

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYLEEK RAYQUAN JOHNSON,

APPELLANT

APPELLATE CASE NO. 2025-001005

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
COURT’S EXHIBITS NOS. 4-17 (PHOTOGRAPHS).**

1 you off.

2 Tell me what your response is---

3 SOLICITOR SMITH: well---

4 THE COURT: ---before I tell you what I think.

5 SOLICITOR SMITH: well, maybe we just have a
6 misunderstanding. I, I don't think Investigator
7 Letterman's testimony is going to be looking at the matrix
8 or anything. It -- it's essentially going to be
9 presenting the Cellebrite reader, which he is saying he
10 doesn't have an issue with.

11 Now, he might -- I guess his opinion testimony would
12 be limited to when this file was created, which the
13 Cellebrite says that to our extent. I'm not trying to
14 diminish his, his job. But we're, we're not -- I don't
15 think the interpretation of what's on here is actually
16 subject to testimony. It's more about the extraction. I,
17 I don't---

18 MR. MORIN: Okay.

19 THE COURT: well, let me---

20 SOLICITOR SMITH: ---think that's where he's going.

21 The---

22 THE COURT: ---just say this to you guys. I was
23 about to say this anyway.

24 And along the lines what you're saying, I think he's
25 an expert. I think he's in the field where expert, expert

1 testimony will be beneficial to the jury.

2 If he ventures to give an opinion that you think runs
3 a foul of the reliability standard that or runs a foul --
4 his expert -- area of, area of expertise, then you gon'
5 have to object on, on a question by question basis cause I
6 don't know what he's gon' say.

7 MR. MORIN: Yes, sir.

8 THE COURT: And so I think that's the only way to do
9 it. I am gon' qualify him as an expert in the field of
10 digital forensics.

11 Can I ask him one question for my edification?

12 SOLICITOR SMITH: Certainly.

13 MR. MORIN: Certainly.

14 THE COURT: Do you mind?

15 MR. MORIN: No.

16 THE COURT: Is -- what's the different between
17 cellphone extraction and digital forensics?

18 THE WITNESS: Cell extraction is a part of digital
19 forensics. Digital forensics can be computer imaging of
20 computer hard drives, imaging of flash drives, things
21 along those lines. So, it's a component of digital
22 forensics.

23 THE COURT: All right. Thank you.

24 THE WITNESS: You welcomes.

25 THE COURT: Anybody have a question as a result of

1 my --?

2 SOLICITOR SMITH: No, Your Honor.

3 THE COURT: All right. Y'all ready to go?

4 MR. MORIN: Uh-huh. (Affirmative).

5 THE COURT: Let's bring the jury in.

6 SOLICITOR SMITH: Your Honor, we're gonna have him
7 step down when he gets to that.

8 Is that all right?

9 THE COURT: Not a problem.

10 SOLICITOR SMITH: Thank you.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: All right. Ladies and gentlemen, Madam
14 Forelady, I have found or I am finding that this gentleman
15 is an expert in the field of digital forensics. He'll be
16 allowed to give his opinion in that area. The defense
17 will have the right to object to any opinion they think
18 goes beyond that and we'll have to take it up at that
19 point in time.

20 But as far as right now, he is an expert in the field
21 of digital forensics.

22 SOLICITOR SMITH: Thank you, Your Honor.

23 THE COURT: Yes, sir.

24 CONTINUED DIRECT EXAMINATION

25 BY SOLICITOR SMITH:

1 Q. Investigator Letterman, were you asked to assist in
2 the investigation of a shooting at Walden Circle that
3 occurred on October 25th of 2020?

4 A. I was.

5 Q. And was your initial involvement attempting to do
6 cellphone extractions of Timothy Thompson and Kelli Curran
7 --?

8 A. Their cellphones, correct. Yes.

9 Q. And -- excuse me.

10 Not, not of their bodies but of their cellphones?

11 A. Correct.

12 Q. And you did take control of both of their devices?

13 A. Yes.

14 Q. And did you do extractions on those devices?

15 A. I did.

16 Q. I'm gonna hand you State's 115.

17 Ask if you can tell me what that is.

18 A. This is gon' be the flash drive containing the cell
19 exams from a Samsung Galaxy S10 and A10 and my final
20 report.

21 Q. All right. And are those the two devices that
22 belonged to Kelli and Tim?

23 A. They are.

24 SOLICITOR SMITH: Your Honor, at this time we would
25 move State's 115 into evidence.

1 THE COURT: Subject to qualification objection.

2 Do you have any other objection?

3 MR. MORIN: No, sir.

4 THE COURT: All right. Admitted.

5 (WHEREUPON, State's Exhibit No. 115 was received into
6 evidence at this time.)

7 Q. And do you generate a report when you do an
8 extraction?

9 A. I do.

10 Q. It's at least a guideline of perhaps the things you
11 found?

12 A. I do.

13 Q. This is State's 114.

14 Can you tell me what that is?

15 A. Yes, this will be my generated report for the
16 extraction of those. They go to the S10 and A10
17 cellphone.

18 SOLICITOR SMITH: All right. Your Honor, at this
19 time we would move State's 114, 114 into evidence.

20 THE COURT: Any objection to the---

21 MR. MORIN: No, sir.

22 THE COURT: All right. Admitted.

23 (WHEREUPON, State's Exhibit No. 114 was received into
24 evidence at this time.)

25 Q. All right. We're gon' start with Kelli's phone

1 because things take a long time to upload.

2 As far as your investigation, did -- you found two
3 items of, of interest on Kelli's phone.

4 Is that correct?

5 A. That's correct. I found two images.

6 Q. All right. And when were those images -- what can
7 you tell me about when they images came about on her
8 phone?

9 A. Those images were found on her phone in her gallery
10 that showed her metadata of those pictures being taken on
11 October the 10th of 2020 at 6:33 in the afternoon and 6:34
12 in the afternoon.

13 Q. I'm gonna hand you State's 83 and State's 129 and ask
14 if you can tell me what these are.

15 A. These are gonna be the photographs that were
16 recovered off of her phone.

17 Q. All right. And they were taken on October the 10th?

18 A. Correct.

19 SOLICITOR SMITH: Your Honor, at this time we would
20 move State's 83 and 129 into evidence.

21 THE COURT: Any objection?

22 MR. MORIN: No, sir.

23 THE COURT: Admitted.

24 (WHEREUPON, State's Exhibit Nos. 83 and 129 were
25 received into evidence at this time.)

1 Q. This is State's 129 and this is State's 83 and you
2 did not find anything else that was helpful to your
3 investigation on Ms. Curran's phone?

4 A. That's correct.

5 Q. All right. And you also did Mr. Thompson's phone?

6 A. Yes.

7 Q. And we, we have that loaded and can you come up and
8 present to the jury what you were able to find on Mr.
9 Thompson's phone---

10 A. Yes.

11 Q. ---and I'll figure out where to stand?

12 A. (WHEREUPON, the witness comes down from the stand.)

13 Q. Yeah, there the -- that microphone is for you.

14 Can you switch to our desk?

15 All right. You previously testified about
16 Cellebrite.

17 Is this what Cellebrite looks like when you---

18 THE COURT: Let, let me ask.

19 Are, are these matters already in evidence?

20 SOLICITOR SMITH: Yes, this is the extraction that
21 was put in---

22 THE COURT: All right.

23 SOLICITOR SMITH: ---the first item that was put in
24 under now.

25 THE COURT: Okay.

1 THE JUROR: It's not working.

2 THE COURT: Okay. Hang on for a second. Little
3 technical --.

4 THE BAILIFF: There we go. Got it.

5 THE COURT: Thank you.

6 Q. All right. Were you able to find a contact that was
7 entered into Mr. Thompson's phone, a person named Doug
8 Cherokee?

9 A. Yes, within his contacts, contact number 409 was
10 identified as Doug Cherokee saved in his device with a
11 phone number of (864)349-3788 and he had saved the address
12 as simply Greenville, South Carolina.

13 Q. All right. In the call log on this device, can
14 you -- were you able to find any interactions with Doug
15 Cherokee?

16 A. Yes, with Doug Cherokee there, on October the
17 25th at 2:16AM, there was a missed incoming call from
18 the contact saved to Doug Cherokee.

19 Q. All right. So, Doug Cherokee is calling Thompson's
20 phone?

21 A. That's correct.

22 Q. And that was at --?

23 A. That was on October the 25th of 2020 at 2:16 in the
24 morning.

25 Q. All right. And we, we previously had some testimony

1 about U -- UTC time.

2 This has been converted to -- this is not UTC time.

3 This would be the actual time?

4 A. Correct. This is the actual time. This is the
5 actual eastern standard time.

6 Q. All right. While we're on the call logs, can -- did
7 you find a call that happened earlier from a Drey 300?

8 A. Yes.

9 On that same day, October 25th of 2020, at 1:36AM,
10 there was an incoming phonecall from a contact saved as
11 Drey 300 with an associated phone number of (864)901-0404
12 and that incoming phonecall lasted seven minutes and 35
13 --.

14 Q. Okay. All right. And that time, would that be when
15 the call was initiated and then you could add the duration
16 of time to when it ended or is that time from when it
17 ended?

18 A. Correct. The time stamp would be the time that was
19 initiated whenever he answered the phonecall.

20 Q. So that call would of gone to 1:40---

21 A. Been about 1:44.

22 Q. 1:43, 1:44?

23 A. Uh-huh. (Affirmative).

24 Q. Yeah, 1:44.

25 All right. And are you able -- were you able to find

1 anything in the searched items of Mr. Thompson's phone
2 that was of note?

3 A. Yes.

4 Also on October the 25th at 2020 on 20 -- year
5 2020, at 1:59AM he utilized a Google search and he
6 searched for 2014 Jeep Cherokee.

7 Q. All right. And that's at 1:59?

8 A. Correct. One fifty-nine in the morning. Correct.

9 Q. Okay. Are you able to check -- do a search to see if
10 that (864)349-3788 had ever, or at least on your
11 extraction, had ever communicated with that device at any
12 other time than the one call that you referenced?

13 A. We can, yeah. It only shows one interaction with
14 this phone and this was the missed phonecall on
15 October 25th of 2020.

16 Q. All right. Okay. Did you, did you have anything
17 else of note on your testimony about this cellphone
18 extraction?

19 A. No.

20 Q. All right. Will you return to the witness stand?
21 well --.

22 A. (WHEREUPON, the witness returns to the stand.)

23 Q. Did you also -- excuse me.

24 when, when you do these, do you get search warrants
25 to, to do the extraction?

1 A. The search warrants are gon' be provided by the
2 officer, the case officer.

3 Q. But they are done?

4 A. Yes.

5 Q. Not by you personally?

6 A. Correct.

7 Q. You get -- just to do the job?

8 A. Correct.

9 Q. All right. Did you also do a report on the phone
10 that was believed to belong to Kenyatta Leiby?

11 A. I did.

12 Q. I hand you 110 and 111 and ask if you can tell me
13 what these are.

14 A. One eleven would be my, my report that I complete on
15 the extraction and 110 would be a flash drive of the cell
16 examined -- final cell exam report for it to show on
17 Leiby's iPhone SE.

18 SOLICITOR SMITH: Your Honor, at this time we would
19 move State's 110 and 111 into evidence.

20 THE COURT: Any objection?

21 MR. MORIN: No, sir.

22 THE COURT: Admitted.

23 (WHEREUPON, State's Exhibit Nos. 110 and 111 were
24 received into evidence at this time.)

25 Q. Sometimes with these phones you don't -- you just

1 create it and then you pass it on to investigators cause
2 you're in high demand?

3 Is that fair?

4 A. At that point, yes, I was the only digital forensic
5 investigator.

6 Q. All right. So, this report, you just noted how you
7 did it, where the phone was got, but not any specific
8 findings about Mr. Lebby's phone?

9 A. That's correct.

10 Q. And, later, were you asked to do two more cellphone
11 examinations of phones that had been found in Greenville
12 associated with this case?

13 A. Yes.

14 Q. I'm gonna hand you 108, 109, 112, and 113 and ask if
15 you can tell me what these are.

16 A. One twelve would be my final report for a cellphone
17 associated with a Deandre Fuller.

18 Exhibit 113 would be my final report on a cellphone
19 associated with a Tyleek Johnson.

20 One fifty-five is a 64 gigabit flash drive containing
21 the cell extraction and my final report from an iPhone 11
22 associated with a Tyleek Johnson.

23 One hundred nine is a flash drive and original
24 cellphone report from an iPhone SE belonging to Deandre
25 Fuller.

1 SOLICITOR SMITH: Your Honor, at this time we would
2 move State's 108, 109, 112, and 113 into evidence.

3 THE COURT: Any objection?

4 MR. MORIN: No, Your Honor.

5 THE COURT: Yes, sir.

6 (WHEREUPON, a bench conference was held out of the
7 hearing of the jury at this time.)

8 Q. These two phones, were search warrants done to get
9 into them?

10 A. I believe so.

11 Yes, both were, both were done -- we had a search
12 warrant.

13 Q. All right. And your information was that these
14 phones were recovered in a trash bag.

15 Is that correct?

16 A. I believe one phone I was advised was recovered in a
17 trashcan in Greenville, South Carolina. That's the one
18 associated to Tyleek Johnson. The other device -- yes,
19 they were both found in the trash, yes.

20 Q. All right. And the red and black case phone is
21 Deandre Fuller's?

22 A. Yes.

23 Q. And then the black -- just the plain black one is
24 Tyleek Johnson's phone?

25 A. That's correct.

1 SOLICITOR SMITH: All right. Your Honor, at this
2 time we would seek to admit 112, 113, 108, and 109.

3 THE COURT: Subject to your prior arguments, I'm
4 gonna admit that into evidence.

5 (WHEREUPON, State's Exhibit Nos. 108, 109, 112, and
6 113 were received into evidence at this time.)

7 Q. All right. Can you come load these and then we'll
8 talk about, while that's loading, and then we can avoid a
9 break.

10 A. Okay.

11 (WHEREUPON, the witness comes down from the stand.)

12 Q. Okay. We can start with Mr. Fuller's. It's shorter.

13 A. Okay.

14 Q. Switch to that. I don't know. He's just come in
15 trying to get this thing cued. We, we shut it off.

16 A. Okay. Thank you.

17 Q. Sorry.

18 A. That's all right.

19 Q. Back up for me. State's Exhibit 122.

20 This is the formats of the reports that you generate?

21 A. That's correct.

22 Q. All right. And this device information, does it list
23 the cellphone number that was associated with this phone?

24 A. It does.

25 Q. All right. It's (864)787-8627?

1 A. That's correct.

2 Q. All right. And it also has emails that are linked
3 with the Apple account?

4 A. That's correct.

5 Q. And one of those is deandrefuller83?

6 A. That is correct.

7 Q. In this one you, you actually did find some things
8 that you put in your report and it then found additional
9 things later.

10 Is that correct?

11 A. That's correct.

12 Q. All right. So going to Page 3 of your report, you
13 found a Facebook message thread that you thought was of
14 note?

15 A. I did.

16 Q. All right. And this was a conversation between a
17 Facebook person named Hit A Guns and Grizzly King was the
18 owner?

19 A. That's correct.

20 Q. And you have that these messages -- that this one is
21 UTC, correct?

22 A. No, this is not UTC.

23 Q. Okay. Well, I was looking at -- on your notes, it
24 says chat one. These messages were on 10/25/2020 and then
25 it has UTC.

1 Does that mean that it's adjusted already or --?

2 A. No, the UTC minus four means that it's adjusted. You
3 see UTC plus zero, it has not been adjusted.

4 Q. Okay. Why did you think that this was of note?

5 A. There was a doc -- if you see it, the
6 10:59:53 message, that's a message stating that, that has
7 a strap for sale.

8 Q. What do you know, know, through your law enforcement
9 experience, a strap to be?

10 A. A firearm.

11 Q. All right. And this incident occurred in the early
12 morning hours of October 25th of 2020?

13 A. It's actually showing at 10:59 in the afternoon, late
14 that after---

15 Q. No, no. The, the, the crime.

16 A. Oh, the crime, yes. I'm sorry. Yes.

17 Q. So, this is the night -- the crime occurred in the
18 morning. This is the night of the day of the crime.

19 A. You're correct, yes, sir.

20 Q. All right. And in -- do -- when, when you do a cell
21 extraction and you get Facebook messages, do you --
22 sometimes are not able to access an image that's sent?

23 A. That's correct, yes.

24 Q. All right. And do you know if it appeared to you
25 that an image had been sent here potentially?

1 A. Yes, it appeared that there was an image that had
2 been sent.

3 Q. Okay. Does the, does the Cellebrite show you that
4 there was something sent but you just can't click on it
5 and access it?

6 A. I believe so, yes.

7 Q. All right. And then there are phonecalls and then
8 some messages?

9 A. Correct.

10 Q. All right. And then -- is there anything else about
11 that conversation that you thought of note?

12 A. Yes.

13 If you look at the, at the 10:22 message there from
14 the owner -- from Hit A Guns, it says I ain't killed
15 nobody, brah. That's real.

16 Q. Okay. What, what did you think that might have
17 anything to do with?

18 A. From the -- reading that, it appears that somebody's
19 accusing him---

20 MR. MORIN: Objection.

21 A. ---of killing somebody.

22 MR. MORIN: That calls for speculation.

23 THE COURT: Sustained.

24 Q. All right. You also highlighted a chat with Simone
25 Lewis?

1 A. That's correct.

2 Q. This is also occurring on October the 25th?

3 A. Yes.

4 Q. And what was it of note on this call or on this text
5 chain that you put---

6 A. On a---

7 Q. ---as a note?

8 A. If you look at the eleven o'clock message on the
9 25th, it says a strap for sale but one of the bros got
10 it.

11 Q. All right. Okay. You also found some images, this
12 is black and white, but you found some images of Mr.
13 Fuller on the phone?

14 A. I did.

15 Q. What was of note about them to you?

16 A. The firearm that he was holding specifically.

17 Q. Okay. And, at this point, that, that firearm was
18 recovered when you did your analysis, correct?

19 A. I believe so, yes.

20 Q. And so you, you were looking through the phone for
21 any images of that specific firearm?

22 A. Correct.

23 Q. All right. And these are two, I don't know if it
24 says created, but is, is that accurate of -- as of the
25 time that those were -- the images were created?

1 A. Yes, the creation date was captured with the
2 metadata, correct.

3 Q. All right. Can you come see if this -- I think it
4 might of done it.

5 A. Okay. It's done.

6 Q. All right. Again, this is, this is Deandre Fuller's
7 phone we're about to look at from Cellebrite, correct?

8 A. That's correct.

9 Q. Were you able to find a hotel bill with Tyleek
10 Johnson's name on it on February the 9th of 2021?

11 A. Yes. Yes.

12 Q. What is the date on this one?
13 February 9th?

14 A. February 9th. Sorry. I had the wrong date, the
15 wrong notes.

16 Q. All right. Can, can you enlarge -- can you flip that
17 and enlarge it?

18 A. Yeah.

19 Q. All right. Who is this hotel bill to?

20 A. Tyleek Johnson.

21 Q. All right. And what is the phone number that's
22 associated with Mr. Johnson?

23 A. (864)309-9465.

24 Q. All right. Were you also able to find a picture of
25 Mr. Fuller with a firearm that was of interest on this

1 date as well?

2 A. Yes.

3 Q. Can you just have the images pulled up and not
4 messages?

5 A. Yeah, just images.

6 Q. well, let's --.

7 A. I actually have in my notes that I can't find
8 anything on that date---

9 Q. Okay.

10 A. ---from that night.

11 Q. I'll move on.

12 Can you show, just going back without any filters
13 on---

14 A. Uh-huh. (Affirmative).

15 Q. ---mentions of the phone number (864)566-1072?

16 A. (864)566-1072?

17 Q. Yes.

18 A. Yes, there's plenty of artifacts in here associated
19 with that number.

20 Q. And can you tell the jury what some of those -- what,
21 what is the gist of those?

22 A. The -- these -- all these numbers, the (864)566-1072,
23 appear in several chats where the individual is providing
24 that number to the other individual at the end of the line
25 for them to call.

1 Q. Okay. And the individual that's providing 1072 is
2 who?

3 A. Grizzly King would be the Facebook post, the Facebook
4 person.

5 Q. All right. So, these are Facebook messages largely
6 that you're seeing, but they're on this phone that's not
7 1072 or a -- it's---

8 A. Correct.

9 Q. ---a different number?

10 A. That's correct.

11 Q. All right. Were you able to find a picture on
12 February 11th of Mr. Johnson?

13 A. February 11th?

14 Q. Yes.

15 A. Yes.

16 Q. Okay. That's Deandre Fuller, right?

17 A. That would be -- yes, that's Fuller, yes.

18 Q. Right.

19 All right. Will you blow that picture up?

20 A. All right.

21 Q. Do you know who those people are?

22 A. Yes, that would be Tyleek Johnson and Deandre Fuller.

23 Q. All right. And that's from February 11th, 2021?

24 A. Correct. Yes, that would be from February the 11th,
25 2021, at five o'clock in the afternoon.

1 Q. Did you find a picture on January 27th of 2021 of a
2 BMW?

3 A. Yes.

4 Q. All right. Are there two pictures, a front and back?

5 A. There are.

6 Q. Okay. Can you see any contact between -- one second.

7 Can you see if there are any communications with the
8 number (864)309-9465?

9 A. Yes, there's quite a few contacts. It appears to be
10 73 calls between this device and that number.

11 Q. Okay. Can you tell if that number has a contact for
12 it?

13 A. Yes, it appears that number was saved in the contacts
14 as Max.

15 Q. All right.

16 A. Max 100.

17 Q. Okay. And then you're saying, going back, that there
18 are numerous phonecalls.

19 what else type of --?

20 A. Seventy-three phonecalls, one chat, and one instant
21 message associated with that member.

22 Q. All right. And do you know that the -- can you
23 tell -- and the dates of, of those?

24 A. The phonecalls appear to go from -- they appear
25 two -- from October 10 -- correction. February 10th,

1 2021, to February the 16th of 2021.

2 Q. Okay. And 73 calls in that time period?

3 A. Correct. Yes.

4 Q. Were you able to find a video on February 9th that
5 was sent in a message at 11 -- at 11:06 at 17 seconds?

6 A. Okay. February 29th?

7 Q. February 9 --

8 A. February 9th.

9 Q. -- of '21.

10 11:06 and 17?

11 A. 11:06:17. 11:06.

12 What time?

13 Eleven --?

14 Q. February 9th. You're in the 8th.

15 A. Okay. Thank you. I'm not showing anything on
16 that -- at that timeframe.

17 Q. You're still on the 8th.

18 A. I'm down here on the 9th, 12:30AM. So, at the same
19 time, 11:00AM.

20 Q. Okay.

21 A. A lot of messages that day. I'm getting there. I'm
22 not showing anything at 11:06:17.

23 Q. 11:06:17.

24 A. Sometimes the AMS and PMS get confused. Yes. Yes.

25 Q. Yeah.

1 All right. Will you please play that?

2 (WHEREUPON, an audio was played for the jury at this
3 time.)

4 Q. And you did find associations with a Takila Terry on
5 February 3rd with this phone as well?

6 A. I believe so, yes.

7 What was the name again?

8 I'm sorry.

9 Q. Takila Terry. It's February 3rd images.

10 A. Images. Thank you.

11 Yes. Appears to be a letter from a solicitor with
12 her name and address on it.

13 Q. All right. And there was call detail records taken
14 from many of the numbers in this case.

15 Did I ask you to compare numbers of -- on the call
16 detail records to these phone extractions?

17 A. Yes.

18 Q. Will you -- can you tell me what, on this device,
19 has -- what communications are with (864)566-1074?

20 A. (864)566 -- there's a total of eight phonecalls
21 between this device and (864)566-1074.

22 Q. All right. And can you tell me what that contact's
23 named is saved as?

24 A. It's saved as Kedabug.

25 Q. Would you please show the jury (864)626-2100?

1 A. Yes, there appears to be a total of six phonecalls
2 between this device and that contact with that contact
3 being saved as My Big Homey Cool.

4 Q. All right. Will you, will you also look at the
5 number (864)263-9921?

6 A. That device shows two chats between this number and
7 that device --

8 Q. All right.

9 A. -- between this device and that number.

10 Q. And, and then these are numbers that appear in the
11 call detail records of both Tyleek Johnson's phone number
12 and the phone number 566-1072?

13 That was the purpose of these prepared --?

14 A. That's correct, yes.

15 Q. All right. Will you start getting Mr. Johnson's
16 uploaded and go back to the stand.

17 A. (WHEREUPON, the witness returns to the stand.)

18 Q. All right. While that's loading, State's Exhibit
19 116, is this an image of the hotel bill that you showed
20 the jury on your phone?

21 A. Yes, it is.

22 SOLICITOR SMITH: Your Honor, at this time we'd move
23 State's 116 into evidence.

24 THE COURT: Any objection?

25 MR. MORIN: I'm sorry?

1 THE COURT: Any objection to the admission of 116,
2 the hotel bill?

3 MR. MORIN: No.

4 THE COURT: Admitted.

5 (WHEREUPON, State's Exhibit No. 116 was received into
6 evidence at this time.)

7 Q. All right. Look -- while this is loading, looking at
8 your report on Mr. Johnson's phone, State's 113, this is,
9 again, your, your Sheriff's Office report that you did?

10 A. That's correct.

11 Q. All right. And the phone number that's associated
12 with this number is what?

13 A. (864)309-9465.

14 Q. All right. And then it has two -- it looks like --
15 looks like the same other than a capitalization, two
16 different email addresses with Tyleek in the name?

17 A. That's correct.

18 Q. And what does this owner name indicate?

19 A. The owner name, that's what the iPhone associates as
20 the owner and---

21 Q. Okay.

22 A. ---within their software.

23 Q. Okay. But how did you -- do you know how that gets
24 done?

25 A. I have no idea how that gets stored in Apple's

1 software.

2 Q. Apple, Apple doesn't know who bought the phone,
3 right?

4 A. Correct. No.

5 Q. I mean is that entered by the user or selected by the
6 user?

7 A. It would have to be entered by the user, yes.

8 Q. All right. While that's loading, you were able to
9 pull -- what number's do we have up here?

10 You were able to find images on Tyleek Johnson's
11 phone that you thought were relevant to this case,
12 correct?

13 A. That's correct.

14 Q. And there is at least -- there's four separate
15 occasions where Tyleek Johnson is seen with a firearm you
16 thought was of note in this case.

17 Is that correct?

18 A. Correct.

19 Q. And the earlier of that is in November, correct?

20 A. Yes.

21 Q. November of 2020?

22 A. Correct.

23 Q. The first, the first would be a, a series of photos
24 that we'll, we'll look at on the extraction.

25 But you actually were able to pull those off---

1 A. Correct.

2 Q. ---from November 14th of 2020?

3 Is that correct?

4 A. That's correct.

5 Q. This is State's 133 and 135.

6 Are these the images that you pulled from I think

7 I -- you said November 17th?

8 I'll have to go back and look at my notes.

9 A. November 14th.

10 Q. November 14th?

11 A. That's correct.

12 SOLICITOR SMITH: Your Honor, at this time we would
13 move State's 133 and 135 into evidence.

14 THE COURT: Any objection?

15 MR. MORIN: No, sir.

16 THE COURT: Admitted.

17 (WHEREUPON, State's Exhibit Nos. 133 and 135 were
18 received into evidence at this time.)

19 Q. Was this, was this that firearm that you had been
20 interested in?

21 A. Yes.

22 Q. That was State's 133 that, that last question was
23 about. This is State's 135.

24 Just a different angle of that firearm?

25 A. That is correct.

1 Q. Did you find a series of pictures on December
2 19th on this device as well?

3 A. I did.

4 Q. I hand you State's 136, 137, 38, 39, 40, and 41, 136
5 through 141, as if you can tell me if those are the
6 pictures you found on this device?

7 Got too many dates in my head. I'm sorry.

8 A. December 19th.

9 Q. December 19th. You're doing better than me.

10 A. Yes, these are the images that were found on
11 December 19th on that device.

12 SOLICITOR SMITH: Your Honor, at this time we would
13 move State's 136 through 141 into evidence.

14 THE COURT: Any objection?

15 MR. MORIN: No.

16 THE COURT: Admitted.

17 (WHEREUPON, State's Exhibit Nos. 136 through 141 were
18 received into evidence at this time.)

19 Q. This is 137 and State's 138.

20 Do you know who this individual is?

21 A. Tyleek Johnson.

22 Q. All right. One thirty-nine.

23 Do you know who this is?

24 A. Deandre Fuller.

25 Q. One forty, who -- who's in these pictures?

1 A. That would be both Deandre Fuller and Tyleek Johnson.

2 Q. And then another angle of the both of them?

3 A. That's correct.

4 Q. Were you able to pull some photos from February
5 10th of 2021?

6 A. I was.

7 Q. This is State's 142 and 143.

8 Tell me what these are.

9 A. Yeah, these are photographs that were pulled off of
10 the phone dated February 10th.

11 SOLICITOR SMITH: Your Honor, at this time we would
12 move State's 142 and 143 into evidence.

13 THE COURT: Any objection?

14 MR. MORIN: No, sir.

15 THE COURT: They're admitted.

16 (WHEREUPON, State's Exhibit Nos. 142 and 143 were
17 received into evidence at this time.)

18 Q. This is State's 142.

19 who is that?

20 A. That would be Deandre Fuller.

21 Q. And this is State's 143.

22 I'm just gonna refer back. This doesn't involve you.

23 But this part of the evidence didn't come in.

24 But will you look at this in the back?

25 Do you see what's on this -- what's on the table?

1 A. Yeah, it seems to be a yellow bottle and a white and
2 red box.

3 Q. All right. And this is State's 63.
4 Does that appear to be the same location?

5 A. It does.

6 Q. There's a calendar behind this box.

7 A. Correct.

8 Q. Did you find additional photos on February 11th of
9 2021---

10 A. I did.

11 Q. ---on this device?

12 A. I did.

13 Q. This is State's 141, 145.

14 Can you identify what those are?

15 A. Yes, these are the images that was taken off on
16 February 11th from the phone.

17 SOLICITOR SMITH: Your Honor, at this time we would
18 move State's 144 and 145 into evidence.

19 MR. MORIN: No objection.

20 THE COURT: Admitted.

21 (WHEREUPON, State's Exhibit Nos. 144 and 145 were
22 received into evidence at this time.)

23 Q. Who's in this photo?

24 A. Well, Tyleek Johnson and Deandre Fuller.

25 Q. That's 144 and then, State's 145, what's in this

1 photo?

2 A. That would be Deandre Fuller with the firearm.

3 Q. I think we're ready.

4 A. Okay.

5 Q. Come on down. We're gonna transition.

6 A. (WHEREUPON, the witness comes down from the stand.)

7 Q. You ready?

8 A. Yes, sir.

9 Q. All right. Were you able to find or can you look and
10 see if there are any communications on this device with
11 Tyleek Johnson with (864)787-8627, which is the number
12 associated with the previous extraction?

13 A. Yes, it appears to be a -- 17 phonecalls and a chat.

14 Q. All right. And is there a text on February
15 15th where eight -- the 8627 number identifies who, who
16 this is?

17 A. Yes, it says New Sin and just can't use Internet.
18 This Nana.

19 Q. Okay. Nana.

20 All right. And do they have a message on
21 February 16th of 2021 from that same number saying we
22 need to talk?

23 A. Yes, at about 10:41 in the morning there's a message
24 from (864)787-8627 to this device stating we got to talk.

25 Q. All right. Can you show the jury what connections

1 this phone has with (864)566-1072?

2 A. Yes, there appears to be several chats involved with
3 that number and this device.

4 Q. Is there a contact saved with that phone number?

5 A. There is. There's a contact saved as Nana.

6 Q. Nana.

7 A. Correct.

8 Q. And there's other communications, not just a contact,
9 but --.

10 A. Correct. There appears to be some chats involving
11 that number.

12 Q. Can you look up the number (864)908-2071?

13 A. Yes, there are several artifacts on here. It appears
14 to be 129 phonecalls between this device and that phone
15 number and four chats associated with it. And it is saved
16 in contacts under the name My with an icon that appears to
17 be a globe. So, My world.

18 Q. All right. Have you looked at any of those to know
19 who, who that might be, any of the communications about
20 who the connection of My world is?

21 A. Let's see. Looking at several of the contacts, it
22 appears it could be a, a child's mother.

23 Q. Okay. Will you look up the number, I don't think we
24 did this already, but (864)566-1074?

25 A. Yes, that device has several artifacts as well. But

Brandon Letterman - Direct examination
By Sol. Smith

1 it appears to be 21 phonecalls associated with one chat
2 and it has -- it's saved in contacts with the entry of
3 Bug.

4 Q. Okay. And that was Kedabug in the previous
5 extraction, that phone number?

6 A. That's correct.

7 Q. All right. And this -- these numbers that I'm asking
8 you about, this (864)908-2071 and the 566-1074, those are
9 numbers that appear in Mr. Johnson's call detail records,
10 correct?

11 A. That's correct.

12 Q. All right. And then I asked you to look at numbers
13 that are in the 1072's call detail records to see if there
14 was any evidence of those numbers being associated with
15 this device, correct?

16 A. Correct.

17 Q. Were you able to find -- well, one of those numbers
18 was two zeros -- that ends in 2071, My World, correct?

19 A. Correct. Yes.

20 Q. That appears in Deandre Fuller's call detail records?

21 A. Correct.

22 Q. And there's another number, (864)484-0882, that was
23 Mr. -- that was in the 1072 call detail records.

24 Does that have a connection with this phone?

25 A. Yes, it's -- there's a chat associated with it.

1 Q. All right. And another number that was on the call
2 detail records was (864)626-2100.

3 A. Yes, that device also has a chat with this device,
4 that number.

5 Q. All right. And what is it?

6 Does that have a contact saved with it?

7 A. It does. It has contact saved as Kool, K-O-O-L.

8 Q. So, the, the conclusion you, you were able to reach,
9 if I may, is that the 1072 number and Mr. Johnson's number
10 have commonalities that interact as, as well as Mr.
11 Fuller's other number?

12 A. Correct. Yes.

13 Q. Let's see.

14 All right. Will you please go back to the stand and
15 answer any questions Mr. Morin has or, or don't, don't---

16 MR. MORIN: He can stay right there. Now we got---

17 SOLICITOR SMITH: Yeah. No, he just did the -- this
18 place---

19 THE COURT: Excuse me, Mr. Morin?

20 MR. MORIN: I was gonna ask if he just stay right
21 there. I have---

22 THE COURT: Stay right there.

23 MR. MORIN: ---more questions --

24 THE WITNESS: Sure.

25 MR. MORIN: -- on that.

1 CROSS-EXAMINATION

2 BY MR. MORIN:

3 Q. Can you bring up -- bring back that 908-2071?

4 A. 908-2701?

5 Q. 2071.

6 A. Yeah.

7 Q. No.

8 A. Yeah.

9 SOLICITOR SMITH: 207.

10 A. 20 -- I'm, I'm sorry.

11 Q. Yeah.

12 okay.

13 A. okay.

14 Q. This, this person on this phone is over a hundred
15 calls to him?

16 A. Correct. Yes.

17 Q. And you indicated that this appears to be a child's
18 mother.

19 Is that right?

20 A. Correct.

21 Q. Were you able to determine if it was Mr. Johnson's
22 child?

23 A. I was not, no.

24 MR. MORIN: That's all the questions I have.

25 THE COURT: All right.

1 REDIRECT EXAMINATION

2 BY SOLICITOR SMITH:

3 Q. All right. Well, it -- it's labeled as My world,
4 correct?

5 A. That is correct.

6 Q. All right. And have you read through all of the
7 chats or this is just to compare the two numbers?

8 A. Just to compare the two numbers.

9 SOLICITOR SMITH: All right. That's all I have, Your
10 Honor.

11 THE COURT: Thank you.

12 May this officer be excused?

13 MR. MORIN: Yes.

14 SOLICITOR SMITH: If he would like to be.

15 MR. MORIN: I have no objection.

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

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: All right. Madam Forelady, ladies and
19 gentlemen of the jury, it's a quarter of 5:00. I'm gonna
20 go ahead and call it for the day.

21 Would you leave your notes in the jury room and can
22 we start at 9:30 in the morning like we did today?

23 THE JUROR: Yes, sir.

24 THE COURT: Very good.

25 Remind you not to see, speak, or talk to anybody

1 about this case and see you in the morning. Have a good
2 evening.

3 THE FORELADY: Thank you.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 THE COURT: Any matters -- I'm sorry. I'm sorry.

7 THE BAILIFF: No, we're fine.

8 THE COURT: Any matters before we break for the
9 afternoon?

10 SOLICITOR SMITH: No, Your Honor. Glad we finished.

11 THE COURT: I am too.

12 MR. MORIN: No, sir. I don't have anything for you.

13 THE COURT: See y'all in the morning.

14

15 (WHEREUPON, Court was in recess for the evening.)

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1 Thursday, May 15th, 2025

2

3 THE COURT: All right. How's it looking from the
4 State's prospective?

5 SOLICITOR SMITH: We have at least our first two
6 witnesses present. Should have the rest of them.

7 THE COURT: How many more do you anticipate today?

8 SOLICITOR SMITH: Six.

9 THE COURT: Sounds like a winner.

10 SOLICITOR SMITH: Hopefully it will---

11 THE COURT: And you got them under way --

12 SOLICITOR SMITH: I have---

13 THE COURT: -- as best you can.

14 SOLICITOR SMITH: Yes. Actually three of them are,
15 are, are present.

16 THE COURT: Mr. Morin, how about yourself?

17 Anything from the defense side we need to worry
18 about?

19 MR. MORIN: The only thing I wanted to do is a
20 procedural thing, Your Honor. Obviously it's gonna be
21 voir dire when they put up their witness -- expert to talk
22 about location. I figured we'll take the jury out.
23 There's something else that's come up---

24 THE COURT: Just remind me. If you want them out,
25 I'll get them out.

1 MR. MORIN: Okay.

2 THE COURT: All right. All right. Guys, if y'all
3 are ready to go, let's bring the jury in?

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: Good morning.

7 (WHEREUPON, the jurors respond good morning.)

8 THE COURT: I hope everybody had a nice evening.

9 Before we get started, let me ask the members of, of
10 our jury, has anybody read, seen, or heard anything about
11 this case while on break?

12 If so, raise your hand?

13 (WHEREUPON, there was no response.)

14 THE COURT: Have you spoken with anybody about this
15 case or anybody attempted to speak to you about this case?

16 (WHEREUPON, there was no response.)

17 THE COURT: Excellent. Thank you very much.

18 All right. Call your next witness please, counsel.

19 SOLICITOR SMITH: The State calls Andrew Edwards.

20 THE CLERK: Raise your right-hand. Place your
21 left-hand on the Bible.

22 ANDREW EDWARDS, being first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR SMITH:

1 Q. Will you please introduce yourself to the jury?

2 A. Andrew Edwards.

3 Q. All right. Mr. Edwards, do you know Timothy Thompson
4 or Kelli Curran?

5 A. No.

6 Q. Did you buy a firearm in April of 2017?

7 A. I -- yes.

8 Q. And what can you tell the jury about that firearm?

9 A. I am the original builder. I bought the lower off of
10 Joe Bob's Outfitter.

11 SOLICITOR SMITH: Is his mic on?

12 I don't think it's on.

13 THE CLERK: It's on.

14 Q. Can you speak up?

15 A. All right.

16 Q. All right. So --.

17 A. I'm the original builder of the firearm. I purchased
18 the lower off of joejobsoutfitters.com and got everything
19 transferred over.

20 Q. Okay. And you provided law enforcement, enforcement
21 with a receipt that you had for that --

22 A. Yes, sir.

23 Q. -- purchase, correct?

24 Hand you State's Exhibit 81.

25 Can you tell me what this is?

1 A. That's the bill of sale where I transferred it into
2 my name.

3 Q. All right. And it has your driver's license on it as
4 well?

5 A. Yes, sir.

6 SOLICITOR SMITH: Your Honor, at this time we'd moved
7 State's 81 into evidence.

8 THE COURT: Any objection?

9 MR. MORIN: No, sir.

10 THE COURT: Admitted.

11 (WHEREUPON, State's Exhibit No. 81 was received into
12 evidence at this time.)

13 Q. All right. Are, are you somewhat of a firearms
14 enthusiast?

15 A. A little bit.

16 Q. Do you -- is it just a hobby or you do anything work
17 related with firearms?

18 A. Just hobby.

19 Q. Okay. When you talk about a lower, can you explain
20 to the people on the jury that might not be gun people
21 what, what that means?

22 A. All right. So, the lower is the firearm. It's got
23 the serial number on it and it is the part where the
24 trigger and everything is.

25 Q. All right.

1 A. That's just the lower part of the, the receiver.

2 Q. Okay. And then there's an upper I guess?

3 A. Yes, the upper is where the barrel and everything is.

4 Q. All right. And so you assembled the upper and the
5 lower together?

6 You then picked what your upper was and made a gun, a
7 complete gun?

8 Is that fair?

9 A. Yes. Yes.

10 Q. You can correct me if I'm being ignorant.

11 A. I mean it's a little bit more than that but sums
12 up -- sums it up. So --.

13 Q. All right. And did you provide the State with a
14 picture of the firearm that you had back in the -- 2017?

15 A. Yes, sir.

16 Q. I'm gonna approach with State's Exhibit 119.

17 Is that the picture that you sent?

18 A. Yes, sir, that's the original build.

19 SOLICITOR SMITH: Your Honor, at this time we'd move
20 State's 119 into evidence.

21 THE COURT: Any objection?

22 MR. MORIN: No, sir.

23 THE COURT: Admitted.

24 (WHEREUPON, State's Exhibit No. 119 was received into
25 evidence at this time.)

1 Q. This, this State's 81 has the serial number of the
2 firearm on it as well here, correct?

3 A. Yes.

4 Q. And this is State's 119.

5 All right. You opened -- ultimately gave -- sold
6 that firearm to somebody else.

7 Is that correct?

8 A. Correct.

9 Q. What can you tell the jury about that sale?

10 A. I sold it to a buddy of mine.

11 Q. Okay. And, and who is that?

12 A. Jason Williams.

13 Q. Okay. And where, where was this done?

14 A. At his house.

15 Q. One second.

16 (Pause.)

17 Q. All right. Did you ever go to Brakes 4 Less and do
18 anything with selling a firearm there?

19 A. I went with him whenever it was sold to the fellow at
20 Brakes 4 Less.

21 Q. Okay. Tell me about that. Sorry. I got confused
22 for a second.

23 A. He just didn't know him. So, I just rode with him
24 because I had built another, another one that he wanted
25 instead. So, he sold that one and I -- he did a bill of

1 sale and everything with that I'm pretty sure.

2 Q. All right. Do you, do you know the person that he
3 sold it to or no?

4 A. No.

5 Q. You've seen him though?

6 A. I seen him. I, I stayed in the truck.

7 Q. Okay.

8 A. I didn't get out and speak with him.

9 Q. But that, that was done at Brakes 4 Less?

10 A. Correct.

11 Q. In Spartanburg?

12 A. Yes.

13 Q. Okay. I'm gonna show you State's 134, and, like I
14 told you, if I hand this to you, don't point it at anybody
15 please.

16 A. Yes, sir.

17 Q. I show you State's 134.

18 Ask if you can tell me what this is.

19 You can look at it if you need to.

20 A. Yeah, that's -- there's a few things different. But
21 it is the one that I built.

22 Q. All right. Looking at -- I know you said that there
23 are things different.

24 what, what is different on this gun than, than --?

25 A. So, this piece right here, your arm brace, that's not

1 what was on there when I sold it.

2 Q. All right.

3 A. And then, up here where the, the optics sits, this
4 was not there.

5 Q. Do you call that a rail?

6 Is that --?

7 A. Yes, it's like a high rise rail.

8 Q. All right. This -- and forgive my lack of
9 terminology. You called it a brace on this gun but --.

10 A. Correct.

11 Q. This is what you had when you sold it?

12 A. Yes, that is called a cheek rest.

13 Q. As seen in State's 119.

14 All right. But the firearm has a serial number on it
15 and it's the same serial number as on State's 81?

16 A. Yes.

17 Q. All right. Is this -- is there anything else that's
18 distinctive about this firearm to you or anything that is
19 of note of --?

20 A. One of the biggest things is the trigger. That's a
21 \$300.00 trigger. Not many people will spend 300.00 bucks
22 on a trigger.

23 Q. All right. If -- and is the, is the trigger the
24 entire thing or the red portion---

25 A. The---

1 Q. ---or is that all one piece?

2 A. So, the piece that the -- the red piece's on here --

3 Q. Uh-huh. (Affirmative).

4 A. -- this whole thing is the trigger and it sits inside
5 here and that's what strikes the round.

6 Q. Okay. And you also have this, this Spartan helmet
7 that's seen in---

8 A. Correct.

9 Q. ---State's 119?

10 That's also on the firearm that you have---

11 A. Yes, sir.

12 Q. ---134?

13 Is there anything else that is distinctive about this
14 firearm to you?

15 A. The -- I added this right here, the dust cover. It's
16 got American flag on it.

17 Q. Okay. Can you make -- can he step off, Your Honor,
18 and show the jury what he's talking about?

19 THE COURT: Yes, sir, he may.

20 Q. You, you can get up and, and let them see closer or,
21 if, if need be, we can put it up on the ELMO as long as we
22 figure out how to not point it at anybody.

23 A. (WHEREUPON, the witness comes down from the stand.)

24 Q. Right here.

25 THE COURT: Did everybody see it on the whole jury?

1 (WHEREUPON, the jurors nod negatively.)

2 THE COURT: would you take it all the way down
3 please, sir?

4 THE WITNESS: Yes.

5 Q. Okay. It also has writings about the Joe Bob
6 outfitters that you mentioned earlier as being who you
7 purchased it from on it?

8 A. Yes, sir.

9 Q. All right. And the last item that you just showed
10 the jury, you called it a dust cover?

11 A. Yes, sir.

12 Q. What does that do?

13 A. So whenever you're not firing a weapon, it closes.
14 It keeps the dust and dirt and debris from getting in
15 there, and, whenever you shoot your round, it will open
16 up. Whenever you engage a round, it opens up
17 automatically.

18 Q. All right. I'm gonna show you State's 137.

19 Do you recognize the firearm in this individual's
20 right-hand?

21 A. Yes, sir.

22 Q. And is that the firearm that's in front of you,
23 State's 134?

24 A. Yes, sir.

25 Q. I -- we didn't talk about this, but what about

1 this -- is this something, the grip, is that something
2 that comes -- that, that something that you selected?

3 A. That's something I chose. It's a TROY rail with
4 squid grips in it.

5 Q. Okay. I know the jury hasn't felt it. They can feel
6 it when they get back in the jury room.

7 But it's like a rubbery type thing?

8 A. Yes, sir, it's a comfort. I --.

9 Q. All right. This is State's 145.

10 Do you recognize this firearm?

11 A. Yes.

12 Q. All right. Is that the firearm that's in front of
13 you, State's 134?

14 A. Yes, sir.

15 Q. Okay. That magazine or drum on it, that is not what
16 you had on it?

17 A. No, sir.

18 Q. All right. And we've talked about the brace is not
19 the same?

20 A. Correct.

21 Q. I -- are, are those things easy to change out like
22 the brace and the, the magazine, drum?

23 A. Yes, sir.

24 Q. All right. Please answer any questions Mr. Morin
25 has.

1 MR. MORIN: No questions.

2 THE COURT: All right. Thank you, sir. You're
3 excused.

4 SOLICITOR SMITH: State calls Rogers Reynolds.

5 THE CLERK: Place your left-hand on the Bible and
6 raise your right-hand.

7 ROGER REYNOLDS, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR SMITH:

11 Q. Will you please introduce yourself to the jury?

12 A. Roger Reynolds.

13 Q. All right. And, Mr. Reynolds, there's a firearm in
14 front of you, State's 134.

15 Do you recognize that item?

16 A. I do.

17 Q. How do you recognize it?

18 A. Mainly the floor grip with the rubberized circles in
19 it, the flat red trigger, I, I remember that, and the
20 brace on the back.

21 Q. All right. So, the brace on the back, do you
22 remember -- what do you remember about that?

23 A. I -- it was -- I just remember, when I bought it, it
24 had that style brace. I can't say if that's the same
25 exact one. But it had a different one than the other

1 gentleman was saying it had.

2 Q. And, and how did you come into possession of this
3 firearm?

4 A. So, there was a group on Facebook Marketplace that
5 sold firearms. I found it in that group.

6 Q. All right. And how -- you ended up making a deal to
7 purchase it?

8 A. Yeah, I messaged the guy. He came to Brakes 4 Less
9 like you had mentioned earlier. While I was on my lunch,
10 I bought it from him then.

11 Q. Do you know around about when was this?

12 A. I don't.

13 Q. You have a, a year, any idea?

14 A. I don't.

15 Q. Okay. Did you end up selling this firearm at some
16 point?

17 A. I did.

18 Q. And who did you sell that firearm to?

19 A. Tim.

20 Q. All right. You said Tim.

21 Is that Timothy Thompson?

22 A. Yes, sir.

23 Q. Did you know him?

24 A. Briefly. My sister used to live across the street
25 and I helped him work on a couple of his vehicles. That

1 was how I was introduced to him.

2 Q. All right. And Mr. Thompson lived at ■■■ Walden
3 Circle.

4 Your sister lived across the street at ■■■?

5 A. I don't know the exact address.

6 Q. Okay.

7 A. But it was directly across the street, yes, sir.

8 Q. All right. And so you had -- whether you'd been to
9 Tim's house or not, you're familiar with that area?

10 You've been to that location many times?

11 A. Yes, sir.

12 Q. All right. And do you have any idea when you sold
13 the firearm to Mr. Thompson?

14 A. I don't know the exact date, no, sir.

15 Q. Okay. But you sold it to him personally?

16 You saw him?

17 A. Uh-huh. (Affirmative).

18 Q. I'm gonna show you State's 137.

19 Do you recognize the firearm in this individual's
20 right-hand?

21 A. I do.

22 Q. And how do you recognize that firearm?

23 A. The rubberized floor grip, again, the red flag
24 trigger, and then the blade brace on the back.

25 Q. Did, did you do any modifications to the gun while

1 you owned it?

2 A. No, sir.

3 Q. All right. Please answer any questions Mr. Morin
4 has.

5 MR. MORIN: I have no questions.

6 THE COURT: All right. Thank you, sir. You're
7 excused.

8 SOLICITOR SMITH: State calls Devon Sorgee.

9 DEVON SORGEE, being first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR SMITH:

13 Q. Can you get closer to the mic and introduce yourself
14 to the jury please?

15 A. My name's Devon Sorgee. I have been a Greer
16 residence (sic) for about 20 years. So --.

17 Q. All right. Did you know Timothy Thompson?

18 A. I did.

19 Q. How did you know him?

20 A. I met him right outside of the tire shop he used to
21 work at at a gas station. My car was having trouble. He
22 agreed to help me. I met him at his shop the next day and
23 kind of struck up a friendship after that and just
24 continued to work on cars together.

25 Q. Do you remember around about when that was?

1 A. It would had to been some -- I believe some time in
2 around late 2018, early 2019 --

3 Q. All right.

4 A. -- in that area.

5 Q. And from the time of meeting him to his death, what
6 was y'all's relationship?

7 what would you describe your relationship as?

8 A. Kind of a work, play type relationship. Like we
9 would, we would work on cars unless we fixed cars. We
10 would take a couple days off and just have some cookouts,
11 you know, have target practice cause we loved to shoot
12 guns. I mean it was just a, a platonic friendship.

13 Q. Okay. Did you know Kelli Curran?

14 A. I did.

15 Q. How did you know her?

16 A. So, I worked at the restaurant right next door to the
17 bar she used to go at -- to all the time.

18 Q. All right. And were you responsible for, for them
19 getting together?

20 A. Yes, sir.

21 Q. Have you been to the house at [REDACTED] Walden Circle
22 before?

23 A. Absolutely.

24 Q. Many, many times -- more times than you can count?

25 A. Absolutely.

1 Q. All right. Were you -- are you familiar with the
2 firearms, maybe -- I know he exchanged firearms.

3 But are you familiar with the firearms that Mr.
4 Thompson owned?

5 A. The majority of them, yeah.

6 Q. All right. You've shot some of these firearms with
7 him?

8 A. Absolutely.

9 Q. Handled them?

10 A. Absolutely.

11 Q. Okay. Inside the house?

12 A. Cleaned some of them.

13 Q. Cleaned.

14 All right. Did you take some pictures, two pictures,
15 of the, the gun cabinet prior to Mr. Thompson's death?

16 A. I did. Mr. Thompson actually asked me to take the
17 picture once he had the cabinet filled with the weapons
18 that he -- of his choosing that he liked.

19 Q. All right. And do you know when you took these
20 pictures?

21 A. I would have to say it was at least maybe two days
22 before the accident had happened.

23 Q. State's 55 and 84, are those the pictures that you
24 took?

25 A. Yes, sir.

1 SOLICITOR SMITH: Your Honor, at this time we'd move
2 State's 55 and 84 into evidence.

3 THE COURT: Any objection?

4 MR. MORIN: No, sir.

5 THE COURT: Admitted.

6 (WHEREUPON, State's Exhibit Nos. 55 and 84 were
7 received into evidence at this time.)

8 Q. Just to clarify, you said the accident.

9 Do you, you think what happened to Mr. Thompson was
10 an accident?

11 A. No.

12 Q. This is State's 55 and this is State's 84.

13 what do you know about this gun as seen in State's
14 84?

15 A. I do know that he was -- after one of them, he had
16 always wanted one, and when he had gotten it, you
17 couldn't, you couldn't keep him away from it. I mean he
18 was shooting it just about every weekend. He would want
19 to clean it after it'd been shot. He loved that gun.

20 Q. All right. Do you know anything about---

21 A. where it came from?

22 No.

23 Q. No?

24 No, I was gonna ask about any of the customizations
25 that are on it.

1 Do you know anything about those?

2 A. So, it came, as, as I could say, it came with the
3 same kind of bump stock on it. He put the red dot on it I
4 do believe because that just showed up one day. He was
5 like at the new addition that I put on there. Here, come
6 outside and try it out.

7 Q. All right. Have you handled this firearm and shot
8 this firearm?

9 A. Absolutely.

10 Q. All right. There's -- State's 134 is in front of
11 you.

12 Do you recognize that?

13 A. Absolutely.

14 Q. And how -- what do you recognize that to be?

15 A. The AR, the AR-9 --

16 Q. Okay.

17 A. -- sitting right there in that picture.

18 Q. In, in Tim's gun cabinet two days before---

19 A. Absolutely.

20 Q. ---or prior to -- all right. I'm gonna go back to
21 State's 55.

22 Do you know any of the -- anything about any of the
23 other firearms in this picture?

24 A. Absolutely.

25 Q. All right. What can you tell the jury about any of

1 these firearms?

2 A. From right to left, that is a .22 rifle. It's his
3 grandfather's. That gun would of never left that house at
4 any means necessary. He loved that gun. It was his
5 grandfather's.

6 Now, the one to the left is a AR-15. It's a .556,
7 shoots .223s. Beside it is another .22 rifle. Beside it
8 is what -- is a AR-15 300 blackout with a diamond plated
9 handgrip. The -- beside that is a 20 gauge, 20 gauge, and
10 the AR-9.

11 Q. All right. So these two are shotguns?

12 A. Yes, sir.

13 Q. All right. Can we switch to my computer?

14 I'm gonna show you what's marked as State's 129 and
15 some -- a picture from Page 529 of Deandre Fuller's
16 Facebook -- from Deandre Fuller's Facebook account.

17 This is not a picture that you took on the left,
18 right?

19 A. On the left?

20 Q. This, this picture on the left is not the picture you
21 took?

22 A. No.

23 Q. Okay. Do, do you recognize this to be Tim's gun
24 cabinet?

25 A. Yes.

1 Q. All right. Looking at these two photos in
2 comparison, can you tell the jury anything about any of
3 the firearms -- and you can start in whatever order you'd
4 like -- I'll try to follow along with mouse --
5 similarities between this picture on the left and the
6 picture on the right?

7 A. The rifle -- the top rifle, woodstock that believes
8 to look like his grandfather's .22.

9 Q. All right. What made you see that besides the
10 woodstock?

11 A. It's got a funky -- I kind of always remembered it by
12 the funky style magazine that it has. It kind of reminded
13 me of the old style kind of M-4 to be honest.

14 Q. And that would be this you're---

15 A. Yeah.

16 Q. ---talking about?

17 A. It's kind of a weird old shape.

18 Q. Okay. What about anything else that comes to your
19 attention looking at these?

20 A. I believe that looks like the AR-9 at the Glock -- at
21 the bottom of the picture on the right-hand side.

22 Q. Okay. Going back to this, they both have scopes,
23 correct?

24 A. Correct.

25 Q. And they both have a black band near the---

1 A. Correct.

2 Q. ---end of the stock?

3 A. Correct.

4 Q. And then look -- excuse me.

5 Looking at the barrel, it gets wider at the end as
6 well?

7 A. Uh-huh. (Affirmative).

8 Q. Okay. This gun, the AR-9 you're referring to on
9 State's 129, that's on the far left --

10 A. Yes, sir.

11 Q. -- you believe that is the firearm---

12 A. Yes, sir.

13 Q. ---on the bottom --

14 A. Yes, sir.

15 Q. -- of Page 529?

16 A. Yes, sir, similarities would be -- a major one being
17 the red dot.

18 Q. Okay. What about this firearm?

19 Does this look similar to you?

20 A. That one, I had maybe seen it once or twice before in
21 his house. I never knew what had happened to it. But I
22 believe that to be one of the .22s that he had had in his
23 possession.

24 Q. All right. And I have a closer picture of that on
25 Page 532.

1 A. Yes.

2 Q. All right. Are you referring -- are you -- can you
3 point -- have me point, on the picture on the left, which
4 one you're saying it compares to?

5 A. I would say it would be the one that sits next to the
6 AR-15 to the left in-between the 300 Blackout and the
7 AR-15.

8 Q. Okay. So, you're describing this gun between the one
9 with the strap and the one with the diamond grip?

10 A. Uh-huh. (Affirmative).

11 If it's not that one, it had to have been one of the
12 firearms that he kind of -- cause he was in the wheeling
13 and dealing business. So, if he didn't like it, he tried
14 to get rid of it and tried to get something he liked.
15 That might of been one of the guns we had for like a few
16 days and then he sold it.

17 Q. Do you see any -- what similarities can you tell to
18 the jury that's making you think it is the gun that you
19 just described in the gun cabinet?

20 A. If you, if you look at the handgrip, you have a
21 riveted section where your ring finger and your pinkey
22 finger can sit at the bottom of the gun along with your
23 middle finger and firing finger. Also, if you look at the
24 actual body of the weapon---

25 Q. Sorry.

1 A. ---you can see it kind of -- it kind of goes from
2 wide and it narrows out down the barrel. And if you look
3 right -- if you look right underneath the scope, once he
4 gets the picture back up, how it goes from wide to narrow.

5 Q. What are we -- can you -- I'm not sure what you're
6 describing.

7 Can you---

8 A. So, if you take it right underneath the front of the
9 scope---

10 Q. Oh, here.

11 A. Right here.

12 Q. Okay.

13 A. Right there.

14 Now, if you look right there, and then you go to this
15 picture on the left and look, it's the same shape.

16 Q. Okay.

17 A. Not -- may just have different lighting.

18 Q. Okay. And what about this black piece on the bottom?

19 A. That's the next thing I was gonna point out is it --
20 you can see that black piece plain as day on the bottom
21 and also, if you look at the similarities of the barrel,
22 it's got a thin .22 barrel.

23 Q. Okay. And anything about this gun on the right?

24 A. That's the 300 Blackout I can tell you without a
25 doubt.

1 Q. All right. I'm gonna show you a closer picture on
2 Page 530 of it.

3 A. Yeah, it's a -- it has a distinct char --
4 characteristic on that gun is that, that handgrip was, was
5 special and it was diamond plated. And you could, you
6 could have that done on a 300 Blackout if you bought --
7 but you had to -- that was an addition you had to buy.

8 So, when he got that, I remember everything about
9 that gun. That's very distinctive. Also, if you look up
10 at the barrel and then scroll over to the -- in the gun
11 cabinet, if you look and compare the muzzle breaks at the
12 end of the barrel, they're very similar.

13 Q. Okay. And the---

14 A. And the adjustable bump stock.

15 Q. Is---

16 A. Yes, sir.

17 Q. Is the same?

18 A. Yes, sir.

19 Q. One second.

20 (Pause.)

21 Q. What about this, I don't know the terminology, this
22 piece at the end of the diamond plated -- does that appear
23 similar to you?

24 A. Yes, sir, I'm -- I can't remember the time -- the
25 terminology right off my head. But it does, yes, sir.

1 But the, the one thing that really pops out at me is, like
2 I said, is that, that diamond plated muzzle handgrip.

3 Q. All right. You knew Mr. Thompson to have pistols in
4 his house as well, correct?

5 A. Absolutely. He -- I do -- have known him to had a --
6 Glock 23S on his hip at -- pretty much all the time.

7 Q. Okay. But did he have other pistols---

8 A. Absolutely.

9 Q. ---gun boxes in the house?

10 A. Absolutely.

11 Q. I'm gonna show you State's 137.

12 Do you recognize this firearm in the right-hand?

13 A. The AR-9.

14 Q. All right.

15 A. There's a distinct characteristic. It's a Spartan
16 helmet --

17 Q. All right.

18 A. -- right above where the magazine goes into the
19 weapon and it's, it's very distinct and the evidence item
20 sitting in front of me has the same.

21 Q. Yeah.

22 Has the grip that you described as well?

23 A. Yes, sir.

24 Q. A red trigger that you described as well?

25 A. Yes, sir.

1 Q. All right. Please answer any questions Mr. Morin
2 has.

3 MR. MORIN: I -- I'm sorry, Your Honor. We have no
4 questions.

5 THE COURT: All right. Thank you, sir. You're free
6 to go.

7 SOLICITOR SMITH: Your Honor, can we approach
8 briefly?

9 THE COURT: Yes, sir.

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 THE COURT: Madam Forelady, we gon' do a little bit
13 of logistics. Go back to the jury room and we'll call you
14 right back.

15 THE FORELADY: Yes, sir.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Would y'all make sure y'all send word
19 back?

20 SOLICITOR BROWN: Yes, Your Honor.

21 SOLICITOR SMITH: Yes, we will.

22 THE COURT: All right. Thank you.

23 (WHEREUPON, a short recess was taken at this time.)

24 THE COURT: All right. Mr. Morin, is this the expert
25 we gon' need to send the jury out on voir dire?

1 MR. MORIN: It is, Your Honor, and, Your Honor,
2 something else has come up today. The -- this will
3 probably be the appropriate time to respond to it and I
4 appreciate Mr. Smith letting me know this.

5 But I got an email from him at 7:45 this morning
6 where he said this expert has done more analysis based on
7 the testimony that we heard and he was going to testify to
8 that as well. I would object to that. They're reacting
9 to what their witnesses say during the trial and providing
10 me with new evidence that they intend to use.

11 THE COURT: What's your response?

12 SOLICITOR SMITH: It's -- there's no new evidence,
13 Your Honor. It's -- the, the evidence he's referring to
14 is a mapping of Dondrey Johnson's phone. Those call
15 detail records has been provided to the defense for years.

16 The Sheriff's Office did an analysis through Cedex
17 which would -- hasn't come out in testimony because these
18 aren't witnesses that are qualified to testify about it.
19 But since, you know, it's just us, that -- they ruled out
20 Dondrey Johnson. The reason that they didn't arrest him
21 and the reason the investigation went the way it did was
22 because they had checked and Dondrey Johnson was in
23 Greenville the entire time. That's mentioned in multiple
24 reports that are in discovery provided to them.

25 This is simply the expert confirming that and then,

1 when Mr. -- and we had originally asked him to put a
2 location of the Glendale address that Mr. Johnson said is
3 his home, and when he testified yesterday, he mentioned
4 that he had been at his grandfather's house and gave that
5 address. And I just asked the agent to plug that address
6 in as well.

7 And he -- those communications that deal with the
8 grandfather are at like five and eight o'clock at night on
9 the 24th. So, you know --.

10 THE COURT: Well, let me, let me ask you this, Mr.
11 Morin.

12 MR. MORIN: Yes, sir.

13 THE COURT: If you had known this prior to today,
14 what, if anything, different would you have done?

15 MR. MORIN: I think it would have---

16 THE COURT: I mean what can I do right now to help
17 you---

18 MR. MORIN: I understand.

19 THE COURT: ---to---

20 MR. MORIN: The---

21 THE COURT: ---counteract or respond to this new
22 evidence?

23 I'm glad to give you time. I'm glad to hold him
24 off---

25 MR. MORIN: No.

1 THE COURT: ---or whatever you need me to do.

2 MR. MORIN: My thing is, is it's one thing for them
3 to say they've given me this. But they are saying that he
4 did additional analysis last night.

5 THE COURT: I heard you.

6 MR. MORIN: So, I guess---

7 THE COURT: I got based on information---

8 MR. MORIN: That's the thing---

9 THE COURT: ---in the record.

10 MR. MORIN: That's the thing that strikes me about
11 it. I---

12 THE COURT: So.

13 MR. MORIN: ---would have to react however. But I
14 don't know that that's appropriate and that's why I'm
15 objecting to it.

16 THE COURT: I've got you.

17 But the question still is -- I mean first it sounds
18 to me, from what Mr. Smith is saying, that this is just a
19 compilation from information that you do have.

20 MR. MORIN: Uh-huh. (Affirmative).

21 THE COURT: But once this has being given to you, now
22 that it has been given to you or now that you're aware of
23 it, what do you need to do in response to this new
24 information?

25 MR. MORIN: Other than what I'm doing is the only

1 thing I know, Your Honor --

2 THE COURT: Well --

3 MR. MORIN: -- cause I wouldn't explain to you what I
4 think what I would of done.

5 THE COURT: Do you want me to give you time to---

6 MR. MORIN: No.

7 THE COURT: I'm -- I'll be glad to do that. I
8 mean---

9 MR. MORIN: I understand.

10 THE COURT: ---I'm trying to keep both sides of this
11 thing still going. I don't see that it -- it's very
12 problematic if it's simply a compilation of something
13 that's in the record---

14 MR. MORIN: All right.

15 THE COURT: ---already or something you've been
16 provided in -- before. But totally new -- something
17 totally not, then that may be a problem. But it seems to
18 me the thing you do is, now that you know, if you need to
19 do something in response to this, let me know what it is
20 and I -- if I can, I'll, I'll accommodate you.

21 MR. MORIN: Okay. I don't have anything.

22 THE COURT: I'm not gonna make you tell me right this
23 second.

24 MR. MORIN: Okay.

25 THE COURT: Okay. I'm gon' -- at this point, I'm

1 gonna overrule you. I'll tell you this, so that if some
2 reason he -- I change my mind, I'm gonna strike it out of
3 the record. I don't think I will. But I'm just telling
4 you that's the only remedy I know to do besides giving him
5 some way to respond to it --

6 SOLICITOR SMITH: Yes, sir. I did---

7 THE COURT: -- other than excluding it and I don't
8 think it needs to be excluded.

9 SOLICITOR SMITH: I, I sent him another one the day
10 before that was of the, the Glendale address and it was,
11 when he mentioned the grandfather, I just asked him to
12 plug that and I sent, when -- he, he was traveling
13 yesterday. He came from Auburn. He sent me the email I
14 sent him.

15 THE COURT: That's fine.

16 All right. Well, I mean it doesn't sound like it's
17 anything in science or in bad faith. I think it's just
18 --.

19 MR. MORIN: The---

20 THE COURT: It doesn't seem to be bad faith.

21 MR. MORIN: I understand. I wasn't alleging that.

22 THE COURT: I'm sorry?

23 MR. MORIN: I wasn't alleging that. I was just --.

24 THE COURT: You're doing your job and I understand
25 that.

1 MR. MORIN: So, the other thing we have is we have a,
2 a series of data that's been entered into evidence which
3 I've agreed to the authenticity of. But now we're to the
4 point where the State's going to want to explore the
5 reliability of that data.

6 THE COURT: Gotcha and that's why we're gon' bring
7 this gentleman in.

8 You want to go ahead and do that now or -- with the
9 jury out?

10 MR. MORIN: Yes.

11 THE COURT: There's no sense in bringing them in and
12 sending them right back out.

13 Do you have a problem if we send word back to them so
14 they're not there waiting or what we're doing saying it's
15 just gon' be a little bit longer?

16 Y'all have a---

17 MR. MORIN: Judge, I don't have a problem with that.

18 THE COURT: ---problem with that?

19 State have a problem with that?

20 SOLICITOR SMITH: No, Your Honor.

21 THE COURT: Mr. Bailiff, can you handle that?

22 THE BAILIFF: Yes, sir.

23 THE COURT: Okay. Call your witness around.

24 SOLICITOR SMITH: State calls Special Agent James
25 Berni.

1 THE CLERK: Place your left-hand on the Bible and
2 raise your right.

3 JAMES BERNI, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY SOLICITOR SMITH:

7 Q. Will you please state your name?

8 A. Yeah, my name is James, last name, Berni, B-E-R-N-I.

9 Q. Special Agent Berni, where are you employed?

10 A. Currently employed with the FBI.

11 Q. All right. And how long have you been with the FBI?

12 A. Seventeen and a half years.

13 Q. And is there a division in the FBI that you are a
14 part of?

15 A. Yeah, I'm current -- currently a part of the FBI's
16 CAST, C-A-S-T, team.

17 THE COURT: C-A-S-T?

18 THE WITNESS: Yes, Your Honor.

19 Q. And I know we're the government and like acronyms.
20 What is the CAST team?

21 A. So, CAST stands for Cellular Analysis Survey Team.
22 So, it's a team in the FBI that got stood up in 2009 after
23 the FBI noticed an increase use of cellphone records in
24 criminal trials. So CAST team members like myself
25 specialize in both active and historical cellphone and

1 social media tracking and mapping.

2 Q. All right. What, what edge -- what is your
3 educational background prior to becoming an FBI agent?

4 A. I have a degree, criminal justice degree, from Auburn
5 University.

6 Q. All right. And what did you do prior to joining the
7 FBI?

8 A. So, prior to coming in the FBI, I spent 10 years
9 active duty in the United States Army. The last six years
10 I worked at the National Security Agency, or NSA, where my
11 job was to track Department of Defense high value targets
12 in Iraq and Afghanistan using their communication devices
13 like cellphones and satellite phones.

14 Q. All right. And then eventually you joined the FBI 17
15 and a half years ago?

16 A. In 2007, yes, sir.

17 Q. All right. And what have you done with the FBI?

18 A. So, I spent approximately my first 10 years up in
19 Minneapolis as part of a safe streets violent gang task
20 force. So working violent crime cases from drug cases,
21 gang cases, gun cases, those kinds of things.

22 Q. All right. And at, at some point did you -- when
23 did, when did you become a member of the CAST team?

24 A. Yes, I got certified as a CAST member in 2006 and
25 worked it part-time, in addition to my regular

1 investigative duties, until 2019 where it became my
2 full-time job. So, since 2019, every day I look at either
3 cellphone records, testify in trials, those kinds of
4 things.

5 Q. What is the background of a, a typical agent?

6 A. Yeah.

7 So, the background is -- the vast majority of us have
8 been lead investigators or case agents on numerous FBI or
9 local cases and have used cellphone evidence in those
10 cases prior to becoming certified.

11 Q. Can you describe for Your Honor the training you
12 received to become a member of the CAST team?

13 A. Yeah.

14 So, we receive approximately 400 hours of specialized
15 training. Everything from a radio wave theory, how does
16 radio waves move through space. We receive training
17 directly from the cellphone manufacturers. So we bring in
18 Apple, LG, Samsung to teach us how their devices operate.

19 Probably the best and most relevant training we
20 receive is from the cellphone providers themselves meaning
21 T-Mobile, Verizon, AT&T. They come in and teach us how
22 does their network work. So, how does a phone travel
23 throughout their network, and when you place or receive a
24 call, how does that work, how are records kept for those
25 types of activities, and then how would we use those types

1 of activities to get a general area of where a device was
2 when it had an activity like a call or a text message on a
3 network.

4 Q. Did this training include any testing or
5 examinations?

6 A. It does. We have both a practical and a written test
7 in which you have to score 80 or above in both of those to
8 get certified.

9 Q. And have you received any additional training or
10 certifications since that initial training you just spoke
11 of?

12 A. Yes.

13 So, every year, all the CAST team members get
14 together again for a full week and, again, we bring in all
15 the major providers, you know, T-Mobile, AT&T, Verizon,
16 what used to be Sprint, and they give us an update on
17 their network, you know. It -- when's 3G voice going
18 away. When's 5G voice gonna be everywhere, have they seen
19 any nuances in their records or any anomalies that we need
20 to be aware of. That way, when we testify in court and do
21 our analysis, we have the most current and up-to-date
22 information.

23 Q. Are you familiar with cellular tech -- technologies
24 utilized by the major cellular providers in the United
25 States?

1 A. I am. That's, again, part of our initial training
2 and part of our recurring training on a yearly basis.

3 Q. Are you familiar with the records keeping practices
4 used by the different providers?

5 A. Yes.

6 Q. Do you know -- when, when a law enforcement agency
7 either subpoenas or does a search warrant for call detail
8 records, do you know how those are then delivered to that
9 law enforcement agency?

10 A. Yes.

11 Q. How, how is that done?

12 A. Yeah.

13 Normally when a -- some kind of legal process is sent
14 to the provider, again, the provider being the phone
15 company, AT&T, T-Mobile, Verizon, it's normally sent to
16 them. They process it, take whatever time period required
17 to process it. That information is then either sent back
18 via an email or some providers now have a portal that you
19 would log into and extract that information.

20 Q. And are those -- is that information commonly
21 associated with a certification that the records are
22 accurate and complete in response to the process that was
23 issued?

24 A. There is. That's correct.

25 Q. And have you -- I know we -- you've obviously

1 testified in cases.

2 Have you testified in cases before where those
3 affidavits were used to authenticate records that you then
4 testified about?

5 A. Yeah, the vast majority of time that's correct.

6 Q. Do you have any training or experience showing how
7 the records kept by different providers is accurate and
8 reliable?

9 A. Yeah.

10 So, some of the training is obviously directly from
11 the manufacturers themselves, T-Mobile, AT&T, Verizon.
12 They teach us about their records and that they're
13 reliable.

14 The main reason, again, that these records are kept
15 are business records. These are business records kept by
16 the provider everyday so that they can optimize their
17 network and use those records to give you the best
18 customer experience meaning they want to know where a
19 call's being placed from, where they're dropped calls, do
20 they need to add more towers.

21 They use all of the data obtained and stored in the
22 call detail records to do that on a daily basis.

23 Q. Do you have examples that you could give the judge
24 where you have relied on call detail records and I guess
25 can prove that those records led to, I guess, proving that

1 they were reliable?

2 A. Yeah.

3 So, on a, on a daily basis, someone from the CAST
4 team is doing some kind of exigent or emergency tracking.

5 So, again, CAST team members like myself are responsible
6 for not only historical record analysis but we also do

7 active cases. I do---

8 THE COURT: You also do what?

9 I'm sorry.

10 THE WITNESS: Active cases.

11 I handle all the Amber alerts for the State of
12 Georgia, Alabama, and the panhandle of Florida. So, it's
13 quite often when an Amber alerts or a missing kid is
14 reported, we'll contact the phone companies, get these
15 same records, call detail records, use these records to
16 locate individuals, either witnesses, hopefully the victim
17 in most cases, or evidence, those kinds of things. So we
18 use this on a daily basis.

19 I think the -- so just this year alone, the calendar
20 year or, correction, the fiscal year since October until
21 now, CAST has used cellphone records to recover
22 approximately 86 missing children.

23 Q. And how, how many members are there of CAST?

24 I don't think I asked you that.

25 A. Yeah.

1 So there's 80 trained individuals. There's about 20
2 of us that work full-time CAST.

3 Q. All right. So, 20 people for the entire country
4 are -- work full-time on this?

5 A. Yes, sir.

6 Q. Are you familiar -- do, do you know anything about
7 cell tower information and how it communicates with 9-1-1
8 that might lead to that information being reliable?

9 A. I do, yeah.

10 So, again, these are reliable for multiple reasons.
11 One is the FCC, or Federal Communications Commission,
12 basically the government, has mandated that cellphone
13 companies, T-Mobile, AT&T, or Verizon, be able to provide
14 9-1-1 dispatch with a cellphone tower or -- and a sector,
15 a side of the tower that was used by a device for any
16 phone that contacts 9-1-1.

17 So, if you call 9-1-1, your call gets disconnected,
18 your battery dies, or for some other reason, the phone
19 company has to be able to provide a tower and sector
20 information for law enforcement purposes.

21 Q. Okay. And the government obviously thought that was
22 worth mandating, that there's some value in that
23 information?

24 A. Yeah. Obviously -- yes, they did.

25 Q. Do you provide training in, in the area that you are

1 hopefully going to provide expert testimony on today?

2 A. I do. I'm part of our training cadre for CAST. So,
3 I teach everything from the basic course, which is a two
4 day course on, you know, the records, how a phone company
5 generates those records, and then triaging or using those
6 records. I also teach our advanced course, which is a
7 week long, and part of our certification course, which is
8 a four week process. So, I teach two separate elements in
9 that.

10 I've also taught several overseas places as well.
11 So, with CAST, I've gone to the Ukraine, prior to the war,
12 and taught about cellular analysis, specifically call
13 detail records and the use of. I've been to the UK. So
14 Great Britain. I teach courses in the Caribbean and also
15 in Central America. Specifically Mexico and Costa Rica.

16 Q. Okay. So the same technology is applicable no matter
17 what country's networks that you're on?

18 Is that true?

19 A. A hundred percent.

20 So, the technology is the correct -- is the same
21 across the board. So you can use this technique anytime
22 you need to locate a device and we do it. Again, CAST
23 focuses mostly on the United States. But we assist in
24 cases across the globe and then we also teach everywhere
25 that's needed.

1 Q. Approximately how many times have you performed
2 historical call detail analysis and in what type of cases?

3 A. So, again, this has been my full-time job since 2019.
4 So I probably performed call detail analysis several
5 thousands of times in all, all kind of cases.

6 Again, the vast majority are criminal in nature. But
7 we've also used it to find runaways and to find -- in
8 fact, an Alzheimer's patient who had a cellphone in their
9 pocket and wandered away. We were able to use this
10 technique to locate him as well.

11 Q. Have you or the CAST team ever conducted an analysis
12 where the person accused of a crime has been eliminated or
13 cleared as a result of your findings?

14 A. Yeah.

15 So, again, I get record requests or analysis requests
16 from multiple different departments. So, the vast
17 majority of mine come from the Atlanta area. It's quite
18 often Atlanta PD will send me cellphone records and say
19 hey, this is our main suspect. The crime occurred in
20 Atlanta. But, during interviews, he's saying he's in
21 Florida let's say.

22 So, we review the records and, in a number of times,
23 we're able to shore up an individual's alibi and,
24 therefore, help eliminate that person as a potential
25 suspect.

1 Q. Is the analysis that, that you provide reviewed or
2 checked by anybody else?

3 A. It is.

4 So, I -- the way the process works is I create my
5 initial reports or draft report of the analysis and then
6 it's reviewed by the requester to make sure I've covered
7 all the dates and times of the request and any locations
8 that I need to add to the request.

9 Once that's been finalized, my report, and the
10 original records, both the call detail records and the
11 tower list, go to a separate CAST trained individual who
12 creates their own report, again, using the original
13 records, compares that against my report just to make sure
14 I didn't transpose a six and a nine or put a tower in the
15 wrong spot and that way, again, we're putting multiple
16 eyes on a report before we come testify to it in, in
17 court.

18 Q. And have you testified as an expert in court before?

19 A. I have.

20 Q. How many times?

21 A. Approximately 110 in nine different states.

22 Q. What methodology do you use in forming your opinions
23 you're sharing -- you will share with the Court today?

24 A. So, the methodology is what we call historical call
25 detail analysis.

1 So, by law, every service provider has to keep a
2 record of every mobile device on their record -- on their
3 network and they do this in what's called a call detail
4 record or that CDR we've been talking about. That's kind
5 of like your old school phone bill when we used to get
6 like a paper copy, right.

7 It'd have our number, the other number we talked to,
8 the date and time of the conversation, the duration, was
9 it 30 seconds, 60 seconds.

10 well, it also includes information, again, used by
11 the providers and also law enforcement and that is the
12 cellphone tower and sector or side of the tower that's
13 used for every single call or text on that call detail
14 record. So, in addition to that report, the phone
15 company's also have to keep what's called a tower list and
16 that's exactly what it sounds like, a list of every
17 cellphone tower in the United States and its locations.

18 So, the list will say T-Mobile tower 123 is located
19 at this specific street address or latitude, longitude
20 spot on the earth. And then it will say antenna or side
21 number one points in this direction and give an azimuth, a
22 compass heading, to -- in this sector and three in the
23 different.

24 So, historical call detail analysis, again, which is
25 the methodology we use, is taking the call detail records

1 when an activity occurred, like a call or a text, putting
2 that together with the tower list, where the tower's
3 located that were used. By putting those two things
4 together, we can get a general area of where a device was
5 when it had an activity like a call or a text on the
6 network.

7 Q. All right. And is that methodology generally
8 accepted in the area of your expertise?

9 A. It is.

10 Q. Are there any papers or articles that support it?

11 A. There are. There's papers and articles, both written
12 by law enforcement individuals using the technique and
13 have used it, but also engineers. So, electrical, you
14 know, engineers that would make and produce the network
15 have also written articles and books about the use of the
16 technique.

17 Q. All right. And, in this case, you were provided call
18 detail records for four different numbers?

19 A. That's correct.

20 Q. That's 566-1072, 309-9465, 349-3788, and 901-0404,
21 all those being 864 area codes?

22 A. That's correct.

23 Q. And I think I've already discussed it but you said
24 results are peer reviewed?

25 A. They are.

1 Q. So, the issue, the issue of this hearing is, is the
2 reliability of the, of the underlying data.

3 what can you tell the judge, if, if anything, to, to
4 give him confidence that the results that you relied on in
5 formulating your opinion are reliable?

6 A. Yeah.

7 Again, for a couple different reasons. We've
8 discussed a couple. But first is, if you remember when
9 cellphones became popular, right, late '80s and early
10 '90s, we paid for our plans in a multiple of ways, right.
11 We would buy a, a 300 minute plan, right?

12 So the cellphone companies had to accurately keep
13 track of every one of their calls on the call detail
14 record, how long those calls were. So that way, when you
15 went to your 301, 302, right, they charged you \$.25 a
16 minute extra or whatever their fee was. So, they had to
17 accurately keep track of every call that was made and the
18 duration of those calls.

19 well, during that same time period, we had what's
20 called home network and roaming charges, right. So, if
21 you had your phone in South Carolina, you traveled to,
22 let's say, Florida to Disney World, you are now considered
23 roaming or outside of your home network.

24 well, they had to accurately keep track of every
25 cellphone tower that you used. So that way they would

1 charge you extra when you left your home network.

2 well, we don't pay for our phones that way anymore,
3 right. we can travel everywhere. we got unlimited calls.
4 But information is power. we all know that. And these
5 phone companies still track the information the exact same
6 way cause, again, they want to optimize the customer
7 experience because, if we're not happy on AT&T, we're just
8 gonna go to T-Mobile or Verizon. We pay too much money
9 for that.

10 The second reason is, in 2018, there was a U.S.
11 Supreme Court decision called *U.S. v. Carpenter* in which
12 cellphone records were challenged, and during that
13 determination by the Supreme Court, it was determined that
14 the records had good and reliable information and, in
15 fact, the Supreme Court decided, because of that
16 information, to move the burden of proof for law
17 enforcement from a reasonable suspicion level to a
18 probable cause level meaning we had to get a search
19 warrant for that information.

20 Q. And that's because the information is accurate enough
21 that it constitute an invasion of efforts in privacy?

22 Is that what you're saying?

23 A. Yes, I think that's the, the determination by the
24 Supreme Court.

25 Q. Okay. Is there -- are there any other -- I'm not

1 stopping you at two there.

2 But -- when, when the records are provided back, do
3 you -- are you familiar that the cellphone companies
4 provide a -- they create a case number for the records
5 request?

6 Are you familiar with that?

7 A. I am.

8 Q. And that number is listed both on the affidavit and
9 the call detail records themselves, correct?

10 A. Typically, yes.

11 Q. One second.

12 (Pause.)

13 Q. All right. Please answer any questions Mr. Morin
14 has.

15 VOIR DIRE EXAMINATION

16 BY MR. MORIN:

17 Q. In this case, you were looking at what you called
18 general activity on these calls.

19 Is that right?

20 A. That's correct. The tower and sector, general -- I
21 say the tower and sector can put a device in a general
22 area.

23 Q. Okay. Now, you also mentioned that the technology
24 also can help you find Alzheimer's patients who've
25 wondered?

1 A. That's correct.

2 Q. Is that something you have to do in real time?

3 A. Well, those cases were done in real time, yes, sir.

4 Q. Right.

5 Because there's no general activity on the phone,
6 right?

7 A. Correct.

8 Q. Okay. And the cellphone people are not writing down
9 every second of where you are unless -- I guess you were
10 looking for them at that point.

11 Is that right?

12 A. We were.

13 Q. Okay. So, specifically to the -- what you've been
14 asked to do here today, it's based off of call activity or
15 text activity, something, the phone was using the tower?

16 A. That's correct. For the records that were provided
17 to me in this case, that's exactly what was in there.

18 MR. MORIN: Okay. That's all the questions I have,
19 Your Honor.

20 THE COURT: I'll be glad to hear your arguments.

21 MR. MORIN: I have, I have no argument.

22 THE COURT: You're stipulating---

23 MR. MORIN: I stipulate.

24 THE COURT: ---to his expertise---

25 MR. MORIN: Yes, sir.

1 THE COURT: ---and reliability of the records upon
2 which his opinions are based?

3 MR. MORIN: Yes, Your Honor.

4 THE COURT: Thank you very much.

5 All right. So, make sure I understand, the area of
6 his expertise would be in the historical call detail
7 analysis?

8 would that be the proper recognition?

9 SOLICITOR SMITH: He, he had asked me for cellular
10 device location information.

11 But I, I guess historical would be a, a section of
12 what you're -- cause you can talk about active and
13 historical. So --.

14 THE WITNESS: Yes, sir.

15 THE COURT: So, what would be the big --?

16 SOLICITOR SMITH: He's -- he said cellular device
17 location information.

18 MR. MORIN: Huh?

19 SOLICITOR SMITH: what -- the area that he said he
20 was -- has been qualified in is cellular device location
21 information?

22 MR. MORIN: Yeah.

23 SOLICITOR SMITH: And I guess his testimony today
24 will concern historical analysis.

25 THE COURT: Cellular device location information.

1 SOLICITOR SMITH: Yes, Your Honor.

2 THE COURT: You agree with that?

3 MR. MORIN: Yes, Your Honor.

4 THE COURT: Very.

5 All right. Y'all ready to go?

6 MR. MORIN: Yes, sir.

7 SOLICITOR SMITH: Yes, Your Honor. I might still go
8 into some of those things in front of the jury.

9 MR. MORIN: I --.

10 THE COURT: Absolutely. You got to.

11 SOLICITOR SMITH: Okay.

12 THE COURT: You need to requalify him.

13 SOLICITOR SMITH: Yes, sir.

14 THE COURT: All right. Bring the jury out please,
15 sir.

16 You need any water?

17 You good?

18 THE WITNESS: I am. Thank you, Your Honor.

19 SOLICITOR SMITH: Are you all right with him staying
20 up there, Your Honor?

21 THE COURT: I am.

22 SOLICITOR SMITH: I didn't know if we---

23 THE COURT: Just call him out when they get in.

24 (WHEREUPON, the following takes place within the
25 presence of the jury.)

1 SOLICITOR SMITH: Your Honor, the State calls Special
2 Agent James Berni.

3 THE COURT: Okay. Would you swear him in please?

4 SOLICITOR SMITH: He's coming to you.

5 THE CLERK: Sir, would you please raise your
6 right-hand?

7 JAMES BERNI, being first duly
8 sworn, testified as follows:

9 THE CLERK: Thank you.

10 DIRECT EXAMINATION

11 BY SOLICITOR SMITH:

12 Q. Will you please introduce yourself to the jury?

13 A. Yeah.

14 My name is James, last name, Berni, B-E-R-N-I.

15 Q. And, James, where are you currently employed?

16 A. I'm a special agent in the FBI.

17 Q. How long have you been with, with the FBI?

18 A. About 17 and a half years.

19 Q. What's your educational background?

20 A. I have a degree from Auburn University in criminal
21 justice.

22 Q. And what was your background prior to working for the
23 FBI?

24 A. So prior to coming into the FBI, I spent 10 years
25 active duty in the United States Army. The last six years

1 I worked at the National Security Agency or NSA where my
2 job was to track Department of Defense high value targets
3 in Iraq and Afghanistan using their communication devices
4 like cellphones and satellite phones.

5 Q. All right. And are you now assigned to the CAST
6 division of the FBI?

7 A. Yes.

8 So I've been part of FBI's CAST team, C-A-S-T,
9 full-time since 2019.

10 Q. And, and what does it stand for, the CAST?

11 A. So, CAST, again, stands for Cellular Analysis Survey
12 Team. It's a team stood up by the FBI in 2009 after the
13 FBI noticed an increased use of cellphone records in
14 criminal trials. So, CAST team members like myself
15 specialize in both active and historical cellphone mapping
16 and tracking.

17 Q. All right. And will you describe your time -- you've
18 said 17 and a half years you've been at the FBI.

19 What did you start doing and then when did you move
20 to the CAST division?

21 A. Yeah.

22 So I started with the FBI in 2007 and my first office
23 was in Minneapolis, Minnesota. I spent 10 years there
24 working on the violent gang task force. So basically we
25 worked gang cases, guns, drugs, all kinds of violent crime

1 cases, kidnappings, those kinds of things. And then moved
2 solely to the CAST team in January of 2019 and then
3 relocated back down to Auburn, Alabama.

4 Q. All right. So, since 2019, your full-time job is
5 essentially doing what you're doing here today?

6 A. That's correct.

7 Q. Can you describe the training that you've received to
8 become a CAST agent?

9 A. Yeah.

10 So we receive about 400 hours of specialized
11 training. Everything from how does a radio wave move
12 through space to training directly by the cellphone
13 manufacturers. So, we get training from Apple, LG,
14 Samsung, like how do their devices work.

15 But the most practical training we receive is from
16 the cellular providers themselves meaning T-Mobile, AT&T,
17 Verizon, what used to be Sprint. They come in and teach
18 us how does their networks work.

19 So, from the time that you hit that green or green
20 button to place or receive a phonecall, how's that call
21 select a tower, how is it routed through their network,
22 how do they document those calls historically and in their
23 records, and then how would we use those records to show a
24 general area where a device was when it had an activity
25 like a call or a text on the network.

1 Q. All right. And when you completed your training, was
2 there any testings or examinations that you had to
3 complete?

4 A. There was. You have to -- we have both a practical
5 and a written test in which you need to score an 80 or
6 above in both.

7 Q. Are you familiar with the technologies utilized by
8 major cell providers in the United States?

9 A. I am. That's part of our initial training and also
10 reoccurring training that we receive.

11 Q. And are you familiar with the records keeping
12 practices used by these different providers?

13 A. Yes, as part of our training.

14 Q. All right. And is that generally called call detail
15 records?

16 A. Yes.

17 So records kept by the phone company of all of the --
18 a device's activity, call, text or, in some cases, data
19 sessions, that's called a call detail record.

20 Q. And do you provide any training in the area that you
21 are -- that you work in?

22 Do you train people?

23 A. I do.

24 Part of our training cadre for CAST, so I teach our
25 basic course, which is an intro -- introduction level

1 course, our advanced course, and then I also teach two
2 different blocks during our four week certification
3 training. I've also done several over -- overseas
4 training. I've taught this technique in the U.K., so in
5 Great Britain, Ukraine before the war started. I also
6 cover the Caribbean and Central America. So I've done
7 trainings on various Caribbean islands, Mexico, and Costa
8 Rica.

9 Q. What is historical call detail analysis?

10 A. Yeah.

11 So, by law, all the service providers have to keep a
12 record of every mobile device on their network and they do
13 this in what's called the call detail record or that CDR
14 for short.

15 So, that CDR is like that old school phone bill when
16 we used to get a paper copy, right. It'd have our number,
17 the other number we talked to, the date and time of that
18 conversation, the duration, was it 30 seconds, 60 seconds.
19 But then it also includes information that's relevant to
20 the provider and relevant to law enforcement and that is
21 the cellphone tower and sector or side of the tower that
22 was used for every single activity, call, text, or data
23 session, on that call detail record.

24 In addition to that record, all the phone companies
25 have to keep what's called a tower list. So that list is

1 exactly what it sounds like. It's a list of every single
2 tower within their U.S. network and that tower list is
3 uniquely numbered meaning, if I'm looking for T-Mobile
4 tower 123 on their network, I can go to the tower list.
5 It shows exactly where that tower's located, a street
6 address, or a latitude/longitude spot on the earth, and
7 then it will also say the makeup of its size for antennas.

8 It will sector number one or side number one points
9 in this direction, two in this other direction, and three
10 in this other direction.

11 So, what historical call detail analysis is is taking
12 the call detail records, the phone bill, looking at the --
13 when activity occurred, putting that together with the
14 tower list, where those towers that were used are located,
15 the where, and by putting those two things together, we
16 can get a general area of where a device was when it had
17 an activity, like a call, text, or, in some cases, a data
18 session, on the network.

19 Q. And approximately how many times have you performed
20 historical call detail analysis and in what types of
21 cases?

22 A. Yes.

23 So this has been my full-time job since 2019. So,
24 everyday I'm either reviewing cellphone records,
25 testifying in court, or those type of things. I probably

1 have done this several thousand different times and in all
2 kind of cases.

3 The vast majority are some type of criminal case.
4 But we can also use the case -- the technique that I have
5 personally for runaways or individuals -- an --
6 Alzheimer's individuals that wonder off with a cellphone
7 in their pocket. Anytime you need to locate a device, you
8 can use this technique.

9 Q. All right. And do you have experience doing this
10 with Amber alerts?

11 A. I do.

12 So, I cover all the Amber alerts or active missing
13 children cases in Georgia, Alabama, and the panhandle of
14 Florida.

15 Q. Are the techniques only -- well, excuse me. You've
16 covered that.

17 Have you -- have you or CAST ever conducted an
18 analysis where a person accused has been eliminated or
19 cleared as a result of your findings?

20 A. Yes.

21 So it's quite often that we get requests to review
22 records or analyze records from, you know, any of the
23 areas that I cover, which the vast majority is -- Atlanta
24 area is my biggest customer currently for analysis.

25 But a lot of times they'll give me records and say

1 hey, our crime occurred in Atlanta. This is a -- here's
2 the records for our main suspect. He states that he was
3 in Florida at the time of the crime. I'll review the
4 records and it is often, or it occurs, that sometimes the
5 records will help shore up someone's alibi and then,
6 therefore, eliminating them as a suspect.

7 Q. The analysis you perform, is it reviewed or checked
8 by anybody else?

9 A. It is.

10 So we have what's called a peer review process. So
11 when I make my draft report, so I do my initial analysis,
12 make my draft report, that report, plus all the original
13 records from the provider, are sent to a, a totally
14 different CAST certified individual. He uses the original
15 records to create his own report, compares his report to
16 my report to make sure that I didn't transpose any six and
17 nines, I didn't accidentally put a tower in the wrong
18 spot, those kinds of things.

19 So that way we have multiple sets of eyes look at all
20 of the cellphone records prior to creating a final report,
21 which is what we would testify to in trial today.

22 Q. And have you testified as an expert before in court?

23 A. I have.

24 Q. Do you know how many times?

25 A. Approximately 110 and in nine different states.

1 Q. And what methodology, methodology did you use in
2 forming the opinion you're going to share with the jury
3 today?

4 A. Yeah, the methodology is what we discussed, right.
5 Taking the call detail records and the tower list, putting
6 those things together to get a general area of where a
7 device was.

8 Q. And is that methodology accepted in the area of your
9 expertise?

10 A. It is.

11 Q. And are there papers or articles that support it?

12 A. Yes, both from law enforcement, written papers and
13 articles, and also academia meaning electrical engineers
14 that build the network. They've written papers and
15 articles about this technique as well.

16 Q. Are you familiar with the relationship that 9-1-1 has
17 with the cellular providers as far as the data that you're
18 talking about?

19 A. I am. Yeah.

20 So, if you dial 9-1-1 and your call gets
21 disconnected, there's a relationship between the phone
22 company and 9-1-1.

23 So, the FCC, or Federal Communications Commission,
24 basically the government, has mandated that the cellphone
25 providers, again AT&T, Verizon, T-Mobile, have to be able

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1 to provide 9-1-1 dispatch with a cellphone tower and a
2 sector or side of the tower they you -- use when you dial
3 9-1-1. That way, if your call gets disconnected, your
4 battery dies, something happens on your phone, law
5 enforcement has an accurate location for -- to go look for
6 you at.

7 Q. And you've talked about the CAST team and the
8 full-time members.

9 How many are -- how many Jay Berni's are there with
10 the FBI section?

11 A. Yeah. So, full-time members, there's approximately
12 20 of us.

13 SOLICITOR SMITH: Your Honor, at this time we would
14 offer Special Agent Berni as an expert in cellular device
15 location information.

16 MR. MORIN: Stipulate.

17 THE COURT: All right. Madam Forelady, ladies and
18 gentlemen of the jury, again, witnesses are not normally
19 allowed to give their opinion. However, upon
20 qualification, they are allowed.

21 In this case, it's stipulated that Mr. Berni is an
22 expert in the field of cellular device location
23 information. He'll be allowed to give his opinion in that
24 area and the reasons for his opinion.

25 I'll remind you that expert testimony's like any

1 other testimony you will hear in this case. You may
2 accept it or reject it or give what use you think it
3 deserves.

4 Mr. Smith.

5 SOLICITOR SMITH: Thank you, Your Honor.

6 Spartanburg County asked you to assist with a
7 shooting that happened at ■ walden circle.

8 Is that correct?

9 A. They did.

10 Q. And did they provide you with call detail records for
11 four different cellular devices?

12 A. They did.

13 Q. Was that (864)566-1072, 309-9465, 349-3788, and
14 901-0404 all of those being (864) devices?

15 A. That's correct.

16 Q. And did you conduct analysis as was requested for
17 those four devices?

18 A. I did.

19 Q. And did you present -- have you created a PowerPoint
20 that shows your findings?

21 A. I did.

22 Q. Two PowerPoints that, that show your findings?

23 A. I did. Those are my reports.

24 Q. I'm gonna hand you State's 120 and 121 and ask you
25 can you tell me what these are.

1 A. Yes, these are CDs that contain my two reports and
2 I've initialed both of these showing that I reviewed it.

3 SOLICITOR SMITH: Your Honor, at this time we'd move
4 State's 120 and 121 into evidence.

5 MR. MORIN: No objection.

6 THE COURT: Admitted.

7 (WHEREUPON, State's Exhibit Nos. 120 and 121 were
8 received into evidence at this time.)

9 Q. All right. Can you, can you describe -- did -- does
10 law enforcement give you information about the case,
11 landmarks and things like that, to try to aid you in, in
12 completing your analysis?

13 A. Yeah.

14 So, during the request process, obviously they'll
15 give me the call detail records for the phone numbers. So
16 they'll say hey, in this case, there's four phones.
17 Here's the call detail records.

18 Well, I also need important dates, times, and any
19 important locations to the case. So, relevant locations.
20 And that way I can compare the phone activity on specific
21 dates to specific locations and aid in mapping that stuff
22 out. That's really all of the information required by me
23 for an analysis.

24 Q. All right. Move to the computer here. I'm gonna try
25 to --.

1 All right. We're looking at State's Exhibit 120 now.

2 This analysis is for three straight phones, correct?

3 A. That's correct.

4 Q. And you have those listed here?

5 A. I do. I've also color coded each one of them. So,
6 in the next series of pages, you know, this -- the phone
7 ending in 3788, for example, will always show up as the
8 black phone, 9465 the blue phone, so forth and so on.

9 Q. I haven't used PowerPoint in a while. I might not do
10 that.

11 All right. We've talked about the methodology that
12 you used.

13 But is there anything that you would like to share
14 with the jury on, on this slide about what you did in this
15 case on that?

16 A. No, this is just a summary, again, that I was asked
17 by your office to review these phones as it related to
18 homicides that occurred, again, for review of the
19 methodology, and then the conclusion is, you know, they'll
20 be a series of maps showing to visualize the phone
21 activity during important dates and times.

22 Q. All right. What are these shown on slide three?

23 A. Yeah.

24 So what we look at here is various types of cellphone
25 towers. So, again, a phone connects to either two

1 different ways. One is -- the vast majority is through
2 cellphone towers.

3 Now, we can also put our phone on WiFi mode and
4 connect to WiFi and make some calls and things. But
5 everything we're gonna look at today is all records
6 directly between the phone and a cellphone tower.

7 So, these are the most common types. Everything on
8 the far left, those four different types, the monopole,
9 lattice work, guy wire, and structural antenna tower,
10 those are the four most common that we see as we drive
11 around and see cellphone towers. But everything on the
12 right-hand side is also a cellphone tower.

13 Now, obviously there's no giant fake cactuses in the
14 State of South Carolina. This is from a park in Phoenix,
15 Arizona that provides coverage. That cactus is an antenna
16 that covers coverage in a 360 degree or a full circle as
17 opposed to sectorized towers on the left-hand side.

18 Q. All right. And you were just referring to the, the
19 three sectors is what slide four is describing?

20 A. Yeah.

21 So, the vast majority of cellphone towers in the
22 United States, about 95 percent, are these three-sided
23 towers and you kind of see the example here. That
24 triangle shape in the middle is actually the tower itself,
25 and, in this case, sector side number one is the north

1 side or kind of that red shaded area. Sector two is the
2 blue and sector three is the gray area there.

3 Q. All right. What can you tell the jury about slide
4 five?

5 A. So, again, a cellphone tower is put in an area to
6 provide coverage in a specific area, right, and then they
7 take that one tower and they divide it up into equal
8 parts, three equal parts, so that more customers can use
9 that tower as opposed to just one antenna on the tower.

10 So, if a tower covers 360 degrees, a full circle,
11 when we sectorize it or cut it into three equal parts, it
12 makes each part approximately 120 degrees, which is what
13 we see here.

14 So, in this example, we would get, from the tower
15 list, again, the location of the tower. But it also says,
16 in this case, sector number one, the one we are interested
17 in. The middle of that sector points at zero degrees.

18 So, we see that arrow coming out of the, the triangle
19 there as zero degrees. That's the middle of that tower.

20 Well, if we know that that tower is approximately
21 120 degrees, and we know the middle is zero, we can go
22 60 degrees to the left, put that red line that is
23 annotated there, 60 degrees to the right, put that other
24 red line there. That shows the approximate left and right
25 boundaries of that cellphone sector and that's what we

1 have kind of shown there on the map.

2 On the far right-hand side is how you're gonna see it
3 again on a map itself. One thing to note is, again, we
4 have the red line on the left, the red line on the right.
5 Where those two lines meet, kind of the point of the V,
6 there's a green dot. It's kind of hard to see it.

7 But that's the cellphone tower itself and, again, the
8 red lines show the approximate left and right limits to
9 that sector.

10 One thing to note is that shaded area in the middle
11 of that. That's just showing which side of those two
12 arms, left and right arms, that we're looking at. It's
13 not meant to show the coverage area of that sector nor is
14 it meant to say that phone is located within that shaded
15 area. It's just saying between the arm in the left and
16 the arm on the right, that shaded side in the middle is
17 where we are looking.

18 Q. And just to cover -- this might be a good time to
19 cover -- there are some limitations. You can not say that
20 device was at a specific address. You're saying it's in
21 this sector.

22 Is that correct?

23 A. Yeah.

24 So, again, if you look at this map on the right-hand
25 side, you know, there's a limit on the left, a red line,

1 and a limit on the right. I can't say if that device is
2 over on the left-hand side of that sector, the right-hand
3 side, or in the middle of that sector. Again, we just
4 know that the phone shows that tower and specifically that
5 side or sector as the best tower and sector for the device
6 to use.

7 So, it's gonna be somewhere within the coverage area
8 of that.

9 Q. Moving on to slide six, this is -- the presentation
10 we get to the actual analysis, this is presented on your
11 map, correct, this bar that you have explained?

12 A. Yes.

13 So we call this a call out box. So, for every
14 cellophane tower that's gonna be shown on my map slides,
15 there will be a box that basically shows the data from
16 each of those cellphone towers. So, if we kind of break
17 it down, we look at the top. Again, CID stands for cell
18 ID. This is that unique, unique cellphone tower number.

19 So, again, this is tower 153403, that unique number
20 not replicated anywhere else in Verizon's network, which
21 is this is a Verizon, and then it says -27.

22 Within Verizon's numbering nomenclature, the first
23 number, the number two of the 27, shows the side of the
24 tower that's used. So this is actually side number two or
25 sector number two of that tower. Underneath that will

1 list the date of the activity and then the phone number
2 who's at -- whose device is using that specific tower.

3 So, this would be being used by the 3788 number. We
4 see a time in local time. So that's gonna be in eastern
5 time.

6 Next to that is the type of activity. So we could --
7 it will say an incoming call, outgoing. It may say SMS,
8 incoming or outgoing. That's a short message service.
9 Basically text messaging. The number next to that where
10 it says 200, that shows the middle of this sector.

11 So, the azimuth, or orientation, out of 360 degrees,
12 the middle of this sector, sector number two points
13 towards 200 degrees, which is basically south and east.

14 And then, on the other side, the other phone number
15 associated with this activity, if you see that other
16 number like this one here highlighted in yellow, it's
17 another one of the phone numbers that I was asked to
18 review. So, it's a known number.

19 So, basically, by looking at this call out box, we
20 could see the target number, 3788, placed an outgoing call
21 at 2:19:06AM. We can see the phone number it placed that
22 call to ending in 1072. Then, at the top, we see the
23 cellphone tower and sector side of the tower that was used
24 and then, lastly, that 200 shows us the orientation of
25 that tower and sector.

1 So, all of this data comes directly from either the
2 call detail records, the phone bill, or the tower list all
3 provided by the phone company.

4 Q. And, in this case, you have call details from all
5 three major providers, correct?

6 A. I do. AT&T, T-Mobile, and Verizon.

7 Q. And can you explain to the jury -- do they all keep
8 the same records in their call detail records or is there
9 differences between the companies?

10 A. Yeah, they do not.

11 So, they're just mandated, at a minimum, to keep, on
12 their call detail records, calls, incoming and outgoing
13 calls, and that's all Verizon does. At a minimum, Verizon
14 keeps calls and text messages and the towers and sectors
15 for those.

16 T-Mobile likes a little bit more information. So,
17 they keep calls and they keep some text messages depending
18 upon how that text message was routed through their
19 network.

20 And then AT&T, AT&T loves data. So, they keep calls,
21 text messages, and then some data sessions of your phone.

22 Q. All right. And you've labeled, at the beginning,
23 which, which one is which, correct?

24 The first slide you had which each of these numbers
25 are?

1 A. That's correct.

2 Q. All right. Getting into the, the analysis, we're
3 starting with (864)309-9465 and then this is the time that
4 you analyze it through the next series of slides?

5 A. Yes. And just -- this is an AT&T device.

6 Q. All right. And, and I, I think you covered it when
7 you were talking about the slides. But the jury does not
8 need to do any sort of time conversion with these. These
9 would of been the time locally -- like it -- when you
10 refer to 2:19 on the previous bar, they don't need a UTC,
11 subtract four, or anything?

12 That's the time?

13 A. That's correct.

14 Yeah. So, cellphone records are kept in a different
15 time zone. It's kept in UTC time, which is what's
16 considered the first timezone across the globe and that's
17 because these phone companies do business in multiple
18 timezones. So, they just pick the first timezone as their
19 standard time.

20 So, the records may actually show a time in UTC, not
21 in eastern time. But I make the conversion in my
22 analysis. So, everything in my analysis is gonna be in
23 eastern time, local time.

24 Q. Thank you.

25 This slide is from 9:59PM to 12:40AM, correct?

1 A. It is.

2 Q. On the -- October 24th of 2020 going into the
3 25th.

4 what can you tell the jury or, in your opinion, about
5 the location of this device during these communications?

6 A. May I orient kind of the jury to this slide itself?

7 Q. Please.

8 A. Yeah.

9 So, at the very top will always be the date and time
10 period. So, this is -- this slide covers
11 October 24th from 9:59 until October 25th at 12:40AM.

12 So each slide is like a snapshot in time, right. So,
13 this slide covers this time period. The next slide will
14 be a different time period, so forth and so on.

15 On the left-hand side, the top left, you'll see the
16 blue number. This shows the phones that are analyzed on
17 this map. So, I'm only looking at the 9465 number during
18 this time period.

19 On the right-hand side, the top right is locations of
20 interest. So, obviously locations of interest that I was
21 given by the district attorney's office as important
22 locations we put on the map. So, in this case, we have
23 this green box. That's the ■ Celestial Court in
24 Greenville (sic), South Carolina.

25 underneath that you see it says AT&T cellphone towers

1 and then it has a blue dot and then you see on the map a
2 lot of different blue dots.

3 Again, these are all the cellphone towers. All the
4 blue dots are cellphone towers for A -- AT&T during this
5 time period and that kind of helps us determine a general
6 area of where the device is, cause if we know the tower
7 used, but we know there's other towers in this other
8 areas, we can limit the ability or the area in which the
9 phone was -- actually used a specific tower.

10 So now if we get into kind of the analysis of this,
11 we see that, you know, the first activity is at 9:59.
12 It's an incoming call and we see the tower and sector used
13 for that area there and then there's a series. It uses a
14 different tower, 11:05, and then starting at 12:05, a
15 series of text messages, both in and outgoing, to 12:40
16 again using that tower and sector there.

17 Q. All right. And many of those text messages are to
18 the 1072 number that you also analyzed, correct?

19 A. That's correct.

20 Q. All right. I'm gonna move to the next slide if
21 you've explained this one to your satisfaction.

22 This is slide nine.

23 A. Yeah.

24 So, in this slide, now we're looking at 12:40 to
25 1:32AM. The first activity we see is near the bottom down

1 there. There is a outgoing text message at 12:40 and we
2 see the tower and sector used. That tower and sector,
3 again, is in proximity to that Celestial -- green
4 Celestial Court box there.

5 We didn't see a series of activities, you know, at
6 1:03 till 1:12 and we see the device start traveling north
7 and eastbound having activities on various towers showing
8 travel of that device, again northeast, starting at around
9 12:40 near the Celestial Court area and then eventually
10 ended up on the west side of Spartanburg at 1:32AM near
11 that red box that shows the Walden Circle address.

12 Q. All right. And these arrows from the box are then
13 pointing to what they correspond with?

14 A. Yes, the arrows just point to the towers that the
15 call out box represents.

16 Q. All right. Moving to slide ten.

17 A. Yeah.

18 So this slide is from 1:32 to 2:01AM on the morning
19 of the 25th and we can see the incoming and outgoing
20 text messages. There's a series of calls and then another
21 series of incoming text messages. Again, we can see the
22 tower and sector used. It's gonna be in proximity to that
23 red Walden Circle address.

24 Q. Okay. So, for -- would it be your opinion that,
25 between 1:32 and 2:01, this device, 9465, is in the sector

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1 that you're -- you've highlighted here on this slide?

2 A. Oh, yes. Absolutely.

3 Q. Moving to slide 11.

4 what, what can you tell the jury about this?

5 A. Yeah.

6 So this is, again, 2:01 to 3:35AM on the same morning
7 of the 25th and this is, if we look at the first
8 activity at 2:01, again, that's that phone activity that
9 was in the area -- general area of the Walden Circle
10 address and then we see that device have activities and
11 use various cellphone towers as that device again travels
12 now south and west headed back into the Greenville area.

13 Q. And this, this bar at the top -- I know you haven't
14 been here for all the testimony.

15 But all -- these are two incoming calls from a
16 566-1072.

17 Is that correct?

18 A. That's correct.

19 Q. And then a text message from that same number?

20 A. That's correct.

21 Q. All right. And then this lower box here, that number
22 is (864)908-2071.

23 Is that correct?

24 A. Yes, sir.

25 Q. And that's a outgoing call?

1 A. It is.

2 Q. All right. And then, again, the 1074 number appears
3 at 3:35.

4 Is that correct?

5 A. It does and that's an incoming call.

6 Q. All right. And at that, that point, the, the device
7 is, is back in Greenville?

8 A. It is.

9 Q. All right. Gonna move to slide 12.

10 A. Yeah.

11 This is just a continuation. Again, October 25th,
12 early morning, 3:37 to 3:47, and we just see this device,
13 again, initially have some activity on the east --
14 southeast side of Greenville and then that device seems to
15 move slightly south and west and then, at 3:47, has some
16 activity on the southwest side of Greenville.

17 Q. And this, again, has communications with the
18 (864)566-1074 number on the right-hand side and in the
19 middle box -- with the middle box and the left box with
20 the 864-908-2071 number, correct?

21 A. That's correct.

22 There's a series of incoming and outgoing calls at
23 3:37 and 3:41 with that 1074 number, and then, the, the
24 number ending in 2071, there's an incoming call at 3:39
25 and an incoming text message at that same number at 3:47.

1 Q. All right. Moving on.

2 This is the analysis for (864)349-3788?

3 A. It is and this is a Verizon number.

4 So, again, realize that Verizon keeps a little bit
5 less in their call detail records. So, all we're gonna
6 see is calls, incoming and outgoing calls, for that
7 number.

8 Q. All right. This is slide 14.

9 A. It is.

10 So, this starts on October 24th. Again, now you
11 see we're looking at the black phone number on the top
12 left ending at 3788 and the time period, again, this is on
13 the 24th between 10:32 and 11:46, and we can see that
14 its activity, again, during that time period, is in the
15 general vicinity of that Celestial Court address.

16 Q. And this is slide 15 from 1:04AM to 2:19AM.

17 A. Yes.

18 So this, again, is showing the travel of this device.
19 On the bottom left down here we have like a circle it
20 looks like with a red dot in the middle. That's one of
21 those omnidirectional antennas. Remember I showed that
22 fake cactus that would cover a full circle.

23 Well, this antenna used here is actually some type of
24 omnidirectional antenna. Again, it's not a fake cactus
25 but covers a -- 360-degrees. It's not sectorized.

1 So, we see there was activity on that tower at 1:04
2 and 1:05 and then we see the phone again traveling north
3 and east and eventually having phone activity at 2:19 up
4 near the area of that Walden Circle address.

5 Q. All right. You also have a note here at the bottom
6 right.

7 What can you tell the jury about that?

8 A. So, in Verizon's records, I can see text messages
9 exchanged meaning I can see if me and my wife had text
10 messages. But I can't see the tower and sector used
11 cause, again, that information's not call -- kept by
12 Verizon in their call detail records, not the tower and
13 sector. But I can see the interactions between the two
14 but a time period of when those interactions occurred. I
15 just don't know where those interactions are because
16 Verizon doesn't keep a tower and sector for that
17 information.

18 So, the right-hand side in the bottom right-hand
19 corner, we just annotated that, during this time period
20 listed, which is 2:11AM to 2:13AM, there's 11 text
21 messages sent between that 1072 green phone and this 3788
22 black phone.

23 Q. All right. Moving on to slide 16.

24 This 2:19 was on the previous slide, correct?

25 This is just a more zoomed in version and covers a

1 longer period of time?

2 A. Correct.

3 It's (sic) just shows, at 2:10, again, that device
4 had an outgoing call in the vicinity of the Walden Circle
5 area and then the next activity is at 2:40 and we see that
6 device has traveled south and west out of the Spartanburg
7 area.

8 Q. This is slide 17 from 3:04 to 3:34.

9 At this point, all of this data is back in the
10 Greenville area?

11 A. That's correct.

12 Yeah, this just shows kind of where these devices
13 ended up during this time period and now it's in the
14 Greenville area between 3:04 and 3:34.

15 Q. All right. And this has two highlighted contacts
16 with the 901-0404 number, which is not a part of this
17 PowerPoint, but is of note that you were asked to analyze?

18 A. That's correct. I did a separate analysis for that
19 phone number.

20 Q. And both of these are incoming calls from that
21 number?

22 A. They are.

23 Q. All right. Slide 18 is the analysis of 566-1072?

24 A. And this is a -- gonna be a T-Mobile device. So
25 we'll see towers and sectors for incoming and outgoing

1 calls and some text messages depending upon how that text
2 message was routed through their network.

3 Q. All right. This is slide 19.

4 A. Yep.

5 So, again, same time period. We started with the
6 other phones on the 24th, October 24th, at around 9:32
7 on this slide and this slide covers until the 25th at
8 12:25AM. Again, we see phone activity of this device in
9 the general area around the Celestial Court.

10 Q. All right. And on this bottom box, the fourth entry
11 is an incoming call from that 566-1074 number that we saw
12 on the first phone that we analyzed, correct?

13 A. That's correct.

14 Q. You analyzed. I didn't help you.

15 A. That's correct.

16 Q. All right. This is slide 20 for the record. This
17 covers from 1:16 on October 25th to 2:31AM.

18 What can you tell the jury a -- about the information
19 on slide 20?

20 A. Yeah.

21 So, again, we see, at 1:16, an outgoing call that
22 places it in the vicinity of 85 now moving north and east
23 towards Spartanburg and then, at 2:31 there's an incoming
24 text message and we can see the phone used the tower and
25 sector in close proximity again to that Walden Circle

1 address.

2 we also listed on there, again, as we saw when we
3 looked at the black phone, 3788, that, between 2:11 and
4 2:13PM, that there were 11 text messages and those could
5 be, you know, back and forth, between that 1072, this
6 number we're analyzing, and that 3788 of the black phone.

7 Also shown on here is, in T-Mobile's -- T-Mobile's
8 records, if someone tries to call a device and the device
9 is on, we can see a tower and sector for that. If someone
10 tries to call a device and that device is off the network,
11 we'll see in the records that in -- a call was attempted
12 and that the device was not reachable.

13 There's three main reasons a device could not be not
14 reachable. One is was -- the device could be powered off.
15 Two, that device could be in WiFi mode only or airplane
16 mode and, three, is that device could be in somewhere that
17 doesn't have cellphone coverage.

18 well, that kind of blue box on the bottom right shows
19 that there were several calls, four of them in fact, one
20 at 1:59, two at 1:59, one at two o'clock, and one at 2:19,
21 where we see calls directly into this 1072 number that
22 went directly to voice mail meaning the device was not
23 reachable.

24 Q. Do you have an opinion about whether the third option
25 that you listed is, is possible given the information that

1 you have?

2 A. I mean yes, there are spots in the United States
3 where we don't have great cellphone coverage. We've all
4 been in those spots.

5 But, in the vast majority of areas where people live
6 and people work, which I would include Greenville and
7 Spartanburg in those areas, there's normally very good
8 coverage and you can see the number of cellphone towers
9 just in this general area shown on this map.

10 So, in my expert opinion, I would probably rule out
11 the fact that it wasn't in an area of cellphone coverage
12 during this time period.

13 Q. All right. And that, that 219 call is seen on the
14 previous phone analysis and it's seen on this and that's
15 two of that numbers that you analyzed?

16 A. That's correct.

17 Q. Move to slide 21.

18 A. Yeah.

19 So, again, this, this shows phone activity between
20 2:31 and 2:32. So just a short time period here.

21 But you can see the phone uses a tower and a sector
22 that's in proximity or close proximity to that Walden
23 Circle address and it's an incoming and outgoing text
24 message and then an outgoing call.

25 Q. All right. And those -- the outgoing text message

1 and outgoing call is to (864)566-1074, which was seen both
2 earlier on this analysis and on the first analysis that we
3 saw, the blue phone.

4 Is that correct?

5 A. That's correct.

6 Q. All right. This slide is from 2:34 to 2:56 on the
7 early morning hours of October 25th.

8 What can you tell the jury about the information on
9 this slide, slide 22?

10 A. Yeah.

11 So, what we see here again is travel of this device.
12 First activation or activity is at 2:34. You see that at
13 kind of the top right-hand corner. It's on the western
14 outskirts of Spartanburg and then that device has phone
15 activity as it travels south and west and eventually
16 ending up with some phone activity at 2:56AM in kind of
17 the greater Greenville area.

18 Q. All right. And, again, just to highlight for this
19 for the jury, three of these communications on this slide
20 are to the 1074 number that has been referenced
21 previously?

22 A. That's correct.

23 Q. And one of them is to (864)908-2071 that was seen on
24 the first analysis with the blue phone.

25 Is that correct?

1 A. That's also correct.

2 Q. This is State's 23.

3 All activity on this is back in the Greenville area?

4 A. It is and this is between 2:56 and 3:20AM.

5 Q. Slide 24 is between 4:40 in the morning and five
6 o'clock in the morning?

7 A. It is.

8 And, again, now we see that device is moved kind of
9 south and west from the last location.

10 Q. Okay. And there's quite a number of phonecalls in
11 this 20 minute period?

12 A. There is.

13 Q. Slide 25.

14 what can you tell the jury about this?

15 A. Yeah.

16 So, again, the first activity on this slide is near
17 the top left-hand corner. That's at 5:02 and 5:03 and
18 then we see that device, at 5:10, kind of move south and
19 east towards this Pleasant Valley area. At 5:34, there's
20 phone activity. Kind of the -- one on the right-hand side
21 and then finally, at 5:43, there's phone activity again
22 getting a little bit closer to that ■ Celestial Court
23 address.

24 Q. All right. Slide 26.

25 A. Now we see the device -- again, this is between

1 5:43 and 6:39. At -- 5:43 is the first activity. It's
2 the one near the green box on the bottom and then we see
3 that device start to move north and westbound again
4 eventually having some activity at 6:39 up near I guess
5 that welcome part of Greenville. I'm not sure where
6 that's at.

7 Q. And these two calls in the middle, incoming and an
8 outgoing call, are to the first number that we discussed
9 in your analysis, the 9465 number?

10 A. That's correct.

11 Q. All right. Moving to slide 27.

12 The -- this will now be a com -- a combination of the
13 three numbers and the activity that you see?

14 A. That's correct.

15 So, the initial analysis, we did every phone
16 individually. So, we did the 9465. We did the 1072 and
17 we did the 3788.

18 Well, now we're gonna look at them, for a couple
19 slides, all of their activity together.

20 Q. This is slide 28.

21 A. So, again, this is that initial time period on
22 October 24th, 9:30 to 10 -- 9:30PM on the 24th to
23 12:40AM on the 25th.

24 And so you can see in this slide, you know, activity
25 from all three devices, blue, green, and black devices,

1 all kind of in this same general area during this time
2 period.

3 Q. All right. So, when you have the different colors on
4 each box, that's in this -- basically these two towers
5 are -- appear to be on top of each other but oriented in
6 different directions?

7 A. That's correct.

8 So I -- when they put it -- when this -- when a
9 company puts in a cellphone tower, the pole itself, they
10 can use their top -- you know, you may see a pole that has
11 a series of antennas. It may have a series of antennas at
12 the top and about 10 feet down there's another series of
13 antennas. A little bit further, another series of
14 antennas. It looks almost like a Christmas tree from top
15 to bottom.

16 well, that pole, that tele -- you know, that
17 cellphone tower could have AT&T antennas at the top. The
18 next tier could be T-Mobile and the next tier could be
19 Verizon. All three providers can share the same pole.

20 Now, they won't use the same antennas because, again,
21 cellphones are kind of like children. We tell children
22 don't talk to strangers. Well, that's what a cellphone
23 does. At&T, only AT&T towers. T-Mobile, only T-Mobile.

24 So, in this case, we see the black and the green,
25 which are two different providers, one's Verizon and one

1 is T-Mobile, they're on the same pole. They're using
2 different antennas and that's kind of why you see kind of
3 the pie wedge oriented different ways.

4 Q. All right. Gonna move forward if that's all right
5 with you. Say -- this is slide 29.

6 what can you tell the jury about what you see in this
7 slide?

8 A. Yeah.

9 So, again, this shows between 12:40 and 2:31AM. The
10 first activity is the blue phone at the bottom at 12:40,
11 you know, again, south of that green box. And then we see
12 a series of activities from the blue phone, the black
13 phone, and the green phone as those devices appear to
14 travel north and east away from the area of, of the green
15 box and more closer to the area of the red box in
16 Spartanburg.

17 Q. Moving to slide 30. This slide is between 1:32 and
18 2:32 in the morning on October the 25th.

19 what can you tell the jury about the information on
20 this slide?

21 A. Yeah.

22 Again, this just shows, during this time period, 1:32
23 to 2:32, so approximately an hour, you know, all three
24 devices had phone activity in the vicinity of that Walden
25 Circle area.

1 Q. All right. And I, I don't know if we discussed this
2 earlier. But this -- if you're being -- this, this green
3 line you have here, it looks like the red indicator is
4 below that.

5 Does that mean anything to you or does that, does
6 that mean that, that device couldn't be where the red
7 indicator is?

8 A. No, not necessarily.

9 So, let's talk about how a phone company puts in a
10 cellphone tower.

11 So, if you think about how they put cellphone towers
12 in, it's kind of like how we would put sprinkler systems
13 in our yard, right. We want everywhere in our yard to get
14 water. So, we put sprinkler heads all over.

15 Well, say we have a sprinkler head on the right and a
16 sprinkler head on the left. We don't want the one on the
17 right to only spray to here and the one on the left only
18 to spray to here and there be a gap between those two
19 sprinkler heads, right. Here in the south, that grass
20 would die.

21 So, what we want to do is overlap those sprinkler
22 heads. The one on the right shoots a little bit into the
23 one on the left's area and so forth and so on to provide
24 coverage for our entire yard. But what you don't want to
25 do is shoot them all the way over each other cause then

1 we're wasting water.

2 well, that's exactly how the phone companies put them
3 in, right. we use mobile devices. Mobile meaning we take
4 these things everywhere we go. They want to make sure
5 there's coverage everywhere. They want a tower on the
6 right to shoot into the tower's on the left area so that
7 way there's coverage.

8 So that way, when you're driving down the street, you
9 don't have to end a call and then start a call and then
10 end a call as you go from tower to tower. well, that's --
11 the same can be said for sectors between towers.

12 So, there's gonna be an overlap on one side verse
13 overlap on a little on the other side. So, there could be
14 an overlap into that line.

15 So, what we see here with that green line is, again,
16 that's the approximate left and right boundaries of that
17 tower. That actual usable service of that tower could
18 extend and, most likely does extend, a little bit past the
19 line on the left. So, it's gonna go a little bit into the
20 other sector's area.

21 So, by looking at that, you can't necessarily rule
22 out that that device could have been in the vicinity of
23 that red box and still use the tower and sector shown
24 there.

25 Q. This is slide 31.

1 what can you tell the jury about your analysis on
2 slide 31?

3 A. Yeah.

4 So, this is 2:32 to 2:43 and we see, again, the
5 devices, all three devices, have phone activity during
6 travel from the vicinity of the red box south and west
7 back toward the Greenville area.

8 Q. All right. And then on slide 32, what can you tell
9 the jury about the analysis on this slide?

10 A. Yeah.

11 So, on this slide here, again, 2:56 to 3:31, this is,
12 again, the area in which the devices came back to
13 originally when they entered kind of the greater
14 Greenville area and we can see that all three devices,
15 green device, black device, and the blue device, have
16 phone activities in this area during this time period.

17 Q. And so would, would your opinion be that these
18 devices, before traveling to Spartanburg, were in the
19 vicinity of each other, all three traveled to Spartanburg
20 and were in the vicinity of Walden Circle around two
21 o'clock in the morning, and then returned back to
22 Greenville?

23 would that be --?

24 A. Yes.

25 I would say that the devices were all in Greenville

1 in that area, traveled in close proximity to each other,
2 if not together, to the -- Spartanburg and then were in
3 Spartanburg in the same area around the same time and then
4 traveled again either together or in close proximity back
5 to Greenville and eventually ended in this same area
6 during this same time period.

7 Q. All right. I'm gonna go over State's Exhibit 121
8 with you now.

9 THE COURT: Hang on for a sec.

10 Madam Forelady, are y'all okay or do you need a
11 break?

12 THE FORELADY: We're good.

13 THE COURT: Okay.

14 All right. Go ahead.

15 Q. All right. We're not gonna go over the intro slides
16 again.

17 But this is a AT&T number 901-0404 that you also
18 analyzed?

19 A. That's correct.

20 Q. And this is the times on slide seven that you
21 analyzed between 5:51 on October the 24th, 5:51 in the
22 evening to 2:25 in the morning on October the 25th of
23 2020?

24 A. That's correct.

25 And, just to note, this is an AT&T device. So, we'll

1 see a lot of mappable activity on their call detail
2 records.

3 Q. This is slide eight of State's 121.

4 what can you tell the jury about this slide?

5 A. Yep.

6 So, again, you see the time period at the top. We're
7 now looking at the red phone ending in 0404. You'll see
8 on the right-hand side there's some new locations of
9 interest. There's the dark blue box, which is ■ Glendale
10 Street, and then there's a light blue box that's ■
11 Staunton Bridge and, and both of those addresses are in
12 Greenville and you see those annotated on the map.

13 well, if we look at phone activity during this time
14 period, we see, at 5:51 through 8:28, the tower and sector
15 used there, which would be in close proximity to that
16 Staunton Bridge location.

17 Right above that, that tower above that is used at
18 6:04 and 6:43 again there and then also the red phone has
19 activity starting at 8:32 and that device -- and that
20 activity runs until 2:46AM using that same tower and that
21 same sector.

22 You can see -- because the, the voluminous number of
23 calls, text, and data sessions, we've kind of grouped them
24 together. So you can see on the bottom right, you know,
25 the tower and sector used near the Glendale Street has,

1 you know, 48 events in the top portion between 8:32 and
2 11:41 and then another 23 activities between 12:07 and
3 2:46.

4 Q. And, and these are relatively large periods of time
5 with a lot of activity.

6 In your analysis, did you look -- at -- it's not
7 that -- are all of these occurring or half of them
8 occurring at 8:32 and the other half occurring at 11:41 or
9 are they spread out through these timezones?

10 A. Yeah, they're very consistently -- the phone appears
11 to be used in a consistent basis throughout this time
12 period using that tower and sector.

13 Q. All right. And the, the bottom one is from 12:07AM
14 to 2:46AM?

15 A. That's correct.

16 Q. It includes 23 different activities during that time
17 all showing in this sector still, I guess, in the vicinity
18 of the ■ Lindel Street --

19 A. That's correct.

20 Q. -- address?

21 And, slide nine, what can you tell the jury about the
22 information on this slide?

23 A. Yeah.

24 So, again, this is kind of just a zoomed in time
25 period around the time of the crime and this is between

1 1:36 and 2:25, again, to show the device had, you know,
2 activity at a pretty routine regular basis throughout that
3 time period.

4 Q. All right. And you have one thing highlighted but
5 it's not a number that we've talked about.

6 Do you know what that number is highlighted for?

7 A. Yeah, that number was provided to me as one of the
8 victim's.

9 Q. All right. And so that is an outgoing call from the
10 901-0404 number at 1:00 -- almost 1:37 to the
11 (803)730-23 -- 2386 phone number?

12 A. That's correct.

13 Q. All right. And then there are, like you said,
14 essentially every, every 10 minutes roughly and then the
15 last two within two minutes of each other during this
16 entire timeframe?

17 A. That's correct.

18 Q. In, in your opinion, is it possible that this device
19 was at Walden Circle at the time of this crime?

20 A. It was not, no.

21 SOLICITOR SMITH: Give me one second please.

22 (Pause.)

23 SOLICITOR SMITH: Do you want these?

24 MR. MORIN: Yeah.

25 SOLICITOR SMITH: Do you want --?

1 MR. MORIN: The first.

2 SOLICITOR SMITH: The first one?

3 Okay. Do you want this laptop to take it to your
4 desk?

5 MR. MORIN: Yeah, probably.

6 THE COURT: Hang on for a second.

7 MR. MORIN: Yes, sir.

8 THE COURT: You -- are you done with this witness?

9 SOLICITOR SMITH: I, I am done.

10 THE COURT: All right. Madam Forelady, let's take
11 about a 10 minute break and we'll come back for
12 cross-examination.

13 SOLICITOR SMITH: Yeah, we can get him set up.

14 THE COURT: All right.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: Don't talk to anybody about your
18 testimony.

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. Thank you, buddy.

21 (WHEREUPON, a short recess was taken at this time.)

22 THE COURT: Mr. Morin, you ready for
23 cross-examination?

24 MR. MORIN: If I can have a -- just like two more
25 minutes?

1 THE COURT: Okay.

2 MR. MORIN: I think I'm ready but I just --.

3 THE COURT: All right. So let me know.

4 MR. MORIN: Yes, sir.

5 (Pause.)

6 MR. MORIN: All right, Your Honor.

7 THE COURT: Anything from the State before we bring
8 the jury in?

9 SOLICITOR SMITH: No, Your Honor.

10 THE COURT: All right. Bring them in please, sir.

11 SOLICITOR SMITH: Just for scheduling, we have the
12 witness from the Clerk of Court's Office. If this ends
13 reasonably, I didn't know if you'd want -- could finish
14 that so she could get back to Greenville before we broke
15 for lunch?

16 It should be relatively quick, Your Honor.

17 THE COURT: You may.

18 SOLICITOR SMITH: Thank you, Your Honor.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. MORIN:

24 Q. Agent Berni?

25 A. Yes, sir.

1 Q. When you first started testifying, you were talking
2 about you do mapping and tracking, correct?

3 A. I do.

4 Q. And, in this case, this is all mapping.

5 There's not tracking on this unless you count looking
6 at the map?

7 A. No, that's correct. Yeah, I would consider tracking
8 like active events.

9 Q. Okay. You also talked about your training about, as
10 they waved through the air, how they -- they are affected
11 and how they travel.

12 Is that right?

13 A. Yeah, RF energy. That's correct.

14 Q. Okay. This particular evening, the weather was bad.
15 It was raining heavily.

16 Does that affect the -- these waves through the air?

17 A. Not significantly.

18 So, again, multibillion dollar industry, they select
19 frequencies that are less affected by weather, by leaves,
20 by the little things in your environment and they tend to
21 pick the frequencies that are less affected to that. So,
22 the real effect weather would have is if a tornado took a
23 tower out.

24 Q. Okay. Now, just so I'm clear, if -- this may be too
25 basic but I'm gonna do it anyway.

1 If I leave my phone at home and my wife calls me, and
2 it goes to regular voicemail, is that gonna show my
3 activity as being at my home or is it gonna say one of
4 those three that don't count to show that it went that
5 way?

6 A. Yeah.

7 So if your phone is on and it's connected to the
8 network---

9 Q. Right.

10 A. ---and your wife calls you, that will show that the
11 device is located -- so, when an incoming call comes into
12 the device, the network basically pages the device.
13 It's -- it would say hey, Jay's phone, Jay's phone, my
14 phones says hey I'm here, connect me to this tower and
15 this sector because it's the best for the phone. And then
16 that incoming call would ring to my device.

17 So, my phone would connect to that tower and it would
18 ring. If I'm not there, it just rings and rings and rings
19 and eventually it would go to voicemail. But my phone did
20 connect to that tower. So, therefore, there would be an
21 annotation in the records showing my phone used this
22 specific tower for a call. Now whether that call was
23 answered or not, we'd have to look in the records.

24 MR. MORIN: Okay. That's all the questions I have
25 for him.

1 THE COURT: Any redirect?

2 SOLICITOR SMITH: I do not have any, Your Honor.

3 THE COURT: All right. May this witness be excused?

4 MR. MORIN: Yes, sir.

5 SOLICITOR SMITH: Yes, sir.

6 THE COURT: Thank you, sir. You are excused.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Call your next witness please, sir.

9 SOLICITOR BROWN: May it please the Court, Your
10 Honor.

11 The State, at this time, would call Christy Diachenko
12 of the Greenville Clerk of Court's Office.

13 THE CLERK: Place your left-hand on the Bible.

14 CHRISTY DIACHENKO, being first duly
15 sworn, testified as follows:

16 SOLICITOR BROWN: May it please the Court, Your
17 Honor?

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION

20 BY SOLICITOR BROWN:

21 Q. Ms. Diachenko, can you please tell these ladies and
22 gentlemen of the jury your name and spell your last name
23 for our court reporter?

24 A. My name is Christy Diachenko. My last name is
25 spelled D-I-A-C-H-E-N-K-O.

1 Q. And, Ms. Diachenko, with whom are you employed?

2 A. The Greenville County Clerk of Court's Office.

3 Q. What is the clerk of court?

4 A. The clerk of court is the keeper of the records.

5 Q. All right. And as the Greenville County Clerk of
6 Court's Office employee, what are your duties for the
7 Greenville County Clerk of Court?

8 A. I am the administrative manager of the criminal
9 records department. We keep all the criminal records for
10 General Sessions cases.

11 Q. So, as a part of your regular duties in that role, is
12 it your job to keep sentencing sheets, convictions, things
13 of that nature, that occur in Greenville County, South
14 Carolina?

15 A. Yes, sir.

16 SOLICITOR BROWN: All right. Your Honor, permission
17 to approach the witness?

18 I've already shown opposing counsel this.

19 THE COURT: Yes, sir.

20 Q. At the request of Spartanburg County, did your office
21 pull a conviction for a Tyleek Johnson that's been
22 identified, at this for identification purposes, State's
23 Exhibit No. 4?

24 A. Yes, we did.

25 Q. And upon pulling that, did y'all certify this as a

640 Christy Diachenko - Direct examination
By Solicitor Brown

1 true and accurate copy of what y'all's records currently
2 reflect in Greenville County?

3 A. Yes, sir.

4 Q. All right. And do you have a stamp on there showing
5 that?

6 A. We do.

7 Q. And, and is this a document that y'all regularly keep
8 in the course of y'all's business as members of the clerk
9 of court's office in Greenville County?

10 A. Yes, sir.

11 SOLICITOR BROWN: All right. Your Honor, at this
12 time we would offer State's Exhibit No. 4 into evidence.

13 THE COURT: Any objection?

14 SOLICITOR BROWN: I'm sorry. I showed you this
15 before.

16 MR. MORIN: Yeah. Well I --.

17 No objection, Your Honor.

18 THE COURT: All right. Admitted.

19 (WHEREUPON, State's Exhibit No. 4 was received into
20 evidence at this time.)

21 SOLICITOR BROWN: Your Honor, permission to publish?

22 THE COURT: Yes, sir.

23 Q. Ms. Diachenko, on your screen you should be having a
24 projector popping up.

25 Is this the front of the indictment for Mr. Tyleek

1 Johnson?

2 A. Yes, it is.

3 Q. And is -- over here at the bottom, does it reflect
4 where y'all have the raised seal indicating that this is a
5 certified copy of this indictment for Mr. Johnson that
6 your office prepared?

7 A. Yes, it does.

8 Q. I'm gonna zoom in.

9 Can you see the date in which y'all certified that?

10 A. 5/14/25.

11 Q. Who certified that?

12 A. I did.

13 Q. Turning to the second page, what is this document?

14 A. This is a sentencing sheet.

15 Q. All right. And can you briefly explain to these
16 ladies and gentlemen of the jury what a sentencing sheet
17 is?

18 A. A sentencing sheet is the document that reflects
19 the -- whether it was a guilty plea, a trial, guilty
20 verdict, a trial, not guilty, and it also reflects the
21 sentence that was given by the judge.

22 Q. All right. And does it reflect the disposition, and
23 if it was through a plea or a trial, a conviction?

24 A. It does.

25 Q. All right. At the top here, does this reflect who

1 the defendant was in that particular case and I'll zoom in
2 so you can see it a little better?

3 A. Yes, it does.

4 Q. And, and what is that name?

5 A. Tyleek Rayquan Johnson.

6 Q. And, and does it give a date of birth?

7 A. It does.

8 Q. When?

9 A. [REDACTED]/1996.

10 Q. Does it give an address of Tyleek Johnson at the time
11 of this conviction?

12 A. It does. [REDACTED] Courtland Falls Drive, Simpsonville,
13 South Carolina, 29680.

14 Q. And the driver's license number?

15 A. [REDACTED].

16 Q. This case was underneath an indictment in Greenville
17 County?

18 A. It was.

19 Q. And does this reflect the indictment number for which
20 he was convicted?

21 A. It does.

22 Q. And what is that indictment number?

23 A. 2017-GS-23-00894.

24 Q. Is that the same indictment number as is what is on
25 the front of this indictment?

1 A. Yes, it is.

2 Q. And, finally, does this show what the defendant was
3 convicted for?

4 A. It does.

5 Q. And what is that?

6 A. Strong armed robbery.

7 Q. All right. The defendant signed this sentencing
8 sheet prior to pleading guilty?

9 A. He did.

10 Q. Okay. One last question.

11 This was signed by a circuit court judge in
12 Greenville County at the time of his plea?

13 A. That's correct.

14 Q. All right. And I don't suppose you happen to
15 recognize that signature, do you?

16 A. I believe that is Judge Alex Kinlaw.

17 Q. All right. Thank you. Please answer any questions
18 Mr. Mike Morin might have for you.

19 MR. MORIN: I have no questions.

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, let, let me explain one thing.

22 This document is being admitted solely for the
23 purpose of, of proving the elements of one of the charges
24 in this case. It is not being considered for anything
25 else but that and you may not consider it for anything but

1 that. It's not to be considered at this gentleman's a bad
2 person or reacting in conformity in this case. But only
3 for the purpose of establishing one of the elements of the
4 charges in this case. I'll remind you later.

5 Any -- anything different from the State?

6 SOLICITOR BROWN: Nothing further from the State,
7 Your Honor.

8 MR. MORIN: No, sir, I, I have nothing.

9 THE COURT: Do you, you rest?

10 SOLICITOR BROWN: No, Your Honor. We have one last
11 witness. But we would ask that this witness would be,
12 would be excused.

13 THE COURT: Okay. And you -- yes, ma'am, you may go.

14 THE WITNESS: Thank you.

15 THE COURT: How long is your next witness gonna be?

16 SOLICITOR BROWN: I could probably put him up in
17 about 30 minutes.

18 THE COURT: Okay. Let's go ahead -- let me see. Let
19 me check with my clerk.

20 We had everything as far as lunch?

21 THE CLERK: I'll find out.

22 THE COURT: Let me see the attorneys up here.

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: All right. Madam Forelady, I'm gonna go

1 ahead and call a lunch break. We've ordered you lunch and
2 it should be here shortly.

3 We're gonna break until two o'clock and, and they're
4 a lot of things we have to deal with until that time. But
5 we'll bring you back at 2:00. If you need anything in the
6 meantime, let our bailiffs know and we'll get it for you
7 if we can.

8 But let's take a lunch break now please.

9 THE FORELADY: Yes, sir.

10 (WHEREUPON, the following takes place outside the
11 presence of the jury.)

12 THE COURT: Let, let me ask the State something.

13 My law clerk told me that the State asked that the
14 other element of prior conviction not be charged and then
15 y'all put up that evidence. I'm gonna have to not --.

16 SOLICITOR SMITH: I'm, I'm sorry. I did not follow
17 that, Your Honor.

18 THE COURT: In --.

19 SOLICITOR SMITH: No, I -- it was in the burglary
20 section. It has the charge about two priors. He doesn't
21 have two priors. We thought that could be eliminated --

22 THE COURT: Right.

23 SOLICITOR SMITH: -- and then the instruction you
24 just gave is what I was suggesting to move to the, the gun
25 charge. But it's, it's specific about burglaries in the

1 charge that was provided to me.

2 THE COURT: All right.

3 SOLICITOR SMITH: But I, I -- essentially what you
4 did was what I was asking you to do in the final charge
5 that it's not for propensity or character. Just for an
6 element of a crime.

7 THE COURT: Yeah, I -- if I don't -- first -- but
8 take a minute and look at them if you get a chance. I
9 know you got to do some running around and we're gon' give
10 you a minute before you go.

11 MR. MORIN: Thank you.

12 THE COURT: I'm gonna go ahead and take this time now
13 to give your client his Fifth Amendment rights.

14 So, if you would, Mr. Johnson, please stand up and
15 raise your right-hand.

16 (WHEREUPON, the defendant was placed under oath at
17 this time.)

18 THE COURT: Okay. Mr. Johnson, at this point in time
19 I need to go over with you certain rights that you have.

20 Do you understand, at this juncture, you have a right
21 to put up a defense cause the State has rested and that
22 means you have a right to testify if you want to. You
23 have a right not to testify if you want to or don't want
24 to.

25 Has, has your attorney explained to you your rights

1 under the Fifth Amendment to the United State
2 Constitution?

3 THE DEFENDANT: Not yet, no.

4 THE COURT: well, just make sure, let me go over
5 that. Our United States Constitution, the Fifth Amendment
6 says this:

7 No person shall be compelled, in any criminal case,
8 to be a witness against himself. That simply means, Mr.
9 Johnson, is that no one can make you take the stand and
10 testify. Your lawyer can't. The State can't. I can't.

11 Now, you have a right to testify and, if you decide
12 to testify, your lawyer will question you and the State is
13 gon' cross-examine you. Now, obviously, cross-examination
14 is trying to impeach your credibility and, and make you
15 look bad to the jury.

16 Is there any prior crimes that you would seek to
17 impeach him on in his, in his testimony?

18 I'd like to go over that now if we could.

19 SOLICITOR SMITH: Your Honor, I, I don't think so. I
20 don't think we need to do that.

21 THE COURT: All right. We'll review that again.

22 SOLICITOR SMITH: I know the robbery's in and the
23 robbery's iffy on---

24 THE COURT: well, does the State versus -- *State*
25 *versus Robinson* not have a breakdown on -- anyway, it goes

1 over what you have to do in order to do that.

2 SOLICITOR SMITH: Yeah, *Cole* I think.

3 Is that---

4 THE COURT: Well, you go to has -- whether he's
5 accused and whether he's a witness and whether it's more
6 than a year or life and then it has the *Cofield* factors
7 too.

8 SOLICITOR SMITH: Yeah.

9 THE COURT: Whether it involves dishonesty. That
10 comes in regardless.

11 SOLICITOR SMITH: Right. It's just---

12 THE COURT: And so---

13 SOLICITOR SMITH: Judge Cole always had an issue with
14 the robbery, you know, if you, if you punch somebody and
15 take your money, you're honest. But if they turn your
16 back and steal it, you're, you're dishonest. But they've
17 kind of walked it back a little bit.

18 THE COURT: Yeah.

19 So, at this juncture, you know, there's not any --
20 your prior record they seek to use against you. But we're
21 gonna go over that again because, if there is, and they
22 qualified for it to be brought up, they will be allowed to
23 cross-examine you in front of a jury about it basically.
24 But, otherwise, they are going to try to impeach your
25 credibility by what you say and what you do on the witness

1 stand and what you've done in the past.

2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, the decision as to whether or not
5 you wish to testify, usually it's made in conjunction with
6 your attorney, and if you have other friends as opposed to
7 you or you count on or that you may lean on, you may ask
8 them as well. But, at the end of the day, you and you
9 alone will have to make that decision as to whether or not
10 you wish to testify or whether or not you wish to claim
11 the privileges extended to you by the Fifth Amendment.

12 You will have to make that decision knowingly and
13 voluntarily with the knowledge of your rights under the
14 Fifth Amendment and the consequences of your right to
15 testify.

16 Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you understood what I've gone over
19 with you thus far?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you have any questions about anything
22 I've gone over with you thus far?

23 THE DEFENDANT: No, sir.

24 THE COURT: Also, thank you -- if I -- if you were
25 not to testify in this case, I will instruct the jury in

1 my charge on the, on the law that they can not and shall
2 not consider your failure to testify because that's your
3 rights under the Fifth Amendment and because the burden
4 remains on the State to prove your guilt by proof beyond a
5 reasonable doubt.

6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. When we come back, you'll be
9 required to make a decision as to whether or not you wish
10 to testify.

11 Okay, sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Any questions of me at this juncture?

14 THE DEFENDANT: No, sir.

15 THE COURT: All right, sir.

16 All right. Anything else before we take a break?

17 SOLICITOR SMITH: No, Your Honor.

18 MR. MORIN: No, sir.

19 THE COURT: All right. We'll see you back at two
20 o'clock.

21 SOLICITOR SMITH: Yes, sir, Your Honor.

22 (WHEREUPON, Court was in recess for the lunch break.)

23 THE COURT: All right. Mr. Johnson, you're still
24 under oath.

25 THE DEFENDANT: Okay.

1 THE COURT: I spoke with you prior to the lunch break
2 about your Fifth Amendment rights.

3 Did you understand all those questions and everything
4 I went over and explained to you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You understand your rights under the
7 Fifth Amendment to testify or not to testify?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you made your decision?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: What is your decision?

12 THE DEFENDANT: I'll testify.

13 THE COURT: Okay. So, anybody force, threat, promise
14 you anything to make you testify?

15 THE DEFENDANT: No.

16 THE COURT: You made that decision on your own?

17 THE DEFENDANT: Yes.

18 THE COURT: Are you under the influence of any
19 medication, drugs, or alcohol today?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. Before you do that, any questions
22 you'd like to talk to your attorney about at all?

23 THE DEFENDANT: A few. Just a few.

24 THE COURT: Okay.

25 (Pause.)

1 THE COURT: All right. You had enough time to speak
2 with Mr. Morin?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. One other question, Mr. Morin.
5 My understanding, in meeting with you and the State's
6 attorneys, is that you also intend to call Mr. Leiby?

7 MR. MORIN: Kenyatta Leiby, L-E-B-B-Y.

8 THE COURT: Okay, sir. And my understanding is---

9 MR. MORIN: My---

10 THE COURT: ---is that's---

11 MR. MORIN: My conversations with Mr. Leiby indicates
12 that he does not wish to testify. However, my client
13 believes he's an important witness and wishes me to call
14 him. He is in the holding cell right now.

15 THE COURT: Well, and -- well, for the record, that
16 is against your advice?

17 MR. MORIN: It is.

18 THE COURT: Okay. Anything else you want to put on
19 the record about that?

20 MR. MORIN: No, sir.

21 THE COURT: Okay. You ready to proceed?

22 MR. MORIN: I am.

23 THE COURT: You ready to proceed?

24 SOLICITOR BROWN: Yes, Your Honor.

25 Just so State's or the Court's aware, we're calling

1 one more witness and I think we'll be resting right after
2 that.

3 THE COURT: Oh, you have not rested yet?

4 SOLICITOR BROWN: We have not rested.

5 SOLICITOR SMITH: No.

6 SOLICITOR BROWN: Yeah, we have one witness left and
7 that, that will be that, Your Honor.

8 THE COURT: Very good. I'm sorry.

9 SOLICITOR BROWN: No, Your Honor. I just wanted to
10 make sure you, you were aware.

11 THE COURT: Yeah. Well, I was thinking you'd rested
12 for some reason.

13 Okay. We haven't even done motions. That's right.

14 THE COURT: Okay. Let's bring the jury in please.

15 (WHEREUPON, the following takes place within the
16 presence of the jury.)

17 THE COURT: Call your next witness please.

18 SOLICITOR BROWN: May it please the Court, Your
19 Honor.

20 The State would call Sergeant Jon Guest of the
21 Spartanburg County Sheriff's Office.

22 THE CLERK: Place your left-hand on the Bible.

23 JON GUEST, being first duly
24 sworn, testified as follows:

25 SOLICITOR BROWN: May it please the Court, Your

654 Jon Guest - Direct examination
By Solicitor Brown

1 Honor?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION

4 BY SOLICITOR BROWN:

5 Q. Sergeant, for these ladies and gentlemen of the jury,
6 please let them know your name, and for our court
7 reporter, spell your last name.

8 A. MY name is Jon Guest. G-U-E-S-T.

9 Q. And, sergeant, with whom are you employed?

10 A. The Spartanburg County Sheriff's Office.

11 Q. What are your duties and responsibilities with the
12 Spartanburg County Sheriff's Office?

13 A. So, I'm assigned to the violent crime unit of the
14 criminal investigation division.

15 Q. All right. Do you work with Ken right here---

16 A. I do.

17 Q. ---who testified previously?

18 A. Yes, sir.

19 Q. Okay. And how long have you been in the violent
20 crimes task force?

21 A. Since August of 2017.

22 Q. As a part of those duties, do you either lead
23 investigations or assist in investigations of violent
24 crimes in Spartanburg County?

25 A. I do, yes, sir.

1 Q. And did you assist Investigator Hammett, Sergeant
2 Hammett, my apologies, with the investigation into the
3 shooting at ■ Walden Circle in Spartanburg, South
4 Carolina?

5 A. Yes, sir, I did.

6 Q. And is that address in Spartanburg County?

7 A. Yes, sir.

8 Q. As a brief matter, just kind of deal with a couple of
9 things that have come up, were you in the courtroom
10 earlier today when Special Agent Berni testified?

11 A. Yes, I was.

12 Q. And, and there was an addresses that was discussed in
13 his testimony at ■ Celestial Drive.

14 Do you remember that?

15 A. I do.

16 Q. As a part of y'all's investigation, is that an
17 address that gained significance?

18 A. Yes, it was.

19 Q. And can you tell these ladies and gentlemen of the
20 jury why ■ Celestial Drive in Greenville, South Carolina
21 is a significant address?

22 A. During the investigation, we learned that is Kenyatta
23 Leby's home address.

24 Q. Were you also present in the courtroom today when the
25 member of the Greenville Clerk of Court's Office came in

1 and testified?

2 A. I was.

3 Q. And you were present when the sentencing sheet was
4 shown?

5 A. Yes, sir.

6 SOLICITOR BROWN: Your Honor, permission to publish?
7 This is State's No. 4 and we also have State's No. 7,
8 which I'll show to Mr. Morin.

9 THE COURT: Yes, sir.

10 Q. Sergeant, I'm showing you State's 4.

11 At the top of this sentencing sheet, does it give the
12 identifying information of Tyleek Johnson who we have
13 submitted has been convicted of the offense of robbery?

14 A. Yes, it does.

15 Q. And, and does it have his name there at the top?

16 A. It does.

17 Q. Does it have an address on that sentencing sheet?

18 A. Yes.

19 Q. And what is that address?

20 A. ■■■ Portland Falls Drive, Simpsonville, South
21 Carolina.

22 Q. Thank you, sir.

23 And does it give a date of birth for Mr. Johnson?

24 A. It does. ■■■■■ of 1997.

25 Q. And -- thank you, sir.

1 And does it also give a driver's license number?

2 A. It does. [REDACTED].

3 Q. Thank you for beating me to the second part of that
4 question.

5 Were you a part of a search warrant that occurred in
6 Greenville, South Carolina where the BMW was searched
7 where ultimately this firearm was located?

8 A. Yes, I believe I was the one that found it in the
9 trunk.

10 Q. Inside of that car, showing you State's No. 70, did
11 y'all locate the driver's license that belonged to Tyleek
12 Johnson?

13 A. We did.

14 Q. And on that driver's license, did y'all take
15 photographs of it to document what y'all had found?

16 A. We did.

17 Q. All right. Did that also contain an address
18 associated with Mr. Tyleek Johnson?

19 A. Yes, it did.

20 Q. And what is that address?

21 A. [REDACTED] Portland Falls Drive, Simpsonville, South
22 Carolina.

23 Q. And is that the same address as what is listed on the
24 sentencing sheet---

25 A. Yes.

1 Q. ---above?

2 A. Yes, sir, it is.

3 Q. Does it have a date of birth for the Tyleek Johnson
4 on the driver's license?

5 A. Yes, it does.

6 Q. And what is that date of birth?

7 A. ████████ of 1997.

8 Q. And, again, is that the same date of birth that is
9 reflected up on the sentencing sheet for Mr. Tyleek
10 Johnson?

11 A. You are correct.

12 Q. And, finally, do we have the driver's license number
13 ending in ██████?

14 A. Correct.

15 Q. Is that the same driver's license number reflected on
16 the sentencing sheet?

17 A. Yes, it is.

18 Q. As a part of your investigation, did y'all find
19 identifying information about Tyleek Johnson that included
20 addresses, date of birth, driver's license numbers?

21 A. Yes.

22 Q. And, in y'all's investigation, did they also confirm
23 that that is the same information for the defendant who's
24 here today?

25 A. Yes, we did. It did.

1 Q. At some juncture after Mr. Johnson was apprehended,
2 were you a part of an interview with the defendant?

3 A. Yes, I was.

4 Q. And, and can you please tell these ladies and
5 gentlemen of the jury how that came about?

6 MR. MORIN: I'm going to renew my motion previously
7 regarding this testimony.

8 THE COURT: Just one second.

9 Madam Forelady, would you go back to the jury room
10 please?

11 (WHEREUPON, the following takes place outside the
12 presence of the jury.)

13 THE COURT: Refresh my memory.

14 MR. MORIN: Motion to suppress the statement, Your
15 Honor, that I made pretrial.

16 THE COURT: I---

17 MR. MORIN: Motion to suppress this -- his statement
18 that he gave. I believe that's where Mr. Brown's going
19 next---

20 SOLICITOR BROWN: Absolutely.

21 MR. MORIN: ---and I want to renew that motion at
22 this time.

23 THE COURT: All right, sir. Noted for the record.
24 Overruled.

25 Okay.

1 SOLICITOR BROWN: Thank you, Your Honor.

2 THE COURT: You can bring them -- bring the jury back
3 please, sir.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: All right, sir.

7 SOLICITOR BROWN: May it please the Court, Your
8 Honor?

9 THE COURT: Yes, sir.

10 CONTINUED DIRECT EXAMINATION

11 BY SOLICITOR BROWN:

12 Q. Investigator, I was -- sergeant. I apologize.

13 I was now asking you were you a part of an interview
14 with the defendant following his apprehension?

15 A. Yes, I was.

16 Q. And can you please tell these ladies and gentlemen of
17 the jury about how that came about?

18 A. So, we were contacted by, I mean we as in Sergeant
19 Hammett and I, were contacted by I believe Derrick Balsa
20 who was the, at the time, the deputy solicitor for the
21 seventh circuit. He informed us that Mr. Johnson wanted
22 to meet and basically tell us what happened or tell us,
23 tell us his side with his attorney.

24 Q. And based on this information coming into y'all, did
25 y'all take any action?

1 A. We did. We helped arrange that meeting at our
2 office---

3 Q. And in your office---

4 A. ---in an interview room.

5 Q. ---you're talking about the Sheriff's Department?

6 A. Sheriff's Office in CID in an interview room, yes,
7 sir.

8 Q. Is that 8045 Howard Street, Spartanburg?

9 A. Yes, sir.

10 Q. Do you remember who all was present for that
11 interview?

12 A. So myself, Sergeant Hammett, now Lieutenant Paul
13 Norris, Mr. Johnson, and his attorney, Mr. Yarborough.

14 SOLICITOR BROWN: Okay. Permission to approach the
15 witness, Your Honor, and I've shown defense counsel this?
16 Permission to approach?

17 THE COURT: Yes, sir.

18 Q. I'm gonna show you what's been marked originally as
19 Court's Exhibit No. 2, now is for identification purposes,
20 State's Exhibit No. 85.

21 Do you recognize this document?

22 A. I do.

23 Q. And, and what generally is that document?

24 A. This is a pre-interrogation waiver that is issued to
25 individuals that are in custody and we're going to

1 interrogate.

2 Q. All right. And, and is that something y'all use in
3 any interview with someone who y'all may be asking
4 confrontational questions with?

5 A. Yes, it's a standard form.

6 Q. Okay. And this, specifically, is this the
7 pre-interrogation waiver for Tyleek Johnson?

8 A. It is.

9 Q. All right. And does it indicate on there that
10 there's a case number associated with Tyleek Johnson that
11 you are familiar with?

12 A. Yes.

13 Q. Is that the same case number associated with the
14 shooting at Walden Circle that y'all were investigating?

15 A. Yes, sir, it is.

16 Q. All right. And do you have a date that this
17 interview took place?

18 A. This was on April 21st of 2021 at 10:38AM.

19 Q. Were you present when this form was filled out,
20 advised to the defendant, and ultimately signed?

21 A. Yes, I was.

22 SOLICITOR BROWN: All right. Your Honor, at this
23 time the State would offer State's No. 85 into evidence.

24 THE COURT: Any objection?

25 MR. MORIN: Subject to---

1 THE COURT: Subject to prior objections.
2 Overruled.

3 SOLICITOR BROWN: Your Honor---

4 THE COURT: It is admitted.

5 (WHEREUPON, State's Exhibit No. 85 was received into
6 evidence at this time.)

7 SOLICITOR BROWN: Your Honor, may the State publish?

8 THE COURT: Yes, sir.

9 SOLICITOR BROWN: Thank you, Your Honor.

10 Q. Sergeant, can you see on your screen this form?

11 A. Yes, sir.

12 Q. And we'll just kind of push it up as we go.

13 You indicated earlier this is a pre-interrogation
14 waiver form.

15 Is that what's indicated right here on the form?

16 A. Yes, sir.

17 Q. Walk these ladies and gentlemen of the jury through a
18 pre-interrogation form, what y'all are doing when y'all go
19 in there.

20 Like what -- what's the process of starting an
21 interview with the defendant?

22 A. So, what we do is, obviously, it's fairly
23 self-explanatory up top.

24 We list a case number that's applicable to the
25 investigation or interview. We list the individual's

1 name, their address that they provide to us, their age,
2 the date, the time of the interview or at least the time
3 when the rights are being issued, and the location of
4 where we are, whether it's the Sheriff's Office, whether
5 it's their residence, or the jail.

6 Q. And, and, in this particular one, the name of the
7 person y'all are interviewing was Tyleek Johnson?

8 A. Correct.

9 Q. Was that the same Tyleek Johnson who currently sits
10 today at the defense table?

11 A. Yes, it is.

12 Q. And did he give you an address of his address at the
13 time---

14 A. Yes.

15 Q. ---on that form?

16 A. One four -- ■■■ Portland Falls Drive in Simpsonville.

17 Q. And is that the same address that was on that
18 sentencing sheet earlier?

19 A. Yes, it is.

20 Q. Did he give you an age?

21 A. Twenty-three years old.

22 Q. All right. And you indicated that this interview was
23 on April 21st, 2021?

24 A. Yes, sir.

25 Q. Is that reflected here on this form?

1 A. Yes, sir.

2 Q. And at 10:38 in the morning?

3 A. Correct.

4 Q. Assuming that's not afternoon.

5 Y'all use military time?

6 A. Yes, that was 10:38AM.

7 Q. All right. And y'all interviewed at the Sheriff's
8 Department?

9 A. Yes, sir.

10 Q. After y'all've gon' over this, have y'all then take
11 efforts to advise the defendant of his rights,
12 specifically his right to remain silent and to counsel, so
13 that he knows and is---

14 MR. MORIN: Objection, Your Honor. At this point I'm
15 gonna need them to not lead the witness.

16 THE COURT: Rephrase your question please.

17 Sustained.

18 SOLICITOR BROWN: Yes, Your Honor.

19 Do y'all then advise the defendant of rights?

20 A. Yes, we do.

21 Q. And can you please tell the Court -- do y'all use
22 this form to do so?

23 A. Yes.

24 Q. Okay. Do y'all -- how do y'all do that?

25 A. So, it's standard practice from one of these forms,

1 or if you don't have a form available for whatever reason,
2 there's pocket cards available. So, we read these rights
3 verbatim, line by line, slowly, making sure that the
4 individual understands what his rights are, that there's
5 no confusion as to what we were telling him and informing
6 him of.

7 Q. For these ladies and gentlemen of the jury, can you
8 read the rights that you or one of your colleagues read to
9 Tyleek Johnson on April 21st, 2021?

10 A. So, Sergeant Hammett actually issued these rights
11 that I was present for.

12 But they are I have the right to remain silent.
13 Anything I say can and will be used against me in a court
14 of law. I have the right to talk to a lawyer and have him
15 present with me while I am being questioned. If I can not
16 afford to hire a lawyer, one will be appointed to
17 represent me before any questioning if I so wish and I
18 have the right to stop answering questions at any point in
19 the questioning.

20 Q. Does it then indicate who has read those rights?

21 A. Yes, K. Hammett. Be Sergeant Hammett.

22 Q. Following that, is it then witnessed and then signed
23 by the defendant?

24 A. Yes, it is.

25 Q. Who was the witness of these rights being advised to

1 the defendant?

2 A. The witness in this was Mr. William Yarborough, Bill
3 Yarborough, his attorney.

4 Q. And whose signature is this here on this page?

5 A. Tyleek Johnson.

6 Q. You then further document who's all present?

7 A. Yeah. So---

8 Q. And---

9 A. So, the first part is the actual rights. The second
10 part of this form is the waiver of those rights where they
11 agree that they understand those rights and they're fine
12 talking to us with or without an attorney.

13 Q. Okay. And did he waive those rights?

14 A. He did.

15 Q. Can you walk the jury through that part of the
16 process?

17 A. So, again, just like above, we read this verbatim and
18 they also get a copy of this and read along with us.

19 But it says that I waive or give up my rights as
20 explained above and agree to talk to the officers, in this
21 case, myself, and Sergeant Hammett, Lieutenant Norris, in
22 reference to the case number listed there and that their
23 statement they may make is on their own free will, without
24 fear, threat, promise, favor, or reward of any kind. We
25 also confirm with them that they can read and write the

1 English language and how many years that they completed in
2 school.

3 Q. And, again, did the defendant sign this document
4 right here?

5 A. Yes, he did.

6 Q. Who witnessed this?

7 A. Again, I believe that again is Mr. Yarborough and
8 then I notarized it.

9 Q. That's your notary?

10 A. I -- from what I've looked at on screen it is, yes,
11 sir.

12 Q. Okay. Thank you.

13 The part about no threat or promise or hope of
14 reward, is that true?

15 A. Absolutely.

16 Q. Did y'all threaten the defendant on April 21st,
17 2021, to sit down with y'all and give an interview?

18 A. No, he, he made contact with our, our office.

19 Q. Did y'all make him any promises or hope of reward?

20 A. No, sir.

21 Q. Did the defendant appear to be of sound mind, by your
22 observations on that day, prior to giving this statement?

23 A. Yes, sir.

24 Q. And, to your knowledge, was this statement given
25 freely and voluntarily?

1 A. Yes.

2 Q. After you had gone through these rights with the
3 defendant after you -- he had been advised of them and his
4 attorney is present, did you then give him a chance to
5 tell y'all what had occurred?

6 A. Yes, we did.

7 Q. Tell these ladies and gentlemen of the jury about
8 that.

9 A. So, I basically asked him, I'm sitting across from
10 him, the table directly in front of him, so I basically
11 asked him to tell us what happened. You wanted to meet
12 with us and speak. Tell us your story.

13 He, he -- I believe his first few lines were he
14 basically denied being present at the scene, had knowledge
15 of this, didn't know what we were talking about, and that
16 was it.

17 Q. At this point, we're in April of 2021.

18 Had y'all done---

19 A. Correct.

20 Q. ---a large portion of your investigation?

21 A. Yes.

22 Q. Did you have information that you, at that point, had
23 confronted the defendant with?

24 A. We did. I explained to him that we had some evidence
25 and information that would contradict that, that we

1 believe he's there, and he needed to be honest. If he's
2 gonna want to sit down with us, he needs to tell us the
3 truth and I confirmed with him the -- what his phone
4 number was.

5 Q. And what was the number that he gave you?

6 A. (864)309-9465.

7 Q. Did he give you any indications about who might have
8 used that phone?

9 A. So, I asked him does, does anybody else use your
10 phone besides you. He said no.

11 And I said so, it would be unusual for anyone to use
12 this device outside of your presence and he said yes. I
13 think he said at one time that Leiby had put in an address
14 or something on his GPS when they were going somewhere
15 because his GPS didn't work. But it was adamant that
16 that's my phone and I'm the one who uses it.

17 Q. At this stage in the investigation, had y'all
18 received information regarding cellphone data and where
19 his phone had been that night?

20 A. We had.

21 Q. And, at this stage of the interview, did y'all
22 confront him with this information?

23 A. Yes. So --.

24 Q. Tell these jurors about that please.

25 A. Sergeant Hammett and Lieutenant Norris exited while I

1 was in the room with Mr. Yarborough and Mr. Johnson and
2 retrieved, I don't recall exactly which, but it was one of
3 the reports that we saw earlier from Agent Berni that
4 indicates his device being present at the scene. Then I
5 explained to him I mean your phone is here.

6 So, what you're telling me about not being there and
7 not knowing anything is not true. So, we confronted him
8 with that.

9 Q. After he was confronted with this information, what
10 happened next?

11 A. He admitted that okay, I was there, but I stayed
12 outside. I just gave them a ride --

13 Q. Okay.

14 A. -- to the scene.

15 Q. And, and let's be very clear here.

16 When he said he was there but he gave them a ride,
17 what exactly did he say in regards to where they went and
18 who went?

19 A. So, he told us that Mr. Lebby needed a ride to this
20 residence in order to get some weed, marijuana, and that
21 he drove Mr. Lebby and Mr. Deandre Fuller to the residence
22 from Greenville so that they could go buy or get some
23 marijuana.

24 Q. Did he make any indications about whether he did or
25 did not go into the house at that time?

1 A. At that time he said that he stayed outside the
2 entire time---

3 Q. Okay.

4 A. ---and did not go in the house.

5 Q. Did he give indications about who may have gone into
6 that house?

7 A. Mr. Lebby and Mr. Fuller.

8 Q. And did he give indications about how long they
9 remained in the house?

10 A. He said it was several minutes. Wasn't very long but
11 it was a few minutes, that they came back out from the
12 carport door, and that they had an armload of guns with
13 them and started handing him guns to put in the vehicle
14 and actually went back in the house for a second trip and
15 came back out with more guns.

16 Q. Did you ask him as to whether or not he had heard
17 anything while they were in the house?

18 A. He, he claimed that he did not hear any gunshots at
19 all. He had no idea what had happened.

20 Q. And, at this stage in the investigation, had you
21 already met with Dondrey Johnson?

22 A. We -- our agency had.

23 Q. All right.

24 A. Yes, sir.

25 Q. And as a part of y'all's investigation, were y'all

1 aware of Dondrey's statement regarding what he had told
2 Kenyatta Lebbby?

3 A. I believe so, yes, sir.

4 Q. All right. Had y'all told this defendant, in any
5 way, shape, or form, about the results of that interview
6 as y'all were going in here today?

7 A. No. No.

8 Q. Did this strike you as odd that he knew about the
9 weed at this point in time?

10 A. Yes, and the guns.

11 Q. What did he say they did after they had loaded the
12 firearms into the car?

13 A. He drove back to Greenville. Lebbby had kind of given
14 him directions on the turns and then I believe they went
15 back to either a residence or an apartment complex where,
16 apartment complex, where Lebbby knew the people who lived
17 there and the firearms were then transferred to that
18 apartment.

19 Q. Did he further give any indications about what
20 vehicle they were traveling in on, on the date in, in
21 question?

22 A. I believe it was a dark blue jeep SUV.

23 Q. What happened next in the interview?

24 A. So, I, I stressed to Mr. Johnson that I feel like he
25 was telling me the half truth because of the things that

1 we mentioned and he knew some things that he shouldn't
2 know unless he was there. Nobody had released this
3 information. This obviously wasn't in the media.

4 We had not told Mr. Dondrey Johnson about some of
5 this. He knew some things about this incident that he had
6 to have been more involved in this. The amount of items
7 taken from the home required more involvement from
8 everybody involved than just what he's telling us and his
9 overall demeanor just did not appear to me to be truthful.

10 Q. Did you confront him about what information y'all had
11 from the 9-1-1 call that, that -- dealing in your
12 investigation?

13 A. Yes, I also told him that the female in the residence
14 had called 9-1-1 while you were still in the home. We had
15 their voices that were recorded and it sounded like there
16 were at least two people in the home, maybe more, and
17 that -- just continued to stress to him that this was his
18 opportunity to be honest if this is what he wanted to do.

19 Q. After you confronted him with this, what happened
20 next?

21 A. So, he eventually admitted that he actually was in
22 the home. So, he admitted that he drove to the residence
23 and that he and Kenyatta Leby went inside and that
24 Deandre Fuller actually stayed out of the vehicle.

25 Q. Did he give an indication as to why they drove to

1 this home, the address of ■■■, ■■■ walden circle---

2 A. walden.

3 Q. ---Spartanburg, South Carolina?

4 A. So, he told us that, that Leby had a homeboy who
5 told him that Thompson, Timothy Thompson, had several
6 pounds of weed or marijuana and that he agreed to go with
7 Leby to the residence to hit a lick --

8 Q. And---

9 A. -- and hit a lick is straight slang for robbery.

10 Q. And they---

11 A. They were going to rob him.

12 Q. Again, was this public information --

13 A. No.

14 Q. -- about what -- this part of the investigation?

15 A. No.

16 Q. Did this strike you as treat -- as interesting?

17 A. Yes.

18 Q. what did he say next?

19 A. So, he said they drove -- he drove. When they got to
20 the door, he and Leby went inside and that I think he
21 referred to him as a dude, Mr. Thompson, came to the door
22 with a rifle, armed, and that---

23 Q. Can I pause you right there?

24 was that public information that---

25 A. No.

1 Q. ---the victim came to the door armed?

2 A. No.

3 And that they went inside and he actually described
4 the layout of the home. So, he described walking into the
5 kitchen and the carport and you turn to your right and
6 there's like a living area and then the kitchen counter
7 and then the dining room/breakfast area as I think it's
8 been referred to, and where they were sitting.

9 Q. Did he refer to Lebbby by a nickname during this
10 portion?

11 A. Yes.

12 So, he told us that Lebbby introduced himself to Mr.
13 Thompson as Dubb, D-U-B-B. That's a nickname of his.

14 Q. What did he tell you next?

15 A. I believe that was it.

16 He described the, the residence as cluttered. He
17 described the yard as having cars and car parts and
18 different things in it. It was obvious that he had been
19 to the home, and based on his description of the inside or
20 the interior of the home, that he had been inside that
21 home.

22 Q. Did he give y'all any indications about who else
23 might of been in the home?

24 A. He said there was a white female who was kind of
25 walking around a little bit, went down the hall for a few

1 minutes, and she eventually sat down over near where Mr.
2 Thompson was.

3 Q. All right. And, and did he make any statements about
4 whether he was armed or unarmed at the time?

5 A. I asked him if he had a gun when he entered the home
6 and he said he did. He had a Ruger Parabellum handgun
7 that I just know most -- that are 9-millimeters.

8 Q. All right. Do you know Ruger Parabellum to be
9 9-millimeters?

10 A. Correct.

11 Q. What did he indicate happened next once they went
12 into this home?

13 A. He said that Mr. Leby and Mr. Thompson talked for a
14 few minutes and that Mr. Thompson actually searched 2014
15 Jeep Cherokee in his phone because they had told them that
16 they were having car trouble, which is why they gained
17 access into the home. Mr. Leby had told Mr. Thompson,
18 when they came to the door, that our car broke down the
19 street.

20 Again, very intriguing piece of information that was
21 not released or told that he would not have known had he
22 not been there.

23 Q. Thank you.

24 And I forgot to ask when you were talking about the
25 Ruger Parabellum.

1 what were the shell casings that were located inside
2 the house?

3 A. Nine millimeters.

4 Q. So, going to the part about the broken down car, did
5 he then give any indications about what his thought
6 process was at this time about what they were there to do
7 and whether or not it was gonna go as easy as expected?

8 A. Well, with Mr. Thompson coming to the door armed, and
9 obviously there were several firearms visible in the
10 house, he said his feeling was this was not gonna be an
11 easy lick or an easy robbery because Mr. Thompson was
12 basically armed at the teeth and fairly attentive. He did
13 say that Mr. Leby called Mr. Thompson to -- for several
14 seconds, I guess, to give him his number it sounds like
15 because they were trying to help him get some parts or Mr.
16 Thompson was trying to help Mr. Leby get some parts for a
17 car.

18 Q. And, and, again, was this public information that
19 there had been a phonecall between Doug Cherokee and the
20 victim?

21 A. No.

22 Q. And the telephone number associated with Doug
23 Cherokee, was it the same one ultimately associated with
24 Kenyatta Leby?

25 A. Yes.

1 Q. what did he indicate happened after they had
2 determined that this was not gonna be an easy robbery?

3 A. Said that Mr. Lebby just pulled his gun and started
4 shooting. Said he shot Mr. Thompson first and then he
5 shot the female, Ms. Curran.

6 Q. After Mr. Thompson and Ms. Curran were shot, what did
7 they do?

8 A. They began gathering up the firearms that they saw
9 visible in the home and, at one point, a phonecall was
10 made to Mr. Fuller to either bring the vehicle down or to
11 come help them and he carried a load of firearms out to
12 Mr. Fuller.

13 Q. Did he say anything about who went to the gun
14 cabinet?

15 A. Let me double-check. Said he went to the gun cabinet
16 at the end of the hallway and grabbed an armload of rifles
17 and then ran out and gave those to Mr. Fuller as well.

18 Q. Thank you.

19 what indications did he give about where Deandre
20 Fuller's (sic) was parked in the vehicle?

21 A. So, it sounded like, based on the way he was
22 explaining it was, that Mr. Fuller was down the street
23 kind of not, not in -- directly in front of the home. But
24 they had called him to ask him to bring the vehicle down
25 to come help them gather the firearms.

1 Q. And, and what did they do next?

2 A. Once he got back inside, he says that he saw Mr.
3 Lebyy shoving or pushing a safe down the hallway towards
4 him and that he picked up the other end of it and assisted
5 him with carrying it out to the Jeep and loading it.

6 Q. Is that the point where they indicated they left?

7 A. They then left, yes, sir.

8 Q. All right. Did he make any statement to y'all
9 regarding whether or not he knew Lebyy was gonna shoot?

10 A. He, he claimed to us that he did know Mr. Lebyy was
11 going to shoot them. It was just a robbery.

12 Q. According to the defendant, who was it that drove
13 home?

14 A. He did.

15 Q. And, and what did he give in terms of indications
16 about how that went?

17 A. He said Lebyy told him where to turn again. Kind of
18 the same story he gave the second time, that he didn't
19 know where he was. So Mr. Lebyy was giving him
20 directions. They drove back to some apartments in
21 Greenville in which Mr. Lebyy took all the guns and that
22 he got no weed or rifles from the home. But he did get
23 about an ounce of weed and a black rifle from Mr. Lebyy.

24 Q. Well, well, let me be clear here on that sentence.
25 was it that he got those items or that he gave an

1 ounce of weed for the black rifle?

2 A. I'm sorry. Gave. Not got. Gave an ounce of
3 rifle -- gave an ounce of weed for the rifle.

4 Q. Did he think -- say anything about Lebby being armed
5 that day?

6 A. Yes.

7 Q. What did he say?

8 A. Said that it was a smaller handgun. He wasn't sure
9 what caliber or what make. But that it was a smaller
10 handgun.

11 Q. Okay. And, finally, did he talk to y'all about the
12 planning of this or about the group's knowledge of --
13 about what was gonna go on?

14 A. So, it was essentially that this was going to be a
15 robbery for marijuana and firearms to his knowledge.

16 Q. Did he give any indications about Lebby doing
17 anything to prepare for this before the event?

18 A. Mr. Lebby, they had come to Spartanburg cause they're
19 all from Greenville. They had come the day prior because
20 I believe Mr. Lebby was given the address of the home and
21 they, not really a test run, but kind of to make sure they
22 knew where the house was, they drove over to kind of be in
23 the area and know where they were going and then return to
24 Greenville the day prior.

25 Q. Based on y'all's investigation, is, is that confirmed

1 by cellphone data?

2 A. That's consistent with the cellphone data analyzed by
3 the FBI.

4 Q. Was that public information or information that y'all
5 told the defendant prior to him giving this statement?

6 A. No.

7 Q. Do y'all normally record interviews?

8 A. Yes.

9 Q. Audio and video?

10 A. Yes.

11 Q. Did y'all think y'all were doing that in this case?

12 A. Yes.

13 Q. Tell these ladies and gentlemen of the jury about
14 that.

15 A. So, after the interview was done -- so we have three
16 interview rooms, four interviews rooms in investigations.
17 They're all equipped with Axon video/audio recording
18 equipment that is uploaded directly to our server.

19 These interview, interview rooms are probably about
20 the size of this witness box. They're very small. You
21 can get two, maybe three chairs in them.

22 The room we used that day is an older interview room
23 that you can get six, seven, eight chairs in it if need
24 be. It's equipped with a DVR recording system.

25 So, it's a separate system. It's its own little

1 television or DVR. You have to manually go over and
2 download the video onto a thumb drive.

3 When the interview concluded and everything had --
4 was finished, I went and downloaded that video, brought it
5 back to our desk or my desk so we could watch it and
6 review it and realized that it had only recorded a couple
7 seconds of video and no audio.

8 Q. When you started the interview, did you have any
9 knowledge that it was not working properly?

10 A. No, not at all.

11 Q. At any point during the interview did you gain
12 knowledge that it was not working---

13 A. No.

14 Q. ---properly?

15 A. Not at all.

16 Q. Okay. When you took the video and put it in your
17 computer, was that the first time y'all gained this
18 knowledge?

19 A. Yes.

20 Q. Was this a video system that y'all used frequently in
21 y'all's office?

22 A. Yes.

23 Q. And, and had it been successful many times before?

24 A. Oh, hundreds.

25 Q. To your knowledge, was this the first time it messed

1 up?

2 A. Yes, to my knowledge it was. We found out later
3 there was a water leak I believe that day and the cameras
4 were -- had water on them and I don't know how that
5 happened. I'm not maintenance. But I -- to my knowledge,
6 it had always worked. We'd done hundreds and hundreds of
7 interviews in that room. It's just a freak accident.

8 Q. After y'all found out about the damage to the
9 cameras, did y'all notify maintenance?

10 A. Yes.

11 Q. And were those cameras fixed to---

12 A. To my knowledge, yes. Yes. That room's not an
13 interview anymore. It's an office. But I think we
14 conducted interview rooms -- interviews in that room later
15 and I think it worked fine.

16 Q. Do you wish we had that video here today?

17 A. Absolutely.

18 Q. But the defendant who's currently seated at the
19 defense table, is he the one who gave the indications to
20 you that you've testified here to today?

21 A. Yes.

22 SOLICITOR BROWN: Court's indulgence.

23 (Pause.)

24 Q. Please answer any questions Mr. Morin will have for
25 you.

1 CROSS-EXAMINATION

2 BY MR. MORIN:

3 Q. To start out at the beginning, I am not Bill
4 Yarborough.

5 Is that correct?

6 A. You are not, no, sir.

7 Q. Okay. I noticed that you're referring to something
8 up there.

9 A. My, my write-up.

10 MR. MORIN: May I approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 Q. Okay. Just wanted to make sure we're --.

13 A. The same, yes.

14 Q. How long have you been in the Sheriff's Office?

15 A. The Sheriff's Office, fifteen years. Four and a half
16 at the city prior to that.

17 Q. Okay. What did you -- what was your education before
18 you joined law enforcement?

19 A. High school.

20 Q. Okay. After you joined law enforcement, did you go
21 directly to the academy or did you --?

22 Yes?

23 A. Yes, I did.

24 Q. Okay. And how -- there's been some testimony, I
25 think it was Officer Moran -- Detective Mironenko who said

1 you start out on patrol.

2 Is that right?

3 A. Yes.

4 Q. You start out on patrol for the city or for the
5 county?

6 A. So, I worked patrol at the city the entire time in
7 Highland area and then I came to the Sheriff's Office in
8 2010 and I worked the Una area for a little over five
9 years---

10 Q. Okay.

11 A. ---and then I went to CID.

12 Q. All right. Over there at the city, they also have a
13 video system for interviews.

14 Is that correct?

15 A. That's an assumption on my part. I've never seen
16 one.

17 Q. Okay.

18 A. I mean I'm guessing maybe they do but I don't know.

19 Q. All right. Now, when you went to the academy, they
20 went over certain things that are important to do when
21 you're interviewing a potential suspect.

22 Is that right?

23 A. I don't -- I mean they went over a lot of things. I
24 don't know what you're getting at.

25 Q. Well, did they go over how to do the, the waiver of

1 rights?

2 A. Yes.

3 Q. Okay. Did they go over the fact it's important for
4 you to document what's said?

5 A. Yes.

6 Q. Okay. In this case, you didn't write anything down
7 in that room, did you?

8 A. No.

9 Q. And Officer, and Officer Hammett, he didn't write
10 anything down either?

11 A. No.

12 Q. Is there a reason why you didn't take any notes or
13 contemporaneous recording of it?

14 A. Yeah.

15 So, there's a great reason. I, during interview, can
16 not take notes accurately and have a conversation with
17 somebody because I'm trying to write and I'm having a
18 conversation and getting answers and asking questions.
19 So, typically, I will conduct the interview and the
20 conversation, go back, watch the video. If I need to take
21 any notes, do my write-up whatever, I go off the video.

22 If I take notes and interview, I notice that
23 sometimes I miss clues of -- for body language, signs of
24 deception, signs of truthfulness, things like that.

25 So, I don't like writing when I'm actually

1 interviewing somebody. I go back in the video later, and,
2 again, I mean we assumed this was being recorded, audio
3 and video.

4 Q. All right. So you were asking all of the questions?

5 A. I don't remember. I mean I was in front of him. So
6 I probably asked more than -- we all kind of asked him
7 questions. But, primarily, it was probably I guess if you
8 want to put---

9 Q. Okay.

10 A. ---a percentage on it.

11 Q. All right. Now, Officer Norris was in the room as
12 well?

13 A. Yes.

14 Q. Did he ask any questions?

15 A. Probably one or two. But I don't remember.

16 Q. All right.

17 A. I doubt it. Probably just meet up and Sergeant
18 Hammett I had to guess.

19 Q. And Officer Norris, at that time, was patrol unit?

20 A. No.

21 Q. No?

22 A. He was our sergeant.

23 Q. He was your sergeant?

24 A. Yeah.

25 Now he's a lieutenant and now we're all sergeants.

1 So, it's -- I won't go down that rabbit hole. But now --
2 he was our supervisor then and he was -- he is our
3 supervisor now.

4 Q. Okay. Now, you're saying that, as soon as the
5 interview concluded, you reviewed the video?

6 A. Probably within 10 or 15 minutes, yeah.

7 Q. Okay. By that time Mr. Yarborough and Mr. Johnson
8 had left?

9 A. Oh, yeah.

10 Q. When you realized that you had no recording of it,
11 what did you do next?

12 A. We probably -- I don't remember. But we probably
13 called Mr. Bulsa and informed him and he said okay. Just
14 make sure -- just document it in a report.

15 Q. And, in your report, it's the one -- two sentences at
16 the bottom. It says, after the interview, we discovered
17 the audio interview was not working. The video was
18 captured but there was no audio.

19 Is that right?

20 A. Correct.

21 Q. And even though the video captured, that's gone too
22 now, right?

23 A. Yeah, it was probably three seconds. I mean it
24 wasn't -- there were -- there was video. But it wasn't
25 long.

1 Q. Right.

2 But it's gone?

3 A. Yes, sir.

4 Q. Okay. Now -- so, your testimony today is based off
5 of the report you wrote back then?

6 A. And my memory but yes.

7 Q. From four and a half years ago?

8 A. Right.

9 Q. All right. Now, we talked about -- we talked a lot
10 about things he didn't know.

11 A. Uh-huh. (Affirmative).

12 Q. Right.

13 But some of the things in here -- let's talk about
14 the things you didn't know and did you ask him, at any
15 point, what he or Mr. Leiby was wearing?

16 A. No.

17 Q. But you did know what those two people were wearing.
18 Isn't that correct?

19 A. She -- I think she said on the 9-1-1 they were
20 wearing black.

21 Q. But one of them was wearing white---

22 A. I don't remember if we asked them---

23 Q. ---a white t-shirt.

24 A. ---what they were wearing or not.

25 Q. One of them was wearing a white t-shirt. The one

1 other was wearing a black hoodie is what you said.

2 A. Okay. I'll take---

3 Q. You didn't---

4 A. ---your word for it.

5 Q. ---ask him that?

6 A. No, we did not.

7 Q. You testified a minute ago that you knew that he had
8 come to the door armed?

9 A. Right.

10 Q. But you didn't know that?

11 A. We had information that Timothy had come to the door
12 with a gun.

13 Q. Okay. But---

14 A. I don't know if we ever knew what kind of gun. But
15 it was a gun.

16 Q. You had talked to Mr. Leby.

17 Isn't that right?

18 A. Yes.

19 Q. And Mr. Leby claimed that he was with somebody and
20 that---

21 SOLICITOR BROWN: Your Honor---

22 Q. ---they had made these comments?

23 SOLICITOR BROWN: Your Honor, we would object to him
24 asking questions about Mr. Leby's testimony for
25 confrontation clause.

1 THE COURT: What's your response?

2 MR. MORIN: It goes towards him -- what he knew in
3 the statement that he's testified to and tried to put on
4 my client. He knew it and he wrote it in here. But
5 that's where he got it from.

6 THE COURT: All right.

7 (WHEREUPON, a bench conference was held out of the
8 hearing of the jury at this time.)

9 THE COURT: Overrule your objection.

10 Q. All right. You wrote that -- just a moment.

11 (Pause.)

12 Q. Did you interview Dameion Peterson?

13 A. I don't know that I know who that is.

14 Q. It's on page one of the report you have. It's on
15 paragraph four, sentence -- the second sentence.

16 A. I've got my write-up for the interview that I did
17 with Mr. Johnson. I'd be happy to look at what you got
18 and confirm. But --.

19 Q. This is you, right?

20 A. Okay. Yeah, yeah, yeah. I see what you're talking
21 about.

22 Q. Okay. Okay.

23 A. No, we did not.

24 You're talking about in reference to a vehicle?

25 Q. Yes, you---

1 A. No.

2 Q. This -- did -- I probably shouldn't have come all the
3 way back here.

4 Do you need to hold this --

5 A. No.

6 Q. -- cause apparently we have a different -- I thought
7 we had the same.

8 A. We should have the same. No, we have the same.

9 Q. Okay. So, Mr. Peterson was suppose to have owned the
10 vehicle that was being driven that day.

11 Is that right?

12 A. From what Mr. Johnson told us, yes.

13 Q. Okay. Did you talk to Mr. Peterson?

14 A. No.

15 Q. Did you try to get in touch with Mr. Peterson?

16 A. I was not in charge of that part. I don't know if
17 anybody else did or not.

18 Q. You're a team.

19 A. Yes.

20 Q. You share information with each other?

21 A. Yes.

22 Q. And the issue about the -- what kind of vehicle was
23 taken there, wasn't there?

24 A. No.

25 Q. Okay.

1 A. There's no issue about the vehicle. He said it was a
2 dark blue Jeep SUV.

3 MR. MORIN: Okay. One moment, Your Honor.

4 (Pause.)

5 Q. Let me ask you this.

6 Mr. Johnson and his lawyer, at the time, agreed to
7 come in there and speak with you?

8 A. Correct. Initiated it.

9 Q. Initiated it.

10 So, when you realized that it hadn't recorded
11 properly, did you reach back out and ask them about
12 whether or not they wanted to write that down, do another
13 interview?

14 A. No, that would of been a conversation for Mr. Bulsa
15 to have with Mr. Yarborough. wouldn't of been proper for
16 me to contact him. He's got an attorney and Mr. Bulsa had
17 the case.

18 Q. So, Mr. Bulsa didn't tell you that that was something
19 that he wanted you to do?

20 So you just didn't do it?

21 A. I, I---

22 SOLICITOR BROWN: Your Honor, that would rely on
23 hearsay as to what Mr. Bulsa did or did not do.

24 THE COURT: Over -- overruled.

25 Go ahead.

1 Q. Is that right?

2 A. I don't remember a conversation about that, no. He
3 had just confessed to three law enforcement officers. So
4 --.

5 Q. Okay. Yes.

6 And they didn't write anything down, did they?

7 A. Oh, I got two pages.

8 Q. Typed -- oh, yeah, even now.

9 That's, that's four years ago and you can remember
10 it, right?

11 A. Most of it.

12 Q. Most of it.

13 Some of it's in there and you don't remember it but
14 others who do remember it?

15 A. I can not be able to give an example, yeah. But --.

16 Q. Well, you didn't know who Daniel Peterson was. It's
17 on the first page of your report.

18 A. Yeah, it reminded me when I read it. But we didn't
19 talk to him. The vehicle doesn't change the fact that he
20 admitted to doing the crime.

21 MR. MORIN: I have no further questions.

22 THE COURT: Redirect.

23 SOLICITOR BROWN: Very briefly.

24 REDIRECT EXAMINATION

25 BY SOLICITOR BROWN:

1 Q. Very briefly.

2 Dark blue Jeep SUV, is that what was told to you by
3 the defendant?

4 A. Yes.

5 Q. All right. What was, what was it that Mr. Thompson
6 searched for around two o'clock in the morning, 2:15 in
7 morning?

8 A. 2014 Jeep Cherokee.

9 Q. What did he save Kenyatta Leiby's cellphone number
10 was in his phone?

11 A. Was it Doug Cherokee?

12 Q. Who made---

13 A. Doug Cherokee.

14 Q. Who made the SUV Cherokee?

15 A. Jeep. Chrysler but Jeep, yeah.

16 Q. Had you found out, at any point during this
17 interview, that it wasn't recording, would y'all have
18 taken action to either remedy that or move to a different
19 room?

20 A. We would of stopped the interview and either fixed it
21 or moved to a different room.

22 Q. Had y'all not had the ability to record it in some
23 ways here or the form, would y'all have taken more
24 contemporaneous notes?

25 A. Oh. Yes, sir.

1 Q. All right.

2 A. We would of had someone taking notes in detail.

3 Q. How quickly after this interview was completed and
4 after you realized that it did not properly record was it
5 that you documented the substance of the interview that
6 occurred?

7 A. I would -- ten or 15 minutes probably. Very quickly.
8 As soon as I got off the phone with Mr. Bulsa.

9 Q. And, and, to be clear, did Mr. Bulsa advise you to
10 document what had occurred?

11 A. Yes.

12 Q. And that's what you did?

13 A. Yes, it is.

14 Q. And, based on that, is that what you're here today
15 testifying to?

16 A. Correct.

17 Q. Please answer any questions Mr. Morin has for you.

18 THE COURT: All right. Thank you, sir. You may
19 step---

20 MR. MORIN: Wait.

21 THE COURT: ---down. Oh, hold.

22 RE CROSS EXAMINATION

23 BY MR. MORIN:

24 Q. Do you know Doug Cherokee?

25 Do you know or did you know that that was Mr. Leby's

1 phone number?

2 A. Did I know it was his phone number?

3 Q. Yeah.

4 while that---

5 A. when?

6 Q. ---was listed under it when you were speaking with

7 Mr. Johnson?

8 A. I likely did, yeah, because we'd already identified

9 Mr. Lebby.

10 Q. So that was something that you knew before you spoke

11 to Mr. Johnson?

12 A. Correct.

13 Q. Thank you.

14 THE COURT: All right. You may step down.

15 SOLICITOR SMITH: Your Honor, at this time the State
16 would rest.

17 THE COURT: Thank you, sir.

18 All right. Madam Forelady, ladies and gentlemen, the
19 State indicates they rest. If you remember, at the
20 beginning of this case, I was telling you about the
21 different phases, the State has presented its case in
22 chief. I need to take up some administrative matters now.
23 It will take a few minutes and then we'll bring you back.

24 If you go back to the jury room please.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. Mr. Morin, any motions?

3 MR. MORIN: Your Honor, I move for a directed verdict
4 based on my previous motions, which I believe would
5 require the jury to speculate but for that information.

6 THE COURT: All right. Are you renewing your prior
7 motions---

8 MR. MORIN: I am.

9 THE COURT: ---as well?

10 MR. MORIN: Yes, sir.

11 THE COURT: Any other?

12 MR. MORIN: No, sir.

13 THE COURT: I think there's a question for the jury.
14 So I'm gon' deny your motions.

15 Any matters from the State before we move to -- into
16 the defense?

17 SOLICITOR SMITH: No, Your Honor.

18 THE COURT: Any matters you need to take up now
19 before you bring your witness out then?

20 MR. MORIN: I do not need to take up any. But I
21 would like an opportunity from -- to speak with my client
22 before we start.

23 THE COURT: All right. How long do you think you
24 need roughly?

25 MR. MORIN: Five minutes.

1 THE COURT: well, can you send word back?

2 MR. MORIN: what's that?

3 THE COURT: would you send word back when you're
4 ready?

5 MR. MORIN: Yes, sir.

6 THE COURT: All right. Just take a few minutes
7 break, guys.

8 (WHEREUPON, a short recess was taken at this time.)

9 THE COURT: You ready for the jury?

10 MR. MORIN: Yes, sir.

11 THE COURT: You ready for the jury, Mr. Smith?

12 SOLICITOR SMITH: Yes, Your Honor.

13 (WHEREUPON, the following takes place within the
14 presence of the jury.)

15 THE COURT: Mr. Morin, call your first witness
16 please, sir.

17 MR. MORIN: Kenyatta Leby.

18 THE CLERK: Please raise your right-hand.

19 KENYATTA LEBBY, being first duly
20 sworn, testified as follows:

21 THE CLERK: You can be seated.

22 THE COURT: Just pull up a little bit closer please,
23 sir.

24 (WHEREUPON, the witness complies.)

25 THE COURT: All right.

1 DIRECT EXAMINATION

2 BY MR. MORIN:

3 Q. Mr. Lebbby, you are Kenyatta Lebbby?

4 A. Yes, sir.

5 Q. You don't want to be here today?

6 A. I don't.

7 Q. Mr. Lebbby, I need to ask you some questions about
8 what happened on October 25th, 2020.

9 Do you recall that day?

10 A. Yes, sir.

11 Q. Okay. Can you tell me what happened on that date?

12 A. I can't remember what happened.

13 Q. Okay. Can you tell me where you currently reside?

14 A. I'm in Ridgeland Institution.

15 Q. Okay. Are you there because of what happened on
16 20th -- October 25th, 2020?

17 A. Yes, sir.

18 Q. But you don't remember anything that happened that
19 day?

20 A. No, sir.

21 Q. Do you remember if you saw Tyleek Johnson that day?

22 A. No, sir.

23 Q. Do you remember if you saw Deandre Fuller that day?

24 A. I think so.

25 Q. Okay. So, you remember something?

1 A. Uh-huh. (Affirmative).

2 Q. Do you remember coming to Spartanburg?

3 A. Hu huh. (Negative).

4 THE COURT: Would you say yes or no for us please,
5 sir?

6 THE WITNESS: No, sir.

7 Q. Do you remember -- when's the last time you saw
8 Tyleek Johnson was?

9 A. You say what now?

10 Q. Do you remember the last time you saw Tyleek Johnson?

11 A. Years ago. We was in the county jail years ago.

12 Q. Okay. Is Mr. Johnson a friend of yours?

13 A. Not that I know of.

14 MR. MORIN: One moment, Your Honor.

15 (Pause.)

16 MR. MORIN: That's all I have, Your Honor.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY SOLICITOR SMITH:

20 Q. So, you do not know this man over here, Tyleek
21 Johnson?

22 A. I don't want to answer no questions from you.

23 THE COURT: You have to answer the questions, sir.

24 THE WITNESS: I have to?

25 THE COURT: Yes, sir.

1 THE WITNESS: If I don't, then what?

2 THE COURT: You can be held in contempt and you can
3 be punished accordingly.

4 Q. Do you know Tyleek Johnson?

5 A. Barely.

6 Q. Do you know him as Max?

7 A. (WHEREUPON, the witness nods negatively.)

8 Q. You, you have to answer out loud.

9 A. No, sir.

10 Q. You don't?

11 A. Hu huh. (Negative).

12 No, sir.

13 Q. Do you remember getting arrested, I think for a
14 domestic violence charge, on February 11th of 2021?

15 A. Yes, sir.

16 Q. And do you remember being interviewed by the police
17 that day?

18 A. I was on drugs. I don't remember that much really.

19 Q. It's good. They, they recorded it. So---

20 A. I know that---

21 Q. ---we can let you see it.

22 A. I'm pretty sure they did.

23 Q. Okay. Do you remember giving -- there was multiple
24 officers that spoke with you that day on February the
25 11th, correct?

1 A. Correct.

2 Q. Do you remember writing a note where you said that
3 they need to be looking at Max?

4 A. I don't remember that.

5 SOLICITOR SMITH: Your Honor, at this time I'd seek
6 to play a portion of his interview where he did what I
7 asked him.

8 THE COURT: You need to -- has that been put into
9 evidence in this case?

10 SOLICITOR SMITH: It -- it's not and it would be for,
11 for---

12 THE WITNESS: You can go ahead and play it.

13 SOLICITOR SMITH: ---impeachment purposes of a prior
14 inconsistent statement---

15 THE WITNESS: Hey, y'all---

16 SOLICITOR SMITH: ---under 613.

17 THE COURT: All right, sir.

18 Q. Is that you?

19 Can you see the -- oh, sorry. Let me get attached.

20 Is that you?

21 A. Yeah, that's me.

22 Q. All right.

23 (WHEREUPON, a portion of the video was played for the
24 jury at this time.)

25 THE COURT: Hold on. Stop.

1 SOLICITOR SMITH: Oh, I'm sorry, Your Honor.

2 THE COURT: You're not operating it?

3 UNIDENTIFIED SPEAKER: It wasn't for a second but it
4 fixed.

5 THE COURT: It is?

6 UNIDENTIFIED SPEAKER: Uh-huh. (Affirmative).

7 THE COURT: Okay. Excuse me.

8 (WHEREUPON, a portion of the video was played for the
9 jury at this time.)

10 THE WITNESS: Hey, y'all?

11 Q. Do you remember what you---

12 THE WITNESS: Can I speak on something?

13 Q. I'm sorry.

14 Do you need a -- do you remember what you wrote?

15 Do you remember writing that note?

16 A. (WHEREUPON, the witness nods negatively.)

17 Q. If I showed it to you, would it help?

18 A. That still won't help. Like I told you, I was
19 under -- I was in drugs. You can tell I was on drugs.

20 Q. Did you hand this note to investigators?

21 A. I can't remember.

22 Q. All right. One second.

23 (Pause.)

24 Q. Do you remember, later on in that interview, saying
25 that Max is the triggerman and that you saw Max shoot

1 them?

2 A. I remember reading that in my motion of discovery,
3 yes.

4 Q. Do you remember saying it?

5 A. I don't remember saying it though. I'm pretty sure
6 you gonna show me a video of it.

7 SOLICITOR SMITH: Yes, Your Honor. That's what we're
8 planning to do.

9 Your Honor, just for the record, that was -- we can
10 make this a Court's Exhibit. That was 45:50, this, this
11 portion of clip we just played, and stopped at 47:11 and
12 yeah.

13 THE COURT: One second.

14 (WHEREUPON, another portion of the video was played
15 for the jury at this time.)

16 SOLICITOR SMITH: I'm sorry. I think --.

17 THE WITNESS: Hey, Your Honor?

18 Your Honor?

19 Q. Do you remember -- do you remember, in your
20 interview, drawing the inside of the house at Walden
21 Circle?

22 A. No, sir.

23 THE WITNESS: Hey, Your Honor?

24 Can I ask a question?

25 I don't want to answer no more questions.

1 THE COURT: I can't talk to you, sir. You gonna have
2 to listen to the questions.

3 Q. Do you remember telling law enforcement that your
4 mother's phone number was 349-3788?

5 A. No, sir.

6 SOLICITOR SMITH: Your Honor, I apologize. I didn't
7 say the time on that you -- previous clip we watched.
8 That was three hours, 27 minutes, and 23 seconds I believe
9 into the video.

10 You do not remember telling them that was your
11 mother's number?

12 A. No, sir.

13 SOLICITOR SMITH: I'm going to 16 minutes and I'll
14 try to get to 15 seconds.

15 (WHEREUPON, another portion of the video was played
16 for the jury at this time.)

17 Q. I'll move on from that. My time's off.

18 Do you remember looking at a picture of Tyleek
19 Johnson and identifying him as the shooter in this case
20 during that interview?

21 A. No, sir.

22 Q. I'm gonna show you, for identity purposes, State's
23 Exhibit --

24 MR. MORIN: Yes.

25 Q. -- 146.

1 Can you tell me what that is?

2 A. I don't know. It looks like a mugshot.

3 Q. All right. Is that Tyleek Johnson?

4 A. I don't know.

5 Q. Is that your signature?

6 A. I don't know.

7 Q. Does that say February 11th, 2021?

8 A. I don't know.

9 Q. I'm gonna show you -- you don't remember writing the
10 note that you saw in the video.

11 Is that right?

12 A. Uh-huh. (Affirmative).

13 Yes, sir.

14 Q. I'm gonna show you State's 122.

15 Do you remember writing that note?

16 A. No, sir.

17 Q. Do you remember drawing a diagram of the house at
18 Walden Circle?

19 A. No, sir.

20 Q. I'm gonna approach you with --.

21 THE COURT: Yes, sir.

22 You got it?

23 SOLICITOR BROWN: Yes, 124. My apologies.

24 Q. All right. I show you State's 124.

25 THE COURT: Is that in evidence?

1 SOLICITOR SMITH: These are not. These are all --
2 these three are for identification purposes cause I don't
3 think I have a foundation yet, Your Honor.

4 Do you remember drawing that?

5 A. No, sir.

6 SOLICITOR SMITH: That's all I have, Your Honor.

7 THE COURT: Redirect.

8 REDIRECT EXAMINATION

9 BY MR. MORIN:

10 Q. Do you remember anything that happened around this
11 time?

12 A. (WHEREUPON, the witness nods negatively.)

13 Q. Nothing?

14 A. (WHEREUPON, the witness nods negatively.)

15 No, sir.

16 Q. Do you know Deandre Johnson?

17 A. Yes, sir.

18 Q. How do you know him?

19 A. He was my brother's cousin.

20 Q. All right. And do you remember if you saw him in
21 October of 2020?

22 A. I don't remember.

23 Q. Do you know when the last time you did see him was?

24 A. Since the day my best friend died.

25 Q. Okay. Do you know what you talked about the last

1 time you saw him?

2 A. No, sir.

3 Q. Do you remember telling police about Deandre?

4 A. I think so, yes, sir.

5 Q. What do you remember telling them?

6 A. I can't remember.

7 MR. MORIN: That's all the questions I have.

8 THE COURT: Thank you. You are excused.

9 THE WITNESS: Thank you.

10 THE COURT: Call your next witness.

11 MR. MORIN: Call Tyleek Johnson.

12 THE CLERK: Place your left-hand on the Bible and
13 raise your right.

14 TYLEEK JOHNSON, being first duly
15 sworn, testified as follows:

16 THE CLERK: Okay.

17 DIRECT EXAMINATION

18 BY MR. MORIN:

19 Q. Tyleek, can you say your name for the jury?

20 A. Tyleek Johnson.

21 Q. And, Tyleek, how old are you?

22 A. Twenty-eight.

23 Q. Can you tell us what you were doing in October --
24 September and October of 2020?

25 A. October?

1 Q. Tell us about yourself.

2 A. Well, I was originally home from being incarcerated
3 for like 15 months but I was working.

4 Q. Where were you working?

5 A. IBC.

6 Q. What were you doing there?

7 A. Making pills.

8 Q. How long had you been there?

9 A. About a year.

10 THE COURT: Would you get a little closer to the
11 microphone please, sir?

12 A. (WHEREUPON, the witness complies.)

13 About a year.

14 Q. All right. Where -- were you living in Simpsonville?

15 A. No.

16 Q. Where were you living?

17 A. I was staying in Mauldin. I was staying in Mauldin.

18 Q. Mauldin.

19 Okay. Who were you living with?

20 A. Me and my child's mother.

21 Q. How old's your child?

22 A. Now he's four.

23 Q. Okay.

24 A. My daughter's nine.

25 Q. What was that?

1 A. My daughter's nine.

2 Q. Okay. In October of 2020 -- 2024 -- 2020, late
3 October, do you recall the date that this allegedly
4 happened or the day before?

5 A. The day before.

6 Q. Okay. Tell us about the day before.

7 A. I was at a party with my codefendants.

8 Q. Okay. And what happened at that party?

9 You just there -- when did the party start?

10 A. I can't say what time it started. It was like -- I
11 can't recall what time I got there. But it was like late.

12 Q. Dark outside?

13 A. Yeah.

14 Q. Okay. What happened at the party?

15 A. I was drinking.

16 Q. What were you drinking?

17 A. Alcohol.

18 Q. Okay. Anything specific or just general?

19 A. Hennessy.

20 Q. Okay. How did that night end?

21 A. I got in my -- I got in the vehicle. But when I woke
22 up, I was with Takila Terry the next day.

23 Q. All right. So you're saying the last thing you
24 remember was getting in the vehicle?

25 A. Yes.

- 1 Q. What vehicle?
- 2 A. I got in the Jeep.
- 3 Q. A Jeep?
- 4 A. (WHEREUPON, the witness nods affirmatively.)
- 5 Q. Okay. And then, when you woke up, you were at Ms.
- 6 Terry's house?
- 7 A. Ms. Terry's house.
- 8 Q. I think that she called herself Bug or Kedabug?
- 9 A. Kedabug.
- 10 Q. All right. You'd been there before?
- 11 A. Yes.
- 12 Q. Had you been there quite often?
- 13 A. Every now and then.
- 14 Q. Okay. Deandre Fuller, did you know him?
- 15 A. Yes.
- 16 Q. How long had you known him?
- 17 A. A few years.
- 18 Q. Okay. Were you friends?
- 19 A. We was all right friends. We were cool.
- 20 Q. All right. Now, you've seen, during the course of
- 21 this trial, a gun that's been put in evidence, right?
- 22 A. Yes.
- 23 Q. And you've seen pictures of yourself with that gun.
- 24 A. Yeah.
- 25 Q. Is that right?

1 A. Yes.

2 Q. How did you come in possession of that gun?

3 A. I got the gun from Fuller.

4 Q. Mr. Fuller?

5 A. Yes.

6 Q. When's the first time you saw it?

7 A. From probably like November, like beginning of
8 November. Seen him with a few guns. But I bought it from
9 him.

10 Q. Okay. Where did you buy it from him then?

11 A. At his house. Well, the house he shares with
12 Kedabug.

13 Q. That's over there on west, west, west something, that
14 single wide we're talking about?

15 A. She had -- I think she had just recently got that.

16 Q. Okay.

17 A. She wasn't there then.

18 Q. Okay. Some of the pictures with you and Mr. Fuller
19 are at that house though, right?

20 A. Yes.

21 Q. I've asked you about pictures holding guns.
22 Isn't that right?

23 A. Yes.

24 Q. And why were you doing that?

25 A. I like guns.

1 Q. Okay. You've heard some statement -- there's been
2 some testimony about a statement you gave.

3 A. Yes.

4 Q. Is it correct?

5 A. No.

6 Q. What do you recall happening that day?

7 A. I was informed by my former attorney, William
8 Yarborough, that we were going to a preliminary hearing.
9 We got there. We got to the sheriff office and Detective
10 Hammett and Kennesaw -- I don't -- guess they were there
11 and they met me in the hallway and I told them the last
12 time I ain't want to speak and they told me my attorney
13 was there.

14 So, when we got there, we went in the interview room.
15 I signed a waiver.

16 Q. Why'd you do that?

17 A. My former attorney promised that I'd get a bond if I
18 tell them the truth.

19 Q. Okay. Did you tell them the truth?

20 A. I let them know that I was not there.

21 Q. Is that the truth?

22 A. That's the truth.

23 Q. Is that all you told them?

24 A. They asked me -- they told me -- they came in the
25 room with like a packet saying that my phone was there.

1 But I told them I wasn't present at that crime scene. And
2 he said that I came in the house with a, with a gun and I
3 asked him the time of the crime.

4 And I told him I had a Parabellum. That was the last
5 time I had it in the summertime. But I sold it. I have
6 proof in my phone on my Snapchat that I sold the nine
7 Parabellum before the time of the crime even happened.

8 But when we left, I asked for my motion from my
9 lawyer like multiple times. I didn't get my motion till
10 the end of the year. When I finally got the motion, he
11 put in -- they put in the motion that I went inside the
12 house with a nine Parabellum. But I have proof in my
13 phone. I don't even have -- I never even had that gun
14 since like months before that crime even happened.

15 All them things that was put in that interview was
16 things that -- information they already had before the
17 fact and they put they own -- they put they own piece
18 together, anything they get from GPS, anything they got
19 from this statement from Leby.

20 In Leby's interview, Leby says Deandre was there
21 and Deandre did it. Then he comes and says I did it next.

22 SOLICITOR SMITH: Your Honor, I have to object to him
23 just saying what statement from discovery that's not in
24 evidence.

25 THE WITNESS: It's in discovery.

1 THE COURT: All right. Stop. Stop.

2 what's your response to that?

3 MR. MORIN: Your Honor, he's trying to respond---

4 THE COURT: I will, I will sustain that.

5 Strike it from the record.

6 Go ahead.

7 Q. Okay. All right. So, that was seven or eight months
8 after you had a meeting with -- in the Sheriff's Office?

9 A. Yes.

10 Q. And, during that time, you didn't know what had been
11 written?

12 A. No.

13 Q. And then what happened when you found out what had
14 been written?

15 A. I got the motion and then my lawyer came up -- well,
16 my former lawyer, he came up there. We got to arguing
17 cause I spoke about the interview and said why would you
18 let them lie on me in the interview like that and he said
19 it was probably a few words changed. And I was like you
20 didn't read the whole interview.

21 He was like well, they made mistakes. They made
22 mistakes and things like that. I was like they made me --
23 put me on the scene as I'm doing the -- like I'm there
24 with him while he's doing the crime.

25 I didn't say them things in the interview. This the

1 only interview that was done without audio. But everybody
2 else has audio and everybody else has notes, actual notes.

3 Q. Uh-huh. (Affirmative).

4 This party that you were at over in Greenville---

5 A. It was in Piedmont.

6 Q. Piedmont.

7 Okay. And Fuller was there?

8 A. Yes.

9 Q. And Lebby was there?

10 A. Yes.

11 Q. And when you left that party, again, where is it that
12 you remember, remember going?

13 A. I wasn't up when we left. I got in the vehicle and
14 stayed in the car and went to sleep. We was still there
15 for a while.

16 Q. Do you remember who was driving?

17 A. I can't recall. My child's mother was contacted to
18 get me cause they said I was intoxicated. That's why
19 multiple numbers on that map that show that my child's
20 mother is being contacted for somebody to come pick me up,
21 the 908-2071 number.

22 Q. What's those last four digits?

23 A. 2071.

24 Q. Do you remember going in that house?

25 A. What house?

1 Q. That house where this allegedly happened.

2 A. No, I never been inside that house.

3 Q. Did you ever see Ms. Curran?

4 A. No.

5 Q. Did you ever see Mr. Thompson?

6 A. No.

7 Q. When you were at the party, did you have a gun on you
8 then?

9 A. No.

10 Q. Did the police ask you about the 24th?

11 A. No.

12 Q. Did you tell them about this party?

13 A. No.

14 Q. Is there anything else about these days that you
15 remember that you need to tell the jury?

16 A. Not that I can recall, no.

17 Q. Okay. Answer any questions the State has.

18 CROSS-EXAMINATION

19 BY SOLICITOR SMITH:

20 Q. Your phone number at the time was (864)309-9465?

21 A. Yes.

22 Q. Was that phone in your possession that night?

23 A. No.

24 Q. It wasn't?

25 A. No.

1 Q. where was it?

2 A. It was in the vehicle.

3 Q. whose vehicle?

4 A. The Jeep.

5 Q. Okay. where?

6 A. I can not recall. I woke up with Takila Terry trying
7 to get my child's mother to come get me.

8 Q. All right. But you were with Deandre -- so the night
9 you're talking about is -- the, the party is
10 October 24th, the evening of October 24th?

11 A. The night of the 24th.

12 Q. All right. And you are with Deandre Fuller and
13 Kenyatta Lebby?

14 A. Yes.

15 Q. And y'all -- the three of y'all leave in a Jeep
16 together?

17 A. I don't -- I'm not up when we leave the party.

18 Q. Okay. So you leave a party in Piedmont.

19 But your phone stays in the Jeep that y'all are with?

20 A. (WHEREUPON, the witness nods affirmatively.)

21 Q. And you end up at Takila Terry's---

22 A. No, when I woke up---

23 Q. ---and you heard nothing---

24 A. ---I was with Takila Terry.

25 Q. All right. And when -- do you remember when that was

1 on the 25th I'm assuming you woke up?

2 A. I can't recall what time. It was still probably
3 like -- she about getting light when she was or it was
4 kind of like dark light out. She was contacting my
5 child's mother.

6 Q. Do you remember when the party was or when you left?

7 A. No.

8 Q. Was your phone locked at the time?

9 A. They all know my code.

10 Q. They know your code?

11 A. They use my phone plenty of times. I have videos and
12 a phone with them in my possession of my phone.

13 Q. So, if any outgoing calls or outgoing messages on
14 your phone, all of those were sent by your codefendants?

15 A. I can't recall which one. I wasn't with them.

16 Q. You weren't with them?

17 A. I, I was -- I couldn't have.

18 Q. Well, the information you've told us is that you were
19 in a Jeep with your codefendants---

20 A. Yeah, at a party---

21 Q. ---and then you remember waking up at the woman's
22 house back in Greenville?

23 So you were with them at some point and you said your
24 phone was in the Jeep?

25 A. I was at a party.

1 Q. Yes.

2 A. I was at a party with them. I went to sleep in the
3 back of a vehicle. I woke up. Takila Terry's trying to
4 get my child's mother to come get me.

5 Q. All right. Is it daytime at that time?

6 A. It's like mid. It's like getting light out or
7 something.

8 Q. The sun was up on the, the day of the 25th?

9 A. (WHEREUPON, the witness nods affirmatively.)

10 Q. And you have no recollection of anything in that and
11 everything that happened on your phone, outgoing, was by
12 another individual that you don't know who?

13 A. It wasn't me.

14 Q. Did you get a new phone in October after
15 October 25th?

16 A. Did I get a new phone?

17 No, I had got a new phone after the police took my
18 phone.

19 Q. You didn't get a new iPhone in October?

20 Didn't activate a new one?

21 A. No.

22 Q. You seem familiar with the discovery materials.

23 Have you looked at Brandon Letterman's report about
24 your cellphone that was found?

25 A. It wasn't in the motion.

1 Q. All right. This is State's 113, page three.

2 You -- do you deny activating your phone on
3 October 30th, the phone that they found at the bottom of
4 a trash bag?

5 A. What do you mean deny activating it?

6 Q. Did you activate a new phone?

7 Do you act -- I mean you don't activate a phone that
8 you've had already.

9 A. I already had a new phone. I already had a phone. I
10 didn't get a new phone until my phone was taken by the
11 police.

12 Q. Okay. So you deny this, activating a phone on
13 October 30th?

14 A. I never activated a phone.

15 Q. All right.

16 A. I already had a phone. Should be in phone -- my
17 phone records. I'm with an AT&T plan.

18 Q. So, you, you told the police that you weren't there.
19 But you don't know that you weren't there cause you
20 don't remember anything, correct?

21 A. I wasn't even up. I was unconscious. I was with
22 Takila Terry when I woke up the next day. I know for a
23 fact. Multiple numbers you can see calling my child's
24 mother trying to contact her to come get me. I was too
25 intoxicated. I couldn't even drive.

1 Q. who is (864)508-9154?

2 A. I can't recall. I don't know.

3 Q. You saved in your phone as Big Bro.

4 Do you know who that might be?

5 A. Big Bro. I can't, I can't recall the contact. I
6 haven't -- I ain't even had the phone in so long.

7 Q. Okay. You had incoming and outgoing calls with him
8 at 1:36 in the morning.

9 You don't remember anything about that?

10 A. I ain't contact nobody at that time cause I wasn't
11 even up.

12 Q. So somebody picked up your phone?

13 A. We already know one of my codefendants had possession
14 of my phone.

15 Q. How do you know that?

16 You weren't even awake.

17 A. It doesn't take a rocket scientist.

18 Q. So your testimony is that you -- Deandre Fuller gave
19 you this gun?

20 A. I bought the gun from him.

21 Q. All right. Did he ever tell you how he got it?

22 A. No.

23 But I probably could think he probably got it off of
24 come up or called a play. Ain't no robbery though. You
25 don't consider a play a robbery.

- 1 Q. what's a play?
- 2 A. where you make some money or like got some guns.
- 3 Q. Okay. where you just get guns?
- 4 Is there like a gun tree?
- 5 A. No.
- 6 Q. Okay. Do you, you buy them or do you steal them?
- 7 Is there, is there a---
- 8 A. I buy them.
- 9 Q. ---third option?
- 10 You trade them?
- 11 A. I buy guns.
- 12 Q. Okay. So a play would be buying a gun?
- 13 A. (WHEREUPON, the witness nods affirmatively.)
- 14 Q. There's nothing that caused it?
- 15 A. It can mean---
- 16 Q. That's just a transaction.
- 17 A. It can mean multiple things. My mother don't like me
- 18 buying guns. But if -- that's what I usually do. I
- 19 usually buy guns.
- 20 Q. what's hitting a lick?
- 21 A. Hitting a lick?
- 22 Q. Yeah.
- 23 A. I mean hitting a lick is robbing somebody.
- 24 Q. All right. Do you remember being at the trailer on
- 25 February 16th when Deandre Fuller was arrested?

1 A. Yes.

2 Q. All right. How'd you get there?

3 A. I drove.

4 Q. What'd you drive?

5 A. I drove the BMW.

6 Q. Okay. Did you tell law enforcement that?

7 A. No.

8 Q. Why not?

9 A. Cause I had a gun in the car.

10 Q. Okay.

11 A. I can't have a gun.

12 Q. Where were you when the police showed up at the
13 trailer?

14 A. Inside.

15 Q. Where was your phone?

16 A. In the kitchen.

17 Q. In the kitchen.

18 Who was inside with you?

19 A. Fuller and his cousin.

20 Q. All right. And what happened when they started
21 calling for Mr. Fuller?

22 A. He didn't come out at first.

23 Q. All right. What happened with your phone?

24 A. They said they found it in a trash bag. I didn't put
25 them there.

1 Q. So you found---

2 A. There's more than one person---

3 Q. ---those laying out on the counter?

4 A. Yes, sir.

5 Q. Where were you?

6 A. I was in the room. I was in the -- you can see -- if
7 they got body cameras, they can see over in Takila Terry's
8 room when the cop came in to get me.

9 Q. Okay. And so Mr. Fuller just decided, out of the
10 goodness of his heart, to throw your phone in the bottom
11 of a trashcan?

12 A. Yeah, my phone wasn't the only one in there. His
13 phone was in there too.

14 Q. Oh, I know because he's your codefendant and y'all
15 committed this crime, right?

16 A. I didn't commit this crime.

17 Q. But you didn't put the phone in the trashcan?

18 A. (WHEREUPON, the witness nods negatively.)

19 Q. And you didn't see who did it?

20 A. No, it wouldn't take -- it would, it would be
21 obviously who really did it though.

22 Q. How's that?

23 A. Cause it's only me and his phone in the trash.

24 Q. What was that?

25 A. It was only me and his phone in the trash.

1 Q. Okay.

2 A. I didn't do it.

3 Q. So you think it was Mr. Fuller?

4 A. It wasn't me.

5 Q. In all these pictures that they -- the jury has seen
6 of you holding that gun, State's 134, all of those are
7 you?

8 A. Yeah.

9 Q. And the -- some of those pictures you're with Deandre
10 Fuller?

11 A. Yes.

12 Q. All right. And what is the last thing that you
13 remember at the party?

14 A. I don't know.

15 what you mean the last thing?

16 I can't remember.

17 Q. What's the last -- you know, before you blacked out
18 for 12 hours the---

19 A. I got a video --

20 Q. ---night that you committed a murder?

21 A. There's a video on the phone. It should be a video
22 on the phone.

23 Q. They took a video of -- of throwing you into the car?

24 A. No, I got a video at the party. I was drinking in
25 the -- at the party. All that's in my phone. It's in my

1 Snapchat.

2 Q. Okay. So, the last thing you remember is being at
3 the party with your codefendants and you -- do you
4 remember getting into a Jeep?

5 You've said that.

6 A. I went in the back and laid down.

7 Q. All right. And who got in the car with you?

8 A. My codefendants was in the car.

9 Q. Just Deandre and Mr. Lebby?

10 A. Yes.

11 Q. And so at 2:40 when there's an outgoing call on your
12 phone to 2071, that's not you?

13 A. No, I don't know what time I woke up. I know where I
14 woke up.

15 Q. Okay. And you were in Pied -- you were at Ms.
16 Terry's, which is in Greenville, right?

17 A. Yes.

18 Q. And at -- we're looking at State's 120, the cellphone
19 analysis.

20 A. Yeah.

21 Q. It says outgoing call.

22 Can you see that, Mr. Johnson, at 3:45,
23 (864)508-9154?

24 Do you remember making that call?

25 A. (WHEREUPON, the witness nods negatively.)

1 Q. Do you remember making this---

2 THE COURT: Hang on.

3 THE WITNESS: No.

4 SOLICITOR SMITH: I'm sorry, Your Honor.

5 THE COURT: Thank you.

6 Q. At 3:41 you called Ms. Terry.

7 Do you remember making that call?

8 A. No, I was with her.

9 Q. Well, you don't know when you were with her, do you?

10 A. I can't tell what time I woke up. I woke up. It was
11 still dark, about to be light out.

12 Q. So, it was dark, now light. Earlier it was light.

13 Are you sure when you woke up?

14 A. Yes.

15 Q. All right.

16 A. I'm sure.

17 Q. At 2:40 in the morning, slide 11, outgoing call to
18 908-2071.

19 Did, did you make that?

20 A. No.

21 Q. Did you know Mr. Fuller and Mr. Leby to have phones?

22 A. Yes.

23 Q. So they would of been using your phone to call your
24 girl?

25 A. They never had her number.

1 Q. Okay. Except Mr. Fuller called her, right?

2 A. They never had her number before that night.

3 Q. Outgoing call at 1:36, 508-9154.

4 Is that you who made that?

5 A. No.

6 Q. What about this one, 1:03 in the morning, to

7 508-9154?

8 Did you make that one?

9 This is slide nine.

10 A. I'm telling you I -- the last time I was conscious
11 was at a party in Piedmont.

12 Q. Okay. But you---

13 A. That's the last place you can actually---

14 Q. ---you need to answer the questions.

15 Did you make the call at 1:03:32?

16 A. How could I know when I don't know what time I went
17 to sleep?

18 I know where I went to sleep at. I never was on a
19 roll -- I was never driving. I was never up at this time.
20 So, I can't tell what number I called. I been here
21 four -- I been incarcerated four years. I don't know what
22 number is whose. You just showing me numbers. You ain't
23 showing me contacts.

24 Q. All right. And 12:40, do you remember calling
25 Mr. Fuller's number even though you were with him?

1 A. I can't recall who I was calling that night. I, I
2 don't know. It been so long ago.

3 Q. How about all these calls or SMS messages to
4 Mr. Fuller?

5 was that when y'all were getting together for the
6 party?

7 A. I can't tell you who I was text, who I was calling
8 that day. That's a long time ago to be remembering a
9 phonecall or some text messages and multiple ones at that.

10 Q. Do you like guns a lot?

11 A. (WHEREUPON, the witness nods affirmatively.)

12 Q. Did you like Tim's gun?

13 A. (WHEREUPON, the witness nods affirmatively.)

14 THE COURT: You got to respond.

15 A. Yes.

16 Q. would you kill for it?

17 A. No, cause I -- no.

18 Q. were you proud of it?

19 A. I'm proud of everything that I buy.

20 Q. what?

21 A. Everything that I buy. I buy guns. I have guns in
22 my, my picture history way before this crime. So I have
23 money to pay for my own guns. I don't have to kill nobody
24 for no gun, burglarize---

25 Q. You'd just gotten out of---

1 A. I don't have to burglarize.

2 Q. ---prison I think you said before this happened?

3 A. Yeah, I just got out of prison.

4 Q. Well, how much were you making at the job you were
5 working?

6 A. Probably like 15 an hour. I was working mandatory
7 overtime.

8 Q. All right. When was your child that you said is
9 four, that is four was born?

10 A. My son, [REDACTED].

11 Q. [REDACTED].

12 So, on October 25th, you were -- is -- was -- you
13 married or y'all -- what is y'all's relationship?

14 Just---

15 A. Engaged.

16 Q. ---in a relationship?

17 Engaged.

18 So, you -- your wife or, excuse me, your fiancée was
19 eight and a quarter months pregnant when you're out
20 getting blackout drunk?

21 A. Yes.

22 Q. All right. And then she's taking care of the baby in
23 November when you're out in a hotel room looking like
24 this?

25 A. I take care of my kids.

1 Q. Like this?

2 A. What does that have to do with taking care of my
3 child?

4 Q. Why are there so many pictures of you and Mr. Fuller
5 with that gun?

6 A. I didn't know it was illegal to take pictures with
7 guns.

8 Q. Well, it is for you as you've said, right?

9 A. Nah.

10 Q. Well, that's what you---

11 A. They don't own---

12 Q. ---just told me. That's why you said that---

13 A. They don't -- I said I can't have guns. I didn't say
14 it was illegal to take pictures with guns.

15 Q. Okay. So you, you don't have the gun with you when
16 you're taking the picture of the gun?

17 A. I'm not around guns all day. There's no reason to.

18 Q. Okay. But you were riding around with that gun in
19 the trunk of your car on February 16th of 2021, right?

20 A. (WHEREUPON, the witness nods affirmatively.)

21 Q. And you lied about whether that was your car,
22 correct?

23 A. Yeah.

24 Q. And you had two driver's licenses in that car,
25 correct?

1 A. Yeah.

2 Q. And an entire trash bag full of mail?

3 A. Yeah.

4 Q. And the gun was hidden under a, a -- wrapped up,
5 right?

6 A. Yes.

7 Q. All right. And then do you remember getting arrested
8 for this charge in March?

9 A. In Greenville?

10 Q. Yeah.

11 A. (WHEREUPON, the witness nods affirmatively.)

12 Q. Tell the jury what happened.

13 A. I was coming out of a house.

14 Q. All right.

15 A. I was coming out of somebody house. I got in the
16 car.

17 Q. Did you get in a BMW?

18 A. Yes.

19 Q. And then what happened?

20 A. A van was about to hit me from the side --

21 Q. All right.

22 A. -- and cars -- two F-1 -- I don't know if they
23 F-150s, 250s. They came and grabbed my car up.

24 Q. All right. Were you trying to get away?

25 A. I ain't had no time to try to get away.

1 Q. So, you would have if you had time?

2 A. I wouldn't want to get caught with a gun on me.

3 Q. Or a murder charge?

4 A. I didn't think about a murder charge.

5 Q. What, what was your reaction when Mr. Fuller got
6 arrested for a murder?

7 A. Like anybody reaction would be.

8 Q. Well, me and you are different people.

9 So tell me what your reaction would be.

10 A. I can't remember exactly how I reacted that day. But
11 I know I was tripping a little bit.

12 Q. All right. Tripping a little bit?

13 I mean y'all are close friends. I know you said
14 y'all are---

15 A. Yes.

16 Q. ---all right.

17 But y'all are very tight come -- right?

18 A. Yes.

19 Q. There -- there's messages in your phone where women
20 are accusing y'all of being in a relationship cause y'all
21 spend so much time together, right?

22 A. Whose?

23 I don't know about that.

24 Q. Okay. But y'all are together all the time?

25 Thick as thieves, right?

1 A. No, not all the time.

2 Q. No.

3 Did you hear that Kenyatta Leiby was arrested for
4 murder?

5 A. I heard he was locked up for a CDV first.

6 Q. Okay. Did you find out he was locked up for murder?

7 A. Later on.

8 Q. Okay. What was your reaction to that?

9 A. I don't know what kind of reaction you want me to
10 give you. It was just like --.

11 Q. The truth would be fine.

12 A. The same way I act when I see anybody get locked up
13 for a murder.

14 Q. What's your reaction when you see somebody that you
15 know locked up for murder?

16 A. I don't throw my hands in the air. It sound like
17 just about it's crazy.

18 Q. All right. I mean did you, did you figure out, at
19 some point, what murder they were locked up for?

20 A. No.

21 May I ask you a question?

22 THE COURT: You don't get to ask questions.

23 SOLICITOR SMITH: That -- that's all I have, Your
24 Honor.

25 THE COURT: Redirect?

1 REDIRECT EXAMINATION

2 BY MR. MORIN:

3 Q. Mr. Smith referred to the gun on the floor as Tim's,
4 correct, just now?

5 A. Yes.

6 Q. And you recognize that now that it's -- that it
7 belonged to Mr. Thompson.

8 Is that right?

9 A. Yes.

10 Q. But you got it from who?

11 A. I got it from Fuller.

12 MR. MORIN: All right. That's all the questions I
13 have.

14 THE COURT: All right. Thank you, sir. You may step
15 down.

16 Any other witnesses?

17 MR. MORIN: No, sir, defense is gonna rest.

18 THE COURT: Defense rests?

19 MR. MORIN: Yes, sir.

20 THE COURT: All right.

21 All right. Madam Forelady, I'm gon' send you back to
22 the jury room for a few minutes and then we'll bring you
23 back out. We'll give you more instructions on what we're
24 gonna do the rest of the day.

25 But go back to the jury room for a few minutes

1 please, ma'am.

2 THE FORELADY: Yes, sir.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: All right. Mr. Morin.

6 MR. MORIN: Yes, sir.

7 THE COURT: You gonna renew your motions?

8 MR. MORIN: Yes, Your Honor, the same as --.

9 THE COURT: All right. Any other additional grounds?

10 MR. MORIN: No, sir.

11 THE COURT: Do you plan on having reply?

12 SOLICITOR SMITH: We do have a brief reply. He had a
13 dentist appointment. He is apparently in route. Will be
14 here in a couple of minutes from what the officer was
15 telling me. But it will be extremely brief when he is
16 here.

17 THE COURT: When he's here -- have you, have you
18 talked to him?

19 SOLICITOR SMITH: Investigator Guest talked to---

20 THE COURT: How long is he from here?

21 INVESTIGATOR GUEST: It sounds like, Your Honor,
22 seven or eight minutes based on traffic.

23 THE COURT: All right. Just stand, stand down and
24 let me know when he gets here please.

25 Let me see the attorneys up here.

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time and a short recess
3 followed the bench conference.)

4 THE COURT: All right. Everybody ready?

5 MR. MORIN: Yes, Your Honor.

6 SOLICITOR SMITH: We are ready, Your Honor.

7 THE COURT: All right. Your witness---

8 SOLICITOR SMITH: Your Honor, he, he's been---

9 THE COURT: Just have a seat. We'll call you when
10 we're ready.

11 SOLICITOR SMITH: He's been at the dentist.

12 THE COURT: All right.

13 SOLICITOR SMITH: Apparently he---

14 THE COURT: Bring the jury in.

15 (WHEREUPON, the following takes place within the
16 presence of the jury.)

17 THE COURT: All right. Mr. Smith, does the State
18 have a reply?

19 SOLICITOR SMITH: Yes, Your Honor.

20 The State would call Investigator Mironenko back to
21 the stand.

22 THE COURT: Can you re-swear him?

23 THE CLERK: Yes, sir, Your Honor.

24 MICHAEL MIRONENKO, being first duly
25 sworn, testified as follows:

1 THE CLERK: Thank you. Be seated.

2 DIRECT EXAMINATION

3 BY SOLICITOR SMITH:

4 Q. Investigator Mironenko, the jury already knows you.

5 You took part in an interview of Kenyatta Leby on
6 February 11th of 2021, correct?

7 A. I did.

8 First of all, I would like to apologize. I was at a
9 dentist appointment. So, I, I should be in a suit and
10 tie. But I was not expecting this. So, I'm sorry.

11 Q. And you---

12 A. But yes, I was.

13 Q. And at -- that interview initially started with
14 Investigator Guest and Investigator Hammett and a note was
15 passed to investigators, correct?

16 A. Yes.

17 Q. All right. And, and, at some point, you took over
18 that interview, right?

19 A. Yes, I did.

20 Q. And were you eventually able to get Mr. Leby to draw
21 a crude diagram of the room at Walden Circle?

22 A. I did, yes.

23 Q. And did you later present him with a photo of Tyleek
24 Johnson and he made a writing on it at 3:18 in the
25 afternoon?

1 A. Yes.

2 Q. And at the conclusion of that interview, did you
3 collect those items and put them in evidence?

4 A. Yes, I did.

5 SOLICITOR SMITH: Your Honor, at this time I'm gonna
6 present him a -- what's been somewhat identified as 122,
7 124, and 146.

8 Do you recognize these as the documents that Mr.
9 Leiby produced?

10 A. Yeah.

11 So, he did -- I -- he did not give me this.

12 Q. Right.

13 But you collected it, correct?

14 A. But I did, yes, and---

15 THE COURT: What is this and which exhibit number
16 please, sir?

17 SOLICITOR SMITH: One twenty-two.

18 THE WITNESS: No. 122. He did draw 124 and then
19 wrote out on 146.

20 Q. All right.

21 A. So --.

22 Q. And were, were you watching the interview as they
23 were conducting it?

24 A. No, I don't believe I was. I, I -- actually I don't
25 think I was in the office. I came in and then I entered.

1 But no.

2 SOLICITOR SMITH: All right. Your Honor, at this
3 time we would move State's 122, 124, and 146 into
4 evidence.

5 MR. MORIN: Wait. I might of misunderstood but I
6 thought he just said he didn't remember.

7 SOLICITOR SMITH: No, he -- the question was what did
8 he -- was he watching the video when the earlier interview
9 was occurring.

10 THE COURT: Rephrase your -- reask your question.

11 SOLICITOR SMITH: I mean we'll, we'll call
12 Investigator Guest again.

13 One twenty-four and 146 happened in your presence
14 correct?

15 A. Yes.

16 Q. And you collected them?

17 A. Yes.

18 SOLICITOR SMITH: Your Honor, at this time we'd move
19 124 and 146 into evidence.

20 THE COURT: Any objection?

21 MR. MORIN: No objection.

22 THE COURT: All right. They're admitted.

23 (WHEREUPON, State's Exhibit Nos. 124 and 146 were
24 received into evidence at this time.)

25 Q. This is State's -- what is this up in the top right?

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1 A. That is the case number.

2 Q. This is State's 124 and this is State's 146.

3 Please, please answer any questions Mr. Morin has.

4 CROSS-EXAMINATION

5 BY MR. MORIN:

6 Q. You interviewed Mr. Lebby?

7 A. I did. I was one of the interviewers, yes.

8 MR. MORIN: That's all I have. Sorry.

9 THE COURT: All right. Anything on redirect?

10 SOLICITOR SMITH: No, Your Honor.

11 THE COURT: All right. Thank you, sir. You may step
12 down.

13 SOLICITOR SMITH: The State will call Investigator
14 Jon Guest.

15 THE COURT: All right. You're still under oath.

16 JON GUEST, having been previously
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR SMITH:

20 Q. Investigator Guest, you started the interview with
21 Kenyatta Lebby and Investigator Hammett in the office, is
22 that correct, or in the interview room---

23 A. That's correct.

24 Q. ---right?

25 And, at some point, you left and then Mr. Lebby wrote

1 a note while y'all were outside of the interview room.

2 Is that correct?

3 A. That's correct.

4 Q. And then, when you returned, did he hand that note to
5 you?

6 A. Yes.

7 Q. All right. Is -- will you look at State's 122.
8 Is that the note?

9 A. Yes, it is.

10 Q. And was that collected by Investigator Mironenko at
11 the end of his interview?

12 A. Yes, it was.

13 SOLICITOR SMITH: At this time we'd move State's 122
14 into evidence.

15 THE COURT: Any objection?

16 MR. MORIN: No, sir.

17 THE COURT: Admitted.

18 (WHEREUPON, State's Exhibit No. 122 was received into
19 evidence at this time.)

20 SOLICITOR SMITH: That's all the questions I have,
21 Your Honor.

22 THE COURT: All right. Cross-examination.

23 MR. MORIN: No, sir.

24 THE COURT: All right. Thank you, sir. You may step
25 down.

1 SOLICITOR SMITH: We would rest our reply case, Your
2 Honor.

3 THE COURT: All right. Madam Forelady, the State
4 rests its reply meaning that all the evidence that's gon'
5 be presented in this case has been presented. I'm going
6 to excuse you for the rest of the day and bring you back
7 in the morning.

8 We'll close and arguments and then charge on the law
9 and then your deliberations.

10 Okay?

11 THE FORELADY: Okay.

12 THE COURT: If you would leave your notes in the jury
13 room.

14 THE FORELADY: Yes.

15 THE COURT: Is 9:30 in the morning okay with
16 everybody?

17 THE FORELADY: Yes, sir.

18 THE COURT: I remind you -- it's not for you?

19 THE JUROR: No, sir.

20 Can I speak to you -- speak with you after we get
21 done with this?

22 THE COURT: Yeah.

23 Let's go back -- y'all go back to the jury room and
24 then we'll bring you in here and I'll talk to you and --
25 but don't say anything to anybody until I see you.

1 okay?

2 THE JUROR: All right.

3 THE COURT: And don't speak to other jurors please.

4 Y'all go back to the jury room.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury and a bench conference was held with
7 the attorneys at this time.)

8 THE COURT: For the record, Madam Clerk, the court
9 reporter, anyway, I'll give the jury a -- the young
10 gentlemen who opposed, y'all can be seated, who did not
11 want to come back tomorrow, I told him in jury selection
12 that we -- we were gonna be done before tomorrow and that
13 he had an extraction planned with a doctor with his tooth
14 and I told him I'd let him go.

15 At the side bar, counsel, I think everybody agreed
16 that it's okay to let him go. We still had one alternate
17 and I didn't have any conversation with him in front of
18 the jury on it. It was with his presence and my law clerk
19 and law enforcement there and I told him he could not
20 speak with anybody until after this case was over.

21 Okay. Any problem with that?

22 MR. MORIN: No, sir.

23 SOLICITOR SMITH: No, Your Honor. We agreed with
24 that.

25 THE COURT: Okay. Anything before we break for the

1 morning --

2 MR. MORIN: No.

3 THE COURT: -- or for the evening?

4 MR. MORIN: No, sir.

5 THE COURT: Thank you, guys. See you in the morning,
6 tomorrow morning.

7 (WHEREUPON, Judge McIntosh left the bench and
8 returned to the bench.)

9 THE COURT: Let's go back on the record.

10 That mustache gentleman, I told him he had to come
11 back. I, I did not have a conversation. Just be back
12 here and you're not excused. You have a good one.

13 SOLICITOR SMITH: Okay.

14 THE COURT: And that's the conversation I had and
15 that was it.

16 MR. MORIN: Okay.

17 SOLICITOR SMITH: This is the engagement?

18 THE COURT: Sir?

19 MR. MORIN: His engagement's gonna be delayed.

20 THE COURT: Okay.

21 MR. MORIN: You warned him when---

22 THE COURT: He, he---

23 MR. MORIN: ---when he said it. So, you know --.

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(WHEREUPON, Court was in recess for the evening.)

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1 Friday, May 16th, 2025

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3 (WHEREUPON, a DVD was marked as Court's Exhibit No.
4 19 and received into evidence at this time.)

5 THE COURT: Good morning. Please be seated.

6 SOLICITOR BROWN: Your Honor, I'll go grab Mr. Morin.
7 He just stepped out.

8 (Pause.)

9 THE COURT: Now, the bailiff pointed out -- all
10 right. Who was our first?

11 Who was the first one?

12 THE BAILIFF: One ninety-three, Your Honor, Joshua
13 Wellmon.

14 THE COURT: Okay. He'll move over to be on the
15 primary jury.

16 Okay?

17 SOLICITOR SMITH: Yes, sir.

18 MR. MORIN: Yes, sir.

19 THE COURT: All right. As far as closing arguments
20 go, obviously the State goes last. But I -- do you want
21 to open up on the law or you need to reply or how do y'all
22 want to do this?

23 SOLICITOR SMITH: We'll have to do it all full and
24 then just kind of reply to the things that he raises.

25 THE COURT: The old way.

1 SOLICITOR SMITH: I suppose. I don't know. The
2 opening and closing in full was confusing to me the first
3 time when I read it.

4 THE COURT: All right.

5 SOLICITOR SMITH: It is closing but you're opening.

6 THE COURT: Well, you're good if anybody -- and y'all
7 pretty much understand how you're gon' go?

8 SOLICITOR SMITH: I, I believe so. There was one
9 matter, Your Honor.

10 THE COURT: Okay.

11 SOLICITOR SMITH: I don't know.

12 THE COURT: Mr. Morin.

13 MR. MORIN: Yeah, I'm sorry, Your Honor.

14 THE COURT: That's all right.

15 SOLICITOR SMITH: There's a -- there were portions
16 played of Mr. Leiby's interview I've made a Court's
17 Exhibit. I don't know what number. But --.

18 THE COURT: Yeah, and I meant to bring that up.
19 Court's Exhibits don't go back to the jury.

20 SOLICITOR SMITH: Correct.

21 I just want it for the record of the case. So --.

22 THE COURT: Do you agree with that, Mr. Morin?

23 MR. MORIN: Yes, sir, Your Honor.

24 THE COURT: Okay. So, if the jury---

25 SOLICITOR SMITH: And it will not go back.

1 THE COURT: ---wants to see it, they can.

2 SOLICITOR SMITH: They can.

3 MR. MORIN: That's right.

4 THE COURT: All right.

5 SOLICITOR SMITH: I, I do just -- you know, to edit
6 the video to what we did from a four hour video would
7 probably be more than we --.

8 THE COURT: All right. Let me ask you this as far as
9 the other aspects.

10 Don't we have other things that they can be -- they
11 can look at on the computer or---

12 SOLICITOR SMITH: Yes, sir, we, we have a clean
13 laptop.

14 THE COURT: It is back there with them?

15 SOLICITOR SMITH: It is not yet. But --.

16 THE COURT: It would be back there with them?

17 SOLICITOR SMITH: Yes, we -- while we are -- I think
18 it will take us some time to verify that all the exhibits
19 are there. while we're doing that, I'll have somebody go
20 get it from our IT guy and it's got a password listed on
21 it and it doesn't have anything other than video players.

22 THE COURT: Just check with Mr. Morin. Y'all make
23 sure you're okay with it.

24 SOLICITOR SMITH: Yes, sir.

25 THE COURT: I agree with that -- all that.

1 SOLICITOR SMITH: Yes, sir.

2 THE COURT: Okay. Anything else?

3 SOLICITOR SMITH: No, Your Honor.

4 THE COURT: Mr. Morin, anything from the defense?

5 MR. MORIN: I'm ready to go.

6 THE COURT: All right. Madam Bailiff, if you would,
7 don't let anybody come in and out of the courtroom while
8 we're doing closings or the charge please.

9 THE BAILIFF: Yes, Your Honor.

10 THE COURT: All right.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: Good morning.

14 (WHEREUPON, the jurors respond good morning.)

15 THE COURT: All right. Ladies and gentlemen, we have
16 concluded the presentation of the evidence aspects of this
17 case. We now move into closing arguments.

18 The State will go first. The defense will go next
19 and then -- and the State has the right to reply to the
20 defense's closing after which I'll take a small break and
21 then I'll bring you back and charge you on the law.

22 Mr. Smith, are you ready?

23 SOLICITOR SMITH: Yes, Your Honor. Thank you.

24 Good morning.

25 I'm gonna start by discussing some of the details of

1 the crime itself just like I did in the opening; some of
2 the things we know for sure.

3 We know that there was three people at the scene of
4 this crime. I know there's some evidence or some
5 testimony about there being other people. There was three
6 people there.

7 Kelli Curran, as she is dying on the phone, a
8 phonecall she makes an hour and a half before she dies,
9 and she almost stopped talking at the end of that body
10 camera, says that two people came to the door and that a
11 third person was called and came in as well.

12 Tim, in his last statement before he is taken off
13 life support and passes away, says there was two people
14 that came to the door that he saw. They were strangers
15 and that he heard a third person.

16 At that point, Tim was laying on the ground barely
17 able to move. Kelli's barely able to move. So, he
18 wouldn't have seen that third person. They would of heard
19 them.

20 So, that's known. We know that they're strangers.
21 Kelli says that they're strangers. Tim says they're
22 strangers.

23 We know that they ask about their car being broken
24 down. Kelli says that on the 9-1-1 call. Tim is
25 searching on his Google search for the Jeep -- 2014 Jeep

1 Grand Cherokee. Tim works on cars. Tim knows how to fix
2 cars. Tim's trying to help.

3 We know these things. It's critical to establish
4 these.

5 These are things that are established by people that
6 are about to die. Their last breath basically, the last
7 time that they get to communicate what happened to them,
8 they give these details and those details are consistent
9 with all of the evidence that they never got to see
10 assembled.

11 They never knew what was gonna show up on phone
12 records. They never knew what people were gonna say at
13 subsequent interviews. Kelli never got any of that
14 opportunity and everything she says is consistent with the
15 evidence that we have.

16 I'm gonna move on to what Mr. Johnson is charged
17 with. The judge is gonna explain the law to you. But I
18 kind of want to explain some of it as I go through the
19 facts of this.

20 He's charged with burglary in the first degree.
21 Burglary is entry into a dwelling with an intent to commit
22 a crime therein. It's entry without consent.

23 The thing I want to talk to you about is the without
24 consent part because there's evidence that there was
25 consent to let them in. In fact, Tim says that in his

1 interview.

2 But the judge will instruct you that if they are
3 being tricked or deceived to give consent, that that is
4 not consent. And, in this case, they presented that their
5 car was broken down. But there's no car waiting outside.
6 There's no Jeep Grand Cherokee when they get there.

7 They came armed. They came with knowledge of what
8 Tim had inside the house. They came up with a scheme to
9 say that their car was broken down knowing that Tim, with
10 knowledge of cars, might let them in. It was a
11 premeditated act and they deceived Kelli and Tim. That's
12 a burglary even if he lets them in the door.

13 Armed robbery. It's the taking of items from a
14 person with the use of a deadly weapon.

15 Tyleek Johnson has said that he had a gun. We know
16 that there were guns shot at -- gun, at least one gun,
17 shot at Tim and Kelli and we know that the safe is gone.
18 We know Tim's gun cabinet's gone. We know State's 134 is
19 gone, the 300 Blackout. Many, many evidence -- much
20 evidence that items were taken out of that house and it
21 was done with the use of a firearm.

22 He's charged with unlawful possession of a handgun.
23 There's two elements of that. He possessed a handgun. He
24 admitted to having a handgun. His codefendants have
25 handguns. They stole handguns and that he has a prior

1 record. The clerk of court told you that and then he
2 ended up telling you that when he testified.

3 He's been convicted of, it was said on the sentencing
4 sheet, I think it was strong armed robbery. The clerk
5 called it common law robbery. The judge will instruct you
6 that that is a crime of violence and the element -- the
7 second element of that weapons charge is he possessed a
8 handgun and he's been convicted of a crime of violence.

9 Those are the elements. I'm gonna talk about murder
10 at the end. But he has two counts of murder and two
11 counts of possession of a weapon during a violent crime.

12 I know y'all've taken great notes. Honestly probably
13 been the most attentive jury I've ever had. But I want to
14 talk about some timeline because these are critical when
15 you compare it to the cellphone information that we have.

16 At 1:59 in the morning on October 25th, Timothy
17 Thompson Google searches for a 20 -- 2014 Jeep Grand --
18 Jeep Cherokee.

19 what does that mean?

20 That means the bad guys are in the house at that
21 time. The 9-1-1 call comes at 2:21. But they are in the
22 house. They have had a conversation about what's going on
23 at 1:59.

24 At 2:11 to 2:13, they're 11 text messages exchanged
25 between Kenyatta Lebby's phone number, who we assert is

1 inside the house, and Deandre Fuller, who is outside the
2 house. Eleven text messages sent in that two minute
3 period.

4 At 2:16, there's a missed call on Tim's phone from
5 Kenyatta Lebby's phone number, the 3788 number. We know
6 this. It's Doug Cherokee. They're in a Cherokee.
7 Kenyatta Lebby's nickname is Dubb. It's a
8 misunderstanding of what his name is but it's his number.

9 At 2:19 -- 2:21, 9-1-1 call. Kelli tells the details
10 of what happened.

11 Those are critical pieces. They're verified. And
12 when you compare that with the cellphone information, it's
13 incredible evidence that the three people that we were
14 asserting that were there participating in this crime were
15 at Walden Circle and are the three people that committed
16 the crime that Kelli and Tim described.

17 Now, the phones. All three of these phones were in
18 these three individuals' possession.

19 Start with Tyleek Johnson. He admitted that his
20 phone number is his phone number on the stand. The phone
21 that was found in the bottom of a trash bag at the trailer
22 in Greenville has that phone number associated with it.

23 In Deandre Fuller's phone, that phone number is saved
24 as Max which we know is his nickname. He's communicating
25 with his -- the mother of his child or his girlfriend, the

1 2071 number. He's communicating with Takila Terry, 1074.
2 He is in possession of that.

3 He told you, in the few things that he does remember,
4 that he had that phone with him on the night, that he gets
5 into a Jeep Cherokee with his two codefendants. He told
6 you that. Of the few things that he remembers, he does
7 remember getting into the suspect vehicle with the two
8 codefendants and his phone was in his possession.

9 Deandre Fuller, he messaged everybody. Ten
10 seventy-two was his number before the crime and after the
11 crime. It's got Takila Terry in it. It's got common
12 connections in it. Takila Terry also testified to you
13 that she got that phone number for him. It's two digits
14 off from hers. They're on the same plan.

15 Kenyatta Lebby, the phone law enforcement said was
16 registered to his mother. We know that he's there. Doug
17 Cherokee, Dubb on the 9-1-1 call. He is the person that
18 got information from Dondrey Johnson that this crime --
19 that there, there was an opportunity to make a big payday,
20 to steal guns, and to steal marijuana from Tim.

21 So, he's definitely there. You hear the voice, the
22 weed's in the back, bro. That's, more than likely,
23 Kenyatta Lebby indicating where they need to go because he
24 knows cause he's spoken to Dondrey.

25 We also know that he calls Dondrey after the crime

1 and says things went bad, we shot.

2 So, those three phones are in those three
3 individuals' possessions, and as James Berni, special
4 agent James Berni told you, he did an analysis of those
5 phones and they come together around ten o'clock, earlier
6 in the night, and they make their way in conjunction down
7 85 to Spartanburg.

8 And when you look at those phones, I'm gonna go
9 through it more in detail and y'all will have it back in
10 the jury room, y'all can look at it as close as you'd
11 like, Tyleek Johnson's phone is at the Walden Circle area
12 well before they make contact with Tim. Like 1:20, 1:30,
13 we'll look at it. You take his testimony over me going
14 off my memory here.

15 But they're there. They are there all the way up to
16 the 9-1-1 call and a little bit after and then they start
17 heading back. All three phones completely consistent with
18 three individuals who've allegedly committed this crime
19 assembling for the plan they had, heading, executing that
20 plan, and then heading back, stashing the loot, and
21 starting to dispose of it with Mr. Fuller selling it,
22 offering it for sale on Facebook that you've seen.

23 I'm not gonna go over everything that we went. It's
24 been a long time and I don't want to bore you and I, I
25 have watched y'all pay attention. I trust y'all paid

1 attention and I don't need to replay all these things for
2 you.

3 In the opening, y'all didn't know much about the
4 case. It was confusing to me because the names were
5 changed, Deandre and Dondrey and Johnson and Fuller.

6 I think what they were alleging is that Dondrey
7 Johnson is who's present and not Tyleek Johnson. So, it
8 would be Mr. Lebbby, Mr. Fuller, and Dondrey Johnson. Not
9 Tyleek Johnson. That is not possible. That is not
10 possible.

11 Now, you can come away with the conclusion that
12 Dondrey Johnson should be charged in this case. You might
13 think that he's guilty of giving information, that he
14 participated in setting Timothy Thompson up.

15 Dondrey Johnson is not on trial today. You can not
16 convict him today. Tyleek Johnson is on trial today.

17 He very well may have. He admitted that he told them
18 that, that he had guns and drugs. Law enforcement didn't
19 charge cause they didn't feel like they had enough.

20 We do have enough on him. We do have enough on him.

21 How do we know that Dondrey could not have done it?

22 One, he testified but people can lie. But he did
23 testify. He testified he was either at his grandfather's
24 or that he was at his house and both of those houses are
25 mapped on the 0404, the second PowerPoint presentation

1 that we watched with James Berni.

2 Dondrey doesn't know what James Berni's testimony is
3 gonna be when he tells law enforcement where he was that
4 night. It's verified. It could have been proven wrong.
5 If that phone was at Walden Circle, he'd be in big trouble
6 given the information that's known.

7 But the most critical way that we know that Dondrey
8 Johnson was not there is the 1:39 phonecall that he has
9 with Timothy Thompson, 1:13 on October the 25th.

10 How does that exclude him?

11 One, because James Berni says when that call is made,
12 his phone is registering in Greenville and what else do we
13 know?

14 We know it lasted for some seven minutes. That's
15 verified on Tim's phone. We know that Tim says he spoke
16 with Dondrey and Dondrey says he spoke with Tim. Tim's
17 last words, his last statement is he spoke. So they both
18 say they spoke with each other. It's not another person
19 using Dondrey's device because, as James Berni admits, all
20 he can tell you is where a device is.

21 But Tim and Dondrey confirm that they had a actual
22 conversation. They heard each other's voices at -- so
23 that phone conversation lasted seven minutes. That would
24 of ended at about 1:46, 1:47. The bad guys are at the
25 door at 1:59 at the latest. Probably even before that.

1 He can not be present at the scene of this crime. He
2 could be responsible for setting it up. But he can not be
3 present. Do not let them confuse you with that.

4 The other thing, and I mentioned this earlier, they
5 both said that they were strangers and I know Tim's last
6 name. He says Dondrey was there and I have my suspicions
7 about why he said that. I think it's cause he thought
8 Dondrey was involved and he wanted to make sure law
9 enforcement looked at him.

10 But Tim had also suffered for weeks and weeks. You
11 saw the chart of him. Tubes in his side, a huge cut on
12 his stomach, gunshots, feeding tubes, tracheostomies,
13 drugs. You saw the trauma that he had gone through.

14 So, we don't know exactly why. But he says he's
15 there. But, at the beginning of his statement, he says
16 they're strangers and Kelli says they're strangers. And
17 we know, from the evidence, that those two people that
18 came to the door, Tyleek Johnson and Kenyatta Leby --
19 excuse me -- I need some water -- were in that house for
20 close to 20 minutes.

21 At 1:59, 2:19 Leby is calling Fuller. That probably
22 means they've shot them. The coast is the -- clear. Time
23 to come in and help us get this safe. Pull the car
24 around. We know the car wasn't parked directly outside
25 their house. Some communication that it's time to move on

1 with the next step of the plan.

2 So, to believe that Dondrey Johnson is there is to
3 believe that, in 20 minutes, Tim did not mention to Kelli
4 hey, this is the guy that I gave the BMW to for in
5 exchange for the Chrysler or hey, Kelli, this, this is
6 Dondrey. This is Drey. Didn't do it cause he's not
7 there.

8 It's strangers. It's him and Kenyatta Lebby.

9 The arrest of Mr. Fuller and the search of the
10 trailer and the BMW, Mr. Johnson lied to law enforcement
11 that day and he told you on the stand that he lied to law
12 enforcement that day. He says it's because he's not
13 suppose to possess a gun. But, of course, he doesn't seem
14 to care too much about possessing guns when you start
15 looking through his phone. He possess them all the time.
16 Sometimes he possesses four of them in a single picture.

17 But he tells you yeah, I lied cause I didn't want to
18 get caught for a gun. well, it could also be cause he
19 didn't want to get caught with that gun because that gun
20 was stolen from Tim Thompson's gun cabinet the night that
21 he and Kelli were shot.

22 what does he say?

23 He says I followed a friend girl in my car and she
24 took the BMW here and then she left in my car and the
25 BMW's here.

1 He sits by and watches as they basically force their
2 way into this car and then what do they find?

3 Not one driver's license. Two driver's licenses. I
4 don't know who has two driver's licenses. But he has two
5 and they're in this car that he doesn't have a connection
6 to. And then he's got a bag full of mail addressed to
7 Tyleek Johnson and State's 134 in his trunk, his trunk.

8 What does Takila Terry say?

9 I think Takila Terry's terrible for Mr. Johnson. Of
10 course, now he admits that he was lying. But, but that's
11 also after Takila Terry's testified. Takila Terry says
12 oh, yeah, he drove up in his car. So, he, he had the keys
13 on him. She doesn't mention a girl.

14 So, he, he's a liar.

15 He was lying and he admitted to you that he lied and
16 what happened when they search the house?

17 Seven cellphones inside that house. A couple of them
18 that are essentially trash. They're, they're not
19 operable. I guess you could connect them to WiFi.
20 They're not in the trash though.

21 What is in the trash?

22 His phone and Deandre Fuller's phone.

23 There's three people inside that trailer. It's not a
24 mansion. They're all together. He wants to say oh, we're
25 in different rooms. But, for some reason, I don't know

1 why, Deandre Fuller, in his version, says I'm just gonna
2 throw Tyleek's phone in here with mine.

3 I would offer you there is a very good reason that he
4 did that and that is because Deandre Fuller knows that he
5 and Tyleek Johnson committed all of the crimes that he's
6 alleged to have -- to be charged with and they both had
7 incriminating evidence on their phone.

8 That phone that Mr. Fuller has is not the 1072
9 number. It's another number. That's not the one that
10 links him to the crime this night. He has another phone
11 though. Apparently didn't tell Ms. Terry about it. He
12 was using her to get another phone that he could do crimes
13 with and then he does whatever he does on the number
14 that's found at the bottom of the trashcan.

15 It's also possible that that is a complete lie and
16 the two of them said oh, shit, they're outside the
17 trailer, what do we do, and they try their best to hide
18 incriminating evidence just like he tried to hide State's
19 134 by distancing himself from the BMW.

20 He will lie to law enforcement. He will lie to you.
21 He lied to Tim and Kelli to fool them to get inside the
22 house. He is a liar. You should not trust him.

23 Tyleek's statement to law enforcement, he confessed.
24 He confessed. He starts off by a denial. He's (sic)
25 gives an admission that is extremely typical how things

1 go. It's a slow bleed. Deny, confront, oh, okay, I was
2 there but I didn't go inside the house. No, that's not
3 right and then the story comes and it comes back quickly.
4 But that's how things go and that's how Investigator Guest
5 tells you that it happened.

6 He indicates that he's not the shooter. But he did
7 say that it was a robbery.

8 He knew it was gonna be a robbery, hit a lick, which
9 is a term he did say he knew on the stand, that they were
10 coming there for guns and weed and what does he tell you?

11 That after Lebby shoots him, he doesn't go oh, my
12 God, what has he done. Help these people. He doesn't
13 call 9-1-1. He runs to the gun cabinet and starts
14 stealing guns.

15 So, it's no shock to him. They figured out that this
16 wasn't gonna be easy and they decided they have to shoot.
17 We allege he shot them. But it doesn't matter. The judge
18 will tell you about, in the jury charge, is something --
19 maybe something y'all have heard about called the hand of
20 one is the hand of all.

21 The idea, he'll explain it to you, is that if you
22 decide to commit a crime, robbery, burglary, that you and
23 everybody that agrees to participate in that crime is
24 responsible for the natural and foreseeable consequences
25 of that crime. Entering into somebody's house with a plan

1 to rob them while armed with weapons is natural and
2 foreseeable that a murder could occur.

3 So, even if you can't decide who fired the shots, it
4 doesn't matter. He knew it was gonna be a robbery. He
5 participated in the robbery. It doesn't matter and an
6 analogy I've used in the past is a lot of people's moms or
7 dads, whoever you grew up, had a rule not to run in the
8 house. Say you or your brother or sister are running
9 through the house and you knock over a lamp.

10 what happens?

11 Does mom or dad conduct an investigation to figure
12 out whose elbow bumped the table or whose hip bumped the
13 table?

14 No.

15 Both face punishment because both decided to break
16 the rules and exactly what happened because we have the
17 rule to prevent what happened from happening. It's fair.
18 It's the law. He's guilty even if you don't know whether
19 he fired the shot.

20 He made this statement in front of three law
21 enforcement officers and his own attorney, a meeting that
22 he requested, set up by them.

23 Investigator Guest, other officers involved in this
24 would not risk their careers, risk potentially their
25 freedom over doing something like this. It is a mistake

1 and mistakes happen. But everything that he says is
2 consistent with the other evidence.

3 You don't have to just believe Investigator Guest
4 because you think he's a great guy or he's super
5 trustworthy. You can compare what he says with the
6 evidence.

7 But there's one thing that I thought of this morning.
8 I was getting ready to come here. There is a detail that
9 came out that I think can allow you, despite the lack of
10 video evidence, to believe what Investigator Guest is
11 saying and now that is the mention of the Ruger
12 Parabellum.

13 He says on the stand yesterday I told them that I had
14 a Ruger Parabellum but I sold it in the summer.

15 why would that have come up in the interview with
16 Investigator Guest?

17 why?

18 Investigator Guest -- and we do not know the exact
19 firearm that committed these murders. We know that
20 there's 9-millimeter shell casings. That's all we know.
21 There are a bazillion 9-millimeter handguns.

22 Okay. So, Investigator Guest is not just listing off
23 every 9-millimeter that he can think of.

24 what would be the point?

25 Because if says oh, yeah, I had a Glock 9, it doesn't

1 mean that he's guilty.

2 So, Investigator Guest isn't doing that and
3 Investigator Guest isn't asking him questions about random
4 firearms that he owned in the summer. He has that
5 information because Tyleek Johnson told him that he had a
6 Ruger Parabellum on him that night and that gun happens to
7 be a 9-millimeter as Jamie Green told you. Although he
8 said it's not an exact term for it, what colloquially I
9 guess he says, that's a 9-millimeter and that produced all
10 seven shell casings that were recovered from the scene.

11 So that is a way -- there's no way that information
12 came up other than Tyleek Johnson telling it to
13 Investigator Guest. There's nothing else that makes
14 sense. Why -- he didn't just pull that out of the air and
15 then Tyleek comes in, after hearing it, and says oh, yeah,
16 I did own one of those. There's no way that would of come
17 up.

18 What does it matter that he sold a gun months before?

19 It has no connection in this case and Investigator
20 Guest wasn't asking him about a Ruger Parabellum because
21 he doesn't know that a Ruger Parabellum is the gun. We
22 still don't know that for sure. It's -- we just know that
23 it's a 9-millimeter.

24 Moving to his testimony yesterday, while completely
25 non-credible to me, in many ways there are some key

1 admissions in the statement he gave you yesterday. Those
2 would be I was with my codefendants, Tyleek -- oh, excuse
3 me -- Deandre Fuller and Kenyatta Leby and I was loaded
4 into a Jeep Cherokee, the very car that Tim Thompson is
5 searching on his phone and it was the three of them.

6 And as I started my closing, who people -- how many
7 people committed this crime?

8 Three at the scene at least. Three people.

9 He places himself with the two other people in the
10 car that we know went to Walden Circle and he just blacked
11 out. He wants you to believe that he just blacked out,
12 too much Hennessy, and doesn't remember a thing until he
13 wakes up at Takila Terry's.

14 Now, I don't know if he's agreeing that that means
15 that Deandre Fuller and Kenyatta Leby went and did this
16 crime. But that's what all the evidence would show.

17 So, apparently, these guys get this idea to go do a
18 robbery. They're in Greenville all together. Tyleek's
19 had too much Hennessy. He's passed out.

20 They're in Greenville. Rather than like dump him at
21 Takila's or dump him at his baby mama's at two -- or
22 fiancée's, 2071, cause the baby wasn't born yet, so they
23 can go do a robbery and a burglary in another county over,
24 which would make sense if that's what they were gonna do.
25 No, they just let him hang out in the back passed while

1 they go do a very, very serious crime.

2 That's not what happened. He was awake. He was with
3 them. They were planning it. He was calling people. He
4 was getting calls and he admitted that his phone was with
5 him the night of the murder. I covered that earlier.

6 He has -- I'm gonna go -- I'm gonna pull the slides
7 up. He has six outgoing texts and two outgoing calls from
8 the time they set off from Greenville to Spartanburg to
9 the time that they come back in Greenville. One of those
10 calls is to his girlfriend while halfway back coming from
11 Spartanburg back to Greenville, fiancée, excuse me, and
12 the other one is to Takila Terry.

13 He wants you to believe that all this is being done
14 by his codefendants who both have phones, and as I will
15 show you shortly, are both using their phones, and, at one
16 point, almost simultaneously all three are using their
17 phones.

18 Does that make any sense?

19 You do not have to believe what he says. You can use
20 common sense. I beg you to use common sense.

21 why in the world would people with functional phones
22 who are actually calling the same numbers he's calling,
23 oh, you're not answering for this one, grab the phone, and
24 I guess he's passed out. I mean I don't know if they -- I
25 don't know. Like it sounds like he was sprawled out in

1 the back. They'd be in the front seats.

2 So I guess they unbuckle your seatbelt, reach into
3 the back, grab his phone. Let's call Takila from this
4 one. Maybe she'll answer. It is just nonsense. It's
5 nonsense.

6 Can you turn the -- my desk on please?

7 All right. Just, just for clarification, cause I
8 can't -- couldn't talk about this when I'm asking
9 questions. This top number, the black, is Kenyatta Leby,
10 3782. This 9465 is Mr. Johnson and this 1072 is Deandre
11 Fuller.

12 Going to slide nine. You can see the activity as
13 they begin to move towards Spartanburg and you can see an
14 outgoing text, an outgoing text to the 9154, who he didn't
15 recognize, but is in his phone as Big Bro. Another
16 outgoing text, another outgoing text as they're moving.
17 Apparently all these are being done by the codefendants.

18 Slide ten, a lot of incoming stuff. But, again,
19 another outgoing. And, again, as I noticed or noted
20 earlier, look at the times on these.

21 1:32, they're at Walden Circle. Dondrey hasn't even
22 made the phonecall yet where he's back in Greenville.
23 Dondrey is not there. Tyleek Johnson is there. This is
24 Walden Circle, the red.

25 Heading back after the murders, incoming calls and

1 incoming an -- text from Takila Terry, which is
2 Mr. Fuller's girl, and, in there, an outgoing call to
3 2071, who is in his phone as His world. He said it's his
4 fiancée at, at 2:40. That's halfway back to Greenville.

5 So, one of his codefendants said hey, man, I need to,
6 I need to call in and let, let Tyleek's girl know
7 everything's all right. We're gonna be back before 3:00.
8 Don't worry. You know, she's giving birth in three weeks
9 from now. We probably want to check in with her to make
10 sure she's all right cause Mr. Fuller and Mr. Leby are
11 those type of people.

12 And then an incoming call from Takila Terry at 3:35
13 where he had -- where somewhere that says, at some point,
14 he ends up at her place.

15 Slide 12, an outgoing text at 3:45. An outgoing call
16 at 3:41 to Takila Terry. Again, all of these, he's (sic)
17 wants you to believe are being made by other people but
18 why?

19 Let me show you one on Mr. Leby's.

20 Now, I do want you to remember Mr. Leby it -- has
21 Verizon, and as James Berni told you, his only captures
22 calls. So, he doesn't have as much data as they make
23 their way back.

24 There's the 1072 number, the 2:19. That's important.
25 That's him -- that lets you know that Mr. Fuller is the

1 one who's outside the house. And then he has an outgoing
2 call at 2:40.

3 Now, I want you to remember the time 2:40 for this
4 last little portion of this and then Mr. Fuller is
5 texting, calling, and calling Takila. But then
6 apparently, at some point, decides he needs to use
7 Mr. Johnson's phone to do such. Right here, an incoming
8 call at 2:39.

9 So, based off the things I just looked at, Tyleek
10 Johnson has an outgoing call to his girl, 2071, at 2:40 in
11 the morning. Kenyatta Lebyy has an outgoing call at 2:40
12 in the morning and Deandre Fuller has an incoming call
13 from Ms. Terry at 2:39. And, when you look down here, he
14 then has an outgoing call at 2:42 to, once again, for some
15 reason, Johnson's, Mr. Johnson's fiancée, and then he has
16 another outgoing call to Takila Terry.

17 So, which -- 2:39 and 2:40, all three of those
18 devices are being used at the same time apparently by two
19 people though cause he's in the back passed out.
20 Impossible. And then more outgoing calls to Takila Terry.

21 Slide 31. Doesn't have the call information but it
22 corresponds to the previous slides that I've showed you.
23 This back, I know it's a little confused, but that, that
24 is Kenyatta Lebyy, at 1072, is that incoming call from
25 Takila Terry and then there's the 2:40 from Mr. Johnson,

1 which is an outgoing call to his girl.

2 All three in action at the same time. Impossible
3 that what he's telling you is the truth. He is lying to
4 you.

5 How do we know, which it doesn't matter if they all
6 planned to do it, but how do we know that Tyleek Johnson
7 is inside the house?

8 For one, he told law enforcement that.

9 But the reason I think is, is pretty obvious is are
10 you gonna bring this guy to the front door at two o'clock
11 in the morning to a stranger's house and try to get them
12 to let you open the door?

13 You've seen the other two in the flesh, and while
14 they -- maybe you wouldn't open the door for them, I
15 probably wouldn't open the door for them, don't have face
16 tattoos. They look like normal guys. Normal enough to
17 let Tim let his guard down.

18 You leave this guy in a car if you got half a brain.
19 No one's opening the door for this guy. Just slam the
20 door in this guy's face, you grab and gun, and you call
21 the police.

22 Murder and possession of a weapon during a violent
23 crime, he's charged with two counts. Both Kelli and Tim
24 died. That's obvious.

25 Murder is the unlawful killing of another with malice

1 aforethought. The judge will tell you what malice is.
2 It's wickedness. It's evil. A heart fatally set on
3 mischief is my favorite term that they have for it.

4 It has to be present at the time that the act is
5 done, the pulling of the trigger. Of course, in this case
6 we know that a 9-millimeter pulled the trigger seven times
7 and also aimed from one person to the other.

8 So, that malice just has to be formulated right at
9 that moment that that trigger's done. But the malice, in
10 this case, was formed long, long before that. It was
11 formed when Kenyatta Leiby talked to Dondrey Johnson and
12 found out about what Tim had in his house, that he had
13 firearms, and he had marijuana, and that they assembled a
14 team to come get him.

15 They assembled a scheme to fool him, to let them in,
16 and that's the part -- what happened to Tim and Kelli is
17 awful. It speaks for itself. They are gone. They have
18 been stolen away from their families and from their
19 communities by his actions.

20 But the part that bothers me the most, and I'm gonna
21 take you back, this is an old case, October of 2020.

22 Remember that?

23 COVID. All the stuff was going on with COVID.
24 George Floyd had been killed in the summer. All that was
25 going on in our country at that time.

1 Two black men present themselves at the door of two
2 white people at two o'clock in the morning.

3 MR. MORIN: Objection.

4 May I approach?

5 THE COURT: Yes, sir.

6 (WHEREUPON, a bench conference was held out of the
7 hearing of the jury at this time.)

8 SOLICITOR SMITH: COVID times. Many people wouldn't
9 open the door. Many people wouldn't let people come into
10 their house. Many people were working from home. All of
11 our lives were disrupted. People were scared. People
12 were dying.

13 Timothy Thompson opened the door to total strangers
14 at two o'clock in the morning to help them, to help them.
15 He looked them in the eye, asked for help, and they
16 agreed, and he looked on his phone to try to help them and
17 all the while, in the back of their mind, he's waiting for
18 him to drop his guard and shoot him and shoot his
19 girlfriend so he can steal some freaking guns and some
20 marijuana.

21 Murder is bad enough. But the violation of a
22 fellow's citizen helping a fellow citizen in need and then
23 getting murdered for it is the definition of malice.

24 There is overwhelming evidence that Tyleek Johnson is
25 guilty of murder in this case and I would ask that -- and

1 all of the other crimes I previously discussed and I would
2 ask that you find him guilty of all of those.

3 Thank you.

4 THE COURT: Mr. Morin.

5 MR. MORIN: The State's burden in this case is beyond
6 a reasonable doubt, a doubt that would cause a reasonable
7 person to hesitate to act is what the judge is gonna tell
8 you, where you are firmly convinced.

9 I'm not and I haven't, during this trial, disputed
10 any of the evidence regarding two people who died that
11 night. You see me several times saying no, no questions
12 because that's not the issue here. The issue is who are
13 the two people in the house.

14 Now, we've heard a lot of stuff about devices, what
15 an incoming call is, and what an outgoing call is, and
16 whether or not that means you're there. I specifically
17 asked the -- our Officer Berni, my phone's at home, and I
18 get a call, and I don't answer, it's still gonna show I
19 have an incoming call.

20 So, when we're talking about some of these calls,
21 what they're talking about is, is they were all in
22 evidence -- they were all in action. But some of them are
23 incoming calls, which may or may not have been answered.

24 What we do know is this and these are facts too.
25 Dondrey Johnson was in that house, and from this point

1 forward, so that I don't confuse it, I'm going to refer to
2 him as he was in Tim's phone as Drey 300, was in the home
3 and he said from the stand the drugs were in the back.

4 But I don't know which room.

5 I saw the guns. I talked to Lebby about it. I
6 talked to Lebby about it. And then he went well, actually
7 I talked to him and then I thought maybe I shouldn't of
8 told him that.

9 Yeah, the same reason he lied to the police when they
10 came out there the first time and he forgot to mention
11 anything about that, and then he says well, I -- actually
12 I'm not sure and the main thing is, is then the police are
13 like hey, can we talk to you again. He goes sure, you can
14 talk to me again. I'll come around this day then he
15 doesn't. And then he says sure you can come -- I can call
16 you on this day and he -- then he doesn't. And then sure,
17 you can come in and then he doesn't.

18 And finally he comes in and he says you know what?

19 After all that stuff I said that wasn't true, this is
20 what I know.

21 So, that takes me to the 9-1-1. They say bro. I
22 here Dubb. I'll leave it up to you. But I believe
23 somebody said the drugs are in the back, Dubb, which means
24 somebody was directing Mr. Lebby.

25 who knew where they were?

1 who knew where they were?

2 Drey 300 knew where they were.

3 well, you know, his phone and it's making calls every
4 10 minutes and it's somewhere else. He knew. He knew and
5 I understand and we saw the video and I'll leave it up to
6 you. But that officer right there, Hammett, sitting right
7 here, asked Tim was Drey 300 in the house that night. He
8 said yes. It upset him. He didn't want to hear that.

9 So, he asked him again and again yes, he was in
10 there. well, if he was in there, then he was in there.

11 well, Kelli says that they were strangers. But what
12 does Drey 300 tell us?

13 He was at the house.

14 Did you see a woman that day?

15 No.

16 He came to my house.

17 Did he have his woman with him that day?

18 No.

19 That's what I was talking about at the beginning and
20 that's what I'm still talking about because that's the
21 question in this case. It's not about whether or not he
22 should of been charged with something else. It's a
23 question of whether or not he was there.

24 SOLICITOR SMITH: It's in there.

25 MR. MORIN: It's in there.

1 SOLICITOR SMITH: It's probably in the very back --

2 MR. MORIN: Okay.

3 SOLICITOR SMITH: -- of the pile.

4 THE COURT: Yeah, the very bottom of the pile.

5 MR. MORIN: Excuse me, ladies and gentlemen.

6 This is State's 124. They put it in yesterday. This
7 is what Lebby drew. They put it in and wanted this in.

8 Drey says Fuller, Drey, and then he tries to say Max.
9 But he had to -- he didn't put himself in there. But
10 Drey's in there. Drey's in there.

11 They make a big deal about the Parabellum. It's a
12 Parabellum. We didn't ask him about a Parabellum.

13 If Mr. Johnson had said he had a Parabellum that day,
14 what is the very next question the officer would of asked
15 him?

16 where's the gun?

17 what'd you do with it?

18 where's it at?

19 Nothing. Nothing.

20 They had a group of people coming up to that room
21 that was bigger than usual. Not the small room you've
22 seen. The big room because it's important because, at
23 some point from when they were at Westbrook Circle
24 arresting Mr. Fuller, he wasn't on the record -- he wasn't
25 on the radar till all the way to here where we have two

1 senior officers, Mr. Hammett and Mr. Gossett, and their
2 boss.

3 Nobody wrote nothing down. Nothing. Not anything.
4 It's not hard to take notes when important stuff's going
5 on and other people are talking. No. We're not doing
6 that.

7 You have to believe that this is what we said and I
8 believe what he said. But I'll say this. It's not
9 uncommon when they go well, he said all the things that we
10 already knew.

11 well, you wrote down all the things you already knew
12 and you're saying he agreed to it. But we don't know that
13 he agreed. They say he did. But when they get to the
14 parts that they don't like, like when Mr. Thompson says
15 Mr. Johnson, not this one, Drey, he knows where the drugs
16 are, who's directing Dubb to where they are, because
17 either -- those were the only two people that knew and
18 could of known, Dubb and him, and they're directing Dubb.

19 So who would -- who's that leave?

20 It leaves Drey 300.

21 There's a lot of pictures of Mr. Fuller and Mr. --
22 Tyleek together.

23 Okay. There's a lot of pictures we all have with
24 people that we're close to. That's just basically guilt
25 by association. The question is is there a doubt about

1 who the second person in there was. Leiby's there. Agree
2 with the State about Mr. Fuller.

3 The question is who's the other person and there's
4 plenty of evidence to indicate it's somebody else and
5 saying that some device, somewhere else, that's making
6 some calls means that he's there and not over here is just
7 their speculation to it.

8 That's the issue and, of course, I found it odd that
9 these phonecalls that are being made by they say Mr. -- by
10 Drey 300, 300 says, at one point, they're being made every
11 10 minutes.

12 Who's making a call every 10 minutes at two o'clock?

13 I don't understand a lot of this. I don't understand
14 all this action that's going on at 2:00. But I'm 58 and
15 two o'clock is definitely a time I'm not awake.

16 But the question is does this evidence leave you
17 firmly convinced and I believe there's reasonable doubt as
18 to who that other person is and that's what I'm (sic) been
19 arguing this whole trial. That is the fact.

20 Again, what happened in the house was horrible.

21 That's not disputed. I'm not trying to dispute that.

22 But what I am trying to do is ask you to consider
23 that somebody else was in there, and when you do consider
24 that, and when you do think about that, if it gives you
25 a -- makes you hesitate to act, then that's reasonable

1 doubt and that's what I've been talking about.

2 Thank you.

3 SOLICITOR SMITH: I covered some of the things he
4 did. So, I'm not gonna go over it all but I want to
5 address some things he brought up since they're talking
6 about selective beliefs of witnesses.

7 This is what Kenyatta Leby said. This is Tyleek
8 Johnson. This is what he wrote. He's the shooter. He
9 told him if I said anything he would kill my family.

10 The diagram, Mr. Leby is on the diagram just to
11 correct Mr. Morin.

12 But what do we know about Mr. Leby?

13 Well, from your brief time meeting him, I assume you
14 came to the conclusion that he is a liar. Tashawn is Mr.
15 Leby. That's his middle name. That was established.

16 So, in Mr. Leby's version, there are four people
17 inside the house. That can't be.

18 Okay. Two people came to the door. A third person
19 came in later. Kelli is crystal clear about that.

20 Okay. Two and a third came later.

21 But, again, Mr. Morin wants you, just like he accuses
22 me, he wants you to gloss over the fact that Kenyatta
23 Leby said Tyleek Johnson is the one who shot them and did
24 a drawing of it and sent -- passed a note that also said
25 that he did it.

1 So, he's being selected as well.

2 But we know that there weren't four in there. It's
3 not possible. Kelli would of said there was four people
4 in there. Kelli was ripping off details. The second that
5 they got out of the house and she was safe to talk, she
6 starts ripping off details.

7 Okay. State's 146 and 124 that you were showing the
8 jury.

9 Mr. Morin wants you to just dispute these phonecalls
10 and he uses the example of oh, if I leave my phone
11 somewhere and everybody calls it, that doesn't mean I'm
12 not there.

13 Well, that's not what the evidence is with Dondrey
14 Johnson or Drey.

15 Okay. The evidence is, I would say, undisputed that
16 Dondrey Johnson himself made a phonecall to Timothy
17 Thompson at 1:39 in the morning. It lasted for seven
18 minutes and some change. That gets into 1:46.

19 Okay. That phone is in Greenville. Dondrey is
20 making that call. Tim acknowledges getting the call from
21 Dondrey and Dondrey acknowledges calling it and it's
22 backed up by the phone. He can't be in Spartanburg. It
23 would be at the Walden Circle address just like all the
24 other three devices that actually did this crime are at
25 Walden Circle.

1 I will let you listen to the 9-1-1 call. Come to
2 your own conclusion. Dubb is said. I'll give you some
3 notes. I know it's sad to listen to.

4 One minute and five seconds in is when the weed's in
5 the back, bro, is said and three minutes and 45 seconds in
6 is when you hear a voice say Dubb.

7 This issue of strangers, I, I addressed this in my,
8 my first. But for 20 minutes Tim did not mention
9 anything -- if, if you are to believe that Dondrey
10 Johnson's in his house, 20 minutes of Tim and Kelli and
11 these two men sitting in the room. Hey, this is the guy I
12 changed the Chrysler 300. Nothing. Tim says they're
13 strangers.

14 why?

15 Okay. I don't know why Tim said Dondrey's there.
16 But the evidence doesn't support it. That's why
17 Investigator Hammett had the reaction he did because it
18 doesn't make sense with the investigation that they've
19 done. That's why he has the reaction that he does because
20 it can't be possible.

21 I believe, and, and you can come to whatever
22 conclusion you want, Tim thought Dondrey was involved in
23 this case and his dying wish was that law enforcement
24 would come to that conclusion as well and so he said he
25 was there. I don't know. I can't get into his mind.

1 But you saw it. Do not let his last dying thing --
2 you saw his reaction within a minute of that. He can't
3 answer any more questions. He's just -- his nurse comes
4 up and, and he, he doesn't ever talk again to law
5 enforcement. It's it.

6 Do not let that -- Tim sitting there for weeks and
7 weeks wasting away give you the doubt to let his killer
8 off. Do not do that. The evidence doesn't support it.

9 Tim's first statement at the beginning of the
10 interview was they were strangers. His, his statement is
11 inconsistent. But some portions of it are verified by
12 Kelli and other details.

13 The last part, the one that they want you to believe,
14 is just asking you to believe Tim. There's nothing else
15 to support it. It's not possible.

16 They're at the Walden Circle house at 1:20, 1:30.
17 That call is in, in Greenville.

18 Okay. It's not one street over. We're not even in
19 the same county. It's impossible that Dondrey was there.

20 And another thing. He doesn't even mention seeing
21 Dondrey. He says he got in the car with the two people
22 that we allege did the murder in the suspect vehicle.

23 The Parabellum, okay, I mean I, I don't know if
24 Investigator Guest asked him. It wasn't asked of him.
25 But we're talking about he -- this meeting happens in

1 April. The murder happens in October.

2 I mean do we think he's got the gun in his car or
3 something?

4 I mean he killed two people with it. It's probably
5 gone.

6 That's not the important part.

7 The important part is how did Investigator Guest come
8 up with that information that he then agrees that he had
9 that gun and is it reasonable that that just was something
10 that Tyleek mentioned off the cuff?

11 Oh, yeah, I used to own a Ruger Parabellum.

12 why?

13 It has no connection to the questions Investigator
14 Guest would of been asking him. It's irrelevant other
15 than he did have it on him that night. That's why
16 Investigator Guest told you. That's why it's in the
17 report he did after he realized the video error because
18 Tyleek Johnson told him that.

19 Let's talk about Dondrey Johnson dodging the police.

20 Okay. I am not defending Dondrey Johnson and I, I
21 don't know. But he is not on trial here today. But he
22 dodged the police. He talked about that in March when
23 they got him. He didn't have time to get away. But he
24 sure was gonna try to.

25 Dondrey came in here and swore -- he's given sworn

1 testimony now that he told Kenyatta Leiby about guns and
2 drugs in this house and gave him his address. I mean he
3 has potentially incriminated himself. He came in here,
4 answered all of the questions, and, honestly, pretty
5 forthrightly to me. I mean he got a little bit of an
6 attitude. But maybe that's just him.

7 But he answered all the questions. There was nothing
8 that he said I don't want to answer that or ooh, ooh, ooh,
9 ooh. He answered the questions. He came to court. We
10 didn't have to arrest him and bring him into court. He
11 came into court.

12 Okay. He had reason to be scared. He might still
13 have reason to be scared because he is morally responsible
14 for what happened. He might be legally responsible for
15 what happened and the only issue really is whether it's
16 Dondrey or Tyleek. But all of the actual evidence is that
17 it's Tyleek, his phone.

18 Okay. It's not just a word of a dying man who has
19 been hooked up on a ventilator for six weeks that they're
20 trying to use. There's evidence. The phone evidence is
21 excellent.

22 James Berni explained that you can look at the
23 PowerPoint and, on the point of Dondrey what I was -- I
24 got off on a sidetrack. Not everything that Dondrey
25 does -- you can look at that report.

1 There are, there are ingoing and outgoing calls. I
2 don't know why he's making so many calls.

3 who cares?

4 The point is he's making outgoing calls. It's not
5 just his phone sitting on a bed while he's at Walden
6 Circle. It's him doing the phone and Tim said it, Dondrey
7 said it, and the phone evidence supports it.

8 He is back in Greenville. He might of sent them
9 there knowingly or unknowingly but he's not there. He is.
10 He is and he's one of the two that came in. He was armed
11 with the firearm he told police about and he's told that
12 he previously owned that which produced all of the shell
13 casings that shot Tim and Kelli three times each and
14 caused their deaths.

15 He is guilty of everything that he is charged with.
16 There is overwhelming evidence. I don't like the hesitate
17 to act. I prefer the firmly convinced. I'm sure he's the
18 opposite.

19 Hesitate to act makes it seem like, when you start
20 talking with your coworkers about where we're gonna go to
21 lunch and somebody says Bronco's and somebody Ike's or
22 something, that that's like a hesitation to act.

23 No.

24 You can consider the evidence. You can look at the
25 evidence. After you've done that, if you still can't act,

1 that would be a reasonable doubt.

2 But if you look at the evidence, you consider the
3 evidence, you discuss your opinions, and you are firmly
4 convinced, not beyond all doubt, but beyond a reasonable
5 doubt, and that -- I submit there is no reasonable doubt
6 in this case that Tyleek Johnson and Kenyatta Lebby
7 presented themselves as people in need and they were
8 planning to rob and kill eventually, maybe not from the
9 outset, but kill Timothy Thompson and Kelli Curran and he
10 should be found guilty and I ask that you do that.

11 Thank you.

12 THE COURT: All right. Madam Forelady, ladies and
13 gentlemen, I'm gonna ask you to go back to your jury room
14 for just a few minutes. If you need anything, let the
15 bailiffs know and they'll get it for you. Then we'll be
16 back out and I'll charge you on the law.

17 THE FORELADY: Yes, sir.

18 THE COURT: Go back to the jury room.

19 Thank you.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE DEFENDANT: Can I say something, judge?

23 THE COURT: Sure.

24 THE DEFENDANT: I been trying to tell my attorney to
25 present evidence that they're not showing and he's not

1 presenting it. He didn't present it in front of the jury.
2 I been telling him since yesterday.

3 Even when they played you video for Leiby saying that
4 I did it, he also played -- they also skipped over the
5 part where he said Deandre Johnson did it and he's not
6 letting the jury know that somebody already pled to these
7 charges for murder.

8 He won't present that to the jury. He's been
9 insufficient. He's not, he's not doing his job. He's --
10 I keep telling him -- I got a bunch of evidence that they
11 went over yesterday that they skipped over and he didn't
12 present it and I told him to.

13 And so he's making me look guilty like I did
14 everything and they not presenting all the evidence. They
15 only pick -- picking pieces just like they played only
16 part of the video. They stopped the video and play the
17 part where he only says my name. He says another person
18 name.

19 THE COURT: Let me just tell you.

20 The evidence that's going to be presented has been
21 presented and there's other procedures for you out there
22 if you feel like there's not been proper representation.
23 But, right now, the evidence that's going to be presented
24 has been presented.

25 If there's any other issues that the State or the

1 defense would have me present, I would ask -- the evidence
2 is closed.

3 THE DEFENDANT: The jury---

4 THE COURT: All right.

5 THE DEFENDANT: The jury hasn't been informed that
6 somebody already pled to these charges on murder.

7 THE COURT: Let me tell you something.

8 The evidence is closed and there's not gonna be any
9 more evidence to present.

10 Okay. Now, let me go over with the attorneys the
11 charge on the case.

12 Have y'all looked at my charges for murder,
13 possession of a weapon during the commission of a violent
14 crime, armed robbery, and first degree burglary,
15 possession of a handgun by somebody convicted of a violent
16 crime -- a crime of violence, the hand of one is the hand
17 of all, the fact that the charge was being limited as to
18 the crime of violence being committed solely for the
19 purpose of establishing the, the charge, and, finally,
20 voluntary intoxication?

21 Any complaints about any of that charge?

22 SOLICITOR SMITH: I, I don't believe I saw the hand
23 of one hand of all.

24 Could I come look quickly?

25 THE COURT: Yeah.

1 SOLICITOR SMITH: I didn't see---

2 THE COURT: Let me ask guys this.

3 I marked personally as to not charge out of my charge
4 where we give examples of inferences that may be deadly
5 weapons. I just don't think that's necessary.

6 You agree -- do y'all agree with that?

7 MR. MORIN: I agree with that.

8 SOLICITOR SMITH: The slingshots.

9 THE COURT: Do you agree?

10 SOLICITOR SMITH: Yeah, I---

11 THE COURT: Yeah.

12 SOLICITOR SMITH: I'm fine with that.

13 THE COURT: Good.

14 (WHEREUPON, a bench conference was held at this
15 time.)

16 THE COURT: Be right back.

17 (WHEREUPON, a short recess was taken at this time.)

18 SOLICITOR BROWN: Judge, right before the jury comes
19 out, just to let the Court know, we brought the clean
20 laptop up. It's in the back right in front of the
21 firearm. Shown to Mr. Morin.

22 THE COURT: Good.

23 SOLICITOR BROWN: I've explained to our -- Mr. Ben
24 that the password is on a sticky note or a sticker right
25 on the front of it. The password is solicitor with a

1 capital S and a zero instead of an O. But it's got a disk
2 drive, a charging cord, and a clean laptop in it of
3 course.

4 THE COURT: Perfect.

5 All right. If everybody -- everybody's in.

6 Make sure, Mr. Bailiff, we don't let anybody in and
7 out during the charge. Just check and make sure if
8 there's anybody else coming in and let them get in.

9 (Pause.)

10 THE COURT: All right. Do we have everybody?

11 UNIDENTIFIED SPEAKER: I believe everybody that's
12 coming in.

13 THE BAILIFF: Yes, Your Honor.

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

15 If you would, just continue not to let anybody in and
16 out.

17 THE BAILIFF: Thank you.

18 THE COURT: Would you bring the jury out please?

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: All right. Madam Forelady, ladies and
22 gentlemen of the jury, now that you've heard all the
23 testimony, and you've heard the closing argument by the
24 attorneys, it becomes my job to charge you on the law.

25 My charge will be in three different parts. The

1 first part will be the general rules that define and
2 control your duties as jurors. The second part will be
3 the substantive law that applies in this case. In other
4 words, the law of murder and the other charges the
5 defendant has been indicted for. Then I'll go over some
6 considerations about your deliberations and then, Madam
7 Forelady, I'll go over filling out the verdict form.

8 Okay. I will do my best not to read to you. But I
9 will warn you in advance some of this I have to read cause
10 I'm not articulate or intelligent enough to do it off the
11 top of my head and I'm afraid, if I try to do it, so I
12 will misstate some of the very critical points of law.

13 So, I apologize to you in advance about that.

14 One question that also -- that comes up frequently in
15 trials is the jury wants to go back and they'll send out a
16 note saying we want to hear about -- we want to receive
17 some additional evidence. All the evidence that's going
18 to be admitted has been admitted.

19 So, from the evidence that's in the record now you'll
20 need to make your determination as to each of this (sic)
21 charges and whether or not the State has met its burden of
22 proof on each of those charges. I'm not allowed to
23 comment on the facts and I'm not allowed to supplement the
24 record. The record has been made.

25 Okay. All right. And if you have any questions at

1 all at anytime during your deliberations, just write it
2 down and, and let me know and we'll respond to it
3 accordingly.

4 Okay. Now, ladies and gentlemen, if you'll remember,
5 I told you, at the beginning of this case, it's your duty
6 to find the facts from the evidence in this case. You're
7 the sole judges of the facts in this case. No one has the
8 right to intervene or interfere with your duties being
9 fact finders. In other words, what the jury's verdicts
10 gon' be.

11 However, to the facts as you find them, you must
12 apply the law as I give it to you now and you may not and
13 shall not concern yourself with what the law should be or
14 what you'd like it to be but only what it is. If I make a
15 mistake in telling you the law, I'll be corrected by our
16 appellate courts. But it would be a dereliction of your
17 duty not to apply the law as I give it to you now.

18 Also, you're not to be influenced be any personal
19 likes or dislikes, opinion, prejudice, or undue sympathy
20 it -- me -- you may have for one side of this case or the
21 other and what that simply means is this; that you will
22 make your determination based on the facts presented in
23 this case and according to the law as I give it to you
24 now.

25 Now, in following these instructions, it is important

1 that you follow all of them. They're all equally
2 important. You can't just pick out certain parts that you
3 agree with and like and apply those and disregard other
4 aspects of my charge to you. They're all equally
5 important.

6 And I'll remind you that if I have said or done
7 anything throughout the course of this trial which seems
8 to indicate to you how you are to find facts or the
9 verdict you are to reach, I'm gonna ask you to disregard
10 that. I'm not allowed to have an opinion or state
11 anything about the facts of the case. You and you alone
12 will be the judges of that, of that. You will make that
13 determination by considering and weighing the evidence
14 that you heard and that was presented during the course of
15 this trial.

16 Now, obviously, you can't weigh evidence in a literal
17 sense. Be you use your common sense and your good
18 judgment as you walk through and talk through all the
19 evidence and hopefully come to a decision in this case.

20 So, that leads me to what is evidence and what is not
21 evidence.

22 Now, the sworn testimony of the witnesses is
23 evidence. The questions being posed to them actually is
24 not evidence. But their responses to the questions posed
25 to them is evidence.

1 Also, all the exhibits that I have allowed into
2 evidence is evidence and you'll have those back with you.
3 I'll remind you at the end but there is a computer that is
4 make -- you will have back there. There's a code to get
5 in. If you need any help, we can help you. But you can
6 use that and look at all that to your hearts extent.

7 Okay. And if you need any help, we'll let you do
8 that.

9 But what is not evidence?

10 The arguments by these fine attorneys is not
11 evidence. It's helpful. It's designed to explain what
12 they think that their contentions are about this case.
13 But what they say is not evidence.

14 If your memory of what the facts of this case are
15 differs from what either or any of these attorneys told
16 you throughout this trial, your memory of those facts will
17 control.

18 And, Madam Forelady, I'll remind you too that if
19 somebody notes and somebody's memory of the facts
20 disagree, you'll have to hash that out. Just some people
21 are better note takers. Some people are better listeners.
22 That's why we call it deliberations.

23 Now, objections are, are required by lawyers as part
24 of their oath when they were sworn in as lawyers. The
25 fact that there have been objections in this case

1 shouldn't and should not be part of your deliberations.
2 That's, suffice it to say, part of any trial that comes
3 before this Court.

4 Madam Forelady, if any of your jurors tries to
5 introduce that in your deliberations and, and, and sway
6 the jury by facts of those objections and my rulings on
7 those objections, it's your job to make sure that is not
8 part of the jury's deliberations. And, ladies and
9 gentlemen, that's the only thing that you may consider as
10 evidence in this case is responses to the questions and
11 the exhibits.

12 Now, South Carolina -- of that kind of evidence, we
13 have two types. We have direct evidence and we have
14 circumstantial evidence. Both of which are equally
15 considered as good evidence in this case and in, in this
16 state.

17 Direct evidence is this. It's evidence that directly
18 proves the existence of a fact and does not require
19 deduction. For example, if, in the case, the issue is
20 whether or not I ran a stop sign and my law clerk says I
21 saw him run the stop sign, that immediately establishes
22 the fact in question. You don't have to infer or deduce
23 anything from them. That is direct evidence.

24 Also we have circumstantial evidence and this is
25 defined as this. It's the proof of a chain of facts and

1 circumstances that indicate the existence of a fact. In
2 other words, from a fact, you infer or deduce another fact
3 and the law makes no difference or distinction between the
4 weight or value given between direct evidence or
5 circumstantial evidence. However, to the extent that
6 circumstantial evidence is used, you can't -- the
7 deduction that you reach can not be speculation or
8 surmise.

9 An example of circumstantial evidence will be if all
10 of you went to bed at night with a fresh sheet of snow in
11 your yard and you were to wake up in the morning with
12 tracks in the snow. You may reasonably infer that someone
13 or something walked through your yard during the night
14 although you did not see it. That's circumstantial
15 evidence.

16 Now, in South Carolina, crimes may be proven by
17 direct evidence and circumstantial evidence and the law
18 makes no distinction between the weight or the value
19 between either direct or circumstantial evidence.

20 However, to the extent that the State relies on
21 circumstantial evidence, the circumstances must be
22 consistent with each other, and when taken together, point
23 conclusively to the guilt of the accused beyond a
24 reasonable doubt. If the circumstances merely portray the
25 defendant's behavior as suspicion, then the proof would

1 have failed.

2 Now, the State has the burden of proving the
3 defendant guilty beyond a reasonable doubt and that burden
4 rests with the State regardless of whether or not it
5 relies on direct evidence or circumstantial evidence or
6 both.

7 Now, in deciding what the facts are in this case, you
8 are to consider all the evidence and all the testimony,
9 and, in doing this, you are to decide which testimony you
10 wish to believe and whether or not there's any testimony
11 you wish not to believe. You collectively have the right
12 to disbelieve all or part or none of any witnesses'
13 testimony that comes before you. It's called the
14 credibility of the evidence.

15 In making this assessment as to whether or not you
16 wish to believe all or part or none of any witnesses'
17 testimony, I'm gon' give you some facts that you may
18 consider, and, Madam Forelady, this is not an exhaustive
19 list but some that, from a common sense standpoint, that
20 you should consider in believing -- in making this
21 determination of the believability of the evidence.

22 You can ask yourself was a witness able to hear or
23 see or know about the things to which they testified about
24 and how well were they able to recall and describe the
25 subject of their testimony during the -- while they're on

1 the stand and what was their manner, what was their
2 demeanor while they were on the witness stand. You can
3 ask yourself if there's some reason a witness would want
4 to give evidence that would help or hurt one side of the
5 case or the other, whether or not they had an interest or
6 bias for or against any side of the -- in this case.

7 Also, you can ask yourself how reasonable the
8 witnesses' testimony was in light of all the evidence in
9 this case and whether that witnesses' testimony was
10 contradicted by what that witness may have said at another
11 time or by any other this -- testimony or evidence in this
12 case.

13 Now, again, Madam Forelady, those are just some
14 factors that you may consider in making this determination
15 of the credibility or the believability of the evidence.
16 And, of course, when you're sworn in, you don't check your
17 common sense at the door. You -- each of you should use
18 those things in your day-to-day lives that you find
19 indicative of truthfulness and lack of truthfulness in
20 making this determination of the credibility or
21 believability of the witnesses.

22 You have the right to believe as much or as little of
23 any witnesses' testimony that before -- who came before
24 you as you choose. You have the right to believe one
25 witness over many or many over one. The one thing that

1 you do not do, Madam Forelady, is add the number of
2 witnesses who have appeared on behalf of one side of the
3 case or the other in making this determination.

4 Also, you have heard testimony from an expert
5 witness -- from expert witnesses. Normally witnesses are
6 not allowed to give their opinions about the case. They
7 have to tell you what they heard, they saw, they smelt, or
8 they felt. But if, upon qualification because of their
9 education or experience, a person is qualified as an
10 expert that are allowed to give their opinion, and they
11 were in this case, expert opinion is just like any other
12 testimony you'll hear in this case.

13 You may accept it. You may reject it or give it as
14 much weight as you think it deserved based on all the
15 testimony and evidence in this matter.

16 Now, ladies and gentlemen, these ex -- these
17 indictments that are up here will not go back with you.
18 I'll remind you that the fact that this defendant has been
19 charged and indicted is not evidence of his guilt. These
20 documents don't raise an inference or presumption of his
21 guilt. These are simply the mechanism by which the State
22 of South Carolina will bring a defendant such as this
23 before the Court for a trial and a determination by you of
24 guilt or innocence.

25 Now, they're multiple charges and I'll go over all of

1 them with you. But they all stand on their own. Each
2 charge is independent of the other except the charge of
3 possession of a weapon during the commission of a violent
4 crime and those are associated with the two charges of
5 murder. You can not find the defendant guilty of those
6 charges unless and until he's been found guilty of murder
7 and I'll tell you more about that in just a few minutes.

8 Now, in this case, the defendant says I'm not guilty
9 to any of these charges. I'm totally innocent. And when
10 he does that, that plea puts him under the presumption of
11 innocence and that stays with him throughout this trial
12 and it remains with him until your deliberations and
13 unless and until you, the jury, are convinced that the
14 proof -- the State has proven the charge or charges
15 against him by proof beyond a reasonable doubt.

16 Now, ladies and gentlemen, it is an important rule of
17 law, no matter what the seriousness of the charge will be,
18 that a person will always be presumed innocent unless you,
19 the jury, are satisfied that the State has proven one or
20 more of the charges against him by proof beyond a
21 reasonable doubt.

22 Now, this presumption, again, does not end when you
23 begin your deliberation. But it remains unless and until
24 you, the jury, have found guilt beyond a reasonable doubt.
25 And it is said that the presumption of innocence is like a

1 robe a righteousness that remains on the defendant's
2 shoulders until it's been stripped by evidence satisfying
3 you of guilt beyond a reasonable doubt.

4 Now, ladies and gentlemen, Madam Forelady, the
5 presumption of innocence is not just a mere legal, legal
6 theory. It's not just a nice legal phrase. It is a
7 fundamental right to which every defendant is entitled to
8 unless you, the jury, are satisfied that the State has
9 proven guilt by proof beyond a reasonable doubt. So that
10 leads me to what is a reasonable doubt.

11 A reasonable doubt, ladies and gentlemen, is the kind
12 of doubt that would cause a reasonable, sincere, honest,
13 and conscientious person to hesitate to act in an
14 important matter in their own affairs. Proof beyond a
15 reasonable doubt is proof that leaves you firmly convinced
16 of the defendant's guilty.

17 Now, ladies and gentlemen, with that being said,
18 they're very few things in this world that we know with
19 absolute certainty and the law does not require criminal
20 cases to overcome every possible doubt that may exist in
21 the case. At the end of the case, as you go over each of
22 these charges, if you are firmly convinced that the
23 defendant is guilty of one or more or all of these
24 charges, it is your duty to find him guilty.

25 On the other hand, if you think there's a real doubt

1 as to whether or not he is guilty of any or one or more or
2 all of these charges, then it is your duty to find him not
3 guilty.

4 Now, a reasonable, reasonable doubt may arise from
5 the evidence or it may arise from lack of evidence and I
6 further instruct you that a defendant is entitled to every
7 reasonable doubt that may arise in the case.

8 And what that simply means, ladies and gentlemen, is
9 this, that, if upon any issue of fact essential to a
10 conviction and a verdict of guilt of a defense of which
11 the defendant has been charged, if you have a reasonable
12 doubt as to how that should be resolved, then it is your
13 duty to find -- resolve that doubt in favor of the
14 defendant.

15 Now, ladies and gentlemen, in order to establish
16 criminal liability, criminal intent is required to be
17 established. For example, the mental state required to be
18 proven by the State for a particular crime might be
19 purpose, intent, knowledge, recklessness, or criminal
20 negligence. Criminal intent must be proven by the State
21 beyond a reasonable doubt.

22 Now, ladies and gentlemen, criminal intent is always
23 a matter that must be determined by you from the
24 circumstances surrounding the circumstances -- the
25 situation. There's no way to prove intent to a

1 mathematical certainty and there's no way that medical
2 science can dissect a person's brain to see what they had
3 in mind at the time they were acting. So, the law says
4 that circumstance -- that criminal intent may be inferred
5 from the circumstances shown to have existed.

6 Now, ladies and gentlemen, that's how you make the
7 determination of whether or not the element requiring
8 intent's present. It is not necessary to establish intent
9 by direct and positive evidence. But intent may be
10 established by inference in the same way as any other fact
11 by taking into consideration the acts of the parties and
12 all the facts and circumstances of the case.

13 Criminal intent is a mental state. It is a
14 conscience wrongdoing and it's to you to determine what
15 the defendant intended to do based on the circumstances
16 that have shown to exist.

17 Criminal intent can arise from action or a failure to
18 act. It may arise from negligence, recklessness, or an
19 indifference to duty to the consequences that is
20 considered by the law to be equivalent of criminal intent.

21 Ladies and gentlemen, a statement alleged to have
22 been made by the defendant has been admitted into evidence
23 in this case. While the Court has determined that the
24 statement is admissible, I instruct you that you make the
25 ultimate decision of whether or not the defendant made the

1 statement.

2 If the defendant did make the statement, you must
3 determine whether the statement was made by the defendant
4 voluntarily and of his own free will. This means that the
5 statement was not caused by pressure, force, fear,
6 threats, coercion, or intimidation, or by hope or a
7 promise of leniency or a reward of any kind.

8 In determining whether the statement was voluntary,
9 you should consider both the characteristics of the
10 defendant and the details of the questioning. Some of the
11 factors you must consider are the age of the defendant,
12 the defendant's education or lack of education, the
13 defendant's mental ability or his capacity, and his I
14 two -- IQ or his intelligence.

15 You can consider the defendant's background and
16 environment, the place and length of the detention, the
17 nature of the questioning, and the advice or the lack
18 thereof to the defendant of his or her constitutional
19 rights, which would include, but not be limited to, the
20 right to remain silent, that any statement could be used
21 against him in a court of law, the right to have a lawyer
22 present, and if he could not afford a lawyer, a lawyer
23 would be appointed to represent him without any cost and
24 that he could stop making the statement at anytime.

25 Now, ladies and gentlemen, you must carefully

1 consider all of the surrounding circumstances before you
2 give any weight to an alleged statement by the defendant.
3 The State has the burden of proving, beyond a reasonable
4 doubt, that the alleged statement was voluntary.

5 If you determine that it was voluntary, you may give
6 the statement any further consideration that you deem
7 proper. You must consider the weight, if any, that should
8 be given to the alleged statement. If you determine that
9 the alleged statement was not the free and voluntary
10 statement of the defendant, you should not consider,
11 consider the statement at all.

12 Now, Madam Forelady, ladies and gentlemen, those are
13 the general rules of how you control your duties as
14 jurors. I don't send my charge back with you cause I want
15 you to con -- looking at the facts. I'll go back over
16 this as many times and as often if you'd like me to.

17 So that leads me to the substantive law that applies
18 in this case. The order in which they appear is of no
19 consequence. I have to put them in some order. But I'm
20 starting with murder.

21 In this case, the defendant is charged with murder.
22 The State must prove, beyond a reasonable doubt, that the
23 defendant killed another person with malice aforethought.

24 Malice is hatred, ill will, or hostility towards
25 another person. It is the intentional doing of a wrongful

1 act without just cause or excuse and with an intent to
2 inflict an injury or under circumstances that the law will
3 infer an evil intent.

4 Malice aforethought does not require that malice
5 exist for any particular time before the act is committed.
6 But malice must exist in the mind of the defendant just
7 before and at the time the act is committed. Therefore,
8 there must be a combination of the previous evil intent
9 and the act.

10 Malice aforethought may be expressed or inferred.
11 These terms express and inferred do not mean different
12 kinds of malice but merely the manner in which malice may
13 be shown to exist. That is either by direct evidence or
14 by inference from the facts and the circumstances which
15 are proved.

16 Express malice is shown when a person speaks words
17 which express hatred or ill will for another or when the
18 person prepared beforehand to do an act for which was
19 later accomplished. For example, laying in wait for a
20 person or any other acts of preparation going to show that
21 the deed was within the defendant's mind would be
22 expressed malice. Malice may be inferred from conduct
23 showing a total disregard for human life.

24 Now, ladies and gentlemen, the next would be
25 possession of a weapon during commission of a violent

1 crime. The defendant is charged with possession of a
2 weapon during commission of a violent crime or an attempt
3 to commit a violent crime.

4 The State must prove, beyond a reasonable doubt, that
5 the defendant was in possession of a firearm or visibly
6 dis -- displayed what appeared to be a firearm during the
7 commission of a violent crime.

8 A firearm means any machine gun, automatic rifle,
9 revolver, pistol, or any weapon which is -- which will or
10 is designed to or may be readily converted to expel a
11 projectile.

12 In order to find the defendant guilty of possession
13 of a weapon during the commission of a violent crime, you
14 must first find the defendant guilty of either committing
15 a violent crime or attempting to commit a violent crime.
16 And I'll charge you, ladies and gentlemen, that murder is
17 a violent crime. The State must prove, beyond a
18 reasonable doubt, that the weapon further advanced or
19 helped in the commission of that crime.

20 Next is a charge of armed robbery. The defendant is
21 charged with armed robbery.

22 In order to prove this offense, the State must first
23 prove, beyond a reasonable doubt, that the defendant took
24 personal property from the person or presence of another
25 person. Property is in the presence of a person, person

1 if it is within the person's reach, inspection,
2 observation, or control so that the person could, if not
3 overcome with violence or prevented by fear, keep
4 possession of the property.

5 The State must also prove, beyond a reasonable doubt,
6 that the defendant carried the property away intending to
7 permanently deprive the owner of the property and to keep
8 the property for the defendant's own use. The slightest
9 removal of the property or the complete possession of the
10 property, even for an instant by the defendant, is
11 sufficient to show a taking and carrying away of the
12 property. The taking and carrying away of the property
13 must have been done with violence or by putting the owner
14 of the property in fear of violence.

15 Finally, the State must prove, beyond a reasonable
16 doubt, that the defendant was armed with a deadly weapon
17 during the robbery. A deadly weapon is any article,
18 instrument, or substance which is likely to cause death or
19 great bodily harm. Whether an instrument has been used as
20 a deadly weapon depends on the facts and circumstances of
21 the case.

22 The defendant is also charged with burglary in the
23 first degree. The defendant is charged with first degree
24 burglary. The State must prove, beyond a reasonable
25 doubt, that the defendant entered a dwelling without

1 consent. A dwelling is, is any ex -- excuse me.

2 A dwelling is any building or portion of a building
3 in which a person ordinarily sleeps. A building
4 constructed as a dwelling that has never been occupied can
5 not be considered a dwelling for purposes of burglary.
6 But a building is a dwelling even if the residents are
7 temporary absent -- temporarily absent from the building.

8 In order to prove that the defendant entered the
9 dwelling, the State does not have to show that the
10 defendant's entire body entered the dwelling. The
11 smallest entry is sufficient. It may be any part of the
12 body such as a hand or a foot or even an instrument such
13 as a hook or other instrument.

14 In addition, the State does not have to prove that
15 force was used to gain entry. If a person enters a
16 building using deception, artifice, trick, or
17 misrepresentation to get consent to enter, this is entry
18 without consent.

19 Next, the State must prove, beyond a reasonable
20 doubt, that the defendant intended to commit a crime,
21 either a felony or misdemeanor, at the time of the entry.
22 The mere entry into a dwelling without consent is not
23 burglary. If the intent to commit a crime is formed after
24 the entry, it is not burglary.

25 On the other hand, if the defendant intended to

1 commit a crime at the time of the entry, it is a burglary
2 even if the intent was abandoned after the entry. It does
3 not matter that the intended crime was not completed.
4 Intent may be shown by acts and conduct of the defendant
5 and other circumstances from which you may naturally and
6 reasonably infer intent.

7 Finally, the State must prove, beyond a reasonable
8 doubt, that, number one, when entering, while in the
9 dwelling, or when fleeing, the defendant or an accomplice
10 was armed with a deadly weapon. A deadly weapon is an
11 article, instrument, or substance which is likely to cause
12 death or great bodily harm.

13 whether an instrument has been used as a deadly
14 weapon depends on the facts and circumstances of each case
15 or, when entering or while in the dwelling or when
16 fleeing, the defendant or an accomplice caused physical
17 injury to anyone not participating in the crime, or when
18 entering, while in the dwelling, or when fleeing, the
19 defendant or accomplice used or threatened to use a
20 dangerous object, or when entering, while in the dwelling,
21 or when fleeing, the defendant or an accomplice displayed
22 what was or appeared to be a knife, pistol, revolver,
23 rifle, shotgun, machine gun, or other firearm, or the
24 defendant entered and remained in the dwelling in the
25 nighttime.

1 Nighttime is a period between sunset and sunrise
2 during which there is not enough daylight to recognize a
3 person's face except by artificial light or moonlight.

4 Also, the defendant is charged with sale or delivery
5 of a handgun while in possession of the same by certain
6 persons.

7 Ladies and gentlemen, the person -- the defendant's
8 charged with the unlawful possession of a handgun. It is
9 unlawful for a person to possess or acquire a handgun
10 within this state who has been convicted of a crime of
11 violence in any court of the United States, the several
12 states, the commonwealth, territories -- possessions -- or
13 the District of Columbia or who is a fugitive from justice
14 or habitual drunkard, or a drug addict, or who has been
15 adjudicated mentally incompetent.

16 A person means any individual, corporation, company,
17 association, firm, partnership, society, or joint
18 stockholder.

19 A handgun means any firearm designed to expel a
20 projectile and designed to be fired from the hand but
21 shall not include any firearm generally recognized or
22 classified as an antique, curiosity, or collector's item,
23 or that does not fire fixed cartridges.

24 A crime of violence means murder, manslaughter or
25 except negligent manslaughter arising out of a traffic

1 accident, rape, maihem, kidnapping, burglary, robbery,
2 house breaking, assault with intent to kill, commit rape
3 or rob, assault with a dangerous weapon, or assault with
4 intent to commit any offense punishable by imprisonment
5 for more than a year.

6 Now, I'll charge you further, ladies and gentlemen,
7 that strong armed robbery is a crime of violence for the
8 purposes of this charge.

9 Now, ladies and gentlemen, the evidence of a prior
10 offense committed by the defendant was admitted in the
11 evidence but it was not offered to prove that the
12 defendant has a bad character or to prove that the
13 defendant committed the offenses for which he is on trial
14 here today.

15 The prior conviction may be considered by you only
16 for the purpose of determining whether or not it satisfied
17 the element of the offense that makes it unlawful
18 possession of a handgun by a person who's been convicted
19 of a violent crime.

20 Before you can even consider the evidence of the
21 defendant's prior conviction, you must first find that the
22 State, the State has proved, beyond a reasonable doubt,
23 that possession of a handgun was committed by the
24 defendant. If you find, beyond a reasonable doubt, that
25 the possession of a handgun was committed, then you may

1 consider the evidence of the prior conviction as evidence
2 of one of the circumstances that would make the possession
3 of a handgun unlawful.

4 In order to find beyond a reasonable doubt that the
5 defendant committed the alleged unlawful possession of a
6 handgun, you must first find that he committed the prior
7 conviction of strong armed robbery.

8 Ladies and gentlemen, if a crime is committed by two
9 or more people who are acting together in committing the
10 crime, the act of one is the act of all. A person who
11 joins with another to commit an unlawful act is criminally
12 responsible for everything done by the other person which
13 happens as a probable and natural consequence of the acts
14 done in carrying out the common plan and purpose.

15 If two or more people are together, acting together,
16 assisting each other in committing the offense, the act of
17 one is the act of all or, as it is sometimes said, the
18 hand of one is the hand of all.

19 Prior knowledge that a crime was going to be
20 committed without more is not sufficient to make a person
21 guilty of that crime. Mere knowledge that another person
22 is going to commit a crime, even if the person is present
23 when the crime is committed, not sufficient to convict the
24 person as a principal. Guilt, as a principal, is shown by
25 actual or constructive presence at the scene as a result

1 of a prior arrangement. Therefore, finding of the prior
2 arranged plan or common scheme is necessary for a finding
3 of guilt as a principal.

4 The State must prove, beyond a reasonable doubt, by
5 competent evidence, the theory of the hand of one is the
6 hand of all.

7 A principal of a crime -- principal in a crime is one
8 who either actually commits the crime or who is present
9 aiding, abetting, or assisting in committing the crime.
10 When a person does a act in the presence of and with the
11 existence of another, the act is done by both. Where two
12 or more acting with a common plan or intent are present at
13 the commission of a crime, it does not matter who actually
14 commits the crime. All are guilty. The hand of one is
15 the hand of all.

16 Present at the commission of a crime means to be
17 sufficiently near to aid, and abet, and assist in the
18 commission of the crime. However, mere presence at the
19 scene of the crime is not sufficient to convict one as a
20 principal on the theory of aiding and abetting.

21 Intent is also a necessary, a necessary element for
22 there must have been a common design or intent to commit
23 the crime and the crime must have been committed pursuant
24 thereto with the person aiding and abetting by some overt
25 act.

1 Intent means intending the result which actually
2 occurs, not accidentally or involuntarily. Intent may be
3 shown by acts and conduct of the defendant and other
4 circumstances from which you may naturally and reasonably
5 infer intent. The State must prove these (sic) evidence
6 by proof beyond a reasonable doubt.

7 Now, ladies and gentlemen, finally, I'll charge you
8 that voluntary intoxication is never an excuse for or a
9 defense to a crime regardless of whether the intent
10 involved be general or specific.

11 Now, Madam Forelady, ladies and gentlemen, that's the
12 general and the specific law that applies in this case.
13 So that leads me to the last part of my charge about your
14 deliberations.

15 First, you were picked by the State and the defense
16 because all of you either expressly, or by your silence,
17 represented that you could be fair and impartial and that
18 you can make a decision based on the testimony and
19 evidence and according to the law as I give it to you
20 without bias or prejudice for or against one side or the
21 other and they have a right to expect that of you in this
22 case.

23 When you go back and you go over the evidence in this
24 case, I'm gonna ask that you go over it thoroughly and
25 carefully. Talk to each other. Listen to each other.

1 Listen to each other's points of view, why a person has
2 that point of view. They'll do the same thing for you.

3 I would submit to you that the genius of or -- our
4 jury system is this, that it allows 12 men and women such
5 as yourselves, who come from different backgrounds, who
6 had life experiences and prospectives, to consider the
7 evidence, to listen to the evidence, and to hopefully come
8 to a unanimous decision. In order for your verdict to
9 stand, it will have to be unanimous.

10 That being said, ladies and gentlemen, you have to
11 decide this case for yourselves. Do not be afraid to
12 change your belief as to the weight of the evidence if
13 your deliberations with your fellow jurors convinces you
14 that's the right thing to do. On the other hand, don't
15 change a firmly held belief as to the weight of the
16 evidence simply to appease your fellow jurors.

17 Now, Madam Forelady, at the end of this case, it will
18 be your job to fill out the verdict form. Again, I have
19 to put them in some order and I have no options. It --
20 they just have to be in some order. So, don't take --
21 don't read anything into the fact of the order on, on --
22 or the order of the charges.

23 But the first will be murder and it reads as this is:
24 As to the charge of murder of Kelli Curran under
25 Indictment 2021-GS-42-4979, we, the jury, unanimously find

1 the defendant not guilty under part A. If that's your
2 unanimous decision, you'll simply check that and go to the
3 bottom page and sign it.

4 The other option is as to the charge of murder of
5 Kelli Curran under the Indictment 2021-GS-42-4979, we, the
6 jury, unanimously find the defendant guilty. If that is
7 your unanimous decision, you'll check B and, again, you'll
8 sign at the bottom of the page.

9 If, and only if, you find the defendant guilty of one
10 or both of the charges of murder may you consider whether
11 or not the defendant is guilty of commission of --
12 possession of a weapon during the commission of a violent
13 crime. If you do, you'll go through the same options, not
14 guilty or guilty, and you'll check the one that you
15 unanimously agreed upon.

16 Then you'll go to the next charge, which is the
17 second charge of murder. As to the charge of murder of
18 Timothy Thompson under Indictment 2021-GS-42-4980, and,
19 again, you'll have the not guilty, guilty options under A
20 and B. You'll check the one that you unanimously,
21 unanimously agree upon and then you consider, only if you
22 find guilty, of possession of a weapon during the
23 commission of a violent.

24 The next option will be armed robbery and you have
25 the same option there, guilty or not guilty. The unlawful

1 possession of a handgun, guilty or not guilty, and,
2 finally, you have burglary in the first degree.

3 Each one of these will be separately considered
4 except for the charges of weapons during the commission of
5 a violent crime which depended on your finding of murder
6 of guilt. If you find not guilty of murder, you don't
7 consider the charges of possession of a weapon during the
8 commission of a violent crime.

9 Each of these sheets I need you to sign and go to the
10 next one. You can go from back forward to forward to
11 backward to middle. That's up to y'all.

12 Okay. If at anytime you have a question, I'm gonna
13 ask that you write it down. You fold it over, knock on
14 the door, and our bailiffs will get it, bring it to us,
15 and we'll respond accordingly. Never tell us where the
16 jury is numerically, whether it's six six, ten two,
17 anywhere. It's none of our business. Do not tell us
18 that.

19 Okay. That concludes my charge. I'm gonna send you
20 back to the jury room. I'm gonna ask you not to begin
21 your deliberations yet. I got to check with these
22 attorneys on whether or not I need to correct what I've
23 told you and then, in a few minutes, if I don't, you'll
24 have the exhibits. You'll have the verdict form, the
25 computer. If you need help with that, send us word out.

1 we'll get you there.

2 okay?

3 THE FORELADY: Okay.

4 THE COURT: You can go back to the jury now.

5 THE FORELADY: Yes, sir.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Any additions or exceptions from the
9 State?

10 SOLICITOR SMITH: Yes.

11 Yes, Your Honor, and I apologize. I did not read
12 your statement of the defendant charge. But I think that
13 they are no longer suppose to be charged about the
14 voluntariness of the statement, just the reliability of
15 it. That's *State v. Miller* and *State v. Collins*.

16 THE COURT: Okay.

17 SOLICITOR SMITH: It's a legal question you've
18 decided and, and they are only suppose to, to basically
19 determine---

20 THE COURT: That's right.

21 SOLICITOR SMITH: ---what credibility issues---

22 THE COURT: So how, how do I need to correct that
23 charge?

24 SOLICITOR SMITH: How would -- my suggestion would be
25 that the voluntariness of the statement has been -- it --

1 is an area of the law for you and that it's your
2 responsibility to give the statement whatever weight
3 and -- that you deem necessary from the facts as you find
4 them. Some -- something along the lines. But I think the
5 bulk of the, the charge was about voluntariness and
6 techniques and --.

7 THE COURT: So, yeah, you're right and I -- that,
8 that, that got by me.

9 And so if I go back and say ladies and gentlemen, the
10 law has changed and that I made the determination that
11 this statement was voluntarily given. So, it's evidence.
12 You may not consider that. You can only consider any
13 weight that you may attach to it you think would be
14 appropriate?

15 SOLICITOR SMITH: Yes, like -- just like you would
16 any other --.

17 THE COURT: What do you think, Mr. Morin?

18 MR. MORIN: Well, I'm gonna say that, if you do that
19 now, what you're -- what -- they may interpret that as is
20 you're charging them on some sort of a fact that you said
21 that they have province over. And so I'm not sure---

22 THE COURT: I mean---

23 MR. MORIN: ---that---

24 THE COURT: ---I gave an incorrect statement of the
25 law. You're right. I got to correct it. I don't know

1 how to do it without telling them what the law is.

2 I mean what, what -- do you have a suggestion?

3 I can't just leave it like it is.

4 MR. MORIN: Well, my suggestion would then be to
5 simply say that the voluntariness of the statement---

6 THE COURT: Is not an issue for you.

7 MR. MORIN: ---is not an issue for them to consider.

8 THE COURT: And you're to attach any weight -- you
9 could give any weight to the statement that you think
10 appropriate.

11 MR. MORIN: Yes.

12 THE COURT: Everybody okay with that?

13 SOLICITOR SMITH: Yeah, that, that was essentially
14 what I was saying, Your Honor.

15 THE COURT: Okay.

16 SOLICITOR SMITH: And I think your -- other parts of
17 your charges discussed how to give weight and credibility.

18 THE COURT: That's what you get for not checking
19 behind me.

20 SOLICITOR SMITH: I apologize.

21 THE COURT: No, no, no.

22 SOLICITOR SMITH: If I read it, I would of said
23 something but --.

24 THE COURT: That's another part I got to look at too.
25 But you know that's -- you're a hundred percent right.

1 SOLICITOR SMITH: Thank you.

2 THE COURT: All right. Let's bring them back right
3 quick and any other --?

4 MR. MORIN: No.

5 THE COURT: Okay.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: All right. All right. As most fine
9 lawyers do, they found error with a part of my charge and
10 that's correct.

11 I charged you that you are to consider the
12 voluntariness of the alleged statement by the defendant.
13 The law has changed. You are to only consider or give any
14 weight to that alleged statement that you think it would
15 be appropriate based on the facts and circumstances shown
16 in this case.

17 Any additions or exceptions from the State?

18 SOLICITOR SMITH: No, Your Honor. Thank you.

19 THE COURT: From the defense?

20 MR. MORIN: No, sir.

21 THE COURT: All right. Now you may go back to your
22 jury room. We will send back the verdict form and the
23 exhibits with the computer and, once you do so, our
24 bailiff will tell you to begin your deliberations. But
25 not -- please don't do so until you have it all.

1 okay?

2 THE FORELADY: Yes, sir.

3 THE COURT: My alternate, if you'll come back out and
4 we'll talk to you in just a minute.

5 okay?

6 THE ALTERNATE JUROR: Yes, sir.

7 THE COURT: Thank you.

8 (WHEREUPON, the following takes place outside the
9 presence of the jury.)

10 THE COURT: Let me say one thing right quick.

11 I want to commend the lawyers. You guys had a lot of
12 moving parts to this case and y'all did a fine job. I
13 want to basically say that for the purposes of, of the
14 people who are spectating.

15 I watch trials all over the state and y'all did a
16 really good job all together. I'm proud of you and I wish
17 y'all'd go out and have other lawyers doing nearly as much
18 as y'all are doing cause I think y'all did a great job.

19 Thank you.

20 SOLICITOR SMITH: Thank you, Your Honor.

21 MR. MORIN: Thank you.

22 SOLICITOR SMITH: Your Honor, I had one thing.

23 There are bullets in that gun.

24 Do you want those to be kept separate?

25 THE COURT: I know the gun is -- I typically don't

1 let them go back cause I don't think they'll shoot each
2 other. But I mean that's (sic) probably be a good thing.

3 I had a, I had a crowd down in Berkeley County open
4 up a kilo of cocaine.

5 SOLICITOR SMITH: They can look at the bullets. It's
6 just usually they don't go back at the same --.

7 THE COURT: Y'all agree for them not to go back?

8 MR. MORIN: I -- yeah, I agree for that.

9 THE COURT: That's fine with me.

10 SOLICITOR SMITH: Okay.

11 THE COURT: Is that okay with y'all?

12 SOLICITOR SMITH: I mean I guess it -- if they would
13 like -- I don't know if they want to see them or --.

14 THE CLERK: Can we have the bailiff say we're not
15 gonna send the bullets back there. But, if they want to
16 see them, they'll ask for them.

17 SOLICITOR SMITH: Yes, sir.

18 SOLICITOR BROWN: Yes, Your Honor.

19 THE COURT: Is that okay with y'all?

20 Can you do that for us?

21 MR. MORIN: Yes, sir.

22 (WHEREUPON, the jury began deliberations at 11:42AM
23 and returned with a verdict at 12:12PM.)

24 THE COURT: I understand that we have a verdict.

25 Anything before we bring the jury in?

1 SOLICITOR SMITH: We're ready, Your Honor.

2 MR. MORIN: We're ready.

3 THE COURT: Bring the jury in please, sir.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: All right. Madam Forelady, has the jury
7 reached a verdict?

8 THE FORELADY: Yes, sir.

9 THE COURT: Is it unanimous?

10 THE FORELADY: Yes, sir.

11 THE COURT: Have you signed each page --

12 THE FORELADY: Yes.

13 THE COURT: -- each page?

14 THE FORELADY: Yes, sir.

15 THE COURT: Would you pass your verdict forms to the
16 bailiff please, ma'am?

17 (WHEREUPON, the forelady complies.)

18 THE COURT: And I'm gonna ask the gallery, when the
19 verdict's read, to have proper decorum.

20 You may publish the verdicts.

21 THE CLERK: Yes, sir.

22 In the State of South Carolina in the Court of
23 General Sessions, in the State of South Carolina versus
24 Tyleek Rayquan Johnson, Indictment Number 2021-GS-42-4979,
25 as to charge of murder of Kelli Curran, we, the jury,

1 unanimously find the defendant guilty.

2 As to charge of possession of a weapon during a
3 violent crime, Indictment Number 2021-GS-42-4979, we, the
4 jury, unanimously find the defendant guilty.

5 As to the charge -- as to the charge of murder of
6 Timothy Thompson, Indictment Number 2021-GS-42-4980, we,
7 the jury, unanimously find the defendant guilty.

8 Possession of a weapon during a violent crime,
9 Indictment Number 2021-GS-42-4980, we, the jury, find the
10 defendant guilty.

11 As to the charge of armed robbery, Indictment Number
12 2021-GS-42-4981, we, the jury, unanimously find the
13 defendant guilty.

14 Indictment Number 2021-GS-42-4982, the charge of
15 unlawful possession of a handgun, we, the jury,
16 unanimously find the defendant guilty.

17 As to Indictment Number 2021-GS-42-4983, the charge
18 of in the -- burglary first degree, we, the jury,
19 unanimously find the defendant guilty.

20 All signed by the foreperson the 16th day of May,
21 2025.

22 Ladies and gentlemen of the jury, is this your
23 verdict and still your verdict, if so, please raise your
24 right-hand.

25 (WHEREUPON, all jurors raise their hands at this

1 time.)

2 THE CLERK: So say you-all.

3 THE COURT: Let the verdict -- let the record reflect
4 that all raised their hand.

5 Madam Forelady, and ladies and gentlemen of the jury,
6 the Court's never concerned with what your verdict is.

7 But that you followed the instructions of the Court, paid
8 attention through the course of this trial.

9 I watched each of you variously and you did just
10 that. We thank you for your service, not for your
11 verdict, but for your service to the State of South
12 Carolina. Without you, our, our -- we would of all --
13 it's nonexistent.

14 I know it's not an easy task to sit in judgment of
15 people, especially cases like this, but we want to thank
16 you for your service.

17 We're done for the day. If you would like to remain
18 here while I sentence Mr. Johnson in just a few minutes,
19 you're welcome to remain here in the courtroom or leave,
20 whatever you'd like to do.

21 Okay. Thank you very much.

22 SOLICITOR SMITH: Your Honor, may -- is -- can the
23 defense be asked if they'd like to poll the jury?

24 The State is not interested in that. But can they be
25 given that opportunity if they would like.

1 MR. MORIN: No, I, I do not.

2 THE COURT: Okay.

3 MR. MORIN: I appreciate the State trying to watch
4 out for me but --.

5 THE COURT: well, you're like somebody -- anyway,
6 would you prepare me the sentencing sheets?

7 SOLICITOR SMITH: We have them, Your Honor.

8 THE COURT: All right. Pass them forward.

9 Anybody who'd like to leave can get up and go now.
10 If you'd like to stay, you may.

11 Madam Forelady, could you come up here?

12 (WHEREUPON, the forelady complies.)

13 THE COURT: would y'all step forward please?

14 (WHEREUPON, the parties comply.)

15 THE COURT: I want you to give me -- come up here,
16 sir, unless you want him to sit down and be sentenced.

17 MR. MORIN: No, I can stand up.

18 THE COURT: I want to have his prior record.

19 SOLICITOR SMITH: Yes, Your Honor. We have several
20 people who would like to address the Court when
21 appropriate.

22 THE COURT: I'm sorry?

23 SOLICITOR SMITH: we have people who would like to
24 address the Court, Your Honor, too.

25 THE COURT: Okay.

1 SOLICITOR SMITH: Your Honor, he has a conviction in
2 2015 for unlawful carry of a pistol.

3 He has a conviction -- convictions in 2018 for
4 failure to stop for a blue light, possession of a stolen
5 pistol, and unlawful carry of a weapon.

6 He, as Your Honor knows, he was charged in 2017 with
7 armed robbery. He was convicted of common law robbery and
8 that is it as far as convictions, Your Honor.

9 THE COURT: All right. Any of the family or
10 anyone---

11 SOLICITOR SMITH: Yes, Your Honor.

12 THE COURT: ---would speak, speak up---

13 SOLICITOR SMITH: I have Cindy Curran---

14 THE COURT: ---now.

15 SOLICITOR SMITH: ---would like to speak.

16 THE COURT: Yes, sir.

17 MS. CURRAN: My name is Cynthia Curran. I'm Kelli's
18 sister. I'm here with my sister, Danielle, her boyfriend,
19 Adam, and my husband, Joe.

20 We have chosen to be here today and every day this
21 week because of love, family bonds, sisterhood,
22 admiration, and respect. Kelli was a beagle (phonetic)
23 loving kind of person. It was really important to her.
24 It's important to me too. She'd probably hate some of the
25 things I have to say cause she tried to practice the

1 Buddiest tenets of keeping your body, speech, and mind
2 clear of the three poisons of hatred, greed, and
3 ignorance.

4 This is a second time I've done this for my sister
5 and our family and it's been a struggle to come up with
6 new ways to say how much her loss hurts us, how much we
7 miss her, what we loved most about her. So, some of these
8 words will be a little recycled. I'm sorry.

9 Kelli was an amazing woman. She was vivacious,
10 exuberant, and a little loud. Maybe a lot loud. She made
11 friends everywhere she went throughout her life. Her
12 tribe of fans span from life long attachments to new
13 acquaintances.

14 In October, 2020, she had a relatively new job. She
15 was helping people in crisis. She loved this job. She
16 loved it so much she drove hours both ways to get there
17 and back.

18 That's what she was like. Maybe not always
19 practical. But always doing something rewarding.

20 Just this February we had a family wedding. Looking,
21 looking at the pictures, I can place Kelli in every one of
22 them. She would of been on that dance floor for hours.
23 She would of been in the bridal party. She probably would
24 of been saying something inappropriate to the
25 photographers as he snapped away. She would of been

1 entertaining to nieces and nephews and raising the
2 eyebrows of some of her elders and it would of been great.
3 But she wasn't there. She, she was left bleeding on the
4 floor in those early hours of October 25th, 2020.

5 Stolen from us that day was a mother, a daughter, a
6 sister, a best friend. Our entire extended family is
7 devastated and she had been such a survivor. She had
8 conquered other challenges in her life. She was so brave
9 even in the face of this vicious and cowardly assault.

10 But she couldn't survive this challenge and she
11 couldn't move. But she did what she could and what she
12 did was incredible.

13 She called 9-1-1 while her assailants were still in
14 the house, something that most people would be terrified
15 to do and she probably was, and this is while we all know
16 now that she was dying. I read that 9-1-1 transcript and
17 thought it was the worst pain I'd ever feel. But hearing,
18 hearing her voice, seeing her was so much worse because I
19 could understand how scared she was. She was afraid she
20 was going to die and she did.

21 Thank you.

22 I used to worry about my younger sister staying out
23 late. She seemed to have no fear. I'd be so relieved
24 when I heard her familiar -- familiar voice back at home
25 knowing she'd made it back safe from whatever adventure

1 she had sought. I can never know that relief again
2 because she didn't make it home safe this time.

3 There are no more weddings, no more camping trips or
4 Christmases, and no St. Patrick's Day dressed in green and
5 Irish bars and parades. No road trips. No Halloween.
6 Kelli loved Halloween, and always these things she loved,
7 we loved to do with her because being with her made them
8 so much better. We miss her. We love her so much.

9 I want you to know that my family knows that nothing
10 here today will bring my sister back. But we've known
11 that, that the defendant is guilty, is guilty.

12 This was no Rubik's Cube of a mystery. It was, it
13 was simple tick, tack, toe in a way.

14 You better remember Tim and Kelli everyday for your
15 punishment because her bravery and her last actions here
16 on earth put you right where you belong and I wish you the
17 same as your codefendant. When your final moments come,
18 remember Kelli and her courage first and then you can, you
19 can rot in hell.

20 Thank you.

21 This is my sister and she was so cute.

22 SOLICITOR SMITH: Mr. Thompson's mother, Janice, will
23 address the Court, Your Honor.

24 MRS. HAMILTON: Hello. My name is Janice Hamilton.
25 I am Timothy's mother. He's the one first born who made

1 me a mother.

2 we've always had a very close family. He was my
3 little buddy and I, I do want to thank the Spartanburg
4 County Sheriff's Department for their investigations and
5 everything they did to make this happen.

6 I want to thank the hospital. They took very good
7 care of Timothy while he was there. The seven minute
8 video that you saw of him in the hospital we saw every day
9 for over six weeks and I did want to say, because there
10 has been numerous sirances (phonetic) of he chose to go
11 off life support.

12 When Tim -- after Timothy finished his first round of
13 surgeries, you know, he had the line in his throat so they
14 could give him medicines and things like that. He had
15 tubes in both sides of his lungs. He had numerous
16 surgeries in his abdomen because the bullet hit his
17 spleen, his liver, his stomach, and pancreas. So, they
18 were always doing some surgery on something there.

19 He had a bullet hole in his right thigh, which they
20 just had a tube running out of, because they didn't have
21 time to address that at the moment. He had small movement
22 of his right hand and his left-hand was bandaged and never
23 dealt with. It was broken. I'm not sure about a bullet
24 there.

25 In his abdomen, he had an opened -- an opening

1 probably 5 x 8 that would not close because of all the
2 number of surgeries that he had and they had a machine in
3 it that worked -- was trying to save the muscle and the
4 skin.

5 He was paralyzed we knew from the beginning and we
6 would have a couple of conversations. He could not talk.
7 But -- about his feet. He would want me to touch his
8 feet. I put lotion on his feet and him to shake his head
9 and I shake my head and he had the -- the life support was
10 moved from his mouth to his throat. He still could not
11 talk and they said he would, 90 percent, never be able to
12 talk again.

13 After a week or so in the hospital, he started having
14 what we'll call episodes. His heart would go off the
15 chart and then he would drop. I was there when he died,
16 one of the times he died, and they -- the nurses, four or
17 five of them, would come rushing into the room and they
18 always had the EpiPens opened ready to go and they would
19 do that to him. Sometimes that would work. Sometimes
20 they would do chest compressions.

21 They said oh, his body -- his brain will redirect
22 itself. Six weeks later it wasn't and they said it
23 wouldn't. So, he would never leave the facility for the
24 rest of his life.

25 He -- one time in that six weeks they decided to get

1 him up out of bed, and with all the tubes and, and things
2 he had in him, it took like four to five people to do that
3 but they got him in a chair. It was a special chair but
4 they got him in a chair and he smiled for the first time.
5 And all the nurses on the staff, everybody was coming in
6 there going yay, yay, yay, Timothy, yay, look what's
7 happening and he smiled.

8 But that was the last time he could -- got up -- he
9 could get up because those episodes, every time they would
10 come in to turn him in the bed, they would have to be
11 three to four people in there with him because, if you
12 moved him, his heart stopped. And, because of that, is
13 what -- they said we would never be able to leave -- live
14 outside of a facility.

15 He had asked them to stop doing chest compressions
16 because they hurt so bad because of all the surgeries he
17 had in his lungs and I came in one day and he had talked
18 with the doctors and nurses, six weeks later, and, with
19 his prognosis, never be able to eat again, drink again,
20 talk again, walk again or leave a facility, he chose to be
21 taken off the life support. It was not an easy decision
22 for him or anybody else.

23 So, I wanted, I wanted everybody to know why that --
24 because he was in so many -- had so many damages because
25 he had so many gunshot wounds to him while he was in his

1 own home minding his own business.

2 So, we will always think of that day every day, every
3 day for I don't know how long. But we loved him and
4 that's what was taken away from us and that's the last --
5 the last words he spoke were to the people who shot him.

6 So, thank you.

7 THE COURT: Thank you.

8 SOLICITOR SMITH: His sister, Melissa, would like to
9 address the Court.

10 MS. THOMPSON: I don't even know where to start. It
11 was hard to see Timothy, of course, in the hospital like
12 that cause he was my big brother. We tried to watch a
13 Duke game cause that was something that we loved.

14 He fell asleep. He couldn't stay awake because of
15 the medication. But most of the time when I would get
16 there -- and we were only allowed to spend three hours in
17 the morning and in the afternoon with him because of
18 COVID.

19 So, normally, when this happens, you know, before
20 COVID, I'm sure you could of been -- we could of been with
21 him in the hospital the whole time. But I only got to see
22 him for three hours every afternoon. My mom only got to
23 see him three hours in the morning and I'm -- when I would
24 go in to see him and he was awake, he would always ask me
25 for hugs.

1 He'd want me to give him a hug and I was scared to.
2 I didn't know how cause there was so much coming out of
3 him and, and I remember, when I saw the bullet hole here,
4 I can -- I -- I could see his skin was singed around it
5 and any circle I see now, whether it's recessed lighting
6 or something on the ground, I think of that that, that it
7 was so traumatizing for me that I couldn't even hug my own
8 brother.

9 I was in denial that he wasn't coming out of that
10 hospital. I was in denial that he even thought he
11 wanted -- he asked me -- begged me.

12 (WHEREUPON, the defendant fell down at this time.)

13 MS. THOMPSON: Oh please. Fucking kidding me.

14 THE COURT: Do we need to call EMS or are you okay?

15 THE DEFENDANT: I'm okay.

16 MR. MORIN: Would she like, would she like to finish?

17 SOLICITOR SMITH: I believe so, Your Honor.

18 MS. THOMPSON: So, more than anything, I wish, I wish
19 that I had given my brother a hug. I wish I had snuck him
20 candy. I wish I had given him everything I could have
21 because, literally, everything was taken from him except
22 for his choice of being able to come off of life support
23 if he wanted to, which even that has been exploited and
24 tried to be used against him.

25 He was the bravest man I knew and he would of helped

1 anybody.

2 I remember, I remember the rage that I felt the first
3 24 hours after this had happened because that was my home
4 too. I lived there. I could of been shot if I was there.
5 I would have been shot if I was there. But I remember the
6 rage that I had and I remember promising my brother, even
7 though he was confused and didn't understand quite what I
8 was saying, but I promised him that I would figure out and
9 I would never stop until whoever did this to him and Kelli
10 were in jail and I'm really happy that we got that today.

11 And, for whatever reason, I don't know why, I can't
12 explain it and it wasn't by choice, I mean it -- the only
13 thing I can put it up is, is God, it was God, that, when I
14 woke up, the first time I went to sleep after this
15 happened, when I woke up, I didn't have that rage anymore.
16 It was gone. And eventually, throughout that day, I
17 figured out that what I was experiencing was forgiveness.

18 Tyleek, I forgive you. I forgave you a long time ago
19 and I hope you find peace in your life. Truly. I have no
20 reason to be here and lie and waste a breath on something
21 I didn't mean.

22 There is no reason that could be justified for any
23 mother on this planet to lose a child, especially my mama
24 cause my mama is a saint, and your mom's losing you too.
25 But I forgive you and I hope you find peace.

1 Yeah.

2 THE COURT: Thank you, ma'am.

3 SOLICITOR SMITH: Your Honor, the State's asking for
4 a life sentence in this case. I've prosecuted quite a few
5 cases, got quite a few life sentences. I can't think of
6 anybody more deserving.

7 As I said in closing, Tim and Kelli's last act was
8 helping total strangers, presented themselves as
9 strangers, and they got murdered for it and that has a
10 wider societal effect than many crimes that I deal with
11 about how citizens interact with each other.

12 His prior history, going through his phone, all guns,
13 drugs. These are predators. They found that this man had
14 a gun. That info came within days. A couple days,
15 they're setting up a scheme to come and rob him. They're
16 the type of people that don't need to be in our community.

17 Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 All right. Anyone like to speak on behalf of the
20 defendant?

21 MR. MORIN: No, sir, they -- they've been here on and
22 off as they could.

23 MS. JOHNSON: Yes.

24 MR. MORIN: Oh.

25 MS. JOHNSON: I don't want to come up in her face and

1 asking for me to see --.

2 All I'm asking is---

3 THE COURT: Ma'am, would you tell me your name
4 please?

5 MS. JOHNSON: I'm sorry.

6 My name is Akemia Johnson. I'm Tyleek's mother.

7 what I want to say is my son wasn't a bad kid growing
8 up. He wasn't. He had a good life and all I want to say
9 is I'm asking for leniency for my son and I want to say
10 sorry to the both -- both of the families. I do. Like I
11 told my son, I really do. That's all I have to say.

12 THE COURT: Mr. Johnson, do you have anything you'd
13 like to, you'd like to say?

14 THE DEFENDANT: I'm sorry for what happened to your
15 family meaning in this case. I feel like things wasn't
16 exposed in this case that should of been exposed to know
17 the truth what actually happened in this case, what -- I
18 know I didn't murder them people and I didn't go in their
19 house to rob them people.

20 And if they may look as off my phone and things like
21 that for the jury. They had the chance to feel like if I
22 was guilty or not but I wasn't there. I wasn't even -- I
23 didn't need to have -- I didn't need to rob anybody to get
24 any guns or get any drugs. I already had guns and
25 everything.

1 I worked. I came home from prison and worked. I
2 never been convicted of nothing violent. My conviction
3 was nonviolent. I never, I never robbed anybody with a
4 weapon or anything in my life. Everything in my history
5 is just guns. I didn't have to do -- I ain't have to
6 commit the violence to get things that I needed.

7 MR. MORIN: May it please the Court, Your Honor?

8 THE COURT: Sir?

9 MR. MORIN: I, I just have something brief.

10 THE COURT: Please.

11 MR. MORIN: When Mr. Johnson was arrested, he was 24
12 years old.

13 THE DEFENDANT: I was 23.

14 MR. MORIN: Twenty-three. He's been in jail since
15 his arrest in 2020.

16 THE COURT: How many days it that?

17 SOLICITOR SMITH: I'll have to do some math, Your
18 Honor, real quick while he's talking.

19 THE COURT: Okay.

20 MR. MORIN: Your Honor, since COVID, I've had to
21 represent people that have been in jail for what I would
22 call an excessively long time and in -- and what I'm
23 starting to experience is, is, when defendants are in for
24 that long, they develop some sort of rationale or way to
25 defend that they may not be the best.

1 Like I said, this is the third or fourth person I've
2 represented that's been in jail well over three years and
3 they're -- I'm seeing similarities between them when I'm
4 trying to have conversations with them.

5 It's unfortunate this happened to this young man. I
6 think, some of the photographs, it's almost like looking
7 at two different people in some photographs versus others.
8 And I also don't understand the idea of firearms, and
9 photographs, and the Facebook.

10 But, again, I -- I've seen that in many cases. I
11 don't understand it at all and he understands the
12 potential penalty in this case.

13 That's all I have to say, Your Honor.

14 SOLICITOR SMITH: Nineteen hundred and one days, Your
15 Honor.

16 MR. MORIN: Thank you.

17 THE COURT: And this will be the sentence of the
18 Court, murder is 50 years. Credit for 1,901 days.

19 Possession of a weapon during the commission of a
20 violent crime will be five and those will be concurrent.

21 The other murder is also 50 years and five years.
22 That will be concurrent.

23 The armed robbery is 30 years.

24 The burglary first degree is 50 years.

25 The unlawful possession of a handgun is five years,

1 which will be been consecutive.

2 So, they're all concurrent except for the last
3 charges will be consecutive. Credit for 1,901 days.

4 I put specifically on the possession, unlawful
5 possession, that he is to serve his period of
6 incarceration on the charges prior to serving the sentence
7 there.

8 Mr. Johnson, you have 10 days to appeal.

9 I wish you good luck.

10 SOLICITOR SMITH: Thank you, Your Honor.

11 SOLICITOR BROWN: Thank you, Your Honor.

12

13

14 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 12th, 13th, 14th, 15th, and 16th days of May, 2025.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 26th, 2025

PAMELA E. GREEN, Court Reporter

SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

CASE NUMBER
2010 1354

PRE-INTERROGATION WAIVER FORM

Name Tyleek Rayquan Johnson Address Portland Falls Dr. Simpsonville, SC

Age 23 Date 4/21/2021 Time 1038

Location 8045 Howard St. Spartanburg SC

1. I have the right to remain silent.
2. Anything I say can and will be used against me in a court of law.
3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by K. Hammett.

I have read same and I understand my rights fully.

Witness William G. Gue Signed Tyleek Johnson

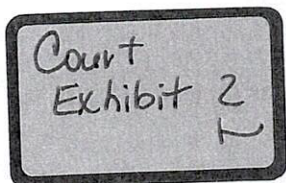
I waive (give up) my rights as explained above and agree to talk to officer K. Hammett, Gue, & Norris in reference to 2010 1354 (CASES OR CHARGES), and my statement that I may make is of my own free will, without fear, threat or promise or favor or reward of any kind.

I am able to read and write the English Language and finished 11 years in school.

Witnessed William G. Gue Signed Tyleek Johnson

Notarized [Signature]

Expiration Date 11-15-27



SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

CASE NUMBER
20101354

PRE-INTERROGATION WAIVER FORM

Name Tyleek RAYQUAN Johnson Address Portland Falls Dr Simpsonville SC

Age 23 Date 4/21/2021 Time 1038

Location 8045 Howard St. Spartanburg SC

1. I have the right to remain silent.
2. Anything I say can and will be used against me in a court of law.
3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by K. Hammett

I have read same and I understand my rights fully.

Witness William [Signature] Signed Tyleek Johnson

I waive (give up) my rights as explained above and agree to talk to officer K. Hammett, Gue, Norris
in reference to 20101354 (CASES OR CHARGES), and my statement that I may
make is of my own free will, without fear, threat or promise or favor or reward of any kind.

I am able to read and write the English Language and finished 11 years in school.

Witnessed [Signature] Signed Tyleek Johnson

Notarized [Signature]

Expiration Date 11-15-27

Greenville County

3C Westbrook Dr.

Greenville SC

Court
Exhibit 3
✓

ORIGINAL

STATE OF SOUTH CAROLINA

CERTIFIED COPY
The Honorable Judge Lella Foster

County of

Greenville 01-21-026818

SEARCH WARRANT

Date 02/16/2021

Officer Inv. Tracy King

1.33

STATE OF SOUTH CAROLINA

COUNTY OF Greenville



AFFIDAVIT

Personally appeared before me, one Inv. Tracy King who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Firearm(s), Ammunition(s), shell casing(s) [live/fired], cutting instruments to include knives and scissors, Blunt Instruments, Prescription and over the counter medications, blood, latent print processing, DNA, Gun Shot Residue Testing, photo and video documentation, any other forensic processing, drugs, drug related paraphernalia, blunt objects, cellular phones, computers, electronic devices, papers and identifying documents.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

3 Westbrook Drive Lot C Greenville, SC 29611, further described as a single wide mobile home grayish blue with white underpinning and a small wooden covered entry porch. The trailer is marked as 3 C depicting the address and lot number. also included in property to be search are any and all vehicles and outbuildings located on the property and cartilage of the Mobile Home.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

I am an investigator with the Greenville County Sheriff's Office Armed Robbery Unit and I have over 25 years Law Enforcement experience and I have been advised by Investigator Hammett with the Spartanburg County Sheriff's Office of an ongoing homicide investigation. Investigator Hammett advised me that during the course of their investigation they were able to identify Deandre Lashun Fuller as a suspect involved in their case and that they were able to follow up by obtaining phone records of known associates and a girlfriend which led them to 3 Westbrook Drive Lot C Greenville, SC 29611 and that on this date, February 16th 2021, Law Enforcement Officers located and arrested suspect Fuller at this address. Further I was advised that information obtained through specific instagram accounts indicate that at least one firearm used in this Homicide was stolen and believed to be in the possession of suspect Fuller. In order to conduct a fair and complete investigation into this case a search of this mobile home and any and all vehicles located on the property is requested.

Sworn to and Subscribed before me
this 16th day of Feb, 20 21
[Signature] (L.S.)
Signature of Judge

[Signature]
Affiant
Address 4 McGee Street
Greenville, SC 29601
Phone 864-467-5428

RETURN

I received the attached Search Warrant 16, ~~18~~ 2020, and have executed it as follows:
On Feb 16th, ~~18~~ 2020 at 1333 o'clock P. M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Residence
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

- Forensic Processing Digital Photos.
- Verizon ZTE cell phone w/ sim card, Samsung cell phone Cricket cell phone
- Bedroom #1 ←
- 2 iPhones Truck cab, Kitchen. 1 iPhone - Black Burgundy case, unknown type
- Cell phone Black Incubator Living Room. 2 Live Steel Case 9mm rounds Living Room.
- Glock Drum style SD RD. Mag + Clear bag w/ 40CAL Ammo Live Bedroom.
- Clear plastic bag white substance Bedroom 1
- Silver BMW RLP-680
- 1 9mm AR style Rifle with SD Round. Drum Mag.
- 1 SD Round mag Bot (Empty)
- 1 Bolt Carrier for AR style Rifle.
- 1 9mm Glock Extended Mag.
- 3 9mm shells Aluminium Cartridges.

This inventory was made in the presence of Juv. Tony King
AND Det. BE. Briggs,

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 19
day of Feb, 19 2021

[Signature] (L.S.)
Signature of Judge 11:49

[Signature] *705
(Signature of Officer Executing Warrant)

- 1 - Greenville SO
- 2 - Greenville PD
- Other _____

**GREENVILLE COUNTY DEPARTMENT OF PUBLIC SAFETY
PROPERTY & EVIDENCE REPORT**

1. Status - Check one only: <input type="checkbox"/> GS Evidence <input type="checkbox"/> MM Evidence <input type="checkbox"/> Seizure/FF <input checked="" type="checkbox"/> Safekeeping <input type="checkbox"/> Recovered			2. Case #
<input type="checkbox"/> Found <input type="checkbox"/> Other: _____			1-21-026818
3. Date of Impound:	4. Time of Impound:	P&E use only:	5. Case Type:
2/16/21	1333		Personal Auto Arson
6. Name of: <input type="checkbox"/> Victim <input type="checkbox"/> Suspect <input type="checkbox"/> Owner		7. Where Property was Impounded (Give exact location/address & business information)	
		3 Westwood Drive, Greenville SC, 29611	

8. Item #:	9. Quantity:	10. Weight (Drugs Only)	11. Description (include make, model, serial #, caliber/action, color, etc.)	12. NCIC Yes No
AK-1	1		Verizon ZTC Cell phone. Black. SIM CARD	BR
AK-2	1		Samsung Cell phone - Black in color	BR
AK-3	1		Circuit Cell phone - Black in color	BR
AK-4	1		I-Phone Black case	TC
AK-5	1		I-Phone Black + Red case	TC
AK-6	1		I-Phone Burgundy + Green case	LR
AK-7	1		Unknown Type Cell phone Black case. LR.	
AK-8	2		9mm size L case Live Ammo Coach + Live shell.	
AK-9	1		Black Drum style 50 round mag	BR
AK-10	1		Clear Bag w/ 40 cal Ammo Live Rounds.	

13. Firearms Unloaded Verification: UFCV (Clerk Verified): _____ Initials / Date _____

UFOV (Officer Verified): _____ Initials / Date _____

14. I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this report:

Signature: _____ Date: _____

15. Impounding Officer (print full name): A.T. King

16. Star #: 198

17. Unit #: 616

18. Signature: [Signature]

19. Investigating Officer & Star #: A.T. King

20. Received by (print name)	21. Signature	22. Storage location	23. Date	24. Time
Kenneth Nnamah	[Signature]	5045 HOWARD ST SPARTANBURG SC		

25. Authorization for Disposition: It is the authorizing officer's responsibility to notify owners to claim property

<p>Type of Disposition:</p> <p><input type="checkbox"/> Cleared for Destruction/Auction: Items: _____</p> <p><input type="checkbox"/> Authorize for Release Items: _____</p> <p><input type="checkbox"/> Authorize deposit (GPD use - money) Items: _____</p> <p>Name: _____</p> <p>DL / ID: _____</p>	<p>Authorized By:</p> <p>Officer Name (print): _____</p> <p>Signature: _____</p> <p>Date: _____</p> <p>Firearms Release Verification: NCIC/CCH Check:</p> <p>Name: _____</p> <p>Date: _____</p>
---	--

OWNER

1 - Greenville SO
 2 - Greenville PD
 Other _____

**GREENVILLE COUNTY DEPARTMENT OF PUBLIC SAFETY
PROPERTY & EVIDENCE REPORT**

1. Status - Check one only: GS Evidence MM Evidence Seizure/FF Safekeeping Recovered
 Found Other: _____

2. Case # 1-21-02688

3. Date of Impound: 2/16/21 4. Time of Impound: 1333 P&E use only: _____ 5. Case Type: _____

6. Name of: Victim Suspect Owner

7. Where Property was Impounded (Give exact location/address & business information)
C TRAILER
3 Westbrook Dr Greenville, SC 29611

8. Item #:	9. Quantity:	10. Weight (Drugs Only)	11. Description (include make, model, serial #, caliber/action, color, etc.)	12. NCIC Yes No
AK-11	1		9mm AR style rifle w 50 drum magazine attached	
AK-12	1		50 rd magazine box (empty)	
AK-13	1		Bolt carrier for AR style rifle	
AK-14	1		9mm Glock Extended magazine	
AK-15	3		9mm shells (Aluminum casing)	

13. Firearms Unloaded Verification: UFCV (Clerk Verified): _____ UFOV (Officer Verified): _____
Initials / Date

14. I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this report:
Signature: _____ Date: _____

15. Impounding Officer (print full name): A.T. King
16. Star #: 198 17. Unit #: 6110
18. Signature: [Signature] 19. Investigating Officer & Star #: A.T. King

20. Received by (print name): Kenneth Hammett 21. Signature: [Signature] 22. Storage location: 5095 Highway 31 / Spartanburg SC 23. Date: _____ 24. Time: _____

25. Authorization for Disposition: It is the authorizing officer's responsibility to notify owners to claim property

Type of Disposition:	Authorized By:
<input type="checkbox"/> Cleared for Destruction/Auction: Items: _____ <input type="checkbox"/> Authorize for Release Items: _____ <input type="checkbox"/> Authorize deposit (GPD use - money) Items: _____	Officer Name (print): _____ Signature: _____ Date: _____ Firearms Release Verification: NCIC/CCH Check: _____ Name: _____ Date: _____
Name: _____	
DL / ID: _____	

OWNER

860

Greenville Police Department MOTOR VEHICLE TOW REPORT

CASE NUMBER: 21-014157

ABOUT THE VEHICLE							
DATE	YEAR	MAKE	MODEL	COLOR	BODY TYPE	TAG NUMBER	STATE
3/2/21	2000	BMW	528	SILV	SD	PLP 650	SC
DRIVER'S NAME/ADDRESS		OWNER'S NAME/ADDRESS			LIENHOLDER'S NAME/ADDRESS		
Johnson, Tyreek [redacted] Portland Falls Dr Simpsonville, SC 29680		Watkins, Michael [redacted] Lin Rd Piedmont, SC 29673					
VEHICLE IDENTIFICATION NUMBER: WBAD M634X/GM 13454		LIST PROPERTY IN VEHICLE OTHER THAN STANDARD EQUIPMENT:			LIST ALL ITEMS TAKEN INTO CUSTODY BY POLICE: - Ammunition - Body Armor		
OWNER NOTIFIED?	DRIVER ARRESTED?						
YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>						
HOLD ON VEHICLE?	IF HELD, LIST REASONS:			HOLD APPROVAL (SUPERVISOR SIGNATURE):			
YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>							
OFFICER:	Boggs			UNIT #	STAR#		
				528	705		

ABOUT THE TOWING REQUIRED	
LOCATION TOWED FROM: [redacted] CENTURY CR	LOCATION TOWED TO: 12 Toledo St
LIST ANY SPECIAL CIRCUMSTANCES RELATED TO TOWING THIS VEHICLE: 10-46	DATE/TIME WRECKER NOTIFIED: 3/2/21 0040
	TIME WRECKER ARRIVED:
	TIME WRECKER DEPARTED:
TO THE MOTORIST: The City of Greenville contracts with private wrecker services to make sure vehicle towing is always available to persons needing this service. This is called a duty wrecker service. Please read the following information on the City's duty wrecker service so that you will be aware of your rights and responsibilities. <ul style="list-style-type: none">If your vehicle is disabled, you may choose which wrecker service will tow your vehicle, if you are physically able to do so.If you have no preference as to the wrecker service, if you are physically unable to call a wrecker, or if you are being incarcerated, the Police will call a duty wrecker to tow your vehicle.	APPROVED CHARGES: TOWING Conventional tow, no collision: \$140.00 Conventional tow, after collision: <u>\$220.00</u> An additional charge of \$15.00 per half hour or fraction thereof, may be assessed after the first hour has elapsed. STORAGE First 24 hours: NO CHARGE After first 24 hours: \$20.00 for outside shelter (per 24 hours) \$25.00 for inside shelter (per 24 hours) ESTIMATES AND REPAIRS No estimates or repairs are allowed without the written consent of the registered owner.
THE WRECKER SERVICE ON DUTY TODAY IS: Mikes Body Shop	ESTIMATED CHARGES: \$ 220.00

SIGNATURES NEEDED:

10-46
Driver/Owner

Bill W [signature]
Wrecker Driver

Boggs
Investigating Officer

Copies: White - Records, Yellow - Patrol Services, Pink - Wrecker Company, Gold - Driver

Gold Copy Given To: _____

Court Exhibit 18
✓

ATV/03/22/2021 09:26:54

REC'D MAR 11 PM 12:40

WITNESSES

scso

[Handwritten Signature]

ARREST WARRANT NUMBER

2021A4210100484 (Count One)

2021A4210100488 (Count Two)

ACTION OF GRAND JURY
True Bill

SEP 17 2021

[Handwritten Signature]
Foreperson of Grand Jury
Date:

VERDICT

[Handwritten Signature]
Foreperson of Petit Jury
Date: 5-16-25

DOCKET NO.
21-GS-42-4979

The State of South Carolina
County of Spartanburg
Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS
SEP 20 2021
TERM

THE STATE
vs.

Tyleek Johnson

Indictment for

COUNT ONE-MURDER, COUNT TWO-
POSSESSION OF WEAPON DURING
VIOLENT CRIME
SC Code 16-03-0010, 0020, 16-23-490
CDR Code 116, 549
Class FEL-EXM

FILED

2021 SEP 22 PM 2:01
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

[Handwritten mark]

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on SEP 17 2021, the
 Grand Jurors of Spartanburg County present upon their oath:

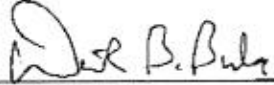
COUNT ONE-MURDER

The Defendant, Tyleek Johnson did in Spartanburg County on or about October 25, 2020, feloniously, willfully, and with malice aforethought, kill one Kelli Eillen Curran, by shooting her and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

COUNT TWO- POSSESSION OF WEAPON DURING VIOLENT CRIME

That the defendant, Tyleek Johnson did in Spartanburg County on or about October 25, 2020, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 Deputy Solicitor

WITNESSES

SCSO
Jimmy W. Davis

ARREST WARRANT NUMBER
2021A4210100485 (Count One)
Direct Indictment (Count Two)

ACTION OF GRAND JURY
True Bill
SEP 17 2021
SIA
Foreperson of Grand Jury
Date:

VERDICT

Guilty
[Signature]
Foreperson of Petit Jury
Date: 5-18-25

DOCKET **21-GS-42-4780**

The State of South Carolina
County of Spartanburg
Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS
SEP 20 2021 **TERM**

THE STATE
vs.

Tyleek Johnson

Indictment for
COUNT ONE-MURDER, COUNT TWO-
POSSESSION OF WEAPON DURING
VIOLENT CRIME
SC Code 16-03-0010, 0020, 16-23-490
CDR Code 116, 549
Class FEL-EXM

FILED

2021 SEP 22 PM 2:01
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

pl

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

SEP 17 2021

At a Court of General Sessions, convened on _____, the
 Grand Jurors of Spartanburg County present upon their oath:

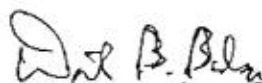
COUNT ONE-MURDER

The Defendant, Tyleek Johnson did in Spartanburg County on or about October 25, 2020, feloniously, willfully, and with malice aforethought, kill one Timothy Keith Thompson, by shooting him and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

COUNT TWO- POSSESSION OF WEAPON DURING VIOLENT CRIME

That the defendant, Tyleek Johnson did in Spartanburg County on or about October 25, 2020, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



 Deputy Solicitor

WITNESSES

SCSO

James W. Sumner

ARREST WARRANT NUMBER

2021A4210100486

ACTION OF GRAND JURY

True Bill

SEP 17 2021

Foreperson of Grand Jury
Date:

VERDICT

Gaulby
Foreperson of Petit Jury
Date: 5-16-25

DOCKET NO.

21-GS-42-4981

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 20 2021

TERM

THE STATE
vs.

Tyleek Johnson

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)
CDR Code: 139
Class FEL/A

FILED

2021 SEP 22 PH 2:02

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

bf

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

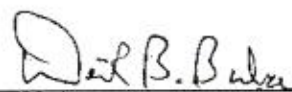
SEP 17 2021

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Tyleek Johnson, did in Spartanburg County, on or about October 25, 2020, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Timothy Keith Thompson by means of force or intimidation goods or monies of Timothy Keith Thompson, described as follows: miscellaneous firearms and/or US currency and/or a safe, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DEPUTY SOLICITOR

WITNESSES

SCSO

James G. ...

ARREST WARRANT NUMBER

2021A4210100489

ACTION OF GRAND JURY

True Bill

SEP 17 2021

[Signature]
Foreperson of Grand Jury
Date:

VERDICT

G. H. ...

[Signature]
Foreperson of Petit Jury
Date: 5-16-25

DOCKET NO.

21-GS-42-4982

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 20 2021

TERM

THE STATE

vs.

Tyleek Johnson

Indictment for

UNLAWFUL POSSESSION OF A HANDGUN

SC Code: 16-23-30, 50 (A) (1)

CDR Code: 2364

Class FEL/F

FILED

2021 SEP 22 PM 2:02

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

fl

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on SEP 17 2021, the

Grand Jurors of Spartanburg County present upon their oath:

UNLAWFUL POSSESSION OF A HANDGUN

That Tyleek Johnson did in Spartanburg County on or about October 25, 2020 possess a handgun, he not being entitled to the possession of the handgun, as he is a person who had been convicted of a crime of violence, in violation of §16-23-30, 50 (A) (1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

SCSO

Lucy W. Barnes

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

True Bill

SEP 17 2021

[Signature]
Foreperson of Grand Jury
Date:

VERDICT

[Signature]
Foreperson of Petit Jury
Date: 5-16-25

DOCKET NO. **21-GS-42-4983**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 20 2021

TERM

THE STATE

vs.

Tyleek Johnson

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED

2021 SEP 22 PH 2:02

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

HL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on SEP 17 2021, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Tyleek Johnson did in Spartanburg County on or about October 25, 2020 did enter a dwelling located at [REDACTED] Walden Circle, Spartanburg, South Carolina without consent and with the intent to commit a crime in the dwelling, and either:

(1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

(a) is armed with a deadly weapon or explosive; or

(b) causes physical injury to a person who is not a participant in the crime;
 or

(c) uses or threatens the use of a dangerous instrument; or

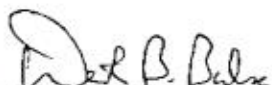
(d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm; or

(2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or

(3) the entering or remaining occurs in the nighttime,

in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA SENTENCE ORDER IN THE COURT OF GENERAL SESSIONS

County of Spartanburg
State

INDICTMENT/CASE#: 2021GS4204979
AW#: 2021A4210100484
Date of Offense: 10/25/2020
S.C. Code §: 16-3-10
CDR Code #: 0116
Range of Offense: 30-Life

VS.
Tyleek Ravquan Johnson
AKA: SSN:
RACE: Black SEX: Male DOB: /1997

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Murder Range of Offense Pled: 30-Life

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: w/o Rec/Negotiations Negotiated Recommendation

Solicitor Spenser Smith 101370 SC Bar #
Attorney for Defendant Michael David Morin 509 SC Bar #

The Defendant is committed to the SCDC County Detention Center Home Incarceration Program
for a determinate term of 50 days/months/years/Time Served YOA NTE years and/or shall pay a fine

of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.
days/month To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- PTUP
No Contact with Victim Domestic Violence Intervention Program Hold for Inpatient Treatment
Sex Offender Registry pursuant to S.C. Code § 23-3-430 SAC/MHC if necessary
Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
Other:

RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))

- §14-1-206 (Assessments 107.5%)
§14-1-211 (A)(1)(Conv. Surcharge)
§14-1-211 (A)(2)(DUI Surcharge)
§56-5-2995 (DUI Assessment)
§56-1-286 (DUI Breath Test)
§14-1-212 (Law Enforce. Funding)
§14-1-213 (Drug Court Surcharge)
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)
§50-21-114 (BUI Breath Test Fee)
§56-5-2942(J) (Vehicle Assessment)
3% to County (if paid in installments)

Fine/Costs and Assessments are to be paid to the
Clerk of Court within days/months

Table with 2 columns: Description, Amount. Includes Restitution, FINE, and TOTAL \$ 128.75

- Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
§ 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

Pamela Camp
Clerk of Court/Deputy Clerk
Pam Green
Court Reporter

2155 5-15-25
Judge Code Sentence Date Presiding Judge

SCCA217B
01/27/2025

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Spartanburg

State

VS.

Tyleek Rayquan Johnson

AKA: SSN:

RACE: Black SEX: Male DOB: [REDACTED] 1997

) INDICTMENT/CASE#: 2021GS4204980

) AW#: 2021A4210100485

) Date of Offense: 10/25/2020

) S.C. Code §: 16-3-10

) CDR Code #: 0116

) Range of Offense: 30-Life

In disposition of the above indictment comes now the Defendant who was [X] CONVICTED OF or [] PLEADS TO: Murder Range of Offense Pled: 30-Life

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

[] NON-VIOLENT [X] VIOLENT [] SERIOUS [X] MOST SERIOUS [] Mandatory GPS [] § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: [X] As indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury.

The plea is: [X] w/o Rec/Negotiations [] Negotiated [] Recommendation

Solicitor Spenser Smith 101370 SC Bar #

Attorney for Defendant Michael David Morin 65094 SC Bar #

The Defendant is committed to the [X] SCDC [] County Detention Center [] Home Incarceration Program for a determinate term of 50 days/months/years/Time Served [] YOA NTE ___ years and/or shall pay a fine

of \$ _____; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for ___ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

[X] The sentence shall run CONCURRENT or [] CONSECUTIVE to sentence on: _____

[X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.

1901 days/month [] To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- [] PTUP
[] No Contact with Victim [] Domestic Violence Intervention Program [] Hold for Inpatient Treatment
[] Sex Offender Registry pursuant to S.C. Code § 23-3-430 [] SAC/MHC if necessary
[] Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
[] Other: _____

[] RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))

- §14-1-206 (Assessments 107.5%)
§14-1-211 (A)(1)(Conv. Surcharge)
§14-1-211 (A)(2)(DUI Surcharge)
§56-5-2995 (DUI Assessment)
§56-1-286 (DUI Breath Test)
§14-1-212 (Law Enforce. Funding)
§14-1-213 (Drug Court Surcharge)
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)
§50-21-114 (BUI Breath Test Fee)
§56-5-2942(J) (Vehicle Assessment)
3% to County (if paid in installments)

Fine/Costs and Assessments are to be paid to the Clerk of Court within ___ days/months

Table with 2 columns: Description, Amount. Includes Restitution \$, FINE: \$100, \$100, \$12, \$25, \$25, \$150, \$41, \$50, \$40/ea, TBD, \$500, TBD, TOTAL \$ 128.75

[] Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

[] § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

T. Camp Clerk of Court/Deputy Clerk
Pam Green Court Reporter

2155 Judge Code

5-16-25 Sentence Date

[Signature] Presiding Judge

SCCA217B 01/27/2025

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Spartanburg

State

VS.

Tyleek Rayquan Johnson

AKA: SSN:

RACE: Black SEX: Male DOB: [redacted] 1997

) INDICTMENT/CASE#: 2021GS4204980A

) AW#: Direct Indictment

) Date of Offense: 10/25/2020

) S.C. Code §: 16-23-490

) CDR Code #: 0549

) Range of Offense: 5yr

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Possession of Weapon During Violent Crime

Range of Offense Pled: 5yr

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: w/o Rec/Negotiations Negotiated Recommendation

Solicitor Spenser Smith 101370 SC Bar #

Attorney for Defendant Michael David Morin SC Bar # 65094

The Defendant is committed to the SCDC County Detention Center Home Incarceration Program for a determinate term of 5 days/months/years/Time Served YOANTE ___ years and/or shall pay a fine

of \$ ___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ ___; plus costs and assessments as applicable*; the balance is suspended with probation for ___ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: ___

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.

___ days/month To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- PTUP
 No Contact with Victim Domestic Violence Intervention Program Hold for Inpatient Treatment
 Sex Offender Registry pursuant to S.C. Code § 23-3-430 SAC/MHC if necessary
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
 Other: ___

RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))

Table with 2 columns: Description of Restitution/Fine and Amount. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge), etc. Total amount: \$ 128.75

- Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
 § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

T. Camp Clerk of Court/Deputy Clerk
Pam Green Court Reporter

2153 Judge Code

5-16-22 Sentence Date

[Signature] Presiding Judge

SCCA217B 01/27/2025

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Spartanburg

State

VS.

Tyleek Rayquan Johnson

AKA: SSN:

RACE: Black SEX: Male DOB: [REDACTED] 1997

) INDICTMENT/CASE#: 2021GS4204981
) AWF#: 2021A4210100486
) Date of Offense: 10/25/2020
) S.C. Code §: 16-11-330(A)
) CDR Code #: 0139
) Range of Offense: 10-30yr

In disposition of the above indictment comes now the Defendant who was [X] CONVICTED OF or [] PLEADS TO: Robbery - Armed or Alleging Armed With Deadly Weapon Range of Offense Pled: _____

In violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

[] NON-VIOLENT [X] VIOLENT [] SERIOUS [X] MOST SERIOUS [] Mandatory GPS [] § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: [X] As indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury.

The plea is: [X] w/o Rec/Negotiations [] Negotiated, [] Recommendation

Solicitor Spenser Smith 101370 SC Bar # Attorney for Defendant Michael David Morin 1507 SC Bar #

The Defendant is committed to the [X] SCDC [] County Detention Center [] Home Incarceration Program for a determinate term of 30 days/months/years/Time Served [] YOA NTE ___ years and/or shall pay a fine

of \$ _____; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for ___ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

[X] The sentence shall run CONCURRENT or [] CONSECUTIVE to sentence on: _____

[X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC. 1,901 days/month [] To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- [] PTUP
[] No Contact with Victim [] Domestic Violence Intervention Program [] Hold for Inpatient Treatment
[] Sex Offender Registry pursuant to S.C. Code § 23-3-430 [] SAC/MHC if necessary
[] Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
[] Other: _____

[] RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))

Table with columns for statute number, description, amount, and fine. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge), etc. Total fine listed as 128.75.

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
§ 17-3-30 Unpaid Application Fee to be paid to the Public Defender Fund
Clerk of Court/Deputy Clerk: Pam Green
Judge Code: 2155 Sentence Date: 5-16-25 Presiding Judge: [Signature]

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Spartanburg

State

VS.

Tyleek Rayquan Johnson

AKA: SSN:

RACE: Black SEX: Male DOB: [redacted]/1997

) INDICTMENT/CASE#: 2021GS4204982

) AW#: 2021A4210100489

) Date of Offense: 10/25/2020

) S.C. Code §: 16-23-30(B)

) CDR Code #: 2364

) Range of Offense: 0-5yr

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Unlawful Possession of Handgun Range of Offense Pled: 0-5yr

In violation of § 16-23-30(B) of the S.C. Code of Laws, bearing CDR Code # 2364

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45 (CSC w/minor 1* or CSC w/minor 3*)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: w/o Rec/Negotiations Negotiated Recommendation

Solicitor Spenser Smith 101370 SC Bar #

Attorney for Defendant Michael David Morin 5094 SC Bar #

The Defendant is committed to the SCDC County Detention Center Home Incarceration Program for a determinate term of 5 days/months/years/Time Served YOANTE ___ years and/or shall pay a fine

of \$ ___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ ___; plus costs and assessments as applicable; the balance is suspended with probation for ___ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: all charges on 5-11-25

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.

1901 days/month To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- PTUP
 No Contact with Victim Domestic Violence Intervention Program Hold for Inpatient Treatment
 Sex Offender Registry pursuant to S.C. Code § 23-3-430 SAC/MHC if necessary
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
 Other: Defendant shall serve his period of incarceration on all other charges prior to serving this sentence

Table with columns for Fee Code, Description, Amount, and Restitution. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (Conv. Surcharge), §14-1-211 (DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-286 (DUI Breath Test), §14-1-212 (Law Enforce. Funding), §14-1-213 (Drug Court Surcharge), §34-11-70(b) and (c), and §50-21-114 (BUI Breath Test Fee).

T. Camp
Clerk of Court/Deputy Clerk
Pam Green
Court Reporter

2155 5-16-25 [Signature]
Judge Code Sentence Date Presiding Judge

SCCA217B
01/27/2025

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Spartanburg

State

VS.

Tyleek Rayquan Johnson

AKA: SSN:

RACE: Black SEX: Male DOB: [REDACTED] 1997

) INDICTMENT/CASE#: 2021GS4204983

) AW#: Direct Indictment

) Date of Offense: 10/25/2020

) S.C. Code §: 16-3-311

) CDR Code #: 0079

) Range of Offense: 15yr-Life

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Burglary 1st Degree Range of Offense Pled: 15yr-Life

In violation of § 16-3-311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: w/p Rec/Negotiations Negotiated Recommendation

Solicitor Spenser Smith 101370 SC Bar # [Signature] Attorney for Defendant Michael David Morin 65074 SC Bar #

The Defendant is committed to the SCDC County Detention Center Home Incarceration Program for a determinate term of 50 days/months/years/Time Served YOA NTE ___ years and/or shall pay a fine

of \$ ___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ ___; plus costs and assessments as applicable*; the balance is suspended with probation for ___ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: ___

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.

1,901 days/month To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- PTUP
 No Contact with Victim Domestic Violence Intervention Program Hold for Inpatient Treatment
 Sex Offender Registry pursuant to S.C. Code § 23-3-430 SAC/MHC if necessary
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
 Other: ___

RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))

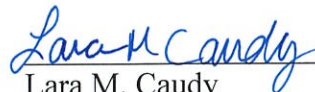
Table with 2 columns: Description of fees and Restitution/FINE amounts. Includes items like §14-1-206, §14-1-211, §56-5-2995, etc. Total amount: \$ 128.75

T. Camp Clerk of Court/Deputy Clerk Pam Green Court Reporter 2155 Judge Code 5-16-25 Sentence Date [Signature] Presiding Judge SCCA217B 01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of April, 2026.