NATHAN HOWITT - REDIRECT BY LIVESAY

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1 Q: If you can indulge me for just a second. Let me make
2 sure that I don't have any follow-up questions for you.

3 MR. BROOKER: No further questions, Your Honor.

4 THE COURT: Any redirect?

5 MS. LIVESAY: Just two, Judge. I know we're getting
6 into the afternoon hours.

7 REDIRECT EXAMINATION OF NATHAN HOWITT BY MS. LIVESAY:

8 Q: Mr. Howitt, did you -- do you recall Mr. Brooker asking
9 you some questions about is there anything that ties this
10 phone to Mr. Bromell? Do you remember those questions?

11 A: Yes, ma'am.

12 Q: And you were talking about user accounts.

13 A: Yes, ma'am.

14 Q: Do you remember the name on the user account? Do you
15 need to refresh your memory?

16 A: If you can, please.

17 MS. LIVESAY: I'm gonna show him State's Evidence Number
18 7.

19 A: This is the username of J -- or L.J. Bromell.

20 BY MS. LIVESAY:

21 Q: L.J. Bromell?

22 A: Yes, ma'am.

23 Q: That is the user account on the phone. Did you know the
24 defendant's name is Laquandian Jaraffus, with a J, Bromell?

25 A: I knew his last name, ma'am, I didn't know his first

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NATHAN HOWITT - REDIRECT BY LIVESAY

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1 name.

2 Q: Okay. But that the user account is L.J. Bromell?

3 A: Yes, ma'am.

4 Q: And we're wondering if that belongs to Laquandian
5 Jaraffus Bromell.

6 A: There's accounts with that name on it; yes, ma'am.

7 Q: Okay. And his initials would be L.J. Bromell?

8 A: Yes, ma'am.

9 Q: And I don't think I spelled that middle name or said it
10 correctly, but it's J-A-R-A-F-F-U-S.

11 So, the user account belonged to L.J. Bromell?

12 A: That's one of the user accounts on the phone, ma'am, yes.

13 Q: Okay. And the Snapchat app belonged to a name on
14 Snapchat called Juice?

15 A: Yes, ma'am.

16 Q: Did you know that there were several witnesses that came
17 in here that identified this defendant as Juice?

18 A: I did not know that.

19 Q: Did you know the phone was found at his house?

20 A: No, ma'am.

21 Q: Okay. And the pictures on the phone, you saw those
22 pictures, correct?

23 A: Yes, ma'am.

24 Q: This man right here, are there pictures of him on the
25 phone?

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NATHAN HOWITT - RECROSS BY BROOKER

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1 A: It does appear to be the defendant.

2 Q: Did you see any user -- any user accounts for Nate Howitt
3 on the phone?

4 A: No, ma'am.

5 Q: Did you see any for Chris Helms on the phone?

6 A: No, ma'am.

7 Q: Did you see any for Lacy Miller on the phone?

8 A: No, ma'am.

9 MS. LIVESAY: No further questions, Your Honor.

10 MR. BROOKER: Just very quickly.

11 RECROSS-EXAMINATION OF NATHAN HOWITT BY MR. BROOKER:

12 Q: I think you said that there was -- the report that you
13 generated was how many pages?

14 A: I believe the pdf report was 4,000, I believe when I
15 looked at it.

16 Q: Okay. And just out of curiosity, those 4,000 pages, and
17 I don't understand -- what is contained within those 4,000
18 pages? What sort of information?

19 A: It's a number of things, sir. Things that we've already
20 gone over: cellphone information; user accounts; web history;
21 search history; photographs; device information like powering
22 one events, turning it off; things of that nature. There's a
23 -- it goes into all these databases, and it kicks all the
24 information out and organizes it into different sections.

25 Q: Okay. And what -- just for clarification, is is that

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NATHAN HOWITT - RECROSS BY BROOKER

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1 ownership -- you're declaring ownership based upon those three
2 accounts that was -- that was found on those phones?

3 A: Yes, sir.

4 Q: You're making an assumption because those -- because
5 there was three accounts -- three accounts, Snap -- Cash App
6 account, Gmail account, and of course a Snapchat account on
7 that -- that was linked to Bromell; it's your contention that
8 he is the owner of that phone?

9 A: I'm gonna say his user information is on the phone,
10 that's ---

11 Q: So, you're telling the jury his user information is on
12 the phone but you're not telling the jury that he owns the
13 phone?

14 A: I can't say that with a hundred percent certainty.

15 Q: Can you say that at all whether or not he owns the phone?

16 A: I -- all I can say is that his user accounts are on that
17 phone; that's all I can say.

18 Q: Okay. I think that answers the question.

19 MR. BROOKER: Thank you, Your Honor.

20 No further questions.

21 THE COURT: Thank you, sir. You can step down.

22 MR. HOWITT: Thank you.

23 MR. HELMS: May he be released?

24 MR. BROOKER: Without objection, Your Honor.

25 THE COURT: Yes, sir.

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ROY PICKETT - DIRECT BY HELMS

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1 MR. HELMS: The next witness is a short witness, Your
2 Honor. If could call Mr. Roy Pickett.

3 ROY PICKETT, HAVING BEEN SWORN, TESTIFIED
4 AS FOLLOWS:

5 THE CLERK: If you would state your name and spell it,
6 please.

7 MR. PICKETT: Roy Pickett, R-O-Y, P-I-C-K-E-T-T.

8 DIRECT EXAMINATION OF ROY PICKETT BY MR. HELMS:

9 Q: Say your last name for me again?

10 A: Pickett.

11 Q: Pickett. I said it wrong. Roy, when you speak, I want
12 you to do me a favor. Okay? I want you to speak clear and
13 speak up so that this jury and this court reporter can hear
14 you. Okay?

15 A: All right.

16 Q: It's hard sometimes -- can the jury hear me? I've never
17 had anybody say otherwise.

18 Roy, where do you live?

19 A: Longs, South Carolina.

20 Q: Is that where you're from generally?

21 A: Well, Whiteville, and Longs.

22 Q: How long you lived around there?

23 A: All my life.

24 Q: How old are you?

25 A: Thirty-three years old.

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- 1 Q: Do you work?
- 2 A: Yes, sir.
- 3 Q: Okay. What do you do for a living? You ain't got to
4 tell us where work. I'm just curious what you do?
- 5 A: I'm in the tree service.
- 6 Q: Thank you, sir.
- 7 Roy, I think you know why you're here today. Just real
8 quick, do you know the defendant sitting over there? Do you
9 know him?
- 10 A: Yes, sir.
- 11 Q: How do you know him?
- 12 A: We from the same area.
- 13 Q: What is his name?
- 14 A: What's his real name?
- 15 Q: Yeah.
- 16 A: Laquandian.
- 17 Q: What do you call him? What do you know him as?
- 18 A: Man, we from the same area, you know, like ---
- 19 Q: Yeah, but like his nickname. Does he have a nickname?
- 20 A: Juice.
- 21 Q: Okay, sir. How about the victim in this case; did you
22 know Helo.
- 23 A: I don't know him like that
- 24 Q: Did you know him at all?
- 25 A: No, not personally.

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1 Q: Okay. Had you ever seen him?

2 A: I saw him around.

3 Q: Is Turk's one of the places you saw him?

4 A: Yes.

5 Q: Okay. Did you go to Turk's a lot?

6 A: No, I did not.

7 Q: You were there on June 23rd, though, of 2020?

8 A: Unfortunately, I was there that night, yes, sir.

9 Q: And you know what happened that night?

10 A: Well, I don't know what happened, but I'm here -- I got
11 subpoenaed to court.

12 Q: Let me ask you this, and let's go on and get this out of
13 the way, do you want to be here in court today?

14 A: I mean, to be honest, no, I don't want to be here.

15 Q: And that's fair. That's fair, Roy.

16 Why did you come to court today?

17 A: I got subpoenaed. You know, I ain't want no trouble.

18 Q: I understand.

19 A: I had to come show up.

20 Q: That's fair.

21 Roy, I'm gonna show you what's been entered into evidence
22 now, okay, and I'm gonna ask you, if the Judge will let you,
23 to step down briefly.

24 Is that okay, Your Honor?

25 THE COURT: Sure.

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1 MR. HELMS: Thank you, Judge.

2 BY MR. HELMS:

3 Q: Roy, I want you to come down here. And I want you to
4 stand right about here for me, and I want you to look at this
5 screen. Okay?

6 Lacy, go ahead, please, and if you'll -- you know where
7 it's at. Thank you.

8 MR. HELMS: Oh, the Judge is coming. Hang on a second.

9 THE COURT: And what -- what exhibit are you showing.

10 MR. HELMS: Your Honor, this is already been entered into
11 evidence. I'm showing the witness what's been entered as
12 State's 19, and I'm not publishing the whole thing.

13 (REPORTER'S NOTE: State's 19 published for the jury. No
14 audio.)

15 BY MR. HELMS:

16 Q: Roy, have you seen this video before?

17 A: When the detectives came to my house with it.

18 Q: Okay. So, you recognize this area as Turk's Place?

19 A: Yeah. I'm parked over this way.

20 Q: All right. And so you know this was June 23rd, by now,
21 you know this was the night of the killing?

22 A: Yeah. That's that night.

23 Q: And you're parked over here by the trees, you say? Over
24 here?

25 A: Yes, sir.

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1 Q: Are you driving the white car?

2 A: Well, I came up in a white car, then I leave out driving,
3 I stood -- I stood here, like I told you that day, but I was
4 -- I'm in the white car.

5 Q: You are in the white car?

6 A: Yes, sir.

7 Q: Gotcha. Who is that right there talking to you in the
8 back jacket with the white stripes? Who did you tell the
9 detectives that was?

10 A: I wasn't asked that. That's the guy to the car.

11 Q: Right here. This gentleman right here (indicating). Who
12 is that right there talking to you in that white car?

13 A: That's ---

14 Q: You can say it.

15 A: That's the man to my car, but still yet, like I told you
16 that day when you came to my house ---

17 MR. HELMS: Pause it for a second.

18 A: I pulled up in that car. Did I leave out driving?

19 Q: That's not my question. Listen to my question.

20 A: No, no, you asked who was that in the car.

21 Q: I want to know who that man standing by your white car in
22 the black jacket and white stripes was. That's what I want to
23 know. Who was that?

24 A: That's the guy you got in court.

25 Q: Sitting right over there?

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1 A: It ain't me.

2 MR. HELMS: Your Honor, last time I'm gonna ask him to
3 answer the question.

4 BY MR. HELMS:

5 Q: Is the person standing there sitting in the courtroom
6 today?

7 A: Sir -- Your Honor -- what else -- I mean, what can I say?

8 Q: You can say the truth, sir.

9 A: That's -- that's the guy standing right there at the car.

10 THE COURT: Mr. Pickett, if you know, give us the
11 information. If you don't know, then tell him you don't know.

12 A: I mean, I -- other than that, I don't know.

13 Q: You don't know who that is?

14 A: (No audible response.)

15 Q: That's okay.

16 Keep playing it. Keep playing it. Keep playing it.

17 You're in this car right here; there's no doubt about
18 that, right?

19 A: There's no doubt about that. I'm in that white car
20 leaving out.

21 Q: Where are you going right now? Where are you going?

22 A: Home.

23 Q: You're going home. Who was in the white car with you; do
24 you remember?

25 A: It's a bunch of guys. There's about four different

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ROY PICKETT - DIRECT BY HELMS

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1 people in that car.

2 Q: All right. And you go down this road. Did you see a man
3 walk down that road just a second ago on this video? I can
4 rewind it if you want me to, and I will.

5 A: Oh, I ain't seen nobody walking just now.

6 MR. HELMS: Okay. Stop it right there. Will you rewind
7 it real quick because I want to make sure he's on the same
8 page with me until Victim: H.G. is on that screen.

9 BY MR. HELMS:

10 Q: You can see this fellow right here, right?

11 A: Uh-huh, (affirmative response).

12 Q: All right. Do you remember what you and Juicy were
13 talking about right here?

14 A: No, it's been so long ago.

15 Q: You don't; okay. But y'all weren't talking about Victim: H.G.
16 over here?

17 A: No. They had parks right there.

18 Q: Okay. But you see that fellow walking down the street
19 right now, right?

20 A: (Indicates affirmatively.)

21 Q: All right. You see that car going down here -- the car
22 you're in going behind him, right?

23 A: I was leaving out.

24 Q: You see that, right?

25 A: Uh-huh, (affirmative response).

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1 Q: All right. Let me ask you this question. Did you stop
2 and talk to Victim: H.G. right there?

3 A: I sure did.

4 Q: Did you stop and shoot Victim: H.G. right there?

5 A: I sure didn't.

6 Q: Did anybody in the car with you stop and shoot Victim: H.G.

7 A: Ain't nobody shoot nobody.

8 Q: Okay. You just keep driving? Do you remember passing

9 Victim: H.G.

10 A: I didn't even know there was no one standing in the road.

11 Q: I understand. Is that the last part of -- are you in
12 this car?

13 A: No, sir.

14 Q: Okay. All right. You can go sit down. Thank you very
15 much.

16 You acknowledge that that was Redenbo Road you were going
17 down, right, when you were leaving Turk's?

18 A: Yes.

19 Q: That's Redenbo Road?

20 A: (Indicates affirmatively.)

21 Q: Okay. And you didn't see anything when you were leaving
22 down Redenbo Road crazy or you didn't see a shooting or a
23 incident or a fight or anything?

24 A: I ain't see nothing.

25 Q: Okay. And if you would've seen that, you would've

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1 probably remember that?

2 A: If I would've seen that. The camera would've clearly
3 caught me stopping and all that.

4 Q: Exactly. I couldn't agree more. I'm gonna show you
5 what's already been entered into evidence as State's Exhibit
6 29. Okay?

7 Actually, yeah, I'll enter State's 29 or I'm gonna show
8 you what's State's 29.

9 Is that what you saw when you pulled out of Redenbo Road
10 that night?

11 A: No. It wasn't that dark, going in there ---

12 Q: Did you see that body right there?

13 A: No, sir.

14 Q: Was that body in the road?

15 A: No, sir.

16 Q: Please answer any questions the defense has.

17 CROSS-EXAMINATION OF ROY PICKETT BY MR. BROOKER:

18 Q: I'm sorry, Roy, can I get your last name again?

19 A: Pickett.

20 Q: Prichard?

21 A: Pickett.

22 THE COURT REPORTER: Sir, can you slide up a little bit,
23 please. Thank you.

24 Q: Mr. Pickett?

25 A: Yes, sir.

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1 Q: I think you said that that white car -- were you in the
2 that white car?

3 A: Yes, sir.

4 Q: And of course is is that you were standing, I think
5 before you pulled out, next to the tree?

6 A: Yes, sir, with a group of guys.

7 Q: Okay. And y'all talked about killing Victim: H.G.

8 A: No, sir.

9 Q: Somebody in that group talked about killing Mr. Goodman.

10 A: No, sir. No, sir. Wasn't nobody talking none of that.
11 I know that for a fact.

12 Q: Did you have any sort of beef or disagreement with Victim: H.G.
13 that night?

14 A: No, sir; I didn't.

15 Q: Do you know of anybody else in the group that you were
16 with that night had a disagreement with Victim: H.G.

17 A: No, sir; I didn't.

18 Q: Do you know whether or not Mr. Bromell had a disagreement
19 with Victim: H.G.

20 A: No, I don't.

21 Q: You said that when you drove -- I think when you were
22 leaving out, and I think you were asked whether or not you saw
23 Victim: H.G. walking. And I think you testified that you did not
24 see him walking as you were driving and leaving out?

25 A: When I left out, I clearly didn't see nobody. I clearly

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1 didn't stop and speak with anyone. We left out. I went home.
2 I was actually out there that night trying to sell my
3 merchandise, man; I don't know nothing about nothing.

4 Q: I got you. And that's all I want to figure out is is
5 that -- and I'm not asking you whether or not you did anything
6 to him. I'm just asking you when you were pulling out and
7 leaving, did you see him walking along that road as you were
8 leaving?

9 A: I ain't see nothing, and definitely wasn't nobody laying
10 there when I passed by.

11 Q: Not just laying, did you see anybody walking? Do you see
12 anybody walking ---

13 A: No, I didn't even see him walking.

14 MR. BROOKER: If you could indulge me for just a second.

15 Let me make sure I don't have any follow-up questions.

16 THE COURT: Sure.

17 MR. BROOKER: No further questions, Your Honor.

18 THE COURT: Any redirect?

19 MR. HELMS: No, ma'am.

20 THE COURT: You may step down, Mr. Pickett.

21 MR. HELMS: Judge, can Roy go home?

22 THE COURT: Any objection?

23 MR. BROOKER: Without objection, Your Honor.

24 THE COURT: You're excused, Mr. Pickett.

25 MR. HELMS: Proceed, Your Honor?

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SUSAN ERIN PRESNELL - DIRECT BY HELMS

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1 THE COURT: Uh-huh, (affirmative response).

2 MR. HELMS: Your Honor, at this time, the state would
3 call Dr. Presnell.

4 SUSAN ERIN PRESNELL, HAVING BEEN SWORN,
5 TESTIFIED AS FOLLOWS:

6 THE CLERK: Please state your name and spell it for the
7 Court.

8 DR. PRESNELL: My name is Susan Erin Presnell, P-R-E-S-N-
9 E-L-L.

10 DIRECT EXAMINATION OF SUSAN ERIN PRESNELL BY MR. HELMS:

11 Q: Good afternoon, Doctor.

12 A: Hello.

13 Q: Thank you for being here. What do you do for a living?

14 A: I'm a forensic pathologist at MUSC in Charleston, South
15 Carolina.

16 Q: How long have you done that?

17 A: I've been a faculty member since 1999, almost 23 years.

18 Q: So, obviously, you are a licensed physician?

19 A: I am.

20 Q: In what state?

21 A: In South Carolina.

22 Q: Yes, ma'am. Are you currently engaged in the practice of
23 your profession?

24 A: Yeah. I'm still a faculty member doing forensic
25 pathology at MUSC.

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1 Q: And ma'am, where did you receive your education and
2 training?

3 A: So, back up to Clemson, and I graduated in 1989 in
4 microbiology, and then I moved to MUSC to go to medical
5 school, which is four years. After my medical school, I
6 decided to go into the specialty of pathology. So, I stayed
7 at MUSC, which is a five-year training program. And then I
8 decided to sub-specialize in forensic pathology, which I also
9 did at MUSC, which is the year. And then, then they hired me
10 to stay on as faculty.

11 During this process, I took the boards, so I'm licensed
12 to practice medicine in South Carolina. And also, that -- the
13 pathology board, so I'm board certified in general pathology
14 and then also forensic pathology.

15 Q: Ma'am, as a forensic pathologist, do you perform
16 autopsies?

17 A: Yes. That's our technique to examine the people that are
18 referred to us.

19 Q: I understand. And how many autopsies would you say you
20 have performed in your career?

21 A: It would be an estimate, but probably approaching 4,000.

22 Q: Have you testified as an expert pathologist?

23 A: Yes, I have.

24 Q: How many times?

25 A: Again, an estimate, and I'd probably say around 200.

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SUSAN ERIN PRESNELL - DIRECT BY HELMS

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1 MR. HELMS: Your Honor, at this time, I would tender Dr.
2 Presnell as an expert forensic pathologist?

3 MR. BROOKER: Without objection, Your Honor.

4 BY MR. HELMS:

5 Q: Did you have an opportunity, Doctor, to perform an
6 autopsy on the case we're here for today on the victim, Victim: H.G.
7 ██████████?

8 A: Yes. I performed an autopsy on Mr. Goodman on June 25th,
9 2020.

10 Q: Yes, ma'am. And let's dive right in, Doctor, first and
11 -- and do you have your report with you?

12 A: I do.

13 Q: Excellent. First and foremost, can you please tell this
14 jury what the prescribed cause of death was?

15 A: He had multiple gunshot wounds.

16 Q: And do you know how many?

17 A: I do. He had nine gunshot wounds.

18 Q: Nine gunshot wounds?

19 A: Yes.

20 Q: Were all -- where did he sustain those gunshot wounds,
21 generally speaking?

22 A: Most of the -- he had one in the front, and then rest
23 were across the back, the back of the head, and the right side
24 of the neck.

25 Q: Doctor, I'm going to show what's been marked for only

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1 identification purposes at this point as State's Exhibit 42.

2 MR. HELMS: And, Your Honor, what I'd like to do is have
3 the doctor indicate on this document or on this chart where
4 the injuries are and then enter it into evidence.

5 THE COURT: Okay.

6 STATE'S EXHIBIT NUMBER 72

7 MARKED FOR IDENTIFICATION

8 BY MR. HELMS:

9 Q: Ma'am, this is State's 72. I may've said that wrong; I'm
10 sorry.

11 Doctor, I'm gonna hand you this, and I'm gonna hand you
12 -- let's do it like that; thank you very much. Bring it on
13 up.

14 MR. HELMS: Can she step down, Your Honor, briefly?

15 THE COURT: Yes.

16 MR. HELMS: Thank you.

17 BY MR. HELMS:

18 Q: Doctor, I think the best way to go ---

19 Ms. Livesay, can I use a permanent marker on this?

20 MS. LIVESAY: Yes, go ahead.

21 BY MR. HELMS:

22 Q: I think the best way to go is if you'll start with the
23 front. You said there was one sustained gunshot wound to the
24 front, will you please indicate for the jury on that chart
25 where that was on the left side of the board?

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SUSAN ERIN PRESNELL - DIRECT BY HELMS

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1 A: Okay. So, apparently, this -- this is an example of a
2 diagram that -- an unmarked diagram. It's something that I
3 would use at autopsy to document my findings so I could later
4 dictate the report. So, the gunshot wound that is to the
5 front of the body. It was right here on the left chest.

6 Should I go through each one of them or shall I plot out
7 the gunshot wounds and then we'll go back over them.

8 Q: I like the second idea better.

9 A: Okay. So, we have the one to the front of the chest.
10 And then we have two, one to the back of the head, and one to
11 the back of the neck; so, two back there. Then we have one to
12 -- actually, two -- I'm kind of grouping them in twos. So, we
13 have the one to the front; the two that are on the back of the
14 head and back of the neck; two that are kind of in the midline
15 back; two that are on the right -- back of the right shoulder;
16 one that's on the side of the right neck; and then one that is
17 on the back of the -- kind of the left shoulder area. So,
18 that is one, two, three, four, five, six, seven, eight, nine.

19 Would you like me to go back through them now and just
20 describe their pathways?

21 Q: No time like the present.

22 A: All right. So, the one to the front of the chest goes
23 into his body, it travels down and towards his back. It goes
24 through the liver, and it also goes through the aorta, which
25 is one of the -- it's like a main vessel taking blood from the

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1 heart. And the bullet stops right under the skin on the right
2 side of his back. We recovered that bullet.

3 And then we have the two, again, to the -- one to the
4 back of the head, and one to the back of the neck. The one to
5 the back of the head goes into the head, through the brain,
6 through the skull, and out the front of the head. I can start
7 putting Xs, but it gets pretty complicated -- not complicated
8 but just messy.

9 Q: Yes, ma'am.

10 A: And then the one to the back of the neck comes up through
11 the face and out the right cheek.

12 The two in the middle here, this upper -- the higher one
13 comes in and hits the neckbone and comes through the area of
14 the trachea and out the side of the neck. This one right here
15 comes in through the back. It's like mostly soft tissue, it
16 comes out around the collarbone area.

17 This one right here is just real superficial. It's goes
18 in here and out right at the top of the shoulder.

19 The one right here goes in -- again, through the soft
20 tissue of the shoulder area and comes out the armpit area.

21 Then we have two more. The one through the bottom of the
22 left shoulder area, or the left back, and one is to the right
23 neck. And these are going in the same direction. They're
24 headed to the right chest area, both of them. This one that's
25 to the side of the neck is mostly gonna be soft tissue and

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1 all. The one to the back here goes through the chest cavity,
2 so it hits the left lung. And then one of them exits and one
3 -- the bullet is right there under the skin. I'm not sure
4 which one is the bullet and which one is the exit, but we
5 recovered that bullet as well.

6 And, so those are his ---

7 Q: In your professional opinion, were these fresh wounds?

8 A: Yes. These are fresh wounds.

9 Q: Tell me about gunshot residue, did you find any of that?

10 A: Well, we don't really test for gunshot residue, although
11 we do look to see if there's any sooty deposits, meaning that
12 the gun was closer. Or there's -- called stippling, where
13 some of the gun powder can cause little scratches around the
14 wound, and we did not see any of that. Of course, we also did
15 not receive his clothing other than the underwear that he was
16 wearing, and of course clothing could be an intermediate
17 target to absorb some of that debris.

18 Q: Of these fresh injuries, these nine fresh injuries, about
19 how many were fatal?

20 A: Well, there's potential fatal, and there's pretty fatal.
21 So, the -- I would think the most fatal is the one that was
22 through the head and the brain and caused the skull fractures.
23 Then one to the front of the chest, it hit the aorta. So,
24 that is pretty significant. The bleeding would ensue quickly.
25 This one on the back here, it hit the left lung, that could be

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1 fatal. It not necessarily is all the time. The one to the
2 middle back went through, you know, hit the backbone and the
3 neck area, that could be fatal, in the airway as well. So,
4 four potentially fatal gunshot wounds.

5 Q: Okay. We said these were fresh wounds, did you find any
6 old ones?

7 A: Well, when I -- when we do an autopsy and we have gunshot
8 wounds, we do x-rays so we can find the bullets, so we can
9 know where to go in and get the bullet. When we x-rayed him,
10 I -- we found three bullets. Now, remember I told you we
11 recovered two. There was a third bullet that was in left back
12 area.

13 Now, at the time we did the autopsy, I had no information
14 that he had previously sustained a gunshot wound. And so, I
15 thought that this might be a part of the number of different
16 gunshot wounds he received at the time of this death.

17 Q: Of course.

18 A: Since that time, I have received medical records and I
19 have documented that in fact he did retain a bullet, that yes
20 it was in that area, and you can also tell by looking at the
21 bullet that it looks different. It looks dull, not nice --
22 well, not nice, but it's not shiny; it's dull; it has like a
23 little capsule starting to form at the bottom of it, like the
24 body reacted to it.

25 Q: Yes, ma'am. While you're talking about it, before we

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1 change the subject, I want to show you real quick what -- just
2 while you're standing here frankly, what's already been
3 entered into evidence as State's 14, 15, and 16. These were
4 the bullets recovered from the autopsy.

5 Can you look at these ---

6 THE COURT: Mr. Helms, just a minute.

7 Mr. Brooker?

8 MR. BROOKER: May we approach for just a second?

9 THE COURT: Uh-huh, (affirmative response).

10 (REPORTER'S NOTE: Bench conference is held off the record in
11 the presence but outside the hearing of the jury.)

12 BY MR. HELMS:

13 Q: Thank you for your patience, Doctor. Again, let's
14 regroup. I'm showing you what's been entered into evidence at
15 14, 15, and 16, the bullets recovered from the autopsy you
16 conducted. Do they look familiar?

17 A: Yes.

18 Q: Can you look at these bullets -- these are the three
19 bullets. Can you look at these and by just their appearance
20 tell which one was old and which ones were new?

21 A: Well, so keep in mind, I -- in 2020, so that looks like
22 they've weathered a little bit. So, I do recognize those, but
23 the bullet that is labeled the left back bullet, you can
24 actually see some of that capsule that I was talking about,
25 that tissue down in the base of the bullet compared to the

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1 other two.

2 Q: What does that mean? What does that ---

3 A: Well, just that the body had time to react to it, and you
4 can see that it is duller than the other two as well.

5 Q: And that suggests to you that bullet was in Victim: H.G.

6 [REDACTED] longer than the other ones?

7 A: Correct, yes. That was in there for a while.

8 Q: Thank you, Doctor.

9 And, Doctor, you can have your seat back. Thank you so
10 much.

11 Doctor, during your examination, did you recover any
12 evidence that suggested Victim: H.G. [REDACTED] died from anything
13 other than gunshot wounds?

14 A: No. He died from his gunshot wounds.

15 Q: And obviously, those bullets that we just discussed, you
16 took those out of Victim: H.G. [REDACTED] and handed them directly to
17 the officer that was there?

18 A: Well, we photographed it -- we cleaned them up,
19 photographed them, packaged them, and then they were
20 transferred over to the officer.

21 Q: And you -- is it common to have officers attend the
22 autopsies?

23 A: Yeah; yeah, it is. And so, we transferred it to
24 Detective Ken Marcus.

25 Q: I have -- yes, that's correct. I have one other question

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1 and it's only concerning one wound, and it's the initial
2 wound, the entrance wound in the front.

3 A: Well, so, I can't tell at the time of autopsy which one
4 came first, but yes.

5 Q: Yes, ma'am. I'm -- when I say -- I mean the first one we
6 talked about.

7 A: Okay.

8 Q: Were you able to determine this was an entrance wound?

9 A: Yes.

10 Q: Were you able to locate an exit wound or a path for this
11 particular injury?

12 A: Yes. It's the -- that's the one that went down and
13 towards his right back and struck the liver and the aorta.

14 Q: So, the entrance wound of this potentially fatal injury
15 was higher than the exit wound?

16 A: Than where the bullet is recovered, yes.

17 Q: That went from where the bullet is recovered?

18 A: Yes.

19 Q: So, the bullet then -- tell me if I'm saying this right,
20 goes down?

21 A: The bullet is going down towards his right and towards
22 his back. And now I say this when he is in that position,
23 that's the anatomical position, it doesn't mean that's the
24 position he was in when he was shot.

25 Q: Let me ask you this question, Doctor, this injury --

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1 would this injury being sustained in this position be
2 consistent?

3 A: Yes, it could.

4 Q: Like leaning into a car?

5 A: Possibly, yeah.

6 Q: Please answer any questions the defense has.

7 CROSS-EXAMINATION OF SUSAN ERIN PRESNELL BY MR. BROOKER:

8 Q: Just very few questions. The purpose of the autopsy, if
9 I'm mistaken -- if I'm not mistaken is to determine how death
10 was caused; is that correct?

11 A: Well, so that -- that's one of the aspects. It's also an
12 interpretation of injury and disease. A lot of our cases
13 aren't necessarily trauma related. So, it's the -- it's the
14 whole story.

15 Q: Does your autopsy identify who committed the murder?

16 A: No. I would not know that.

17 Q: Okay. Just identify the cause of death, and of course is
18 is that some of the other, I think, issues that you address as
19 far as illnesses and that sort of stuff?

20 A: Correct.

21 Q: Okay. No further questions.

22 MR. HELMS: We'd just ask that she be excused, Your
23 Honor.

24 THE COURT: Any objection?

25 MR. BROOKER: Without objection, Your Honor.

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1 THE COURT: Thank you.

2 MR. HELMS: And, Your Honor, with the testimony of Dr.
3 Presnell, the state would rest.

4 BY THE COURT:

5 THE COURT: Okay. Ladies and gentlemen, I'm going to
6 excuse you from the courtroom while we take up a few matters
7 of law.

8 Please don't begin discussing the case.

9 (REPORTER'S NOTE: Jury exits courtroom @ 3:59 p.m. The
10 following takes place outside the presence of the jury.)

11 THE COURT: Okay. We had a bench conference regarding
12 the objection, and I told you we would go ahead and put that
13 on the record outside the presence of the jury.

14 Mr. Brooker?

15 MR. BROOKER: Just very briefly, Your Honor. And of
16 course is is that I understand the rule in reference to
17 expert's testifying, and of course is is that they can testify
18 to records and things that they use in order to form their
19 opinion. But of course, my objection was simply was to the
20 fact is is that she was testifying specifically to the
21 previous medical records that she had reviewed in formulating
22 her opinion. And of course is is that those medical records
23 were not entered into evidence. And of course is that
24 obviously she can testify to them and formulate an opinion
25 from them, but of course is is that it's our position is is

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1 that those records, you know, should've been offered into
2 evidence -- should've been offered into evidence and of
3 course, and so that we would have an opportunity to cross-
4 examine her on those records in which she was using to -- and
5 to quite frankly, Your Honor, is that I don't think she was
6 using the records to formulate an expert opinion. That was
7 not the purpose of her using those records. I think she
8 simply testified that she looked in the records, and then of
9 course the records indicated that he had retained a bullet in
10 the past. She was not formulating an expert opinion about
11 that in simply making a statement in reference to what was
12 contained within those records. And of course is is that
13 because she was making a reference to what was contained in
14 those records, then of course, those records should've been
15 entered into evidence. That was not an expert opinion that
16 she was giving. She was stating a fact. She was saying that
17 I looked in these records, and the record says that he
18 maintained a bullet in his body. She was not giving an
19 opinion about that or using that information to somehow
20 formulate an opinion. She was making -- at least just making
21 a statement in reference to what was contained in those
22 records. They should've been entered into evidence if she was
23 gonna comment on those records and because she -- because they
24 were not entered into evidence, Your Honor, is we think that
25 testimony regarding those records was inappropriate.

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1 THE COURT: Okay. Well, I'm looking at Rule 703 of Rules
2 of Evidence. It says the facts or data upon which an expert
3 bases an opinion may be those perceived or made known to the
4 expert at or before the hearing if of a type reasonably relied
5 upon by experts in the particular field in forming opinions or
6 inferences upon the subject the facts or data need not be
7 admissible in evidence.

8 So, I do think that whether this bullet was in his body
9 previously versus what was a fresh wound is directly related
10 to her opinion regarding cause of death. I don't know how you
11 could say it wasn't related to the -- her opinion on the cause
12 of death. But your objection is certainly noted for the
13 record, sir.

14 MR. BROOKER: Thank you, Your Honor.

15 THE COURT: Okay. The state has rested.

16 Mr. Brooker, I'll be glad to hear from you, sir, if you
17 want to have any motions that you'd like me to hear.

18 MOTIONS:

19 MR. BROOKER: The only motion, Your Honor, is is that a
20 motion for directed verdict. And of course, Your Honor,
21 obviously, you know just as well as I do is is that the -- the
22 law is that in order for the case to be submitted to a jury,
23 that of course there has to be sufficient evidence in the
24 record in which the jury can draw an opinion that would allow
25 it to, you know, allow the jury to be able to reach an opinion

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1 of guilt beyond a reasonable doubt. And of course is that if
2 the evidence is insufficient upon which a jury can draw -- can
3 reasonably draw that conclusion, and the evidence would only
4 be sufficient enough where the jury would simply be
5 speculating with respect to guilt beyond a reasonable doubt,
6 then of course is is that the Court has to then grant the
7 motion for directed verdict. And of course, in this
8 particular situation, I'm not gonna go through all of the
9 evidence. I think the most important evidence is is is that I
10 think is the video, and I think the eyewitness testimony, I
11 think, from Ms. Bromell, Cortisha Bromell -- that Cortisha
12 Bromell, if I'm pronouncing her first name ---

13 THE COURT: Cortisha Hemingway.

14 MR. BROOKER: Hemingway; I'm sorry. I'm sorry. Cortisha
15 Hemingway.

16 And of course is is that I think the video, as we've all
17 seen, shows that two cars left in the parking lot of the bar,
18 one car leaves, and that was the white charger. And of course
19 is, is that that car, apparently from the video, I think, once
20 it leaves -- it leaves out of the club, and of course gets on
21 Redenbo Drive -- Redenbo Drive then becomes all of a sudden
22 completely dark as it was described by numerous of witnesses.
23 It's just very black in that area. And then of course, you
24 can only see the taillights. So, you see the taillights of
25 that car leave. And then of course the next car was the car

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1 in which the state believes that was driving by Bromell. That
2 car leaves. Once they get onto Redenbo Drive, you can't see
3 anything except the taillights of the car. And of course, in
4 that video, there is a brief pause in that car. And after
5 there being a brief pause in that car, that car then leaves.
6 That car then starts back again, it stops. It appears to
7 stop, starts back again, and of course leaves. And of course
8 is that I think Ms. Hemingway, Ms. Hemingway, Cortisha
9 Hemingway, her mother, and of course is is that her aunt said
10 that they were sitting off of the Redenbo Drive. And of
11 course, they said that the last car, the car that they
12 believed was driven by Ms. Hemingway, they said they didn't
13 even see the car go by, that they were distracted by something
14 on their phones that they didn't even see the car go by. They
15 said it was pitch black in that area as well, too. All of
16 sudden, they hear a shot -- you know, Cortisha Hemingway
17 looked around her car, and of course her testimony was is that
18 she couldn't see the person, she could see the person, but of
19 course is is that she could not identify the person. She
20 could not identify his race. The only thing that she was able
21 to do was give a vague description, and that vague description
22 was is that she said that she saw a guy that had a jacket on,
23 you know, that looks like he had something on his sleeve, that
24 he had something on the top of his hair, you know, puffs or
25 dreads. She wasn't quite sure. And then of course she said

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1 he was kind of -- relatively short. That was the basis of the
2 description.

3 Now, interestingly enough is is that I asked her did you
4 see anyone get out of the car. She said, no, I didn't see
5 anyone exit the car, I didn't even see anyone get back into
6 the car. I didn't see the shooter exit the car, didn't see
7 the shooter get into the car. So, they're making the
8 assumption -- and I think that's what the state is asking the
9 jury to draw. The state is asking the jury to make an
10 assumption that Mr. Bromell was in that car, stopped his car,
11 got out of the car, shot Mr. Goodman, got back in his car, and
12 drove away. And of course those witnesses testify that they
13 never see anyone exit the car, never see anyone get back in
14 the car. They only testified is that the saw a car stopped --
15 well, the saw a car drove away, because they said originally
16 they never saw the car, never saw it at all.

17 That's gonna be the basis of the testimony which the jury
18 is gonna have to rely on. And of course is is that the jury
19 is gonna have to make a determination as to whether or not
20 that person that she describes, she can't tell their race, and
21 of course gave a very vague description as to whether or not
22 that person is Mr. Bromell. And of course is that I think
23 that they're gonna have to speculate about because I think
24 it's insufficient information. And for them to draw a
25 conclusion, a reasonable conclusion on the evidence based upon

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1 identity, specifically in light of the fact that there are
2 other reasonable, reasonable alternatives that could've
3 explained him getting shot. I know that they testified that
4 they didn't see anybody else on that road. But reason why
5 that that's gonna be difficult, and it's not gonna allow the
6 jury to be able to draw a reasonable conclusion if there was
7 nobody else on the road, it is is that they said that they
8 didn't -- they didn't see a 4,000, 3 to 4,000 pound car drive
9 past them. And if they didn't see a 3 to 4,000 pound car
10 drive past them, with the engine and the muffler running, with
11 the lights on, is is that it's definitely more than reasonable
12 or conceivable that there could've been someone else on that
13 road that afternoon, that there could've been someone else on
14 the road that night that could've shot him other than the
15 person that was inside of the car, you know, so the jury is
16 gonna have to basically guess at it. I know they've created a
17 case that creates a lot of suspicion, but of course is is that
18 the caselaw that I've examined says if they created a lot of
19 suspicion, reasonable suspicion, and there is reasonable
20 suspicion. There's reasonable reason to suspect Mr. Bromell.
21 But of course is is that law says is if they created just
22 reasonable suspicion, that that is insufficient for it to go
23 to the jury. It has to be sufficient information which the
24 jury can reasonably conclude from that information, you know,
25 that proof beyond a reasonable doubt exists. And I don't

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1 think that there is enough in which they can draw that
2 conclusion without simply speculating.

3 And of course is, that's the basis of my motion, and of
4 course, Your Honor, is that as a matter of formality, we renew
5 all other previous motions that we've made during the course
6 of this trial.

7 Thank you, Your Honor.

8 THE COURT: Do you want to respond to ---

9 MR. HELMS: Very briefly, Judge. As the Court is well
10 aware that the evidence at this point is to be viewed in the
11 light most favorable to the state. I think Mr. Brooker uses
12 the term speculating, asking the jury to speculate, and fact
13 finding interchangeably. We're not asking them to speculate
14 anything. We're asking them to determine what the facts are
15 and they are the finders of the fact, Your Honor. That's what
16 they're here for.

17 Mr. Brooker brings up a lot of interest interpretations.
18 I think they're just that, interpretations, and fodder for his
19 closing argument, but Your Honor even if you were to classify,
20 and I would not, but even the Court were to classify this
21 evidence as only circumstantial, we've presented more than
22 enough substantial circumstantial evidence to present to the
23 jury which is obviously the standard in that case. But, Your
24 Honor, beyond the circumstantial evidence, we presented direct
25 evidence. We presented a statement from the defendant saying

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1 -- admitting to being at the scene, admitting to stopping his
2 car right where the defendant's body was -- of the victim's
3 body was found. Admitting to wearing that and being the
4 person wearing that jacket, Your Honor. So, we would
5 respectfully disagree with Mr. Brooker and ask that it go to
6 the jury.

7 THE COURT: Of course, at this point, my only concern is
8 the admissibility or the existence of evidence and not its
9 weight. I don't weigh the evidence. That's solely within the
10 province of the jury. I do find that there is sufficient
11 evidence both direct and circumstantial for this to go forward
12 to the jury.

13 MR. HELMS: Thank you, Your Honor.

14 THE COURT: The motion is respectfully denied.

15 BY THE COURT:

16 THE COURT: Mr. Bromell, let me talk to you. So, we
17 talked at the beginning of the case about your very important
18 decision as to whether or not you would like to testify. And
19 have you discussed that with your attorney?

20 MR. BROMELL: Yes, ma'am.

21 THE COURT: And of course, you're aware that you do not
22 have any obligation to testify, and nobody can make you
23 testify. If you choose not to testify, I will instruct the
24 jury that that is your constitutional right. You have no
25 obligation to prove yourself innocent. The state has the

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1 burden of proving you guilty beyond a reasonable doubt. I
2 will further instruct them they can't even discuss that fact
3 in the jury room. That's not a factor that should weigh in
4 their deliberations whatsoever.

5 MR. BROMELL: Yes, ma'am.

6 THE COURT: And again, as we talked about on Monday, this
7 is your day in court, so you get to make that determination of
8 whether or not you want to testify, and if you want to
9 testify, we'll follow the same procedure as we have for the
10 other witnesses in this case. You'll take the stand, your
11 attorney will ask you questions, and then the state will get a
12 chance to ask you questions on cross-examination.

13 MR. BROMELL: Yes, ma'am.

14 THE COURT: Do you have any questions for me?

15 MR. BROMELL: No, ma'am. I do not.

16 THE COURT: And have you made a decision about whether or
17 not you want to testify?

18 MR. BROMELL: Yes, ma'am. I would not.

19 THE COURT: Okay. So -- thank you, sir. You can have a
20 seat.

21 MR. BROMELL: Yes, ma'am. Thank you.

22 THE COURT: Anything else you want me to cover with your
23 client, Mr. Brooker?

24 MR. BROOKER: Nothing, Your Honor. If I could have just
25 a moment to speak with him, Your Honor?

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1 THE COURT: Sure.

2 MR. BROOKER: Thank you, Your Honor.

3 Your Honor, the reason why I had that brief pause is is
4 that so I can have a conversation with respect to -- with Mr.
5 Bromell in reference to his right to testify. And of course
6 is is that one of the things that I do a lot of times with my
7 clients is is to ask them have they considered -- had they
8 made that decision considering everything that happened in the
9 trial from the start to the end. You know, obviously, he sat
10 here, he listened to the evidence, you know what evidence is
11 in the record, what witnesses testified, what exhibits that's
12 been presented. And based upon not just his constitutional
13 rights to testify, not to testify, but based upon the -- based
14 upon all the evidence that's been put in this case against
15 him. Is that whether or not any of that would change his mind
16 in reference to whether or not he believes it to be in his
17 best interest to testify. He advises me that after
18 considering everything, he believes it's -- you know, he still
19 believes that -- that -- or he still chooses not to testify
20 and remains silent pursuant to his Fifth Amendment right.

21 Thank you, Your Honor.

22 THE COURT: So, we're gonna bring the jury back in. Does
23 the defense intend to rest?

24 You're not calling any other witnesses?

25 MR. BROOKER: No, Your Honor. I don't believe we're

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1 gonna call any witnesses.

2 THE COURT: Okay. Then just for housekeeping, what I'd
3 like to do is bring the jury in, let the defendant rest on the
4 record, and then go ahead and dismiss the jury for the day. I
5 don't want to start closings at 4:00-something in the
6 afternoon. We can have a discussion about jury charges, and
7 we can do that this afternoon, at least have preliminary
8 discussions about the jury charges after we have dismissed the
9 jury.

10 MR. HELMS: Yes, ma'am.

11 THE COURT: So, if you'll bring the jury back in, please.

12 (REPORTER'S NOTE: Jury enters courtroom @ 4:19 p.m.)

13 THE COURT: Okay. The state rests.

14 Mr. Brooker?

15 MR. BROOKER: Your Honor, the defense rests.

16 THE COURT: Thank you.

17 Okay. Ladies and gentlemen, we're gonna go ahead and
18 dismiss you for the afternoon a little bit early. We have
19 some work that we're gonna do here, and I don't want to keep
20 you back there while we do work and then start closing
21 arguments and charges, you know, at 5 o'clock in the
22 afternoon. So, we're gonna dismiss you.

23 In the morning, when you return, you will hear the
24 closing arguments. I'll give you the instruction on the law,
25 and then you'll be free to begin your deliberations. So, this

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1 evening please don't begin discussing the case. We're in the
2 home stretch here. We should be wrapping up the case
3 tomorrow.

4 Have a good evening. We'll start the same time tomorrow
5 at 9:30.

6 (REPORTER'S NOTE: Jury exits courtroom @ 4:20 p.m. The
7 following takes place outside the presence of the jury.)

8 MOTIONS:

9 THE COURT: Okay. And for the record, Mr. Brooker, you
10 want to renew your motion for a directed verdict?

11 MR. BROOKER: Yes, Your Honor. We want to go ahead and
12 renew that motion.

13 THE COURT: Okay. Thank you. And I'm gonna respectfully
14 deny it for the same reasons that we just put on the record.

15 CHARGE CONFERENCE:

16 THE COURT: I'd like to email you what we've got just as
17 a starting point for jury charges, and let y'all take a look
18 at it. I -- you know, I don't know that I really expect you
19 to look at it right now, and for us to have a definitive
20 discussion on it, but let's at least have a starting
21 conversation about it.

22 First of all, let me ask, do y'all have any specific
23 charges, and I can tell you what I've got in my current
24 charge. So, we've got a charge of the, of course, the duties
25 of the trial judge and jury; the burden of proof; the

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1 definition of reasonable doubt; on direct and circumstantial
2 evidence including the *Logan* language; on expert witnesses; on
3 the defendant's decision not to testify.

4 We've got one in there on the fact that a witness has a
5 criminal record, that -- and that was for the gentleman who
6 was in federal custody. We've got a charge on that.

7 Of course, the elements of murder and elements of
8 possession of a weapon during a violent crime. Let me see if
9 there's anything I've missed here.

10 The charge that there's, you know, two separate charges
11 and that they're going to make a decision on both.

12 Presumption of innocence. I've got reasonable doubt;
13 duties of jury and trial judge; direct and circumstantial
14 evidence; credibility of witnesses; prior record of the
15 witness; defendant's decision not to testify; expert
16 witnesses; the elements of murder; the elements of possession
17 of a weapon during a violent crime; and that the verdict must
18 be unanimous.

19 Any other specific charges? And then what I would
20 suggest is I'll email y'all this proposed charge and let you
21 look at it overnight. I mean, I'm happy if you want to look
22 at it now and we'll reconvene. I just in the interest of
23 time, I didn't want to lean over you while you read it. It's
24 not terribly long, if you all want to take a look at it.

25 MR. BROOKER: I'll probably look at it overnight, Your

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1 Honor. One of the things that I'll ask the Court to consider
2 is is that a charge specifically -- specific to identity,
3 because this is an identity case, because the sole, I think,
4 eyewitness said that she was not able to identify the person
5 specifically, so there may need to be a charge relating to
6 identity. And then of course is is that there may also need
7 to be a charge that relates to mere presence or either -- was
8 it mere presence or the bystander doctrine, because obviously
9 -- and the reason why I say that is is that there's evidence
10 of his presence at the scene, that's what the state is gonna
11 argue is presence at the scene, and then of course is that
12 regardless of that, he is taking the position that he never
13 shot anyone. And of course is is that so the -- so that if
14 the jury concludes that he was present but was not actually --
15 was not the actual shooter, then of course is is that because
16 that is -- that's a possibility, and I think mere presence --
17 a charge on mere presence, I think, is necessary.

18 MS. LIVESAY: I think, Your Honor, mere presence is if
19 there's evidence in the record that the defendant has admitted
20 that he was present but not an active participant. And I
21 don't think there is any evidence in the record regarding that
22 he's saying I was present, I was there at the time of the
23 crime, but I was not an active participant. I think that
24 charge it seems normally when we have codefendants or there's
25 a group like A&B mob, or something similar to that where

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1 everybody is there and the defendant is saying, yes, I was
2 there, but I wasn't an active participant.

3 MR. BROOKER: I think it's not necessary for the
4 defendant to say he was there. The question is is that
5 whether or not evidence put him there, and I think it's the
6 state's position that he was there. And with respect to
7 whether or not -- whether or not he was -- he was the shooter.
8 So, I think it was Investigator Marcus that testified that
9 when he testified regarding his -- his interrogation of Mr.
10 Bromell, I think that he said that Mr. Bromell told him
11 repeatedly, and I asked him this question, that he did not
12 shoot anyone. So, because the state is offering evidence that
13 he was there at the time the shooting took place, he says that
14 I did not shoot anyone, he's not refuting that, that of course
15 is is that there is a possibility that the jury could reach
16 that conclusion. It doesn't -- it doesn't matter how probable
17 it is or how possible it is. What matter is is whether or not
18 there is evidence in which there is a probability that a jury
19 could reach that conclusion that of course the jury needs to
20 be charged with that, because the whole -- the state's whole
21 case is that you were there, and of course is is that I think
22 the officer testified that he told him that I didn't shoot
23 anybody. I did not shoot anybody. So, if he was there and he
24 didn't shoot anybody, then of course is is that it implicates
25 the bystander doctrine or the mere presence doctrine.

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1 THE COURT: I just looked at my charges on
2 identification. I do think that's appropriate, and I'll
3 include that and let y'all take a look at the specific charge.

4 Looking at this charge that I've got on mere presence, I
5 think that that is relevant to this case. So, I'm gonna
6 include that, and I'm gonna send you that so y'all can look at
7 that specific language.

8 MR. BROOKER: Thank you, Your Honor.

9 THE COURT: I'm not gonna hold you to this, but if
10 there's anything now that you want to tell me that I can be
11 looking at, anything else that you're requesting, and then
12 we'll have a final determination in the morning. But I at
13 least want y'all to have a rough outline, so you can be
14 planning your closing accordingly.

15 MR. HELMS: I understand, Your Honor.

16 (To Ms. Livesay) Can you think of anything else to
17 address with the Court?

18 MS. LIVESAY: I cannot, but I need to -- we need to --
19 so, when I was looking at it, the phone records, we put the
20 phone records on the CD and the copy of the search warrant.
21 So, what we can do is do another copy without the search
22 warrant on it. So, that copy of the phone records that's in
23 evidence, it includes the copy of the phone records and a copy
24 of the search warrant used to obtain them. So, what I'll do
25 is I'll just get a copy of the phone records and put that in,

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1 because I know the search warrant shouldn't go back to the
2 jury because it'll have the PC in there.

3 THE COURT: The other thing, as I believe I heard y'all
4 talking about the video that we turned the audio off.

5 MS. LIVESAY: Yes, that's already been fixed.

6 THE COURT: Okay. So, we've removed the audio from the
7 version that's gonna go back to the jury?

8 MS. LIVESAY: Yes, ma'am.

9 THE COURT: We've already got the audio that we played
10 outside the presence of the jury of Ms. Green's statement,
11 that's been now put in.

12 Was there anything else that we needed to address?

13 MS. LIVESAY: I don't think so; not that I can think of.

14 THE COURT: Okay.

15 MS. LIVESAY: This is the body camera with no sound.

16 THE COURT: Okay.

17 MS. LIVESAY: So, do you want to clip that or mark it
18 something (A) or ---

19 THE COURT: I think it's -- that was originally State's
20 18, so can we just say that we are substituting ---

21 THE COURT REPORTER: Yes, ma'am.

22 THE COURT: --- 18 with no -- with no sound for 18 that
23 had sound ---

24 MR. BROOKER: Certainly.

25 THE COURT: --- so that it's not going back to the jury.

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1 MR. HELMS: Your Honor?

2 THE COURT: Yes, sir.

3 MR. HELMS: Since we've kind of decided that everybody is
4 gonna digest this overnight, I think, in terms of this jury
5 charge situation, the only thing that I would ask the Court to
6 do is look at *State v. James*, because I think it does prohibit
7 the reading of mere presence in this instance, because of the
8 circumstances. And I'll give you the cite, Your Honor, when
9 you're ready.

10 THE COURT: Sure.

11 MR. HELMS: 386 S.C. 650.

12 THE COURT: Okay. I'll be glad to take a look at it.

13 MR. HELMS: Thank you, Your Honor.

14 THE COURT: Can I get y'all to give me your email
15 addresses, and we'll email this to you.

16 MR. HELMS: Yes, ma'am. Livesayn ---

17 THE COURT: And that's L-I-V-E-Y-S-A-Y.

18 MR. HELMS: --- @horrycountysc.gov. That is not a valid
19 email address, Your Honor.

20 THE COURT: Is there some other email that ---

21 MR. HELMS: Helmsc ---

22 MS. LIVESAY: @horrycountysc.gov.

23 MR. HELMS: That's what I was gonna say.

24 MS. LIVESAY: And I got a cellphone number for him, too,
25 Judge, if you need it.

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1 MR. BROOKER: I just wrote it for Your Honor, to make it
2 easy for you. Make sure you can read my handwriting, Judge.

3 THE COURT: Thank you.

4 Okay, I will -- we'll do that before we leave here so
5 that y'all can see what I'm proposing, and we'll discuss it
6 again, of course, in the morning one more time before you have
7 to do your closings.

8 MR. HELMS: Yes, ma'am.

9 THE COURT: I don't think we had an issue with the order
10 of closings except to say that since the state has got the
11 right to reply, I always require -- you're gonna -- you're
12 gonna open in full, Mr. Brooker is gonna have his chance, and
13 then your reply would be limited to replying to him and not
14 addressing any new matter in the reply.

15 MS. LIVESAY: I actually don't think I have the right to
16 reply because he didn't put up any evidence.

17 THE COURT: Okay. I'm sorry.

18 MR. BROOKER: She doesn't.

19 MS. LIVESAY: I'll go first and do the whole thing.

20 THE COURT: You're going last.

21 MR. BROOKER: Yes.

22 MS. LIVESAY: And he'll go last.

23 THE COURT: All right. I'm overcomplicating it.

24 MS. LIVESAY: But if Mr. Brooker wants to change that up,
25 we can.

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1 THE COURT: I would highly doubt it. Okay.

2 All right. Anything else we need to talk about?

3 MR. BROOKER: No, Your Honor.

4 MR. HELMS: No, ma'am.

5 THE COURT: All right. If we could -- can we maybe
6 convene like at 9:15 ---

7 MR. HELMS: Yes, ma'am.

8 THE COURT: --- in the morning just to see if there's
9 anything else. I don't want to keep the jury too long in the
10 morning. I know we'll have a little bit of discussion we need
11 to do.

12 MR. HELMS: Yes, ma'am.

13 THE COURT: All right?

14 Thank you.

15 MS. LIVESAY: Thanks, Judge.

16 MR. HELMS: Thank you, Judge.

17 MR. BROOKER: Thank you.

18 **RECESS - 4:35 P.M. - END OF DAY ONE**

19 *****OFF THE RECORD*****

20 **APRIL 14, 2024 - DAY THREE**

21 **ON THE RECORD - 9:22 A.M.**

22 THE COURT: Okay. Let's talk about jury charges. I got
23 your email last night regarding *State v. James*. It does seem
24 to me the Court was pretty clear that mere presence should be
25 charged in cases of accomplice liability or constructive

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1 possession, and that this case is neither of those things.

2 Mr. Brooker, anything you want to say?

3 MR. BROOKER: Your Honor, the reason why the mere
4 presence has to be charged is is that because we don't know
5 that. That is gonna have to be for the jury to decide. This
6 is a circumstantial evidence case. And the reason why mere
7 presence is appropriate is -- and I'll try to make this as
8 quickly and succinct as possible, Your Honor -- is is that
9 their theory is if that you saw the video, Your Honor, their
10 theory is is that Mr. Bromell gets in the car, Mr. Bromell
11 drives up Redenbo Drive, stops, kill the victim, and then
12 proceed on. The video doesn't show that. The video shows the
13 car leaving, and then of course it's dark, and the video then
14 the only thing you could see is the taillights of the car, and
15 the video shows the car pause, and then of course after a
16 brief pause, then the car goes again. But that's all the
17 video shows. It doesn't show the murder, it doesn't show Mr.
18 Bromell; it doesn't show anything else. It doesn't show
19 whether or not there's two people, four people, or six people.
20 It shows nothing. So, in order to prove that it's Mr.
21 Bromell, Mr. Bromell, they're gonna be relying on Ms.
22 Hemingway. And of course, Ms. Hemingway was the only, I
23 think, witness to the murder. And Ms. Hemingway basically
24 says that she peered out and that she saw a person standing
25 over the decedent and shooting him. But she said she couldn't

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1 identify who that person was, and she gave a vague
2 description. And that is that she said he was kind of short,
3 that he had something on top of his head, maybe puffs or
4 dreads, and then of course is that she said that he was also
5 wearing a jacket with stripes on it. So, they're asking the
6 jury to conclude that was Mr. Hemingway. Now, what if the
7 jury concludes that, hey, there is no -- there is not enough
8 evidence for us to decide whether or not that's Ms. Hemingway
9 -- that's Mr. Hemingway -- excuse me -- Mr. Bromell. What if
10 a jury reaches that conclusion. And if a jury reaches that
11 conclusion, then of course, mere presence then becomes
12 relevant. And that's why ---

13 THE COURT: Well, I mean, aren't we covering that --
14 first of all, that's all argument that you can certainly make
15 to the jury. Aren't we covering that with identification? I
16 mean, there's no evidence that there were multiple people
17 there on scene and that one person was the trigger person and
18 one person drove the car. There's no evidence of that.

19 MR. BROOKER: But the thing about that is, is that -- is
20 is that the jury could reach that conclusion. The jury ---

21 THE COURT: Sure. I guess they could reach any
22 conclusion, but it's not based on any evidence that's come
23 into trial.

24 MR. BROOKER: If the jury reaches the conclusion of
25 that's not Mr. Bromell, the shooter that was standing over him

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1 is not Mr. Bromell but we do believe he was there, then of
2 course is that they don't have instructions from that
3 particular point in time. And so, it is a possibility they
4 could say, yeah, we think he's stopping his car, and we think
5 we know who the murderer is, but we don't think there's
6 evidence that he is the one that did the shooting, but we
7 think he's there. And if that's the case, then what
8 instructions have they been given? It's about how to handle
9 that situation.

10 THE COURT: They've been given the instruction that he's
11 got to have committed the murder and that his identification
12 has to be proven beyond a reasonable doubt. Tell me how you
13 think we get around the *James* case.

14 MR. BROOKER: I looked at the *James* case, Your Honor, and
15 let me tell you, let me tell you about the *James* case, and
16 this is the thing is -- I've got it right here. Let me pull
17 it up, Your Honor. And I think -- and let me do this very
18 quickly, Your Honor. I apologize. And of course is is that
19 -- of course, it says the -- the law to be charged in a case
20 is determined by the evidence presented at trial. If the
21 evidence supports it -- if the evidence support is, the
22 defendant is entitled to a mere presence charge. And then of
23 course this is the important language, Your Honor. It says
24 generally, not exclusively. It says generally a mere presence
25 charge is appropriate under two circumstances. And of course,

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1 it goes into those two circumstances. And I think what the
2 Court is saying is is that the judge has to make a
3 determination as to whether or not, whether or not mere
4 presence is relevant in this particular situation or may
5 become relevant to the jury. And of course is, what happens
6 if the jury thinks, yeah, we think he was in the burgundy --
7 we think he was in the burgundy car, we think he stopped, but
8 we don't think he was shooter. That person that Ms. Hemingway
9 described, we don't think that was him. Well, if they reach
10 that conclusion, then you have two people there. Then of
11 course is is that they may think, well, then what do we do
12 now, you know, because he was there? Does mean that we still
13 have to find him guilty of murder because he was there? You
14 know, what do we do under that particular circumstances?
15 That's why it's appropriate because it is not clear as to how
16 many people was there, and could the jury reasonably conclude
17 that he was not the person standing over the body? Yes. Now,
18 if Ms. Hemingway had've testified that, hey, I am clearly
19 certain that the person I saw standing over the body was him,
20 nobody else was standing over the body shooting except him,
21 then of course is is that the probability of them concluding,
22 the probably of mere presence becoming relevance -- having any
23 relevance would be pretty much eliminated. But the reason why
24 it's relevant is because we don't know. It's not based upon
25 what we know but what we don't know and whether or not it is

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1 reasonable for the jury to reach the conclusion that may
2 involve mere presence.

3 THE COURT: Yes, sir?

4 MR. HELMS: Okay. Judge, luckily, this is not a case of
5 first impression, this is not an issue of first impression,
6 the Court has dealt with this. That's why I forwarded this
7 case to the Court, Your Honor. It's clear that they have
8 limited the instruction mere -- these two instances so as not
9 to confuse the jury. That is always the goal; not to confuse
10 the jury by throwing too much at them that's not applicable.
11 The Court says this is not applicable, Judge. It's applicable
12 in two cases; one is accomplice liability and the other is
13 constructive possession. We're not arguing drugs. So,
14 obviously constructive possession does not apply. And Your
15 Honor, we're not arguing accomplice liability. In fact, we
16 have gone to great lengths to show that Mr. Bromell was the
17 sole occupant of that vehicle, including but not limited to
18 one of the last witnesses, Mr. Roy Pickett, who says he was
19 the only one in the car.

20 Your Honor, you know, we can argue this all day, but
21 The bottom line is this, he says is the jury gonna have to be
22 forced to say because he was there, is he guilty? No, Your
23 Honor. If they say he was there and not the shooter, that's
24 called not guilty. That's call not guilty. So, I think
25 charging mere presence is just gonna confuse the jury.

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1 THE COURT: I don't recall any testimony that there was
2 anyone else in the vehicle from anyone. And so, I just -- I
3 have a hard time getting around this when there's no evidence
4 that someone else other than the defendant was present at the
5 scene. I think you are free to argue that to the jury, but
6 again the state is not relying on accomplice liability that he
7 was present and contributed to the murder by either, you know,
8 supplying a weapon or by some other means that he's guilty of
9 accomplice liability; the state's theory is that he is the
10 shooter. So, I think you're free to argue to the jury that
11 they have not proven that he was the shooter.

12 MR. BROOKER: I agree with you a hundred percent, Your
13 Honor, but the ---

14 THE COURT: They're not gonna argue to the jury that, you
15 know, hand of one is the hand of all or anything along those
16 lines.

17 MR. BROOKER: And I understand that, Your Honor. But
18 what I'm saying is is that -- and I'll say this, Your Honor,
19 and I'll sit down, and I'll let you make your ruling, and
20 we'll go one in less than 20 seconds. And I understand that
21 is is that the charge is not controlled by the state's theory.
22 I think that the charge should be controlled by, you know,
23 what are the possibilities? Is it possible that there was a
24 -- there was another person there, because you can remember is
25 -- and I think Cortisha Hemingway basically says that they

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1 never saw the car pass them when the car -- the car that they
2 believe that was driven by Mr. Bromell, they said they --
3 excuse me -- Ms. Hemingway said that -- Ms. Green said that
4 they never saw the car pass. Ms. Hemingway said that they
5 never saw the car at all, which means that they were not
6 looking. And of course is is, if they were not looking, then
7 no one can definitively say who was out there. They said they
8 never -- and if they didn't see a 3 to 4,000 pound car pass
9 them with the lights on, with the engine running, if they
10 didn't see that go past them, is it possible that they didn't
11 see a person walking, you know, a 120-pound person, 130-pound
12 person walking that's making no noise. You know, what I'm
13 saying is is that all of this is within -- within the realm of
14 reasonableness for the jury. And of course is, if it's within
15 the realm of reasonableness for the jury, then of course is is
16 we have to anticipate that reasonable possibility, and then of
17 course is is that give the jury enough to lead them if they
18 reach that conclusion. Now, if -- and that's what I'm saying,
19 if they had clearly eliminated -- if this has been clear
20 lighting, people says absolutely certain there's nobody else
21 out there. All the facts suggest that it was Mr. -- we can
22 clearly identify that, then it eliminates the possibility.
23 But the possibility here is not eliminated.

24 MR. HELMS: But that's not the standard. That's not the
25 standard, Judge. It says as supported by the evidence; not

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1 what's possible.

2 THE COURT: The charge is controlled by what evidence is
3 in front of the jury.

4 So, again, I'm not gonna charge mere presence. I think
5 you are free to argue to the jury any theory that you want,
6 but the state is not relying on accomplice liability in this
7 case, and there's no evidence of multiple people being in the
8 vehicle.

9 Anything else we need to talk about with respect to
10 charges?

11 MR. HELMS: No, Your Honor, not from the state.

12 MR. BROOKER: Not from the defense, Your Honor.

13 THE COURT: Do we know if all the jurors are here?

14 Did I tell you all our foreperson is Juror Number 56,
15 Kathleen Cardamone.

16 MR. HELMS: Yes, ma'am, Your Honor.

17 THE COURT: Okay. Are y'all ready for the jury?

18 MR. HELMS: Yes, Your Honor.

19 THE COURT: Okay. We're ready for the jury.

20 (REPORTER'S NOTE: Jury enters courtroom @ 9:38 a.m.)

21 BY THE COURT:

22 THE COURT: Okay. Good morning, ladies and gentlemen.
23 We're ready to move into closing arguments now. So, I'm going
24 to turn it over to the state.

25 MS. LIVESAY: Thank you, Judge.

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1 CLOSING BY MS. LIVESAY:

2 MS. LIVESAY: Good morning, ladies and gentlemen.

3 I know we are on day four, but this is -- we are now
4 winding down to everything you're going to hear. I am going
5 to try to keep this short and concise because I know you have
6 already heard the evidence, so this is not gonna be an
7 incredibly long closing.

8 The second reason I'm going to keep it pretty brief is
9 because if you look back there, that's your solicitor, Jimmy
10 Richardson, the guy sitting with the white shirt. There you
11 go; that's him. That's your solicitor, and it's my boss. And
12 he normally is not in here for my closings, and he said
13 probably early on when I was first starting off, he said,
14 look, you are no Billy Graham or Ronald Reagan. Nobody wants
15 to hear you talk for that long. You need to keep it a lot
16 more concise than what you do. And if you noticed, I don't
17 have a pad. I never write anything down, and he always said,
18 look, again, you are no Billy Graham or Ronald Reagan, you
19 need to write yours down. I have not done it yet, but maybe
20 I'll take that advice.

21 I know you're tired. I'm tired. But I want you to know
22 this is important. And when I got up this morning, I gathered
23 myself, and I hope you did, too. And I know you're tired, but
24 we got to remember, as tired as we are, this is why we're
25 here. A young man innocent and unarmed was gunned down on a

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1 dirt road in Horry County, where we live. This is our home.
2 And this is what happened; unarmed and gunned down. We can't
3 accept it. We cannot accept that.

4 Now, you don't see the injuries here, but Dr. Presnell
5 told you, one, two, three, four, five, six, seven, eight shots
6 to the back. Eight shots to the back. And you heard the
7 witness tell you when I turned around and looked, he was
8 trying to get up. That is being gunned down like an animal.
9 One of the shots, folks, I don't know if you were paying
10 attention, and that's why I gave it to Mr. Helms, Dr.
11 Presnell, sometimes I get too much into details. One of the
12 shots exited through his throat, through his windpipe. That's
13 what she told you. One went through the back of the head and
14 came out right there. Nobody, nobody should have to suffer
15 that, nobody.

16 Now, the question is who did this. This is a horrible,
17 horrible crime. Now, the question we have to answer is who
18 did it. The only place we can turn to figure out who did it
19 is the evidence.

20 The first place we're gonna start is the home
21 surveillance. We got to. We can't turn away from it. This
22 is a home surveillance showing where it happened, what
23 happened, what the lighting was like, and who was out there.
24 So, we cannot get around the first piece of evidence, which is
25 the home surveillance. We're gonna play that again, but here

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1 is what I want you to look for, when the defendant leaves.
2 When does he leave? Not just any time, I want you to pay
3 attention to the surveillance footage. He doesn't leave and
4 jump in that car just any time. He jumps in that car when the
5 victim is walking down the road alone, and there's no other
6 cars coming in or out of the road. Watch the video. He waits
7 for that white car to take off and turn and then you see him
8 get right behind the victim and go follow him right down that
9 dark dirt road. That's important. He don't leave before the
10 victim leaves, he don't leave after the victim has gotten off
11 the road. He leaves right when that victim is away from the
12 lights at the club and before he can get to the road of Cedar
13 Branch. That's when he leaves.

14 Now, when does he stop? That's important. When you look
15 at this video, when does the defendant stop his car? We know
16 he leaves and follows him down that dirt road. And when does
17 he stop? He doesn't stop right there at the club where the
18 surveillance footage, where it's lit up in the parking lot.
19 That's not where he stops. And he doesn't stop at the end of
20 the road. Watch the surveillance footage. He stops right
21 where the victim was; that's where he stops, not before, and
22 not after; he waits until he leaves, he waits until there's
23 not another car on the road, and then he catches him where
24 he's away from the lights of the club, and he can't make it to
25 the road to get no help. He catches him at the most

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1 vulnerable moment on that dirt road.

2 Here's something else. When you watch that surveillance,
3 do you know what else you saw? The boy being patted down.
4 Everybody was being patted down. You heard Veronica say that.
5 So, he knew, he knew that the victim was unarmed. He walked
6 up, he walked back, he had no way to get a gun. He was out
7 there walking around with no shirt on, flipflops, and unarmed.
8 So, he waited and caught this young boy at the most vulnerable
9 moment he could on a dirt road, in the dark, unarmed. That's
10 where he caught him.

11 Now, the surveillance footage I'm gonna show you is if
12 you look right here, it says, bodycam. That's because this
13 footage is the footage that you saw the officer watching right
14 there off the original surveillance with Ms. Veronica. That's
15 the best view that we can see.

16 The other thing, before we play it, I want you to pay
17 attention to it. Do you see this right here? This is gonna
18 be the time. This is gonna be ticking the time. Pay
19 attention to how long that car is stopped where the victim is.
20 Pay attention to when he leaves, where he stops, where the car
21 stops, and how long -- how long is that car stopped there?

22 Go ahead, Ms. Miller.

23 (REPORTER'S NOTE: State's 18 published for the jury. No
24 audio.)

25 MS. LIVESAY: Could you pause it?

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1 These lights do not pop on, folks, until there's not
2 another car on this road. That's important. He waits until
3 this car is off the road before he pops these lights on.

4 Now, look how quick Ms. Veronica -- I'm sorry, not
5 Veronica -- Latreka and Cortisha and her crowd are right in
6 here. Watch how quick their lights light up and tell you that
7 the shooting had happened. Bang. Right there. The shooting
8 just happened. The red car got on the road, their lights --
9 so, what does that tell us? What does it tell us? It tells
10 us who the killer is. It can only be one person. It can only
11 be the person in the red car. When the white car goes out,
12 he's still alive. You don't see Latreka and Cortisha ride up
13 then. No. No, you don't, because he's still alive. There's
14 nothing to ride up here and tell. You don't see them ride up
15 until you see the red car stop for about a minute. And a
16 minute doesn't feel like a long time, but a minute is 60
17 seconds. And that is just long enough to fire off eight
18 rounds. That is just long enough to get out your car and fire
19 eight rounds and get back in. He won't out there five
20 minutes. He didn't stop for two seconds. He stopped for just
21 long enough to get out of that car, gun that victim down, get
22 back in and leave. Not a second longer, not a second less
23 until he was down on the ground and could not move. He won't
24 out of there five minutes chatting, no, no. He was out of
25 there with a purpose. And he executed that purpose, and then

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1 he left.

2 So, what do we know? We know without a doubt that the
3 guy in the red car is the killer. You saw Roy, the guy in the
4 white car, he told you I left, I don't know nothing about it.
5 And Latreka told you right after I heard that car get on the
6 road, I lit my lights up, and I came to Turk's. When was
7 that? Was it after the white car? It didn't happen until
8 after the red car. So, we know that the red car is the
9 killer. So, who is in the red car? Let's find out.

10 (REPORTER'S NOTE: State's 18 published for the jury. No
11 audio.)

12 MS. LIVESAY: Could you pause? Go back just a hair if
13 you can. I like to put that kind of pressure on you.
14 Actually, don't pause it. Go ahead and let it play through.
15 Go ahead and let it play through, please. Thank you, ma'am.

16 Now, this of course, is Mr. Sherman that you met standing
17 out by the red car. Very colorful gentleman; he had a lot of
18 personality.

19 Right here. Guy with a dark jacket, white stripes on his
20 sleeve.

21 Let it keep playing.

22 Here comes Sherman.

23 Here comes the driver of the red car. Dark jacket, white
24 stripes down the sleeve. Here's Leo, checking to make sure
25 nobody has a weapon inside the club. Black jacket, white