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STATE OF SOUTH CAROLINA

S.C. SUPREME COURT

IN THE SUPREME COURT

Certiorari to Richland County

Honorable Donald B. Hocker, Circuit Court Judge

BRIAN N. WHITE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002438

APPENDIX

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DIRECT EXAMINATION BY MR. MCGLOTHIN - NITA RABON 501

1 A No. I was a stay-at-home mom at the time.

2 Q Okay. Did you drive?

3 A I can't remember.

4 Q Okay. But you -- the two of you went to take him to
5 work?

6 A Yes.

7 Q Did -- excuse me. Your husband, Jerry -- excuse me
8 -- Alex for this -- is that name you use for him?

9 A Yes. I call him Alex.

10 Q Okay. Alex, did he own a Smith & Wesson pistol?

11 A I don't know what type of gun it was, but I knew it
12 was a handgun.

13 Q Okay. Did he have it with him that morning when he
14 went to work?

15 A Yes.

16 Q Where did he have it?

17 A I believe it was in the glove compartment while we
18 were driving.

19 Q Okay. Did you learn anything about that gun?

20 A Can you elaborate?

21 Q Later in that day, did you -- did you interact with
22 that gun at all?

23 A I gave it to a detective.

24 Q Okay. Could you tell us about what led to you
25 giving it to the detective?

DIRECT EXAMINATION BY MR. MCGLOTHIN - NITA RABON 502

1 A Well, we had heard that Brian had been arrested, and
2 my husband -- before we learned that he had been
3 arrested, I believe my husband had put the gun in a bag
4 and put it in the trunk of the car. Because I don't like
5 guns, and I don't feel comfortable driving with it very
6 close to me. So I always tell him to put it back there.

7 And then we found out that Brian had been arrested.
8 And he told me not to touch it; that there was detective
9 coming over to where I was and -- to collect the gun from
10 us.

11 Q Okay. And where did you meet the detectives?

12 A I met the detective at my grandmother's house.

13 Q Do you remember what his name was?

14 A Detective Truluck, I think.

15 Q Did you touch the gun at all?

16 A I don't remember.

17 Q Okay. But you provided it to Investigator Truluck?

18 A Yes.

19 Q And you mentioned it was in a bag at the time?

20 A Yes.

21 Q Okay. Just to backtrack, earlier in that morning,
22 was your husband with you between those two interactions
23 with Brian that morning?

24 A Yes.

25 Q Were -- were the two of you asleep?

CROSS-EXAMINATION BY MS. EIGENBROT - NITA RABON 503

1 A Yeah. We had gone back to sleep.

2 Q And then later on that day, he was at work?

3 A Yes. He was at work and I was at my grandmother's.

4 Q All right. Thank you. No further questions.

5 Please answer any questions the defense may have.

6 A Okay.

7 THE COURT: Yes, ma'am.

8 MS. EIGENBROT: Just briefly.

9 CROSS-EXAMINATION

10 BY MS. EIGENBROT:

11 Q Good morning, Ms. Rabon.

12 A Good morning.

13 Q Now, I know you talked a little bit about turning
14 over the Smith & Wesson to Detective Truluck, correct?

15 A Yes, ma'am.

16 Q Now, was that same day that Brian got arrested, or
17 was it the day after?

18 A I'm not sure. I know it was around the time. The
19 days kind of go together for me.

20 Q And I know it's been a long time, but it was
21 December 8th, 2016, that Brian got arrested. Does that
22 date sound familiar?

23 A I don't remember.

24 Q Okay. But you believe it was either that same day
25 or the day after, correct?

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 504

1 A Somewhere around there.

2 Q Okay. Thank you, Ms. Rabon.

3 A No problem.

4 MR. MCGLOTHIN: Nothing further, Your Honor.

5 THE COURT: All right. You may step down.

6 Any objection to this witness being excused?

7 MS. EIGENBROT: No objection, Your Honor.

8 THE COURT: All right. You're free to leave.

9 THE BAILIFF: Watch your step.

10 (Whereupon, the witness exited the witness stand.)

11 MS. SAMPSON: The state calls Jennifer Brown.

12 (Whereupon, the witness came forward.)

13 JENNIFER BROWN, having been first duly sworn,
14 testified as follows:

15 DEPUTY CLERK OF COURT: Thank you. Have a seat in
16 the witness stand.

17 THE WITNESS: (Complied.)

18 DEPUTY CLERK OF COURT: State your name for the
19 record and spell it for the court reporter.

20 THE WITNESS: Uh-huh. My name is Jennifer Michelle
21 Guard Brown. And Jennifer, J-e-n-n-i-f-e-r; Michelle,
22 M-i-c-h-e-l-l-e; Guard, G-u-a-r-d; and Brown, B-r-o-w-n.

23 DIRECT EXAMINATION

24 BY MS. SAMPSON:

25 Q Good afternoon.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 505

1 A Good afternoon.

2 Q Can you tell the jury where you work?

3 A Yeah. I work at the South Carolina Law Enforcement
4 Division, commonly known as SLED.

5 Q And what do you do at SLED?

6 A I'm a forensic toxicologist.

7 Q Can you tell the jury: What is a forensic
8 toxicologist?

9 A Sure. A forensic toxicologist is a person who
10 analyzes biological samples for the presence or absence
11 of drugs and then reports the results and interprets for
12 courts of law, for coroners, pathologists, police
13 officers, a little bit of everybody.

14 Q And what is your education background?

15 A I have a bachelor of science in chemistry at the
16 University of South Carolina, but we also have an
17 extensive in-house program at SLED to be trained for
18 toxicology.

19 Q And can you tell the jury a little bit about that
20 training?

21 A Sure. The first portion of my training was blood-
22 alcohol analysis. It's an extensive program. The whole
23 thing takes about a year, or at least when I did it. So
24 we have lectures associated with that and tests
25 associated with the lectures for blood-alcohol analysis

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 506

1 and then given a test that you have to pass, along with
2 learning how to analyze the samples. And then, you're
3 given X amount of samples, and you have to compare that
4 to a known.

5 And then, after that portion, we're given a mock
6 trial. If we don't pass the mock trial, I wouldn't be
7 here. And then from there, we continue on to our drug
8 training. So that's learning how to extract the
9 different drugs out of biological matrices, how to
10 interpret that. And then, once I'm done with that
11 portion of my training, mock trial again, and then if I
12 don't pass that, I wouldn't be here.

13 Q So you passed everything?

14 A Yep.

15 Q And how long have you been doing this?

16 A It will be 13 years in January.

17 Q And do you get ongoing education, or do you just do
18 that once and that's it?

19 A No. We try to do as much ongoing training as we can
20 possible, whether it be i- house, online, or going to
21 different conferences.

22 Q And have you ever been qualified as an expert?

23 A Yes.

24 Q And what were you qualified as an expert in?

25 A In toxicology or forensic toxicology.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 507

1 Q And was this in South Carolina?

2 A Yes.

3 MS. SAMPSON: Your Honor, at this time, I'd ask to
4 qualify Ms. Brown as an expert in forensic toxicology.

5 THE COURT: Any voir dire?

6 MS. EIGENBROT: No, Your Honor. No objection.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, Ms. Brown will be qualified as an expert in the
9 area of forensic toxicology to give opinion testimony in
10 that matter. Thank you.

11 Q So can you tell the jury: What do you do when you
12 first receive a sample or any samples that you test?

13 A Sure. It -- it depends what kind of case we get in.
14 But generally, you're going to review the data that's
15 already given to you, along with the history to kind of
16 know where to work the case. So -- and it depends on the
17 type of case on what further is done. So if something is
18 positive, we need to confirm it or quantitate it.
19 Depending on the case, it might go on for additional
20 testing besides just confirming the drugs that screen
21 positive.

22 Q So I wanted you to look at what you did in this case
23 and tell the jury about that.

24 A Sure. In this case ----

25 Q And before you start, this is what you were doing

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 508

1 back in 2016?

2 A Correct. What was done in this case was it was the
3 blood was analyzed for volatiles, which is like your
4 ethanol, and -- which is your drinking alcohol. And
5 then, a drug screen was done on the sample and then
6 whatever was screened positive was confirmed.

7 Q And ---

8 A And quantitated.

9 Q --- how does the blood come to you? Like, how do
10 you get it?

11 A It comes into a heat-sealed pouch. And I'm sorry
12 that we don't have something I can show you. But it's a
13 heat-sealed pouch. And then, the evidence is contained
14 within.

15 It's also photographed by our department so you have
16 a history of the inventory. We don't necessarily keep
17 every single, like, baggy it came in. But it's all
18 photographed to preserve what it looks like.

19 And then, I'll have it in a heat-sealed pouch, so
20 when I need to pipette out a sample, then I'll strike
21 through the bag, and it's tamper-evident too, so if
22 something's been cut and not sealed back, we'll know. So
23 I will cut into the bag and pipette out what I need to.

24 Q And would you test something if it didn't come
25 properly sealed?

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 509

1 A No. It would be something that I would have to go
2 to my lieutenant, let them know, and then further make
3 decisions on what to do.

4 Q So in this case, you received blood. Was it
5 properly sealed?

6 A Yes.

7 Q Okay. And did you take photographs and do what you
8 just said?

9 A Yes. It was inventoried by our technicians.

10 Q And did you receive any other samples?

11 A Yes. Besides that, we received urine, brain, liver,
12 kidney, and ocular.

13 Q Did you test all of that or just the blood?

14 A No. It depends on the type of case. But
15 traditionally, in this type case, it will be only the
16 blood unless we run out of sample.

17 Q Okay. So you tested the blood in this case?

18 A Uh-huh.

19 Q How do you test the blood?

20 A Not an easy question, per se, but we have different
21 instrumentation we use. Depending on the type of sample
22 and the type of analysis needed will depend on the
23 instrumentation. So essentially, easy way of saying it
24 is we pipette out a sample. We extract the sample with
25 the known extraction methodology, and then we'll put it

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 510

1 on the instrumentation along with calibrators and
2 controls and all the quality control we need to.

3 It will run on our instrumentation. We'll get our
4 results; put together a quality-control pack. That
5 quality-control pack is then given to someone to review.
6 Once it's reviewed approved, then we process and get data
7 back, and then it will be approved from there and given
8 to ---

9 Q And was that done in this case?

10 A Yes.

11 Q And can you tell the jury what testing -- what you
12 found in your testing?

13 A Yes. So in this case, the femoral blood screened
14 positive for cocaine metabolite and cannabinoids. So it
15 confirmed and quantitated positive for cocaine at a 0.07
16 milligram per liter; benzoylecgonine, which is also known
17 as BE, which is a metabolite of cocaine at greater than 1
18 milligram per liter; tetrahydrocannabinol, which is the
19 active component in marijuana, and to make it short, THC,
20 and that was at a 2.8 microgram per liter; and then 11
21 carboxy tetrahydrocannabinol, so metabolite of marijuana,
22 active part of -- the THC being the active part. And so
23 that was at 5.1 micrograms per liter.

24 Q Okay. So I'm going to break that down. That's a
25 whole lot of stuff.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 511

1 A Yes.

2 Q So is it -- do you have who this -- the blood that
3 you were testing, who it was?

4 A Yes. The label -- so we put on our reports how
5 everything is labeled. So the label would have said
6 femoral blood and then we say labeled, James Turner, and
7 then we have for this portion, the coroner has a specific
8 number associated with their cases. So we have it
9 written down as FA 16 441, and then it says RCCO for
10 Richland County Coroner's Office. And 2016 00 3557.

11 Q And you said femoral blood. Is that different from
12 regular blood, like ---

13 A They just tell you the location in which they took
14 the blood.

15 Q And so let's start with your first test. You said
16 he tested positive for cocaine?

17 A Correct.

18 Q And is that active cocaine, or what does that mean?

19 A Yes, that means it is active. So when we see
20 cocaine itself, we know that it's active at that point.

21 Q Is there anyway to tell when that cocaine was
22 ingested or however?

23 A No. Because unfortunately, we don't know what the
24 starting concentration is. So I can't tell you
25 necessarily if they took a high dose and where -- you

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 512

1 know, it's been hours and hours later, or if they took a
2 very small dose and it's current.

3 Q And what about the metabolites?

4 A The metabolites in this case, we have what we
5 consider high concentration of benzoylecgonine. And so
6 typically that level is going to be that high if they
7 took a higher dose. And in this case, cocaine is a drug
8 that has a half-life of about an hour. It takes --
9 depending ----

10 Q What does a half-life mean?

11 A So it's the time it takes half the drug to be out of
12 your system. So let's say you start at one and you have
13 a half-life of an hour. So an hour later, you'll be at
14 0.5 whatever the units are, and then an hour later,
15 you'll be at 0.25 and so on and so forth. So cocaine is
16 a drug that has a half-life of about an hour. And so
17 depending on the starting concentration, we can see it
18 anywhere from six and eight half-lives.

19 Q Okay. And based on that, can you tell how long the
20 metabolites have been in his system or how long it took
21 to get to that level of metabolites?

22 A I can't necessarily tell you if it's a like a 1 to
23 1. So if you get one cocaine unit and you get one BE,
24 but benzoylecgonine, BE, has a half-life of six hours.
25 So we'll actually see it longer. Same thing again,

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 513

1 depending on what the starting concentration is -- you
2 can see it for six to eight half-lives. So in this case,
3 six hours times six to eight, so 36 to 48 hours.

4 Q Is that your estimation of ---

5 A Right. I can't necessarily say it was this time,
6 but yeah.

7 Q Okay. And what about -- you said there was active
8 THC?

9 A There is active THC. But there has been some
10 research done to say that in death cases, I can't
11 necessarily tell you if that was active at the time
12 because THC is a unique drug in that it actually is fat
13 soluble. So what that means is -- especially with
14 chronic users, it will actually go into your fat and then
15 over time, especially after death, it can come back out
16 of your fat. And so we don't necessarily know if that is
17 because it was like a chronic use and leeching back out
18 of the fat, or that was something where it was active at
19 the time and so -- used at the time.

20 Q So just so I understand what you're saying, with the
21 cocaine, when you say it's active, you can say it's
22 active because it doesn't move after death?

23 A Right.

24 Q Marijuana can move after death. Is that the short
25 version of what you said?

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 514

1 A Yes. And, I mean, it all depends on concentrations,
2 chronic use. There's some factors, but yeah.

3 Q And then, there was also with the marijuana
4 metabolites of marijuana?

5 A Yes. We had one of the metabolites of marijuana,
6 which is inactive. And that's the 11-carboxy
7 tetrahydrocannabinol or THC, so 11-carboxy THC. There is
8 another one, but that was not found.

9 Q And can you -- how long can metabolites be in your
10 system, or is there -- for marijuana?

11 A Oh, I don't remember -- sorry -- the half-life off
12 the top of my head for marijuana. But depending -- like
13 I said, just depends on the concentration, really, that
14 you start with, so no. But depending on the
15 concentration and half-life, in theory, six to eight
16 half-lives.

17 Q And I've heard that marijuana can be in your system
18 30 days. Is that true?

19 A I mean, it really would depend on what you're
20 taking, but at that same time, it's very more likely if
21 that's the case then you're chronically using it.

22 Q And the levels that you find, is there anyway to
23 establish how a person reacts with those levels in their
24 system?

25 A Alcohol is a unique thing in that you can say at

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 515

1 this concentration you have these effects. You don't
2 necessarily have that with other drugs. You have
3 generalized types of things. So cocaine is a drug in
4 which you have an early-stage and a late-stage effects.
5 So your early stage is stimulant type of effects. So you
6 have the euphoria, the excitation, some other unique
7 things like sexual arousal and stuff with cocaine.

8 But when you crash or come down off of cocaine, you
9 have what we consider late-stage effects, which is
10 similar to that of a CNS depressant, so more like
11 alcohol. So you'll have the dysphoria, but also then you
12 said -- so THC, I can't necessarily tell you that was
13 active, but that is a type of drug that you'll have more
14 of the relaxed effects and possibly drowsiness, sedation.

15 Q And the levels that were shown in this, can you tell
16 whether it's -- the person was going up or down on
17 cocaine?

18 A No. I would say it's probably more likely to be
19 towards the late stage because of the higher level of the
20 metabolite of cocaine, but I can't necessarily
21 definitively say, especially in a death type of case
22 where we don't have anything else to go off of.

23 MS. SAMPSON: Beg the Court's indulgence.

24 (Off the record briefly.)

25 MS. SAMPSON: Thank you. No further questions, Your

CROSS-EXAMINATION BY MS. EIGENBROT - JENNIFER BROWN 516

1 Honor.

2 Q Please answer any questions the defense has.

3 THE COURT: Yes, ma'am.

4 MS. EIGENBROT: Thank you, Your Honor. May it
5 please the Court.

6 CROSS-EXAMINATION

7 BY MS. EIGENBROT:

8 Q Ms. Brown, I just have one question for you. You
9 can only test items that you receive during the course of
10 your business, correct?

11 A Sure.

12 Q Thank you.

13 A Yep.

14 THE COURT: All right. Anything else?

15 MS. SAMPSON: No, ma'am.

16 THE COURT: All right. You may step down. Any
17 objection to this witness being excused?

18 MS. EIGENBROT: No objection, Your Honor.

19 THE COURT: Ma'am, you're free to leave.

20 THE BAILIFF: Watch your step.

21 THE WITNESS: Uh-huh.

22 (Whereupon, the witness exited the witness stand.)

23 MS. SAMPSON: May we approach, Your Honor?

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held off the

1 record in the presence of the jury, but out of the
2 hearing of the jury.)

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, they tell me that the next witness may take a
5 little bit longer, and it's about 12:30. And so I think
6 this is probably a good time for us to take our lunch
7 break. To give you all an opportunity to get in and out,
8 we'll start back at two o'clock. We'll start back at two
9 o'clock.

10 Remember, please do not discuss the case with
11 anyone. Please do not -- it's also improper for you to
12 form any opinion at this point in time. So I will see
13 you all back at two o'clock. Have a good lunch. Thank
14 you.

15 (Whereupon, the jury exited the courtroom at 12:31
16 p.m.)

17 THE COURT: No. I was just wondering who ---

18 MS. SAMPSON: I -- I don't know. If that's who --
19 well, is that who you're talking about?

20 THE COURT: Yeah.

21 MS. SAMPSON: I don't know who that is.

22 THE COURT: But they've been in here for the trial.
23 I was -- let -- let me see you ---

24 MS. SAMPSON: Yeah.

25 THE COURT: --- all one second.

1 (Whereupon, a bench conference was held off the
2 record.)

3 (Off the record briefly.)

4 THE COURT: All right. So we'll see you all back at
5 two.

6 (Off the record from 12:35 p.m. to 2:26 p.m.)

7 (Whereupon, State's Exhibits 87 through 91 were
8 marked for identification while off the record.)

9 THE COURT: All right. We ready?

10 MS. SAMPSON: Yes, ma'am.

11 THE COURT: Okay. Let's bring them in.

12 THE BAILIFF: Yes, Your Honor.

13 (Whereupon, the jury entered the courtroom at 2:26
14 p.m.)

15 THE BAILIFF: Jury is seated, Your Honor.

16 THE COURT: All right. I hope you all had a good
17 lunch. We're ready to -- we will continue with our case.
18 I'll ask the state to call their next witness.

19 MR. MCGLOTHIN: Thank you, Your Honor. The state
20 calls Brittany Steen.

21 (Whereupon, the witness came forward.)

22 BRITTANY STEEN, having been first duly sworn,
23 testified as follows:

24 DEPUTY CLERK OF COURT: Thank you. Have a seat in
25 the witness stand, please.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 519

1 THE WITNESS: (Complied.)

2 DEPUTY CLERK OF COURT: State your name for the
3 record and spell your name for the court reporter.

4 THE WITNESS: Brittany Steen: B-r-i-t-t-a-n-y; last
5 name, S-t-e-e-n.

6 DIRECT EXAMINATION

7 BY MR. MCGLOTHIN:

8 Q Good morning, Brittany. How are you today?

9 A All right.

10 Q How old are you?

11 A How old am I?

12 Q Yes.

13 A 25.

14 Q Okay. And where did you go to high school?

15 A Lower Richland.

16 Q Okay. Do you know Brian White?

17 A Yes, I do.

18 Q How long have you known him?

19 A Ten-plus years.

20 Q Okay. How did you first meet him?

21 A Honestly? He was my boyfriend before I was gay.

22 Q And how long -- you said that was about ten years
23 ago?

24 A Yes, sir.

25 Q And do you live here in Columbia?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 520

1 A Yes, I do.

2 Q And how long have you lived here?

3 A My whole life.

4 Q I'm going to take you back to December 7th of 2016.

5 Do you remember that day?

6 A Yes, sir.

7 Q What were you doing that evening?

8 A I was obviously in court. I was in court for two
9 weeks during that time for the entire time I was here. I
10 was in court every day.

11 Q And were -- was that involving you?

12 A No, it was -- it was the Nathan Martinez case. My
13 wife was a victim.

14 Q Okay. And were you staying here in town?

15 A They had us staying at the -- it's a motel on
16 Hampton street. I think it's the Marriott. Not sure of
17 their name anymore.

18 Q So you had a room there at the Marriott?

19 A Yeah. They paid for it.

20 Q And were you there that evening?

21 A Yes.

22 Q Who were you there with?

23 A My wife. And then, later on that evening -- later
24 on that night, Brian came over.

25 Q And who is your wife?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 521

1 A Elexia Tucker.

2 Q Okay. So can you kind of describe what y'all were
3 doing at the hotel that evening?

4 A Honestly, Brian hit me up; said he wanted to bring
5 this chick to the hotel so they could get in the hot tub
6 and, you know, chill without having to pay for a very
7 expensive hotel. So basically that's what we did. We
8 went up to the room; we got dressed.

9 We went down to the pool. We didn't get in the
10 pool. But we were in the hot tub, and we were in the
11 gym.

12 Q And when you say "this chick," who are you referring
13 to?

14 A The Nicole girl.

15 Q Did you know her at all?

16 A No. Just hearsay.

17 Q But did you meet her that day?

18 A Yes, I did.

19 Q So what happened while y'all were there? Any -- did
20 anything specific happen while y'all were there in the --
21 or in the hot tub?

22 A Not in the hot tub, no, sir.

23 Q Okay. Well, what about after?

24 A After we were done in the hot tub and whatnot, we
25 went upstairs to the hotel. And whenever we did, Brian

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 522

1 and Nicole took their phones because we didn't have them
2 downstairs with us -- they checked their phones, and
3 their phones had been blown up by Nicole's mother.

4 Q Do you know who Nicole's mom was?

5 A I met her that night.

6 Q Okay. What -- did you get a sense of what was going
7 on?

8 A Her crackhead boyfriend had stole the TV and a DVD
9 player again.

10 Q And how did Nicole -- what was her demeanor like
11 when she found this out?

12 A She was mad. She instantly started freaking out;
13 started yelling, telling her mom to calm down. She was
14 on the way; she was on the way; she was on the way.

15 Q What about Brian?

16 A Brian was -- he was mad. You know, he was like
17 again, you know. He was just as well trying to get to
18 her as well. She was saying that she was actually locked
19 out of the house, which I didn't understand how she knew
20 the TV was gone if she was locked out of the house. But
21 she said she was locked out of the house and that we
22 needed to come and unlock the door for her.

23 Q And ---

24 A And smoke with her because she was mad, I guess.

25 Q And you're going to have to verbalize everything so

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 523

1 the court reporter can take it down, just -- just so
2 you're aware. So did you go over to ---

3 A Yes, we did.

4 Q --- to her mom's house?

5 A Yeah.

6 Q Who all went?

7 A Me, Brian, Elexia, and the girl, Nicole.

8 Q Do you know about what time that was?

9 A Honestly, I gave a statement and I thought I knew
10 what times it was. But whenever I spoke with the private
11 investigator and she retraced my phone pings, I was
12 actually behind on time by -- or ahead of time, something
13 like that by like an hour or so. So my timing was
14 actually off.

15 Q So -- but -- I mean, were we talking 11 p.m, or 3
16 a.m. the next morning?

17 A No. I would -- I would say between 10 and 12, I
18 would say.

19 Q So do you remember who drove?

20 A Brian did.

21 Q Did everybody get in his car?

22 A Yes.

23 Q What -- what did he drive?

24 A A little gray Oldsmobile. It was very old.

25 Q Was there anything characteristic about it that you

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 524

1 remember?

2 A It was ugly. It was beat up. It looked like
3 something that wouldn't even drive anymore.

4 Q Okay. So what happened when you got to -- to their
5 home?

6 A She wanted us to go to the store and get -- the
7 mother, sorry, wanted us to go to the store and get her a
8 pack of cigarettes. So me and my wife drove from that
9 house to the El Cheapo right there on -- on Leesburg.
10 And I brought everybody a pack of cigarettes, and then we
11 headed back to her house.

12 Q Okay. And what happened when you got back there?
13 Well, let's say when you got back, who was there?

14 A Brian, Nicole, the mother; and then, me and my wife,
15 of course.

16 Q What was -- what was Crystal's demeanor like, the
17 mother, when you got there?

18 A Panic. She was, like, in hysterics. She said she
19 was tired of it. She's tired of this crackhead doing
20 this to her. She's, you know, in hysterics, basically.
21 She's crying, and then she's mad, and then she's crying,
22 and then she's mad, and she's crying, and she's mad. She
23 was just in all around hysterics over a flat-screen TV.

24 Q And what about Nicole?

25 A She was more than in hysterics. She was mad, you

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 525

1 know. She was -- basically, all in all, I had to explain
2 it. She was tired of seeing her mother get treated like
3 this by someone, basically.

4 Q And what about Brian?

5 A Brian did his little knee shake as always. He, of
6 course, got mad, but he was just sitting over there
7 shaking his knee, mostly.

8 Q What do you mean by shaking his knee?

9 A (Gestured.) Like this. I mean, I don't know how to
10 ---

11 Q I understand.

12 A Yeah, okay.

13 Q It's hard to put into words. And so did you talk to
14 Brian while you were there?

15 A Yes.

16 Q And what did y'all talk about?

17 A And -- are you asking if -- while we were texting,
18 or are you asking while we were speaking verbally?

19 Q Were you texting that night as well?

20 A Yes, we were.

21 Q Well, what did he say -- what did you talk about
22 verbally?

23 A Verbally, not too much. Mostly who is going to roll
24 this blunt or hit or stuff like that?

25 Q Okay. And what about the texts?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 526

1 A The texts was more of this -- he was basically
2 telling me the same thing, like he was tired of the dude
3 doing the mom and the girl like that too. And so he was
4 -- he was mad and I was telling him that: You know, it's
5 not worth it, bro. It's a TV. You know, it's not worth
6 it.

7 Q Okay. And did he say he was going to do anything
8 about it?

9 A The only thing he said was, "I'm going to handle
10 it."

11 Q Was that -- just to be clear, was that text or
12 verbal?

13 A I do not remember.

14 Q Okay. So at some point, did you leave the house?

15 A Yes. Me, Brian, and my wife did.

16 Q Do you remember when that was?

17 A In between -- I want to say 2 a.m. and 3 a.m, I want
18 to say. Like I said, this was three years ago.

19 Q I understand. And so would you say you were there
20 for a long time or ---

21 A Yeah. We were there long enough to smoke two blunts
22 and chop it up for a little bit.

23 Q Okay. So then, did you ride back to the hotel with
24 Brian?

25 A Yes.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 527

1 Q In his car?

2 A Yes.

3 Q Okay. Did you have any more conversations with him
4 on the way back?

5 A Not really. I was -- I had popped a lot of pills
6 that night, as had Brian, and as had my wife. Pretty
7 much the car ride back, Brittany was sick, so ---

8 Q But Nicole and Crystal did not come back with you?

9 A No, they did not. They wanted to -- well, Brian
10 wanted them to. And the mom was like, you know, I'm
11 good, you know, I'm going to stay here, so that was that.

12 Q What do you mean by Brian wanted them to?

13 A Brian figured that the crackhead dude was coming
14 back that night and they were already mad and upset. So
15 Brian said just go to the hotel for tonight with us.

16 Q Okay.

17 A There's an extra bed. There's no problem. Y'all
18 can just sleep with me, and that was it.

19 Q Were you okay with that?

20 A Yeah.

21 Q And ---

22 A I mean, I didn't like the girl, but I wasn't going
23 to tell him no. That was one of my best friends.

24 Q So -- but what happened when you got back to the
25 hotel?

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1 A When we got back to the hotel, I threw up on the way
2 in the hotel. And into the elevator, I threw up again.
3 And then, into the hotel room I threw up again.

4 Brian walked in shortly after that. I passed out
5 within the first ten minutes of being there. After I
6 walked into the bedroom -- after I walked into the hotel
7 room and threw up, I passed up within the first ten to
8 fifteen minutes of being there. But Brian did lay down
9 next to me in the bed, and I asked him if he was going to
10 sleep, and he said yeah.

11 Q Okay. So when did you wake up?

12 A Roughly about seven-something that morning, I want
13 to say. And I woke up and I went downstairs immediately
14 to smoke a cigarette, because it was a nonsmoking hotel.

15 Q Was Brian there when you woke up?

16 A No, he wasn't.

17 Q Okay. When was the next time you'd see Brian?

18 A I didn't. I seen him in bond court the next time.

19 Q You don't remember talking to him sometime between
20 7:45 and 8 a.m.?

21 A Oh, yeah. I'm sorry. Yes. There was a phone call.
22 Yes, there was. I'm sorry.

23 Q What did you talk about on that phone call?

24 A Okay. I don't remember who called who, but I asked
25 him where he was because, of course, I went to sleep and

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 529

1 he was next to me, and I woke up, he wasn't. So I asked
2 him where he was. He told me he was on the way to Alex's
3 house, which is Jerry Rabon, to pick up some more clean
4 clothes, which is to come back to the hotel to take a
5 shower.

6 Q Okay.

7 A I was letting him stay there because supposedly Alex
8 was making him live in the car outside, not on the couch.

9 Q Okay. Did he mention anything about ---

10 A Yes.

11 Q --- Scott during that?

12 A Yes. He said, "Do you remember the crackhead that
13 we were talking about last night?"

14 And I said, "Yes."

15 And he goes, "Well, he's on the way to the hospital.
16 He got shot last night."

17 And I said, "Well, that must have been a crack
18 dealer."

19 There may have been a few other words in between,
20 but to sum it up, that was the conversation.

21 Q I'm going to show you what's been marked State's 88
22 for ID. Can you tell me if you recognize these?

23 A Yep.

24 Q What do those show?

25 A This is me and my wife walking into the hotel with

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 530

1 Brian walking into the hotel.

2 Q You can't show it to the jury.

3 A Oh, sorry.

4 Q But you can just look at it.

5 A Brian walking in and me and my wife walking in as
6 well. And then, this one is all four of us walking out,
7 I'm assuming. And here's me stumbling back in.

8 Q And do you -- does that accurately -- accurately
9 reflect your movements that night and basically ---

10 A Yeah.

11 Q --- when I say you, the whole group going to and
12 from the hotel?

13 A Yes, sir. I'm assuming this first one that you
14 handed me was probably us coming in from smoking the
15 first blunt.

16 Q Okay. And when would that have been?

17 A When they first got there. So ---

18 Q Earlier on ---

19 A --- I would ---

20 Q --- the 7th?

21 A Huh?

22 Q On the 7th?

23 A Yeah, when they first got there ---

24 Q Okay.

25 A --- on the 7th, if that's the correct date, I guess.

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1 Q Thank you.

2 MR. MCGLOTHIN: At this point, the state would ask
3 that State's 89 -- or excuse me -- 88, 89, and 90 be
4 admitted into evidence.

5 THE COURT: Any objections, 88 through 90?

6 MR. MARSH: No objection, Your Honor.

7 THE COURT: All right. Without objection they'll be
8 entered.

9 MR. MCGLOTHIN: Thank you, Your Honor.

10 (Whereupon, State's Exhibits 88 through 90 were
11 entered into evidence.)

12 MR. MCGLOTHIN: Beg the Court's indulgence for just
13 one minute.

14 (Off the record briefly.)

15 Q You said you do remember texting Brian that night?

16 A Yes, sir.

17 Q Okay. Was it a lot or a little?

18 A I -- like I said, I was messed up. But from the
19 text messages that -- that I got showed, it was a decent
20 amount of text messages, it seemed.

21 Q Do you remember talking to him about -- you made
22 mention of the comment about handling this?

23 A Uh-huh.

24 Q Do you remember the conversation that kind of flowed
25 from that?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 532

1 A Yeah, I think. He said he was going to handle it.
2 And I basically, you know -- honestly in my mind, I blew
3 it off because he's not like that. He's not that type to
4 even remotely get violent.

5 But, you know, I played my role. I -- "Bro, you
6 don't need to do that. You know, this is the
7 consequences. This is going to happen if you do," you
8 know what I'm saying?

9 If you could show me the text messages I could
10 probably evaluate a little bit better, but like I said,
11 this was three years ago.

12 Q If I show you the text messages, would that help
13 your ---

14 A Yeah.

15 Q --- memory?

16 A That's what I'm saying.

17 Q All right.

18 MR. MCGLOTHIN: I'm going to show her what's been
19 marked State's 87. This is the -- the text report.

20 Q And this the setting and looking through it. And
21 I'm going to direct your attention to . . .

22 So starting here at the bottom and onto the next
23 page if you -- see if that may help your memory.

24 A All right. Where -- which -- where at on the
25 bottom?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 533

1 Q Let me grab my copy.

2 (Off the record briefly.)

3 Q Sorry about that. So if you look -- if you see the
4 numbers there on the left side of the page?

5 A Okay. I understand that these are his text messages
6 now. Okay.

7 Q Yes. And -- and so do you see your phone number at
8 the time there?

9 A Yes, sir.

10 Q Okay. So I'm looking at number -- excuse me. We'll
11 start at No. 215, about midway down.

12 A Okay.

13 Q Going up from there?

14 A Going up?

15 Q Yes.

16 A Okay. You said 215, right?

17 Q Yep. It'll -- it'll be marked 215 in the far-left
18 side.

19 A Okay. Now, what's your question again?

20 Q So do you remember talking to him about kind of
21 helping him that night?

22 A Not necessarily helping him. I was more or less
23 just trying to get my aggravating ass wife home.

24 Q And is -- is the message at 211 what you mean by
25 that?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 534

1 A Yeah ---

2 Q All right.

3 A --- pretty much.

4 Q Okay.

5 A Well, actually ---

6 Q And what did ---

7 A --- that message 211 isn't from me.

8 Q It's -- it's to you; is that correct?

9 A Right ---

10 Q Okay.

11 A --- correct. Yeah.

12 Q And what did -- and that's -- do you remember him
13 sending that text?

14 A Honestly, I -- I don't really remember half of these
15 texts.

16 Q Okay.

17 A But, I mean, they're here. I mean, I remember
18 blankly, like, texting him, trying to -- like let's go,
19 let's go, let's go.

20 Q And how -- were you texting him -- do you remember
21 texting him throughout the night?

22 A What do ---

23 Q And into ---

24 A --- you mean ----

25 Q --- the morning?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 535

1 A --- throughout the night?

2 Q Like well ---

3 A After I got back to the hotel?

4 Q No, no.

5 A No.

6 Q No. Before that.

7 A Before that ---

8 Q Like while ---

9 A --- yes.

10 Q --- you were at Crystal and Nicole's house?

11 A I was texting him back.

12 Q Okay.

13 A Yeah.

14 Q And after that?

15 A I don't recall ---

16 Q Okay.

17 A --- too many text messages after that. I remember
18 talking to him that morning. And then I texted him later
19 on that evening when everybody was in court as well,
20 because he was supposed to come to the -- come back to
21 the hotel whenever I was done in court. Or he was
22 supposed to come back before then, but he was supposed to
23 be there when I got back from court, and he wasn't.

24 Q Okay.

25 MR. MCGLOTHIN: Beg the Court's indulgence for just

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 536

1 a minute.

2 (Off the record briefly.)

3 Q So you don't actually remember receiving No. 211
4 there?

5 A Honestly, I don't really too much remember any of
6 these.

7 Q Okay.

8 A I -- if you read my statement, I was pretty far off,
9 like . . .

10 Q So you don't remember him saying that he -- asking
11 that he bring Nicole and his mom to the hotel room back
12 with you tonight and then coming back here and waiting
13 and handling this?

14 A I don't remember the text messages. But, like, as
15 far as, like, remembering what happened that night, I do
16 remember him wanting them to come.

17 Q Okay. But you said he said something to the effect
18 of that earlier too, verbally, correct?

19 A To the mom?

20 Q No. To you regarding handling this.

21 A That's all he said, though.

22 Q Okay.

23 A He's just going to handle it.

24 Q Okay. Do you remember his demeanor at the time?

25 A I'm going to handle it. Like, that's it.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 537

1 Q Not ---

2 A Like ---

3 Q --- you couldn't ---

4 A I mean, he wasn't like -- he's sitting just like
5 he's sitting now. You know, like, he was normal. I
6 mean, yeah, he was mad. But he wasn't furious, like.

7 Q Okay.

8 A He just felt some type of way. There's a difference
9 in feeling some type of way and -- and being completely
10 and utterly pissed off.

11 Q So I'm going to draw your attention to 209 there.
12 So you don't remember texting him about taking his car
13 and how it would get boxed in?

14 A I said the whole boxed in thing because like I said,
15 I was trying to get my wife back to the hotel room. I
16 was honestly just doing anything to -- saying anything to
17 get her back to the hotel room.

18 Q But you remember ---

19 A Whether ---

20 Q --- sending ---

21 A --- I had to take the car or not.

22 Q But you remember sending that?

23 A I remember telling him that I would take the car.

24 Q Okay.

25 A I don't remember that entire message, so ---

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 538

1 Q Okay. Do you remember him responding that he was
2 already planning on leaving the car down the road?

3 A I do not. But it's here, so, I mean ---

4 Q Okay.

5 A --- but it was sent. I mean, they're just text
6 messages from three years ago. So ---

7 Q Okay.

8 A --- I mean, I can remember a little bit man ---

9 Q But is that ---

10 A --- but ---

11 Q --- is -- is that phone number the phone you had at
12 the time?

13 A Yeah, I believe ---

14 Q Okay.

15 A --- so. Yeah.

16 Q Were you -- hearing that from Brian, were you
17 concerned at all?

18 A Honestly, like I said, Brian's not like that. He's
19 always -- he's soft, you know. He's not -- and when he
20 says stuff like that, you don't take it to heart. You
21 just listen to him and let it -- let him get it off his
22 chest.

23 He's not -- he's soft. He's not a fighter. He's
24 not a -- you know, an aggressor. He's -- he's soft. I
25 mean, I don't know any other way to put it. So to answer

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 539

1 your question, I just honestly ignored, you know ---

2 Q I understand.

3 MR. MCGLOTHIN: Beg the Court's indulgence for just
4 one moment.

5 (Off the record briefly.)

6 Q So I'm going to take you back a little ways here.
7 Back when you're at the house where Crystal and Nicole,
8 yourself, Elexia, and Brian, all there. You mentioned
9 their demeanor was angry?

10 A Yeah.

11 Q It is -- is that ---

12 A The women were just being very dramatic about the
13 situation, like, yeah. They were angry, know what I'm
14 saying, but they were being very dramatic about it. It
15 was a -- it wouldn't have -- it shouldn't have blew up
16 like that, but you know what I mean.

17 Q Did they make any mention of what they were going to
18 do?

19 A The mama said she didn't want him around anymore. I
20 do remember that.

21 Q Okay. Do you remember them saying something about
22 beating his ass?

23 A Being what?

24 Q Beating his ass?

25 A The daughter, I believe, said something about

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 540

1 beating his ass. If I'm not mistaken, she wanted his ass
2 beat, is what she said.

3 Q Okay. And we already talked a little bit about what
4 Brian said. But when Brian said he was going to handle
5 this, how did Nicole and Crystal respond to that, if at
6 all?

7 A They were just amongst each other. They weren't --
8 I don't think they believed him either.

9 Q Okay.

10 A Yeah.

11 Q But they didn't -- you didn't hear them say anything
12 about trying to stop him.

13 A I'm -- no.

14 Q Okay.

15 A Right. Not that I recall.

16 Q And you said you don't remember any conversation in
17 the car ride back?

18 A No, sir.

19 Q Okay.

20 A I don't -- I don't -- I don't remember much from the
21 way back.

22 Q Do you remember giving a statement in this case?

23 A Yes, sir.

24 Q Okay.

25 A I was forced to.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 541

1 Q If -- if I show you a copy of it, would -- might
2 that help?

3 A Yeah.

4 Q Okay. I'm talking specifically about ---

5 A This one right here?

6 Q This one right here. And tell me if that refreshes
7 your recollection.

8 A I don't recall that. But if I said it at that
9 point, it may have happened. I mean, it honestly
10 probably happened, if I said it at that point. I don't
11 recall it today, though.

12 Q So you don't remember saying that when you were in
13 the car going back to the hotel, that he -- that Brian
14 pulled out a pair of brass knuckles?

15 A I do not remember that, but obviously I said it.

16 Q Okay. And that, again, he said he was going to
17 handle this?

18 A If I said it, then I ---

19 Q Okay.

20 A --- I just don't remember saying it.

21 Q But you do remember giving this statement?

22 A Yes, I remember ---

23 Q Okay.

24 A --- giving the statement.

25 Q And is that your signature there at the bottom of

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 542

1 the page?

2 A Yes, sir, it is.

3 Q Okay.

4 MR. MCGLOTHIN: Beg the Court's indulgence.

5 (Off the record briefly.)

6 Q I want to draw your attention back to that question
7 and answer that we were just referring to. Could you
8 actually read what's written there?

9 A That one statement you just showed me?

10 Q Yes.

11 A Okay. It says ---

12 Q Starting with the question.

13 A (As read): "Did Brian ever say how he was going to
14 handle Scott?"

15 "No. When we were in this car going back to the
16 hotel, Brian pulled out a pair of brass knuckles and
17 again said he was going to handle this nigga."

18 Q What was the last word on that?

19 A Nigga.

20 MR. MARSH: Objection.

21 Q Okay.

22 MR. MARSH: Relevant ---

23 THE COURT: What's ---

24 MR. MARSH: --- overly prejudicial.

25 THE COURT: Objection overruled.

1 MR. MCGLOTHIN: Thank you.

2 Q And, Brittany, just kind of in conclusion here,
3 you're actually charged in this case, aren't you?

4 A Yes.

5 Q Okay. And you're charged with conspiracy?

6 A Yes, sir.

7 Q Okay. We haven't -- the solicitor's office hasn't
8 promised you anything for this testimony at all, have we?

9 A Oh, no, sir.

10 Q And we haven't made you any promises, any --
11 anything like that?

12 A No, sir.

13 Q And you actually gave this statement prior to ---

14 A Well, I gave this statement because Cris Truluck
15 wouldn't let me go to bond court unless I gave it.

16 Q Okay. But this -- but your testimony here today is
17 not in return for any sort of benefit ---

18 A No.

19 Q --- for you?

20 A It's illegal.

21 Q Okay. Thank you. Please ---

22 A Uh-huh.

23 Q --- answer any questions the defense has.

24 THE COURT: Yes, sir, Mr. Marsh.

25 MR. MARSH: Thank you, Your Honor. May it please

1 the Court.

2 CROSS-EXAMINATION

3 BY MR. MARSH:

4 Q Brittany, I wanted to start by asking you -- you
5 were asked a bit about some phone call records. Do you
6 recall your phone number at that time in 2016?

7 A It -- it -- it -- it looks -- it looks familiar.
8 Yes, sir.

9 Q Okay.

10 A So ---

11 Q Could -- could -- could -- and what was that phone
12 number?

13 A You want me to read it off?

14 Q Yes, please.

15 A 910-260-██████.

16 Q Okay. Is that still your phone number?

17 A No, sir.

18 Q Okay. You mentioned that you'd known Brian for --
19 for ten-plus years and you -- y'all had actually dated at
20 some point. Around -- you said 25 now. How old were
21 y'all when y'all dated?

22 A I was in sixth grade, I want to say.

23 Q Okay. So quite a bit -- a bit ways back?

24 A Yeah.

25 Q Okay. And I think you mentioned you had not met

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 545

1 Nicole, but you -- I -- I -- but had heard about her from
2 Brian?

3 A Yeah, I had heard about her. But the first time
4 meeting her was at the hotel.

5 Q Okay. What did you know about Brian and Nicole's
6 relationship prior to meeting her?

7 A When Brian came to the hotel, he was telling me they
8 wasn't fucking. She was pretending that she had some
9 type of medical condition or something.

10 She didn't seem like she was too interested in Brian
11 at no -- in no way possible, you know. She just --
12 honestly to me, it seemed like a -- something that made
13 him feel all right and then something that made her not
14 be alone. That's -- when you look at it, that -- that's
15 how it seemed to me.

16 Q Fair enough. You had made a distinction between
17 feeling some kind of way, as you put it, which was how
18 Brian was, and what you described as completely and
19 utterly pissed off. Was there anyone at Crystal's house
20 when you when there that night that seemed completely and
21 utterly pissed off?

22 A Nicole, the daughter.

23 Q What about Crystal? Was -- was she more just upset
24 or angry ---

25 A Honestly ---

1 Q --- or both?

2 A --- she's a crazy bitch. She was going back and
3 forth ---

4 Q A mixture ---

5 A --- and ---

6 Q --- of both?

7 A Yeah. Like, she's crazy.

8 Q Okay. And do you recall that evening there being
9 any mention of a gun, getting a gun?

10 A No, sir.

11 Q Do you recall Brian ever saying he was going to get
12 a gun ---

13 A No, sir.

14 Q --- in reference to handling it or anything like
15 that?

16 A No, sir. Not that I recall.

17 Q In fact, you never saw a gun that night?

18 A No, sir.

19 Q Or that morning?

20 A No, sir.

21 Q The state asked you a couple of questions regarding
22 your statement. Do you still have that in front of you?

23 A Uh-huh.

24 Q Well, let me stop with that. Do you recall anyone
25 actually picking anything up, making a threat, or making

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 547

1 an exclamation about a threat?

2 A Not that I recall.

3 Q Could you read the middle question and answer just
4 to yourself to ---

5 A Which page?

6 Q --- refresh your recollection on page 3 of your
7 statement?

8 A You said read it to myself?

9 Q Yeah, just to refresh ---

10 A Okay.

11 Q --- your recollection.

12 A Yeah.

13 Q Do you now recall anyone picking anything up, making
14 any ---

15 A No, sir.

16 Q --- or not making any threats, but saying that they
17 could handle things themselves?

18 MR. MCGLOTHIN: Objection, Your Honor. He's asking
19 for hearsay.

20 MR. MARSH: Okay.

21 THE COURT: Sustained.

22 Q Did you see anyone pick up an ashtray?

23 A The -- if I'm not mistaken, the mother did.

24 Q Okay.

25 A Yes.

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 548

1 Q The state also asked you a couple of questions about
2 a text message that you sent to Brian related to a car;
3 is that correct?

4 A Yes, sir.

5 Q Do you recall ever speaking with Brian about the
6 issues with his car prior to that evening or that
7 morning?

8 A Can you explain that a little bit?

9 Q Sure. Had -- had -- were you aware of the -- I
10 think you -- you -- there were some issues about
11 releasing the -- let me move back to the text message
12 exactly. You mentioned an issue with the tags in your
13 text message to Brian; is that correct?

14 A Yes, sir.

15 Q Were you aware of that issue with his tags prior to
16 that evening?

17 A I don't ---

18 Q Okay. If -- if ---

19 A Yeah, I think so. I mean ---

20 Q If -- if it would help you, we've -- if you look at
21 the text messages, they -- they gave you a number. This
22 one is going to be No. 246, if you could read that to
23 refresh your recollection, silently.

24 A You said 226?

25 Q 246.

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 549

1 A 246. I -- I don't have a 246. Mine ends at 229.

2 Q I have a copy of that as well. There's 246 right
3 there. Looks like they didn't give you all of it.

4 A Okay. And what were you asking?

5 Q Just read -- read to yourself No. 246, and then I'm
6 going to ask you the question again after you've
7 refreshed your recollection.

8 A Okay.

9 Q So did -- did -- were you aware of Brian's issues
10 with his tags?

11 A Yes.

12 Q And did you give him any advice on -- on needing to
13 take care of that issue?

14 A Yeah.

15 Q And I'm sorry. I -- I'll give this back to you just
16 now. Could you let me know at what time -- did you text
17 Brian about that, the issue with his tags?

18 A Yes.

19 Q And what time did you do that on December 7th?

20 A It was 5:55.

21 Q And y'all hadn't -- had you met Nicole at this
22 point?

23 A No, I do not believe so.

24 Q You'd never met ---

25 A I should have still been at court.

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 550

1 Q Okay. You hadn't met Crystal?

2 A No, I do not ---

3 Q So you ---

4 A --- believe so.

5 Q --- were just sending advice to Brian about his tags
6 because Brian is your friend?

7 A Yes.

8 Q Okay. Thank you. You also mentioned that
9 Investigator Truluck wouldn't let you go to bond court
10 before you provided a statement?

11 A Yes, sir. I was actually -- he called me and said
12 that I was either going to be a suspect or I was going to
13 be a witness.

14 Q Okay.

15 A And I basically told him I didn't have anything to
16 do with the case that he was working on. And next thing
17 I knew, there were U.S. Marshals at my house, arresting
18 me.

19 Q What were you arrested for?

20 A Conspiracy to commit a murder.

21 Q What's your understanding of why they investigated
22 you and arrested you?

23 A These text ---

24 MR. MCGLOTHIN: Objection.

25 A --- messages.

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 551

1 THE COURT: Hold ---

2 MR. MCGLOTHIN: Speculation.

3 THE COURT: Sustained.

4 Q What was the process in which you provided your
5 statement to Investigator Truluck? How did that actually
6 play out?

7 A We -- they took me in the room at first and he
8 basically talked to me first. I gave him my statement
9 verbally, and he didn't type anything. Then we went over
10 it again, and he didn't type anything. And then the
11 third time, he typed it.

12 Then, whenever after he typed it, he gave it to me
13 to sign it. And I had to make him go back and make
14 corrections. I proofread it.

15 Q What kind of corrections did you need to make?

16 A If I still had the other one, I would be able to
17 tell you. But it was just certain -- the way he was
18 wording things, it wasn't ---

19 Q You ---

20 A the way that I was trying to word it.

21 Q Were you provided a copy of the one that you
22 revised?

23 A Yes, sir.

24 Q Okay. Were you a -- were you provided a copy with
25 the first one that you received, the first ---

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 552

1 A No.

2 Q --- one you did?

3 A No, sir. Because I didn't sign it.

4 Q Okay. So you only ---

5 A He threw ---

6 Q --- get the copy back when you signed it?

7 A Yes, sir.

8 Q Okay.

9 MR. MARSH: Beg the Court's indulgence.

10 (Off the record briefly.)

11 Q Brittany, do you usually read things before signing
12 them? Do you always -- is that your practice?

13 A No. Honestly, I only did it because it was Truluck.

14 Q Why is that?

15 MR. MCGLOTHIN: Objection.

16 A He ---

17 MR. MCGLOTHIN: I think this calls for character
18 testimony.

19 THE COURT: Is she about to say what he said?
20 Because she can't.

21 MR. MARSH: I don't know what she's going to
22 respond, Your Honor.

23 MR. MCGLOTHIN: May we approach, Your Honor?

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held off the

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 553

1 record in the presence of the jury, but out of the
2 hearing of the jury.)

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, we'll send you all out for a brief second.

5 (Whereupon, the jury exited the courtroom at 3:08
6 p.m.)

7 (Off the record briefly.)

8 THE COURT: All right. You can go ahead and ask her
9 the question in-camera.

10 THE WITNESS: Me?

11 THE COURT: No. He's going to ask the ---

12 THE WITNESS: Oh.

13 THE COURT: --- question and we're going to see what
14 you're going to say.

15 THE WITNESS: Oh.

16 Q Sorry. I forgot my question, the way I had phrased
17 it. But, Brittany ---

18 A What prior history?

19 Q Sorry?

20 A What prior ---

21 THE COURT: No. You asked ---

22 A --- history?

23 THE COURT: No. The question was: Was there a
24 particular reason why you read over the statement this
25 time. I think you said, "Do you normally read over stuff

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 554

1 before you sign it?" She said, "No."

2 MR. MARSH: Thank you, Your Honor.

3 THE COURT: See, y'all don't think I'm listening.
4 Okay.

5 A Basically, we had a prior interaction when I was, I
6 want to say, 15 -- maybe 14. Truluck tried to arrest me
7 on 13 burglary charges. If I'm not mistaken, it was 13.

8 He snatched me out of the house; put me in
9 handcuffs. And my DNA cleared my name, of course. But
10 he had supposedly had a video of something that looked
11 like me. And because of that, he came on someone else's
12 property and arrested me and searched their house for
13 absolutely no reason.

14 MR. MCGLOTHIN: Your Honor, I think we're -- again,
15 I think this -- while not directly, it is a character
16 attack on Investigator Truluck in dealing with
17 information that has nothing to do with this trial. It's
18 from -- and I'm trying to do the math in my head -- but
19 at least ten years ago in a completely separate case that
20 has nothing to do with this, other than the idea that she
21 doesn't believe our investigator because she got caught
22 up on charges that didn't end up being her.

23 THE COURT: I don't know -- she didn't say anything
24 about believe. She just said she just went back and -- I
25 think she didn't trust him, is what she's saying.

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 555

1 MR. MCGLOTHIN: Right.

2 MR. MARSH: Your Honor -- yeah.

3 THE COURT: And she can -- let's try not to get into
4 what happened ten years ago. She can just say: Based on
5 my previous interactions with him, I don't -- I don't --
6 I don't trust -- she can say she don't trust him or
7 whatever she want to say about him. That's her opinion.

8 MR. MCGLOTHIN: That's fine. As long -- I -- I just
9 want to keep out the -- the prior -- the -- the actual
10 information of the -- of the prior incident, not
11 necessarily that she doesn't trust him for just a -- for
12 the record.

13 THE COURT: We can add -- you understand, ma'am?

14 THE WITNESS: No. I need you to explain to me what
15 I'm ---

16 THE COURT: So the problem with getting into that
17 incident is we get into it with you here; when
18 Investigator Truluck gets on the stand, they can ask him
19 about the incident and what happened. And -- and it
20 really has nothing to do with this case right here, other
21 than you -- his question to you was why did you read this
22 statement before you signed it. And ---

23 MR. MARSH: A perfectly ---

24 THE COURT: --- I don't want ---

25 MR. MARSH: --- honest ---

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 556

1 THE COURT: --- to put words in your mouth.

2 MR. MARSH: --- summary -- yeah ---

3 THE COURT: But -- but if you can summarize it
4 without getting into the facts of what actually happened.
5 You follow me?

6 THE WITNESS: So I just need ---

7 THE COURT: If it -- if -- if it's because something
8 happened before and you don't trust him -- to answer his
9 question, his question is why did you go back and check
10 behind Truluck.

11 THE WITNESS: Because I don't trust Truluck because
12 of prior ---

13 MR. MARSH: Interactions.

14 THE WITNESS: --- like, interactions. Is that ---

15 MR. MARSH: However you want ---

16 THE COURT: Wherever -- however ---

17 MR. MARSH: --- to phrase it.

18 THE COURT: --- you want ---

19 THE WITNESS: Is that okay to phrase it that way,
20 though?

21 MR. MARSH: Yeah. Just -- we ---

22 THE COURT: I just ---

23 THE WITNESS: Okay.

24 THE COURT: --- I'm not going to tell you what to
25 say. I just don't want you to get into ---

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 557

1 THE WITNESS: No. I just don't want to say too much
2 in front of the jury.

3 MR. MARSH: That's our ---

4 THE COURT: I appreciate that.

5 MR. MARSH: Yeah. That's our ---

6 THE WITNESS: Trying to ---

7 MR. MARSH: --- concern too.

8 THE WITNESS: --- follow your ---

9 MR. MCGLOTHIN: No. Can we ---

10 THE WITNESS: --- rules here.

11 MR. MCGLOTHIN: Can we just go with I don't trust
12 him because of a prior interaction? I -- is that?

13 THE COURT: It's -- it -- I mean, of course, I don't
14 want to tell her witness what to say.

15 MR. MCGLOTHIN: Right.

16 THE COURT: But if she can avoid getting into what
17 the interaction was ---

18 MR. MARSH: Yeah.

19 THE COURT: --- of the ---

20 MR. MARSH: We're not ---

21 THE COURT: --- details ---

22 MR. MARSH: --- we're not trying to get into ---

23 THE COURT: The details of the -- whatever the
24 interaction was ten years ago that led to this distrust,
25 I don't ---

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 558

1 MR. MARSH: Yeah. We'd need ---

2 THE COURT: Okay.

3 MR. MARSH: --- the sentiment, not the specifics.

4 THE COURT: Huh?

5 MR. MARSH: We need how she felt in making the
6 statement, not the specifics of what happened however
7 long ago.

8 THE COURT: If -- unless you want y'all want to just
9 go back and retry that case too.

10 MR. MARSH: Nope, nope, nope, nope. We'd -- we'd --
11 I'd like to be done this week.

12 THE COURT: Okay. All right.

13 MR. MCGLOTHIN: Thank you, Your Honor.

14 THE COURT: All right. Everybody good? We can
15 bring them in?

16 All right. You can bring them back in.

17 (Off the record briefly.)

18 (Whereupon the jury entered the courtroom at 3:14
19 p.m.)

20 THE BAILIFF: Jury is seated, Your Honor.

21 THE COURT: All right. Yes, sir.

22 MR. MARSH: Thank you, Your Honor.

23 CROSS-EXAMINATION BY MR. MARSH CONTINUED.

24 Q Brittany, was there a particular reason you decided
25 to read it -- see about revisions?

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 559

1 A Yes. Because I don't trust Officer Truluck because
2 of prior interaction.

3 Q Thank you.

4 MR. MARSH: No further questions, Your Honor.

5 THE COURT: All right. Thank you.

6 Yes, sir.

7 MR. MCGLOTHIN: Briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. MCGLOTHIN:

10 Q Brittany, the defense just -- they were asking you
11 about specifically Nicole being pissed off ---

12 A Uh-huh.

13 Q --- prior. But you actually said that everybody was
14 mad, correct?

15 A I mean, everybody felt some type of way. Yes. But
16 Nicole was more pissed off than anybody, which is what I
17 thought they were asking me.

18 Q Okay. And I'm going to refer to your -- your
19 statement again. On page 2, if you will, right in the
20 middle of the -- starting right here, "They all started
21 talking . . ."

22 A Yeah. They all started talking shit.

23 Q Could you please read there until ---

24 A Well ---

25 Q --- dude ---

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 560

1 A --- give me your paper because ---

2 Q No.

3 A --- yours is underlined. All right.

4 Q I'll follow along on this one.

5 A (As read): "They all started talking shit and after
6 -- after they got high, she wasn't as pissed off anymore.
7 They were saying how they were going to beat his ass and
8 shit. They said that they didn't want him living at the
9 house anymore. It was Brian, Nikki, and the mom talking
10 about it. After a little bit, Brian mentioned him
11 waiting -- him waiting the girl and mom coming back to
12 the motel with us so he could stay there and wait on old
13 dude."

14 Q Okay.

15 A I do not recall that, but I guess I said it.

16 Q Okay. And when you -- you made this statement back
17 in 2016 ---

18 A Yeah.

19 Q --- correct?

20 A Yeah.

21 Q And when you made this statement, as you just told
22 the -- the defense, you actually went back to make
23 changes that you felt didn't correctly word it?

24 A Yeah.

25 Q But is this -- but you were trying to tell the truth

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 561

1 then, and that's why you did that, right?

2 A Yeah. I'm still trying to tell the truth.

3 Q Okay.

4 MR. MCGLOTHIN: Beg the Court's indulgence.

5 (Off the record briefly.)

6 MR. MCGLOTHIN: All right. No further questions.

7 THE COURT: Yes, sir. Anything else, Mr. Marsh?

8 MR. MARSH: No further questions, Your Honor.

9 THE COURT: Any objection to this witness being
10 excused?

11 MR. MCGLOTHIN: No, Your Honor.

12 MR. MARSH: No, Your Honor.

13 THE COURT: All right. Ma'am, you're free to leave.

14 THE WITNESS: Oh, man. They don't have the text
15 message?

16 (Whereupon, the witness exited the witness stand.)

17 (Off the record briefly.)

18 MR. PRATT: The state calls Trisha Odom.

19 (Whereupon, the witness came forward.)

20 TRISHA ODOM, having been first duly sworn,
21 testified as follows:

22 DEPUTY CLERK OF COURT: Thank you. Have a seat in
23 the witness stand.

24 THE WITNESS: (Complied.)

25 DEPUTY CLERK OF COURT: State your name for the

DIRECT EXAMINATION BY MR. PRATT - TRISHA ODOM 562

1 record and spell it for the court reporter.

2 THE WITNESS: Trisha Collins Odom. The spelling of
3 my last name is O-d-o-m.

4 DIRECT EXAMINATION

5 BY MR. PRATT:

6 Q Good afternoon, Trisha Odom. What's your title?

7 A I'm an investigator.

8 Q Investigator. And where are you currently employed?

9 A At the Richland County Sheriff's Department.

10 Q And how long have you worked there?

11 A For 20 years.

12 Q And how long have you been an investigator?

13 A For 19 1/2 years.

14 Q So it's fair to say that was your position back in
15 2016?

16 A Yes.

17 Q And what do you do at the Richland County Sheriff's
18 Department?

19 A I'm a senior latent-prints analyst. I take all of
20 the -- I'm one of the people who take the fingerprints
21 collected from crime scenes and try to identify them.

22 Q Okay. And what are the -- does your position
23 require any special education, certification, or
24 training?

25 A I've had a number of courses, yes.

DIRECT EXAMINATION BY MR. PRATT - TRISHA ODOM 563

1 Q Does your position, like, require those things,
2 though?

3 A It does not, but it's very helpful.

4 Q Are the methods that you use to analyze fingerprints
5 accepted in your field of study?

6 A Yes.

7 Q Would you say that the average person knows how to
8 analyze fingerprints?

9 A No, probably not.

10 Q Can you give the jury your educational background?

11 A Sure. I have a degree in criminal justice from the
12 University of South Carolina. In addition, I'm a
13 certified Class 1 police officer in the State of South
14 Carolina. And I have taken a number of courses that are
15 involved in the crime scene area. The ones that would be
16 applicable for what I'm doing now with latent prints
17 would be latent -- advanced latent analysis, logical
18 latent analysis, analysis of distortion in latent prints,
19 latent prints reducing erroneous exclusions, complex
20 latent-print examination, forensic ridgeology, basic
21 fingerprints, and advanced palm-print training.

22 Q Okay. Do you have any certifications?

23 A Yes. I'm certified as a latent-print examiner
24 through the International Association for Identification.

25 Q What kind of training do you do to keep up those

1 certifications?

2 A The same type of training that I just read out.

3 Q Okay. How long would you say you've been analyzing
4 fingerprints?

5 A Almost from the first day that I started in the
6 crime scene unit, or what we called forensics back then,
7 which has been -- it will be 20 years in December.

8 Q Have you ever been qualified as an expert in court?

9 A I have, approximately 35 times.

10 Q And what were you qualified as an expert in?

11 A Latent-print analysis or comparison.

12 MR. PRATT: At this time, I'd like to have the
13 witness as an expert to give opinion testimony.

14 THE COURT: In? As an expert in?

15 MR. PRATT: I'm sorry, in latent print and analysis
16 -- fingerprint analysis.

17 THE COURT: In latent-print analysis.

18 MR. PRATT: Yes.

19 THE COURT: Any voir dire?

20 MS. PINNOCK: No, Your Honor. No objection.

21 THE COURT: All right. Ladies and gentlemen of the
22 jury, this witness will be qualified as an expert in
23 latent-print analysis to give expert opinion in that
24 area. You can give that opinion whatever weight you feel
25 or desire. All right.

DIRECT EXAMINATION BY MR. PRATT - TRISHA ODOM 565

1 MR. PRATT: Thank you, Your Honor.

2 Q Were you involved in the case against Brian White?

3 A Yes, I was.

4 Q And what was your involvement?

5 A I was given a latent print that was ---

6 Q Pause right there -- I'm sorry. Can you go into
7 what a latent print is?

8 A Sure. A latent print -- we use the term latent
9 print as an umbrella term for any kind of print that's
10 collected from a crime scene.

11 Q Okay. Now, in this particular case, how did you
12 figure out the source of the latent print?

13 A In this particular case, I was given the latents,
14 and -- via an AFIS hit, I was given the name of a
15 possible subject.

16 Q Okay. And what do you do when you get that name,
17 that possible subject?

18 A So what we'll do is get the known fingerprint card
19 and we'll take that and compare it to the crime scene
20 print, the latent print, and we'll look at the small
21 details that are within the fingerprint and try to
22 determine if they were made by the same source.

23 Q And in this case, where did that latent print come
24 from or off of?

25 A It came from the exterior of driver's door on 2001

1 Dodge van.

2 Q Okay. And are the standards that you used in this
3 particular case -- are the standards you used to compare
4 the prints before and match -- sorry. Are the standards
5 you used in this case, are those the ones, the same ones
6 you talked about earlier, the ones that are universally
7 accepted or ---

8 A As far as the ---

9 Q --- or the ones that you used?

10 A --- methodology?

11 Q Yes.

12 A Yes, that's correct.

13 Q And were you able to make a match of that print?

14 A I was.

15 Q And who did that print come back to?

16 A To a James Turner.

17 Q James Turner?

18 Let me ask this: Are there always prints in
19 criminal cases?

20 A No.

21 Q If prints are found, are there always -- are you
22 always able to find a match to those prints?

23 A No.

24 Q Is it uncommon to not find prints in criminal cases?

25 A I don't have any statistics on that, but it's not a

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 567

1 huge surprise if no latents are developed from a crime
2 scene.

3 MR. PRATT: Beg the Court's indulgence.

4 (Off the record briefly.)

5 MR. PRATT: No further questions.

6 THE COURT: Yes, ma'am.

7 MS. PINNOCK: No questions, Your Honor.

8 THE COURT: All right. You may step down.

9 Any objection to this witness being excused?

10 MS. PINNOCK: No, Your Honor.

11 MR. PRATT: Not from the state.

12 THE COURT: All right. You're free to leave, ma'am.

13 THE BAILIFF: Watch your step.

14 (Whereupon, the witness exited the witness stand.)

15 MS. SAMPSON: The state calls Megan Fletcher.

16 THE COURT: Megan Fletcher? Okay.

17 (Whereupon, the witness came forward.)

18 MEGAN FLETCHER, having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. SAMPSON:

22 Q Can you spell your first and last name?

23 A My name is Megan Fletcher, M-e-g-a-n;
24 F-l-e-t-c-h-e-r.

25 Q And where do you work?

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 568

1 A I work for the South Carolina Law Enforcement
2 Division, commonly known as SLED, in the forensic-
3 services laboratory in the trace-evidence department.

4 Q And how long have you worked there?

5 A I've worked there approximately 12 years.

6 Q And what do you do there?

7 A In the trace-evidence department, I perform analyses
8 in gunshot residue, fire debris, paint, fibers,
9 explosive, pressure-sensitive tape, and general,
10 physical, chemical unknowns.

11 Q And do you receive training on how to do that?

12 A Yes, ma'am, I do.

13 Q Can you tell the jury what your educational
14 background is?

15 A I have a bachelor's degree from Chatham College in
16 biochemistry and English. I also have my master's of
17 forensic science from Marshall University, emphasizing in
18 computer forensics and forensic chemistry.

19 Q And in order to do your job, do you get training at
20 SLED or before you can go to SLED?

21 A While at SLED, I underwent in-house training for
22 every single discipline I'm competent and proficient to
23 perform analysis. So for each discipline, say gunshot
24 residue, I underwent a yearlong training program, and
25 that included oral, practical, and written examinations

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 569

1 regarding the history of the analysis of gunshot residue,
2 the instrumentations that's used, and how it's applicable
3 to forensics.

4 Q And let's just focus specifically on gunshot
5 residue. That training, do you have to get certified, or
6 how does that work?

7 A After my training program, I complete a competency
8 test that ensures that I'm able to perform the analyses
9 and SLED deems me competent.

10 Q And has that been done?

11 A Yes, ma'am, it has.

12 Q And have you ever been qualified as an expert
13 before?

14 A Yes, ma'am, approximately 29 times.

15 Q And have you ever been qualified as an expert in a
16 gunshot residue analysis?

17 A Yes, ma'am, I have.

18 MS. SAMPSON: At this time, Your Honor, I'd ask that
19 Ms. Fletcher be qualified as an expert in the field of
20 gunshot-residue examination.

21 THE COURT: Any voir dire?

22 MS. PINNOCK: No, Your Honor. No objection.

23 THE COURT: Ladies and gentlemen of the jury, this
24 witness will be qualified as an expert in gunshot-residue
25 examination.

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 570

1 MS. SAMPSON: Thank you, Your Honor.

2 Q So can you tell the jury: What is gunshot residue?

3 A So gunshot residue is everything that comes out of a
4 gun when it's fired. That includes the projectile
5 itself, the smoke, the fire, and also something that we
6 refer to as gunshot-primer residue. And that is the
7 components that come from the primer of the cartridge or
8 the case. And that's what I'm actually analyzing when I
9 analyze for gunshot residue. Gunshot-primer residue are
10 particles that are characteristic of that are molten or
11 round particles that contain the elements lead, barium,
12 and antimony.

13 Q And lead, barium, and antimony, those are the three
14 elements that are in gunshot residue?

15 A Yes, ma'am, they're the three elements that are in
16 the primer residue.

17 Q And if you find -- if you don't find all three, do
18 you still say it's gunshot residue? Can you explain how
19 that works?

20 A So in order for me to determine that it's
21 characteristic of gunshot-primer residue, it must contain
22 all three elements: lead, barium, and antimony. They
23 must be in a single particle, and that particle must look
24 round or molten so it looks like it's undergone high heat
25 or high pressure.

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 571

1 Q And how did you get evidence to test? How does that
2 work?

3 A Evidence is usually received into the laboratory
4 from an outside agency or from our own crime scene unit.
5 It's submitted to our evidence-control department, and
6 from the evidence-control department, it is then brought
7 up to our department for analysis.

8 Q And so I'm going to talk to you specifically about
9 testing, say, a victim for gunshot residue. If you know
10 that a victim had been shot, is it normal to test the kit
11 that you receive for gunshot residue?

12 A We will analyze the gunshot-residue kit. However,
13 there's very limited information that we can obtain from
14 that. Because the person has sustained a gunshot wound,
15 we do expect to find gunshot-primer residue on that
16 person. The gunshot residue comes out of the gun and it
17 travels along with the bullet. So essentially, it will
18 also travel towards the victim.

19 Q And I said a gunshot-residue kit. What is that?

20 A A gunshot-residue kit is the collection kit used to
21 test for any materials that are on an individual's hands.
22 And any individual who has been suspected to be in the
23 vicinity of a gun when it was fired can be tested.
24 Essentially, it's -- it looks like a stamp with a sticky
25 surface, and it's used to collect any material that's on

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 572

1 the person's hands.

2 Q And how long does gunshot residue stay on a person?

3 A On a living individual, gunshot-primer residue will
4 last on an individual for up to six hours. It only lasts
5 for six hours because it's an extremely fragile type of
6 evidence that's very easily transferred. So every
7 movement that somebody makes has a potential to remove it
8 from your hands. So if you wipe your hands, wash your
9 hands, stick your hands in your pocket, every time you
10 touch something else, you have the potential to remove
11 that evidence.

12 Q So if someone shoots a gun at, say, 8 and they're
13 not tested until 8 p.m, would you expect to find gunshot
14 residue? Would you even try?

15 A We would not analyze that GSR kit in our laboratory.

16 Q Because of what?

17 A Because in our in-house studies as well as external
18 studies by other individuals, it's been determined that
19 the prime opportunity to collect gunshot residue from an
20 individual is between the hours and one and four hours.
21 In our laboratory we will extend it to six hours;
22 however, beyond that time frame, any gunshot residue that
23 is remaining on somebody's hands has probably been
24 recontaminated.

25 Q So just to be clear, if somebody is not arrested

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 573

1 after -- if someone is not tested six -- more than six
2 hours after a shooting, it wouldn't do you any good to do
3 that kit. Is that what you're saying?

4 A SLED will not analyze a kit that's been collected
5 after six hours from the time of the incident.

6 Q And is that known to law enforcement? Like, do they
7 get -- does law enforcement get told this?

8 A Yes, ma'am. We have an evidence mission manual
9 which states that.

10 Q And so did you get -- receive anything in this case?

11 A In this particular case, we did receive one GSR kit
12 from James Turner.

13 Q And did you all test that?

14 A No, ma'am. There was no testing performed on this
15 test.

16 Q And to your knowledge, that's the victim in this
17 case?

18 A Yes, to my knowledge.

19 Q And, again, I think you said this, but would you
20 expect to find gunshot residue on a victim that's shot
21 six times?

22 A Yes, ma'am. I would expect to find gunshot residue
23 on any individual who has been shot, especially if it's
24 six times. In about 75 percent of our cases at SLED,
25 victims test positive for gunshot-primer residue.

DIRECT EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 574

1 Q And gunshot residue is done on the hands, correct?

2 A Yes, ma'am.

3 Q What if they were shot through the hand? Would you
4 expect to find gunshot residue?

5 A Yes, ma'am, I would.

6 Q Would it tell you anything if they had gunshot
7 residue on their hands if they were shot through the
8 hand?

9 A I would just be able to say that it was -- that it
10 was present. I wouldn't be able to offer any opinion as
11 to how it got there.

12 Q Thank you.

13 MS. SAMPSON: No further questions, Your Honor.

14 THE COURT: Yes, ma'am.

15 MS. PINNOCK: May it please the Court, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. PINNOCK:

18 Q How are you?

19 A I'm fine. How are you?

20 Q I'm doing well. Forgive me. You'll have to catch
21 me up just a little bit. You said there's two -- there's
22 two types of primer involved with shooting guns or ---

23 A There's a primer associated with the cartridge in a
24 gun, and that primer is what we're actually looking for
25 when we test for gunshot-primer residue.

DIRECT EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 575

1 Q And on guns isn't it true that it can eject --
2 depending on the make of the gun and, you know, I guess
3 where the openings are, that powder can escape from any
4 opening on a weapon?

5 A Yes, ma'am. On a semiautomatic the majority of it
6 comes out the muzzle of the gun, but can also come out of
7 the ejector port. On a revolver it will also come out of
8 the muzzle, but it will also come out through the
9 cylinder gaps on a revolver.

10 Q Okay. And that's how a person gets it on their hand
11 if someone is holding the gun, it would -- it somehow a
12 cloud would get on their hands?

13 A Yes, ma'am. It creates a cloud when that gun is
14 fired and then it deposits on anything within a vicinity.

15 Q What is that vicinity? Is it like a distance that
16 you work with or ---

17 A It's largely based on the type of gun, the type of
18 ammunition, and it's very specific to specific incidents.
19 So -- but in general, it can go about 3 feet to the
20 sides, 2 feet backwards. And then, there's been one
21 study that will put it approximately 18 meters or 60 feet
22 in front of the -- in front of the gun.

23 Q Okay. So if somebody fires a gun, you would expect,
24 if they were tested within that time period, to have some
25 evidence of gunshot residue on their hands?

DIRECT EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 576

1 A I wouldn't expect it because there are so many
2 variables that can remove it, but we will test it to
3 determine whether there is.

4 Q Isn't it also possible that GSR can get on a
5 person's clothing?

6 A Yes, ma'am, it is.

7 Q And the clothing can be tested if it's submitted,
8 right?

9 A Yes.

10 Q And the way you get -- you said the way you get
11 items to test -- either an outside agency or your own
12 investigators will submit it to your evidence control
13 department and then it comes to you for testing?

14 A Yes, ma'am, that's correct.

15 Q And so if an item -- let's say, you know, shirts,
16 were not submitted to SLED for testing, you would not
17 have had the opportunity to test it?

18 A That's correct.

19 Q And if the GSR kit was not done on someone's hands
20 within the parameter, within that one- to four-hour, you
21 know, good time period, you wouldn't have the opportunity
22 to test it?

23 A It's six hours, but that's correct.

24 Q Okay. So the only way you get any evidence to test
25 is if the law enforcement investigator submits it for

REDIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 577

1 testing?

2 A That is correct.

3 MS. PINNOCK: Beg the Court's indulgence.

4 (Off the record briefly.)

5 MS. PINNOCK: Thank you. I have no further
6 questions.

7 THE COURT: Yes, ma'am.

8 MS. SAMPSON: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. SAMPSON:

11 Q She asked you about clothing and testing clothing.
12 You said gunshot residue is fragile, correct?

13 A That's correct, yes.

14 Q So if clothing was put with other clothing with the
15 gunshot residue, would the gunshot residue come off?

16 A So for clothing, gunshot residue will remain until
17 it's actively removed. So any disturbance of that
18 clothing -- washing it, placing it in other -- in a
19 laundry basket, shaking it out, all of those activities
20 can remove the gunshot-primer residue.

21 Q So if it's put in a trunk with other clothing, that
22 could ---

23 A It could. Because every time it touches something
24 else, it has the potential to transfer.

25 Q And this -- and she asked you about -- you have to

RECROSS-EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 578

1 wait until things are submitted to you. Again, you tell
2 law enforcement if it's past the four- to six-hour
3 window, we're not going to test it even if you submit it,
4 correct?

5 A Yes. Law enforcement in our state is under the
6 understanding that after six hours, we will not test a
7 GSR kit from a living individual.

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

9 MS. PINNOCK: Very quickly, Your Honor.

10 THE COURT: Yes, ma'am.

11 RECROSS-EXAMINATION

12 BY MS. PINNOCK:

13 Q Just to clarify with clothing, you can't say that
14 there's no GSR present; or if it is present, how that can
15 be tested to find out, right?

16 A That's correct.

17 Q Okay. Thank you.

18 THE COURT: All right. You may step down. Any
19 objection to this witness being excused?

20 MS. PINNOCK: No, Your Honor.

21 (Whereupon, the witness exited the witness stand.)

22 (Off the record briefly.)

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, at this time, we will go ahead and take our
25 afternoon break. We will take about ten minutes for a

1 break. Please do not discuss the case. Thank you.

2 (Whereupon, the jury exited the courtroom at 3:38
3 p.m.)

4 THE COURT: And if the attorneys can hold tight one
5 second.

6 (Off the record briefly.)

7 THE COURT: All right. There's an issue you had --
8 you want to -- the e-mail?

9 MS. EIGENBROT: Yes.

10 THE COURT: Okay.

11 MS. EIGENBROT: I haven't -- Honor, I have not asked
12 because we -- she was the one that informed us. I don't
13 know how that all happened either.

14 MS. SAMPSON: What? Huh?

15 THE COURT: She informed you -- my law clerk?

16 MS. PINNOCK: So, Your Honor, I guess I'll put it on
17 the record, then. I filed a subpoena in this case with
18 the Richland County Sheriff's Department. The subpoena
19 was served on Ms. Joanna McDuffie, their legal counsel.
20 The request was for the department's new policies on
21 audio/video recording suspect interrogations.

22 At this point we did ask that Ms. McDuffie have that
23 material provided to us by Monday, the start of trial.
24 At this point I have not received it. I anticipating --
25 anticipate needing it for possible cross-examination with

1 the investigators.

2 It has now come to my attention that Ms. McDuffie
3 may have handed off the subpoena to either somebody at
4 the sheriff's department on this case or the state
5 themselves. I have yet to receive anything, but I -- I
6 don't know. She -- and she has not returned any of our
7 phone calls or any of our ---

8 THE COURT: Let me ---

9 MS. EIGENBROT: --- e-mails at this point.

10 THE COURT: Let me see you all one second.

11 MS. SAMPSON: I will tell you this is the first I've
12 heard of it, for the record.

13 THE COURT: Okay.

14 (Whereupon, a bench conference was held off the
15 record.)

16 (Off the record from 3:42 p.m. to 4:01 p.m.)

17 THE COURT: Y'all ready?

18 MS. SAMPSON: Yeah -- I'm sorry. Yes, ma'am.

19 THE COURT: All right. Bring them on in.

20 (Off the record briefly.)

21 (Whereupon, State's Exhibit 92 was marked for
22 identification.)

23 (Whereupon the jury entered the courtroom at 4:02
24 p.m.)

25 THE BAILIFF: Jury is seated, Your Honor.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT WATERS 581

1 THE COURT: All right. Call your next witness.

2 MS. SAMPSON: Thank you, Your Honor. The state
3 calls Robert Waters.

4 (Whereupon, the witness came forward.)

5 ROBERT WATERS, having been first duly sworn,
6 testified as follows:

7 DEPUTY CLERK OF COURT: Thank you. Have a seat in
8 the witness stand, please.

9 THE WITNESS:

10 DEPUTY CLERK OF COURT: State your name for the
11 record and spell it for the court reporter, please.

12 THE WITNESS: Robert Waters: R-o-b-e-r-t,
13 W-a-t-e-r-s.

14 DIRECT EXAMINATION

15 BY MS. SAMPSON:

16 Q Good afternoon.

17 A How you doing, ma'am?

18 Q Where do you work?

19 A Alvin S. Glenn Detention Center.

20 Q And what do can you do there?

21 A I work in professional standards.

22 Q What is professional standards?

23 A It's internal affairs. Investigations.

24 Q And as part of your job, do you keep records?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT WATERS 582

1 Q And can you tell the jury about the jail call
2 system? How do people make calls from the jail?

3 A Okay. When an individual is supposed to enter into
4 the jail, they're given an inmate number. Once they're
5 given an inmate number, they take that inmate number and
6 they use -- they set it up to make a four-digit PIN
7 numbers so that they can make calls. Any time they make
8 a call, all calls are prepaid by the family -- by the
9 family members.

10 Q Using that system, do you all keep those calls?

11 A Yes, ma'am. I'm the custodian of the calls.

12 Q And how do you keep the calls?

13 A They're managed through the company. As long as we
14 have the system, we can hold them up to five, five years.

15 Q I'm going to show you what's been marked as State's
16 Exhibit 92.

17 MS. SAMPSON: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q And do you recognize State's Number 92?

20 A Yes, ma'am.

21 Q And what is that?

22 A It's a jail call from Alvin S. Glenn Detention
23 Center.

24 Q And is that a call that's kept in the normal course
25 of your business?

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT WATERS 583

1 A Yes, ma'am.

2 Q And was -- you listened to this call?

3 A Yes, ma'am.

4 Q And was it -- is there anything different from that
5 call? Was it kept in the manner that it should have
6 been?

7 A It was.

8 MS. SAMPSON: At this time, Your Honor, I'd ask to
9 introduce State's Exhibit 92 into evidence.

10 THE COURT: Any objection?

11 MS. EIGENBROT: Your Honor, we would just renew our
12 earlier objections.

13 THE COURT: All right. It'll be entered over the
14 objection of the defense. And what's the number on that
15 one?

16 MS. SAMPSON: 92.

17 (Whereupon, State's Exhibit Number 92 was entered
18 into evidence.)

19 THE COURT: Yes, ma'am.

20 Q And just to be clear, you couldn't tell anybody who
21 was on that call, correct?

22 A No, ma'am.

23 Q Okay.

24 MS. SAMPSON: No further questions, Your Honor.

25 THE COURT: Any cross?

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 584

1 MS. EIGENBROT: No cross, Your Honor.

2 THE COURT: All right, sir. You may step down.

3 Any objection to this witness being excused?

4 MS. SAMPSON: Not from the state, Your Honor.

5 MS. EIGENBROT: No, Your Honor.

6 THE COURT: All right, sir. You're free to leave.

7 (Whereupon, the witness exited the witness stand.)

8 MS. SAMPSON: May I proceed?

9 THE COURT: Yes. Call your next ---

10 MS. SAMPSON: The state calls Scott McDonald.

11 (Whereupon, the witness came forward.)

12 SCOTT MCDONALD, having been first duly sworn,
13 testified as follows:

14 DEPUTY CLERK OF COURT: Thank you. Have a seat in
15 the witness stand, please.

16 THE WITNESS: (Complied.)

17 DEPUTY CLERK OF COURT: State your name for the
18 record and spell it for the court reporter.

19 THE WITNESS: Scott McDonald: S-c-o-t-t,
20 M-c-D-o-n-a-l-d.

21 DIRECT EXAMINATION

22 BY MS. SAMPSON:

23 Q Good afternoon.

24 A Good afternoon.

25 Q Can you tell the jury where you work?

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 585

1 A The Richland County Sheriff's Department.

2 Q And what do you do there?

3 A Currently, I'm a captain over property crimes,
4 burglary.

5 Q You're a captain?

6 A Yes.

7 Q Okay. Can you kind of walk them through how you got
8 to be a captain?

9 A I started out in investigations back in 1994 and
10 kind of worked my way up. I started in burglary.
11 Eventually I became sergeant in burglary a few years
12 after that. I then switched over to major crimes, which
13 was robberies, assaults, homicide, suicides, that type OF
14 thing; and worked in robbery for several years until I
15 made lieutenant. And after several years of being a
16 lieutenant, I did work up to the rank of captain about
17 five years ago.

18 Q So back in December of 2017 [sic], you were a
19 captain at that time?

20 A Yes.

21 Q And can you tell the jury how you became involved in
22 this case?

23 A As a captain in major crimes, I was responsible for
24 helping to supervise and assist any investigations that
25 may fall under my purview: assaults, carjackings,

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 586

1 robberies, homicides, suicides. This was a homicide that
2 had happened that morning. I was briefed by my
3 lieutenant, Kevin Eisenhower, when he had gotten words
4 and we made plans to assign to it, and Investigator
5 Truluck and Sgt. Robert Martin were assigned to look into
6 this further.

7 Q And is it normal for there to be two investigators
8 involved?

9 A Yes. We always have a lead and what we call a
10 secondary.

11 Q And did you go to the scene?

12 A I did later in the day. I did not that morning.

13 Q So what was your role in this case?

14 A I was checking in -- our office was down at Pineview
15 at the time, and I was checking in with Sgt. Martin and
16 Investigator Truluck throughout the morning as the case
17 was developing and more information was coming in.

18 Q And is that normally how you relay information to
19 each other?

20 A Right.

21 Q So what -- did you ever get any information about
22 Crystal Posey?

23 A Yes. Later in this afternoon, I had gotten word
24 from Investigator Truluck that Nicole Bryant had admitted
25 that Mr. White had committed this murder. They then did

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 587

1 a pretextual phone call where he confessed on that as
2 well. And at that point, after they took that statement,
3 it was decided we needed to talk to Crystal Posey further
4 to see if she had any knowledge or involvement in this
5 case.

6 Q And so what did you do based on that?

7 A Lt. Eisenhower and I myself rode to the incident
8 location on Patricia Drive and we were in my vehicle. As
9 we arrived, saw a white male talking to Ms. Posey outside
10 the vehicles. Kevin and I both looked at each other. I
11 said, "That looks like Brian White," and he agreed.

12 We got out. Lt. Eisenhower asked the white male his
13 name. He indicated it was Brian White.

14 Q And I want to stop you right there. At that point
15 the jury has already heard that he was then taken into
16 custody for something else unrelated. Did you talk to
17 him at that point?

18 A We asked for consent to search his vehicle.

19 Q Did he give it to you?

20 A He did.

21 Q So what did you do based on getting that consent to
22 search?

23 A I stayed with Mr. White in my vehicle, who was
24 handcuffed in my backseat. Lt. Eisenhower then searched
25 the vehicle.

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 588

1 Q Right then?

2 A Yes.

3 Q And did you know what you were searching for at that
4 point?

5 A Not exactly. We knew a firearm had been involved in
6 this, so we obviously were looking for the gun and for
7 the other evidence that may pertain to the case.

8 Q And did you find a gun in the vehicle at this time?

9 A No, we did not.

10 Q So what did you do to the vehicle -- or what did you
11 have done to the vehicle at that time?

12 A I had the vehicle towed to our impound to be further
13 searched and processed.

14 Q And is that normal procedure?

15 A Yes.

16 (Whereupon, State's Exhibit 93 through 95 were
17 marked for identification.)

18 MS. SAMPSON: I'm showing the defense what's been
19 marked as State's Exhibit 93, 94, and 95.

20 May I approach, Your Honor?

21 THE COURT: Yes.

22 Q Show you what's been marked 93, 94, 95 and ask if
23 you recognize it?

24 A Yes. This was the car belonged to Brian White that
25 we encountered when we showed up at the crime scene later

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 589

1 that day.

2 Q And do those pictures fairly and accurately depict
3 the White car on December 8th of 2016?

4 A They do.

5 MS. SAMPSON: At this time, Your Honor, I'd ask to
6 introduce State's Exhibits 93, 94, and 95.

7 THE COURT: Any objection?

8 MS. EIGENBROT: No objection.

9 THE COURT: Admitted without objection.

10 (Whereupon, State's Exhibits 93 through 95 were
11 entered into evidence.)

12 Q I want to show the jury -- so it's State's Exhibit
13 93. That's the car?

14 A That is the car.

15 Q And State's Exhibit 94 is the what?

16 A The front view of the same vehicle.

17 Q And then, State's Exhibit 95?

18 A The rear of the vehicle with the tag captured.

19 Q And that's the way you found it that day?

20 A Yes.

21 Q And after you had the -- after you had the car taken
22 to impound, what did you do?

23 A I then headed back to our office on Pineview Road
24 very close to -- not far from the crime scene with Mr.
25 White. I had made arrangements for Ms. Posey to be

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 590

1 transported by a line unit or uniformed division officer.

2 Q Why didn't you transport them together?

3 A We didn't want them to converse or talk in case Ms.
4 Posey was involved with this incident.

5 Q Okay. So would it be fair to say that you -- she
6 could have been a suspect at that time?

7 A We didn't know. She could be, yes.

8 Q So you -- you have her taken separately I think you
9 said. I interrupted you. And you said you went to
10 Pineview?

11 A Right. We transported Mr. White back to Pineview.
12 Lt. Eisenhower and myself went to my office and
13 Investigator Truluck and Sgt. Martin were talking to Ms.
14 Posey and we were just making small talk. We didn't talk
15 about the case at all with Mr. White.

16 Q And did you receive or get anything to do with Ms.
17 Posey's phone?

18 A Yes. I believe Investigator Truluck brought me her
19 phone. She had given consent for us to download it. I
20 then went to the Cellebrite machine that I had and was
21 able to download the phone for them.

22 Q And when you download the phone, what are you
23 getting off of the phone?

24 A A wide array of things: text messages, call logs,
25 contacts, photos, Internet searches, just a wide variety

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 591

1 of things.

2 Q So pretty much -- would it be fair to say anything
3 in the phone?

4 A Yes.

5 Q And did you ever speak again to the defendant or
6 have any interaction with the defendant?

7 A I did. As I was finishing up with this download,
8 Investigator Truluck came to me and told me that Mr.
9 White had confessed to the murder. He said it was a
10 verbal confession. They were going to take a brief
11 break, get him something to eat ---

12 Q I'm going to stop you right there. Back in 2016 how
13 did you all take statements?

14 A They were written.

15 Q And before you wrote them, how did you -- did you
16 talk to them or did you immediately start writing?

17 A No. We would talk to them and jot down notes. And
18 then we would get to a point where we'd want to put that
19 statement down on paper. And as we're typing on the
20 computer, we're constantly going back and forth, you
21 know, making sure this is how they want it to read, what
22 -- this was going to be their statement.

23 And then, on completion of the statement, we would
24 read it back to them and give them an opportunity to read
25 it themselves and make any changes they needed to make

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 592

1 before it was published. When I say published, I mean
2 before they sign it and we witness their signature.

3 Q And are these interviews recorded back in 2016?

4 A No, they were not.

5 Q Why not?

6 A We didn't have a camera system, no opportunity to do
7 it, and our policy at the time was that all statements
8 would be typed or handwritten.

9 Q So was there a way to -- other than maybe using your
10 own cell phone, was there a way to record a statement?

11 A No. That would be out of policy.

12 Q Out of policy. Are you supposed to do things that
13 are outside of your policy?

14 A No, we're not.

15 Q So did you ever have to do anything else for the
16 defendant?

17 A Yes, he requested -- when we asked him if he'd like
18 something to eat, drink, he requested -- I believe it was
19 two McDouble hamburgers and a drink from a McDonald's
20 restaurant that was just down the road.

21 Q And who went down there?

22 A I did.

23 Q So as it happened, you went down to McDonald's for
24 the defendant?

25 A Yes.

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 593

1 Q And when you came back, what happened?

2 A As I came back, I went -- Sgt. Martin was in his
3 office at his computer. The defendant was in front of
4 him. I sat just behind him because Investigator Truluck
5 needed to go start typing the warrants, make victim
6 notifications, and some other paperwork. So as he was
7 going over the statement and typing it up, I was there
8 for most of that statement.

9 Q So I want to talk to you a little bit about that.
10 He's being interviewed by Investigator Martin?

11 A Yes.

12 Q And was he a sergeant at that time?

13 A He was a sergeant.

14 Q Okay. So Sgt. Martin?

15 A (No audible response.)

16 Q Is anyone forcing him to talk?

17 A No.

18 Q Okay. And had he been advised of his rights?

19 A He had.

20 Q And how do you all do that?

21 A We do a written form where we read it to them and
22 allow them to read along with us. And I know I always
23 initial next to each sentence that they fully understand
24 their rights. And the very bottom part is called waiver
25 of rights where they agree to talk to us. They're doing

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 594

1 this voluntarily without threats or rewards, and it's
2 purely voluntary.

3 Q And in this case, you watched Mr. White give a
4 statement?

5 A Yes.

6 Q And let's just be clear: Do you see Mr. White in
7 the courtroom?

8 A I do.

9 Q Where is he?

10 A He's sitting at the defense table with a blue shirt
11 and a -- looks like a yellow and blue tie.

12 MS. SAMPSON: Let the record reflect that the
13 witness has identified the defendant.

14 THE COURT: So noted.

15 Q All right. And so that is who you talked to?

16 A Yes.

17 Q Any doubt in your mind that that is who you saw?

18 A No.

19 Q And when he was talking, what was his demeanor like?

20 A He was fully cooperative. He was alert, awake,
21 answering the questions as Sgt. Martin was going through
22 the statement with him once again and starting to type it
23 down.

24 Q And what did he tell you all, in terms of what
25 happened?

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 595

1 A He indicated -- he started from the beginning that
2 he had known Nicole, I think, for about a year or so.
3 They had been romantic at one point. Currently, they
4 were not. He no longer lived there.

5 That earlier the previous day he had taken her to a
6 doctor's appointment and after that, they returned to the
7 residence. I think it was around 5 or so. And according
8 to his statement, Mr. Turner was there, present at the
9 time. After a short period, they did go back to Marriott
10 hotel to meet up with Brittany Steen -- and I can't
11 recall the other girl's name -- where they went to the
12 hot tub.

13 They were there for some time. He did indicate that
14 both their phones at the time were dead, the batteries.
15 They left them in the room to charge. When they returned
16 from the hot tub, they did check their phones and saw
17 there was several calls and messages from Crystal Posey
18 relating to her not getting a ride home, having to break
19 into the residence, finding the TV gone, assuming that
20 Mr. Turner had stole -- taken the TV and sold it for
21 crack, and he was on a crack binge of some sort.

22 Q And so what did they do, according to Mr. White,
23 after finding that out from Crystal?

24 A All four of them left the Marriott and went to the
25 residence on Patricia Drive.

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 596

1 Q And what, according to him, happened once they got
2 there?

3 A Crystal was pretty upset and hysterical, I think;
4 tried to calm her down. And after a period of time, they
5 then left. Brian White, Brittany, and the other girl
6 went back to the Marriott. Crystal and Nicole stayed at
7 the residence.

8 Q And what did he do after he left the Marriott?

9 A I'm sorry?

10 Q What did he do -- he went to the Marriott, you said
11 ---

12 A Right.

13 Q --- with Brittany and her -- and Elexia. What did
14 he do after he left the Marriott?

15 A He left the Marriott earlier that -- later that next
16 morning around 5:30 or so to retrieve a firearm.

17 Q Did he tell you where he got the firearm from?

18 A He would not identify the party he got the gun from.

19 Q Did he tell you what kind of gun he got?

20 A He did. He said it was a 9-millimeter, if I could
21 refer to my notes.

22 Q You can refer to your notes.

23 A It was a Smith & Wesson 9-millimeter silver-over-
24 black pistol.

25 Q And what did he do once he got the gun?

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 597

1 A He drove his vehicle, the '89 Olds Cutlass, to the
2 end of Woodford Street and walked through a cut up to
3 Nicole's residence. When he got there, he saw the van,
4 looked into it, and saw Mr. Turner asleep across the
5 front seat.

6 Q And what did he do, according to Mr. White, when he
7 saw Mr. Turner in the front seat?

8 A He fired the firearm -- he recollected about six
9 times. Stated he then blacked out, but he did remember
10 jumping over a large tree that had fallen, going back
11 through the cut towards his car. He did indicate he'd
12 urinated his pants as well.

13 Q And did he see any police officers?

14 A He did. As he went through the cut and was coming
15 towards his cars, he saw a police officer coming down the
16 road, responding to the call. He flagged the officer
17 down and indicated that the shots had come from over
18 Patricia Drive and that one or some of the rounds had
19 actually whizzed by his head.

20 Q And did he tell you what he did with the gun after?

21 A He said he went in his car after the deputy went
22 past and drove to a wooden area off Watermelon Hill Road.
23 He ran into the woods, took the gun apart, and threw
24 different pieces of it in different parts of the woods to
25 get rid of it.

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 598

1 Q And did he talk about what he did with the clothing
2 after the incident that he was wearing?

3 A I believe he said they were -- they went in the
4 trunk of the vehicle.

5 Q Of his car?

6 A Yes.

7 Q Okay. And did he give you any indication of what
8 happened to Turner -- I'm sorry. Did he give you any
9 indication what he thought was going to happen after he
10 shot him?

11 A Yeah. Sgt. Martin -- was asked how he thought this
12 incident would end, and he responded that if things
13 didn't fall back on him, that the police would just think
14 this was a bad crack deal gone bad, something to that
15 effect. That's why the victim was murdered.

16 Q In all this statement he gave, during this time
17 period, was anybody making him talk?

18 A No.

19 Q And are you positive that he said those words?

20 A Yes, I am.

21 Q No doubt in your mind he was talking?

22 A No doubt.

23 MS. SAMPSON: Beg the Court's indulgence.

24 (Off the record briefly.)

25 MS. SAMPSON: That it. I have no further questions.

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 599

1 No further questions.

2 THE COURT: Yes, ma'am.

3 MS. EIGENBROT: Thank you, Your Honor. May it
4 please the Court.

5 CROSS-EXAMINATION

6 BY MS. EIGENBROT:

7 Q Good afternoon, Capt. McDonald. How are you today?

8 A Good afternoon.

9 Q You were mentioning that your rank of captain is
10 more of a supervisor, assistant-type role in active
11 investigations, correct?

12 A Right. I do get involved sometimes with the
13 interviews, and I do assist with the cell phone downloads
14 at the time, or cell phone tracking once we get that
15 information in as well.

16 Q But initially, what you knew about this case came
17 from the assigned investigators, investigator -- or Sgt.
18 Truluck and Sgt. Martin, correct?

19 A Correct.

20 Q They were the ones that had gone to the scene that
21 morning?

22 A That's correct.

23 Q And then came back to Pineview ---

24 A Correct.

25 Q --- right?

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 600

1 And then, there was a meeting and a briefing to
2 determine what the next steps were, correct?

3 A Right. We kind of got filled in on what they found
4 out and what they thought, you know, and one of the
5 unusual things was when they noticed that the officer had
6 been -- encountered someone by the name of Brian White
7 who was an ex-boyfriend, who seemingly was there out of
8 place when his address was in the northeast area of town
9 at the time. Kind of struck as something as being odd.

10 Q And so at that point, you all were interested in at
11 least speaking to Brian?

12 A At some point, yes. We still -- they had talked to
13 Crystal and Nicole out on the scene. And after we got
14 the briefing and discussed some things, it was decided
15 that they needed to be brought in for formal statements.

16 Q Right. And Nicole was brought in shortly thereafter
17 for her formal statement, correct?

18 A That's correct.

19 Q And that was approximately 1 in the afternoon, if
20 you remember ---

21 A Somewhere --- somewhere around there, I believe.

22 Q And you did not actually speak to Nicole?

23 A No.

24 Q You were not present in her interview?

25 A No.

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 601

1 Q So when you mentioned phone calls and what she said,
2 you were not present for any of that?

3 A No. That was based on briefing from Investigator
4 Truluck, now Sgt. Truluck.

5 Q And then the next part -- your involvement in this
6 case was going back to pick up Crystal, or at least that
7 was the intention at that time?

8 A That's correct.

9 Q And she was at the home when you went to pick her
10 up?

11 A She was standing outside with Mr. White as we
12 arrived. Yes.

13 Q Like you said, they were outside?

14 A Right.

15 Q And Mr. White actually approaches you guys?

16 A I don't recall if he approached us. They were both
17 standing next to the car in front of us. We got out and
18 approached them. I don't recall him coming towards us.

19 Q But he didn't try to run ---

20 A No.

21 Q --- right?

22 Didn't do anything weird, crazy, resist in any way,
23 shape, or form?

24 A No.

25 Q And when you asked his name, he identified himself?

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 602

1 A He did.

2 Q And at that point, I think it was that Lt.

3 Eisenhower was with you, right?

4 A Correct.

5 Q And he got Brian to sign a consent to search his
6 vehicle?

7 A I don't recall if it was a signed consent to search
8 or a verbal. I don't recall, but I know we did get a
9 consent to search the vehicle.

10 Q And his vehicle was there when you all were out
11 there?

12 A Right.

13 Q Or at least the vehicle that's been identified as
14 Brian's?

15 A That's correct.

16 Q And do you recall when that was towed to the impound
17 lot?

18 A We got out there, I believe, right around five-ish,
19 five or so. Once I got a line unit over there to take
20 care of the tow, I don't believe we stayed until the tow
21 truck got there. I think once the line unit got there,
22 we got one to transport and we got another one to standby
23 for the wrecker. So I don't know the exact time it was
24 towed from the scene.

25 Q But when you guys took Brian into custody, there was

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 603

1 somebody there with the vehicle and then it went to your
2 impound lot?

3 A Yes.

4 Q So it was secured that entire time?

5 A Yes.

6 Q And you kind of thought it was Brian when you guys
7 approached, right, because you had already ---

8 A We had seen pictures and we both looked at each
9 other, and we both believed it to Brian. Yes.

10 Q And obviously, in part, because he was a person of
11 interest, and you guys were thinking about talking to
12 him?

13 A Plus, the information I had learned just prior to us
14 heading that way was that he had confessed during a
15 pretextual phone call to this murder and also some text
16 messages from Nicole's phone that were implicating him.

17 Q So at that point, you had already downloaded or
18 someone had done loaded Crystal's -- or Nicole's phone at
19 that time?

20 A Correct.

21 Q And then you guys transport Brian, but Crystal is
22 also transported to Pineview?

23 A She was transported separately by uniformed division
24 officer.

25 Q Now, were you -- you were present at some point for

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 604

1 her interview. Maybe not the whole thing, but at some
2 point you were there?

3 A Crystal's.

4 Q Yes.

5 A I was in the building. I don't believe I was in the
6 interview. No.

7 Q I think, as you mentioned, you were then provided
8 her telephone at some point?

9 A Investigator Truluck, I believe, brought me her
10 phone. She had given consent for us to download her
11 phone.

12 Q And I think it's your testimony today you actually
13 hooked it up to the machine to do the download?

14 A I did.

15 Q And as I think you testified to on direct, those
16 downloads provide mountains of information?

17 A They do.

18 Q Those reports can be anywhere from 200 pages and up,
19 right?

20 A Right. I -- I know my -- I'm over the technical-
21 services unit too. And I know my investigators routinely
22 -- I think I had one a couple weeks ago they told me was
23 92 gigabytes worth of information, which would be quite a
24 bit of paper to print all that.

25 Q And as you mentioned, that includes text messages,

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 605

1 right?

2 A Yes.

3 Q Now, those are text messages that have not been
4 deleted; is that right?

5 A Our machine is actually, depending on the phone,
6 able to get deleted messages as well.

7 Q But if they are deleted, you would not know about
8 them prior?

9 A I -- if I physically looked at the phone and they
10 had been deleted, I wouldn't know they had been deleted.
11 But the machine is able to pull that information.

12 Q But not all phones?

13 A Not every phone.

14 Q And that includes calls, time lines, locations,
15 photographs, all of that stuff?

16 A That's correct.

17 Q Now, you -- you said you did the download. Did you
18 review the whole 358 pages of Crystal's phone at this
19 point?

20 A No, I did not.

21 Q Did you ever?

22 A I don't recall that I did. No.

23 Q Okay. Now, we also heard a little bit about Brian's
24 statement. You were not present for the initial portion
25 of the questioning, correct?

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 606

1 A No, I was not.

2 Q That was Sgt. Truluck and Sgt. Martin?

3 A That's correct.

4 Q And so you did not hear what was said prior to you
5 coming back with the McDonald's?

6 A Correct.

7 Q And I know we mentioned it was department policy at
8 that point in time to not record interviews?

9 A That's correct.

10 Q Now, it has become a policy for you all; is that
11 correct?

12 A It -- it is now currently our policy to record. We
13 have two interview rooms at our Pineview location and at
14 headquarters.

15 Q And the -- one of the major parts of that policy
16 include you recording these interviews for major crimes?

17 A Right. Violent crimes only.

18 Q And this would be a violent and/or major crime,
19 correct?

20 A Yes. Yes, it would.

21 Q Now, I know back then it wasn't policy.

22 A Correct.

23 Q But you would at least agree at this point that
24 having an audio/video recording of these statements could
25 be very helpful to law enforcement?

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 607

1 A It could, yes.

2 Q And it could also be helpful to the defendants?

3 A Possibly.

4 Q But we don't have that here?

5 A No, we don't.

6 Q And I think as Ms. Sampson mentioned, and you
7 indicated, the rooms were not set up at that point,
8 right?

9 A Correct.

10 Q Now, you did have -- we did have smartphones back
11 then, right?

12 A Right.

13 Q So hypothetically speaking, it could have been
14 recorded in some way, shape, or form?

15 MS. SAMPSON: Objection, Your Honor. She's asking
16 him to speculate. He's not an expert.

17 THE COURT: I'm going to sustain the objection, but
18 you can rephrase the question.

19 MS. EIGENBROT: Thank you, Your Honor.

20 Q You guys had smartphones, right?

21 A Yes.

22 Q They had recording capabilities?

23 A They do.

24 Q So at that point, you could have used your
25 smartphone to record the interview?

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 608

1 A No, I couldn't.

2 Q Because it's against the policy?

3 A It's against our policy.

4 Q Even though now it is the policy?

5 A Policies sometimes change. Yes.

6 Q And one of the few things you mentioned that Brian
7 said at that statement, he refused to tell you all where
8 he received the gun; is that correct?

9 A That's correct.

10 Q And we have now learned and now heard that he got it
11 from a good friend of his?

12 A That's correct.

13 Q Mr. Jerry Rabon?

14 A If he testified. I wasn't here for it, but that's
15 my understanding of where he got the gun. Yes.

16 Q And he also doesn't mention Nicole being involved in
17 this, right?

18 A No. Not whatsoever was she involved.

19 Q But it's also your understanding that they had a
20 relationship and he still cared about her?

21 A They did have a relationship. They were separated
22 at this time, but he still cared about her and they were
23 friends.

24 Q And one of the other things you mentioned was peeing
25 his pants when he was fleeing; is that right?

CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT MCDONALD 609

1 A That's -- that's correct.

2 Q And he told you the pants were in his car?

3 A I think we learned that later on, yeah, during the
4 -- the written part of his statement. Yes.

5 Q And the car was in your custody?

6 A It was.

7 MS. EIGENBROT: And beg the Court's indulgence.

8 (Off the record briefly.)

9 Q Capt. McDonald, you mention a phone call where Brian
10 allegedly confesses, correct?

11 A They did a -- they recorded a phone call between
12 Nicole and Brian where he confessed, is what I was told.
13 I have not heard that, but ---

14 Q So ---

15 A --- that's what I was told. Yes.

16 Q So him saying he got rid of the gun is a confession?

17 A I'm -- I'm sorry?

18 Q I know you never heard the call, but if I -- in that
19 phone call, he said he got rid of the gun?

20 A I don't know.

21 Q But if that was the case, that would not be a
22 confession, correct?

23 MS. SAMPSON: Objection, Your Honor. She's asking
24 for speculation.

25 THE COURT: Let me hear the question again.

REDIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 610

1 MS. EIGENBROT: Your Honor, I asked if he said, "I
2 got rid of the gun," if that would be considered a
3 confession.

4 MS. SAMPSON: If -- promising if he said that. He's
5 already said he doesn't know what it says.

6 THE COURT: All right. I'm going to overrule the
7 objection. He's the captain. He can -- I think ---

8 Q If he said ---

9 THE COURT: --- he can answer.

10 Q --- "I got rid of the gun," was that -- would that
11 be a confession for murder?

12 A No.

13 Q Thank you, Captain. I appreciate it.

14 THE COURT: Yes, ma'am.

15 MS. SAMPSON: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. SAMPSON:

18 Q So Capt. McDonald, she talked to you about the
19 policies. As a captain do you require people to follow
20 the policy?

21 A Yes, we do.

22 Q Okay. So if you recorded the call against policy,
23 what -- or recorded the interview against policy, what
24 would've happened?

25 A I would face disciplinary action, up to the point of

REDIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 611

1 possible termination.

2 Q Okay. And now you all -- the policy has since
3 changed, correct?

4 A That's correct.

5 Q Is that normal for policies to change?

6 A Yes. As technology changes through the years and
7 funding becomes available -- we didn't have body cams
8 back then either. We now have body cams. So as funding
9 becomes available for these things, yes. Policies do
10 change.

11 Q Okay. So it's -- was it -- the reason you didn't
12 record it so that you wouldn't have audio? Like, you
13 thought it was a bad idea?

14 A No.

15 Q Okay. Was it so that you wouldn't have any clue
16 what the defendant said?

17 A No.

18 Q Was there any sinister reason why you weren't
19 recording?

20 A No.

21 Q Okay. And in this case, you -- she talked to you
22 about you weren't there with what Mr. White said prior
23 to; you were only there for the written part of the
24 interview?

25 A That's correct.

REDIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 612

1 Q During that part, did he say, "I never said that"?

2 A I didn't hear him say that. No.

3 Q During that part where you were listening, did --
4 when he's going over it, did he say, "Oh, that's not what
5 I said"?

6 A Not that I recall.

7 Q Did he ask for any changes to be made to his written
8 statement?

9 A Not that I recall.

10 Q Was it read to him?

11 A It was read to him and he was given an opportunity
12 to read it. I think by that point, Investigator Truluck
13 was coming back and I left.

14 Q Okay.

15 A So I -- yeah. I -- I can't say that -- I -- I think
16 I was there when Martin was starting to read it back to
17 him, but I wasn't there for the entire part.

18 Q But the entire time that you were in there with him,
19 did he ever say, "That's not what I said"?

20 A Not that I recall, no.

21 Q When he said he shot the victim six times, he said
22 that?

23 A He said that.

24 Q Okay. You sure about that?

25 A Yes.

REDIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 613

1 Q All right. Did you tell him or anyone else tell him
2 to say that?

3 A No.

4 Q Okay.

5 A Completely voluntarily on his part. He was very
6 cooperative; answered any of our questions that we asked.

7 Q Did he ever say, "I'm too tired to talk," or "I
8 don't want to talk to you all," or anything like that?

9 A No. As I recall he was alert and -- and -- and
10 talkative. As we were waiting for the interview to -- to
11 start, Lt. Eisenhower and myself were in my office,
12 talking with him, just, you know, where are you from, do
13 you have any brothers and sisters, just small talk like
14 that, and he was engaging us. Didn't appear to be tired
15 or anything like that.

16 Q Okay. And then, she asked you about him telling you
17 the clothes were in the trunk. Did you continue on with
18 this investigation or does someone else do that?

19 A Well, I'm still supervisor over it, but the two
20 investigators are -- are -- All right. still actively
21 working the case. And if they need assistance with
22 something, certainly. Either myself or I would get other
23 people to assist as well.

24 Q So Investigator Truluck can do what he needs to do
25 as part of this investigation?

RE CROSS-EXAMINATION BY MS. EIGENBROT - SCOTT McDONALD 614

1 A Certainly.

2 Q Like go up and look in the trunk himself?

3 A Yes.

4 Q Okay. And do you know whether he did that or not?

5 A I believe he did. Yes.

6 Q Okay.

7 MS. SAMPSON: No further questions, Your Honor.

8 MS. EIGENBROT: Beg the Court's indulgence, Your
9 Honor.

10 THE COURT: Uh-huh.

11 (Off the record briefly.)

12 RE CROSS-EXAMINATION

13 BY MS. EIGENBROT:

14 Q Capt. McDonald, I think you just testified that you
15 may have left when Sgt. Martin started reading the
16 statement?

17 A I didn't leave until Investigator Truluck returned.
18 So he wasn't left with just Sgt. Martin. No.

19 Q I guess my point is, though, you weren't there,
20 listening to the entire reading of the statement at that
21 point?

22 A Not to the entire reading of it.

23 Q So we -- we don't -- you -- you personally would not
24 know if he asked for changes to be made?

25 A He did not ask while I was present. After I left, I

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 615

1 do not know.

2 Q And you can't say for certain that he read the
3 statement?

4 A I don't know that. No.

5 Q Thank you.

6 MS. EIGENBROT: No further questions, Your Honor.

7 THE COURT: All right. You may step down. Any
8 objections to this witness being excused?

9 MS. EIGENBROT: No objection.

10 THE COURT: All right, sir. You're free to leave.

11 (Whereupon, the witness exited the witness stand.)

12 MR. MCGLOTHIN: The state calls Linda Houck.

13 LINDA HOUCK, having been first duly sworn,
14 testified as follows:

15 DEPUTY CLERK OF COURT: Thank you. Have a seat in
16 the witness stand.

17 THE WITNESS: (Complied.)

18 DEPUTY CLERK OF COURT: State your name for the
19 record and spell it for the court reporter.

20 THE WITNESS: Linda Houck: L-i-n-d-a, H-o-u-c-k.

21 DIRECT EXAMINATION

22 BY MR. MCGLOTHIN:

23 Q Is it Investigator Houck?

24 A It's analyst.

25 Q It's analyst?

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 616

1 I'm sorry. I don't want to call you by the wrong
2 title.

3 A It's okay.

4 Q Is it okay if I just call you Linda?

5 A Absolutely.

6 Q Okay. So where do you work?

7 A I work for the Richland County Sheriff's Department.

8 Q Okay. And what do you do there?

9 A I'm a senior crime analyst.

10 Q And what does that mean?

11 A I do the crime statistics, as well as the
12 intelligence research. And part of my responsibilities
13 are cell phone analysis.

14 Q So again, what -- what do you mean by cell phone
15 analysis?

16 A Whenever we get phone records on a case from a cell
17 phone provider -- T-Mobile, Verizon, AT&T, any of those
18 companies -- the investigator will provide those phone
19 records to me or someone else that can do these records.
20 And we'll find out from the investigator what they're
21 looking for, as far as times. And we'll look at the
22 records to see where the -- we can determine from the
23 records that the phone company provides, the cell site or
24 the cell tower that was used for each event or
25 transaction -- phone call, text message -- depending on

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 617

1 the phone company that they provide.

2 Q Have you been provided -- have you had training on
3 how to do all that?

4 A I have. I've had several trainings since 2011 on
5 these phone records.

6 Q Okay. And when you say several -- regular
7 trainings?

8 A It's generally annual training from different --
9 from different companies that provide different training
10 to keep up with the different technology as it evolves.

11 Q And I -- I think I forgot to ask. What's your
12 educational background?

13 A I have a bachelor's degree in sociology and criminal
14 justice from Lander University, and a master's in
15 criminology and criminal justice from the University of
16 South Carolina.

17 Q Okay. And how much experience do you have doing
18 this cellular interpretation?

19 A I've been working with cell phone records since
20 about 2012 and learning on-the-job training from my
21 supervisor, Capt. McDonald, as well as these classes I've
22 been to.

23 MR. MCGLOTHIN: At this time the state would ask
24 that Analyst Houck be considered an expert in cellular-
25 data interpretation.

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 618

1 THE COURT: Any voir dire?

2 MS. EIGENBROT: No, Your Honor. No objection.

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, this witness will be qualified in the area of
5 cellular-data -- you said interpretation?

6 MR. MCGLOTHIN: Yes, ma'am.

7 THE COURT: --- interpretation to give opinion
8 testimony in that area. Thank you.

9 MR. MCGLOTHIN: Thank you.

10 Q So can you briefly describe the process that you go
11 through when interpreting cellular data given to you from
12 a provider?

13 A Yes. So generally, the data is provided to us in
14 electronic format, whether it's an Excel format or some
15 -- some other type of electronic format, depending,
16 again, on the phone company that provides the data to us.
17 We'll look at the data and read the companion information
18 that comes with it. It -- it's generally just how --
19 like, basically, like, the key of this is what this data
20 means.

21 Some data is sent to us in different time zones, so
22 we have to take that into account based on the phone
23 records. We have to determine what the target phone
24 number is or the phone number that the data is for. And
25 then from that data, we can see the phone numbers that

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 619

1 the target number was in contact with, the dates, times.
2 Sometimes we can get the duration and, like I said, the
3 cell sites or cell towers that were -- were used when the
4 phone calls were made for the target number.

5 Q And what is the significance of having that data?

6 A That information -- the significance is that it
7 tells us that a phone was used and when and for -- with
8 who the -- the communication was with.

9 Q Okay. And were you given cellular records in
10 reference to this case?

11 A I was.

12 Q And who were those records from?

13 A Investigator Truluck gave them ---

14 Q Okay.

15 A --- sent them to me.

16 Q And I'm going to show you what's been entered as
17 State's 85.

18 MS. PINNOCK: It's already in?

19 MR. MCGLOTHIN: Uh-huh.

20 Q Are those the records Investigator Truluck provided
21 to you?

22 A They are. These are a printout of the ---

23 Q Okay.

24 A --- electronic records I received.

25 Q And that has all the information you that mentioned

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 620

1 prior?

2 A Yes.

3 Q Okay. And were you able to, I guess ---

4 MR. MCGLOTHIN: Beg the Court's indulgence.

5 (Off the record briefly.)

6 Q And did you provide us with a -- a demonstrative
7 presentation that can be helpful to kind of say what
8 exactly you did and what all that data means?

9 A I did. I provided a -- I -- I generally -- I create
10 a PowerPoint presentation for each of the phone records
11 that I analyze so that somebody can understand what it is
12 ---

13 Q And ---

14 A --- with a map and whatnot.

15 Q And if you wouldn't mind, can you just show them
16 what the actual records look like.

17 A (Complied.)

18 Q It's just a lot of numbers, right?

19 A Yes. It's generally a lot of numbers that, to
20 somebody that's just looking at it, probably doesn't mean
21 a whole lot. And each column is labeled with a -- with a
22 title, just saying what's in that column.

23 Q Okay. And I'm going to pull up your presentation
24 here. And you can feel free to step down from there. I
25 know it may be hard to see it from there.

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 621

1 (Whereupon, the witness exited the witness stand.)

2 Q It's just a splash screen, right?

3 A Yeah.

4 Q Okay.

5 A That -- that's just the -- this is just a basic
6 explanation of a how cell phone works. You all have a
7 general idea of it. Generally -- or the way it works is
8 that a cell phone is going to use a -- it's going to be
9 connecting to the network. In this instance it's T-
10 Mobile. So it's going to be looking for a T-Mobile cell
11 site or cell tower that provides service to that phone
12 whenever it's at a certain location.

13 Once it finds a -- the best cell site or cell tower
14 for it, it will take it to a -- essentially, like a
15 little holding place where it -- it makes sure that that
16 phone number is registered with the network. It makes
17 sure that it's a valid subscriber, that that phone can
18 actually make a call.

19 Once it does that, it scans to find how it can
20 connect to the second phone that's involved in the
21 transaction. And, in turn, that phone is making a
22 connection to its on own tower, whether it's the same
23 company or a different company.

24 Q And people say cell tower, but it's not always a
25 tower, right?

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 622

1 A Right. It's not. I generally call it a cell site
2 because cell towers -- sometimes it's what y'all picture
3 as a cell tower, the metal things. The -- some cell
4 cites are actually the panels, the receivers that are on
5 the side of a building. Some of them look like a cactus.
6 Some of them are a monopole, just a pole. So cell tower
7 is kind of -- it gets confusing, just because they don't
8 all look like the tower that you would expect. This ---

9 Q Is that -- is that a cell site?

10 A It is. This is ---

11 Q Okay.

12 A --- an example of a cell site that happens to be an
13 actual -- looks like it's probably going to actually be a
14 monopole, but the cell -- the receiver is on top of it.
15 The -- each cell tower or cell site, if you will, is
16 essentially broken down into three semi-equal parts. So
17 if you can picture a circle, it's divided into three
18 pieces. Each sector is going to cover roughly 120
19 degrees. It may be a little wider or narrower, depending
20 on the needed coverage for that particular area.

21 Depending on the carrier, the sectors will be
22 labeled A B C, 123, 234, some kind of convention going in
23 a clockwise direction. And that just tells us which --
24 which side of the cell site a phone was on during an
25 event that the phone used that cell site.

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 623

1 This is just kind of a brief explanation of how --
2 what we're -- the -- the call-detail records that we're
3 getting from the phone companies are what we use and then
4 map. They essentially tell us when a phone was used, who
5 was involved in the transaction, how long the transaction
6 was, and the cell site or cell tower that was used during
7 that transaction. Once we get that data, we can actually
8 map out the cell sites to find out where the cell site
9 was located as well as which sector of that cell site was
10 used so we know a general vicinity of where the phone was
11 whenever it was used.

12 Q So you're not saying you can find -- you can say
13 where a single person was, but just where a phone -- what
14 sector a phone was in when it used a certain site?

15 A Correct. The phone records provide the location,
16 the general location based on the sector of a -- of a
17 handset of the cell phone itself. I can't say where a
18 person was within that coverage area for the sector.

19 Q And so what are those?

20 A This is -- these are the phone records from T-
21 Mobile. This is just a screenshot of the same records
22 that I showed -- or you showed them a minute ago.

23 Q And like you mentioned before, this is a lot of very
24 small numbers and, like a -- different kinds of codes for
25 things?

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 624

1 A It is. The first part of it tells us the date and
2 time of the phone call or the text message that was used,
3 the direction of the -- the event, the calling number,
4 the number that was dialed and called. This is
5 information about the phone itself, the completion code.
6 And then, this information on this side is telling us the
7 cell sites that were used for each of those transactions.
8 It ---

9 Q Oh.

10 A That's okay.

11 Q Sorry?

12 A These -- these phone records are from T-Mobile. And
13 T-Mobile does provide records in UTC time, which is a
14 time standard that all time zones are based off of, so
15 these are five hours off. They're five hours ahead of
16 what we are here in Columbia.

17 Q And what's that?

18 A These are the phone records that are imported into a
19 system we have called ACIS. These have been converted to
20 eastern time, so the time is corrected with that five-
21 hour difference. And these are the phone -- these the
22 voice calls between 8 p.m. on December 7th and 11:59 p.m.
23 on December 7th from the target phone number.

24 Q And what about this?

25 A This is an -- a -- this is just a continuation.

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 625

1 These are the phone calls from 12 a.m. on the 8th until 8
2 a.m. on the 8th of December.

3 Q And what about that one?

4 A These are text messages between 8 p.m. and 8 -- 8
5 p.m. on December 7th and 8 a.m. on December 8th.

6 Q Do these records actually show the content of the
7 text messages?

8 A No. These -- these records show texts -- the --
9 this slide shows text messages that went through the
10 cellular network. But content, what was actually said in
11 the text messages, I do not have.

12 Q Okay. So what is all of this?

13 A This is -- a -- just a visual representation: each
14 of the phone calls and text messages that were used
15 during the time of 8 p.m. on the 7th to 8 a.m. on the
16 8th. Each of the -- the vertex of the little pie shape
17 is the location of the cell site itself. The pie shape
18 itself is showing the sector that was used.

19 This isn't the actual coverage area for each of
20 those sectors. This is just a representation to show you
21 the direction that the sector is facing for the sector
22 that was used during each phone call.

23 Q So these little circles you have here don't
24 necessarily show where the coverage area ---

25 A Right. It's not the actual ---

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 626

1 Q --- ends?

2 A No. No, sir.

3 Q Okay.

4 A And the -- the little boxes with the letters are for
5 the next slide. It's just I've labeled the -- each
6 sector a letter simply to show the times and the -- the
7 communication with the other phone number on the next
8 slide ---

9 Q Okay.

10 A --- which is this.

11 Q And does that show? You kind of just said, but can
12 you reiterate what that -- what all this means?

13 A Yes. So this is just -- all of these are phone
14 calls are text messages to or from the target message and
15 this is just saying the time and date changed to eastern
16 time zone, whether it's an outgoing or incoming voice
17 call or text call to the -- the other number involved in
18 the event, in the transaction.

19 Q Okay. So what is this?

20 A So these are -- this is the phone use between 2 a.m.
21 and 7 a.m. on the 8th of December. Again, this is just
22 -- it's the same map, just zoomed in a bit. So again,
23 you're seeing the -- the -- the vertex of the pie shape
24 is the location of the cell site.

25 So each of these cell sites were used for a voice

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 627

1 call or a text message. And on this slide, all 17 events
2 were text messages.

3 Q Okay. So just pulling one kind of out of random
4 here, there's a text message sent from -- from 529-
5 to 348- on -- at 5 a.m. on the 8th?

6 A Correct.

7 Q From this cell site?

8 A Right. It's using -- and -- and not only from that
9 cell site, but it's using the sector facing in a south --
10 southerly direction ---

11 Q Okay.

12 A --- on that cell site.

13 Q And does a phone always use the closest site?

14 A The phone will use the site that is providing the
15 best signal at the time. There are geographical barriers
16 that prevent it from necessarily using the closest site.
17 For instance, if I'm standing and there's a building in
18 front of me and there's a cell site just on the other
19 side of that building that's -- as -- you know, like,
20 just straight across, it's -- it's a quarter of a mile,
21 but behind me there's a cell site that's a mile away.
22 That -- I might use that cell site behind me, simply
23 because my phone is not registering a signal from the
24 cell site that's behind that tower -- that -- that
25 building, because there's a building preventing it.

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 628

1 Q And when ---

2 A So ---

3 Q --- you said you might use -- I didn't mean to cut
4 you off, but when you said you might use it, this isn't a
5 choice that the -- the caller makes?

6 A Right. I don't get to choose which cell site I'm
7 using. The phone is communicating with the network,
8 finding the best signal, the best site with the best
9 signal. So it's going to -- it chooses it for me.

10 Q And does that take a long time ---

11 A No.

12 Q --- for it ---

13 A That's ---

14 Q --- to do that?

15 A --- it's instantaneous.

16 Q Okay. So what's going on here?

17 A This is -- again, this -- these are the phone
18 records from 7 a.m. to 8 a.m. And this -- on this slide,
19 all of these are actual phone calls, not text messages,
20 again, showing the date and time with outgoing voice or
21 incoming voice and then to the phone number, the second
22 phone number that's involved in that transaction.

23 Q Okay. So at 7:05 there's an outgoing call; is that
24 correct?

25 A Yes.

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 629

1 Q From this number?

2 A Right.

3 Q And where on the map is that one?

4 A So at 7:05 the phone is using the sector located
5 right here off of Leesburg Road. It's using the sector
6 that's again facing the south -- southern direction for
7 that phone call.

8 Q And what is that one marker you got there?

9 A This blue mark is the incident location.

10 Q And so there's another call at 7:06; is that
11 correct?

12 A Yes, sir.

13 Q And where was that one?

14 A It was using the same sector, just after.

15 Q Okay. And then, what about at 7:07?

16 A At 7:07, the phone is using a cell site located a
17 bit further away for -- off of Garners Ferry Road.

18 Q But theoretically, that one is still facing the
19 incident location?

20 A Yes. The -- the sector for that -- that cell tower
21 is facing the direction of the incident location.

22 Q Okay. And then, at 7:08, where is it? What are --
23 there was a call again?

24 A There's a phone call again, an outgoing call from
25 this phone, using a cell sector up here off of Leesburg

DIRECT EXAMINATION BY MR. MCGLOTHIN - LINDA HOUCK 630

1 Road.

2 Q Okay. And then, from then on, there's a few more
3 over the next few minutes as well on this side as well?

4 A Yes. So at 7:09, it's using this cell sector and
5 then it's using -- I mean, cell site -- the sector in
6 this direction. It -- then at 7:13 it's hitting off of
7 this site -- cell site, the sector facing the southern
8 direction.

9 Q Okay. And where is that cell site, just ---

10 A It's further out down Leesburg Road.

11 Q Okay. What is this one?

12 A This is just a zoomed-in image of the previous
13 slide, showing the incident location and then the two
14 cell sectors that were used from 7:05 until 7:07.

15 Q Okay.

16 A This is, again, a zoomed-in view of that with the
17 cell sector that -- the cell site that was used at three
18 calls at 7:09, 7:10, and 7:11 a.m.

19 Q And what about that one?

20 A And then, this is a zoomed-in version, showing the
21 cell sector -- the cell site used at 7:08; and then, this
22 cell site, two different sectors being used on it. It's
23 ten other phone calls up until 8 a.m., with the last one
24 ---

25 Q Oh. Sorry.

CROSS-EXAMINATION BY MS. PINNOCK - LINDA HOUCK 631

1 A No. That's okay.

2 Q All right.

3 MR. MCGLOTHIN: Beg the Court's indulgence for just
4 a moment.

5 (Off the record briefly.)

6 Q You can take your seat. No -- I don't have any
7 further questions for you, but please answer anything the
8 defense may ask.

9 (Whereupon, the witness resumed the witness stand.)

10 (Off the record briefly.)

11 MS. PINNOCK: May it please the Court, Your Honor.

12 THE COURT: Yes, ma'am. You need her to step back
13 down? Ms. Pinnock, you need her to step back down?

14 MS. PINNOCK: Yes, please.

15 THE COURT: If not -- okay. I was going to see if
16 any could move that.

17 (Whereupon, the witness exited the witness stand.)

18 CROSS-EXAMINATION

19 BY MS. PINNOCK:

20 Q While I am looking -- okay. So you were describing,
21 you know, the use of cell towers and, you know, how they
22 -- how the phones communicate with the towers?

23 A Yes, ma'am.

24 Q There has to be phone activity for it to communicate
25 with the towers, right?

1 A The phones are always communicating with the tower
2 because ---

3 Q Uh-huh.

4 A --- it's always wanting to know -- whenever I need
5 to make a phone call or when somebody needs to make a
6 phone call or text message, it wants to know quickly
7 where the best signal is coming from so that it knows to
8 connect to that -- that cell site, you know, without a
9 delay.

10 Q Okay. So the information that you included on this
11 slide, the text messages between 8 p.m. and 8 a.m.?

12 A Yes.

13 Q Those were actually text messages that were sent --
14 either sent from this phone ending in [REDACTED] or received by
15 this phone ---

16 A Correct.

17 Q --- right?

18 A That went through the cellular network, yes.

19 Q Is there a time where a text message wouldn't go
20 through the cellular network?

21 A There -- there could be, if you have a text message
22 through a third-party app that's going through a WiFi or
23 a ---

24 Q Uh-huh.

25 A --- data connection like that, or if it's a a --

CROSS-EXAMINATION BY MS. PINNOCK - LINDA HOUCK 633

1 WiFi or a data enabled messaging, it wouldn't necessarily
2 show up on the phone records from the company because
3 it's not connecting to the cellular network at the time.
4 It's not using a tower.

5 Q Okay. So all of these, you said, are active text
6 messages that were either coming in or going out from
7 this phone?

8 A Yes.

9 Q And this phone was identified as the phone belonging
10 to Brian White?

11 A That is what I was told. Yes.

12 Q And the information here -- I don't want to touch it
13 because I don't know if I'm going to mess it up -- that's
14 the other person involved?

15 A Correct. That's the other part that was involved in
16 that transaction.

17 Q Okay. And law enforcement gave you that information
18 also, or was that in the phone records?

19 A No. It was not in the phone records. We were able
20 to get that information. This -- the ACIS that we use
21 ---

22 Q Uh-huh.

23 A --- for this system, we're able to relate a person
24 to a phone number in that system so that whenever we
25 print these out, the information over here is populated.

CROSS-EXAMINATION BY MS. PINNOCK - LINDA HOUCK 634

1 Q Okay. Now, were you -- and the person's name listed
2 here with the phone number ending in [REDACTED], is Nicole
3 Bryant, right?

4 A Yes, ma'am.

5 Q And that's this whole page?

6 A Yes. All 17 ---

7 Q Okay.

8 A --- text messages.

9 Q All 17 back and forth, and that's between the hours
10 of -- you've converted these?

11 A Yes. These are converted ---

12 Q Okay.

13 A --- to eastern, so these are -- these already have
14 the ---

15 Q Okay. So ---

16 A --- hours.

17 Q --- 2:05 a.m. to 5:11 a.m.?

18 A Yes, ma'am.

19 Q 17 text messages back and forth?

20 A Correct.

21 Q And that's with the what the ---

22 A Here ---

23 Q --- O and the I mean?

24 A The O and ---

25 Q Is that right?

CROSS-EXAMINATION BY MS. PINNOCK - LINDA HOUCK 635

1 A --- the I, O is outgoing; I is incoming. So O would
2 be a -- a message sent from this target phone to the
3 other phone number, and an I would be a message coming
4 into that phone.

5 Q Okay. Okay. You can have a seat. Thank you.

6 (Whereupon, the witness resumed the witness stand.)

7 (Off the record briefly.)

8 Q So we've got the activity with Brian's phone. The
9 lead investigator on the case, you know -- you knew that
10 was Investigator Truluck, right?

11 A Yes.

12 Q And he's the one that provided you with the T-Mobile
13 records?

14 A He did.

15 Q And he asked you to do the mapping and the
16 PowerPoint for that ---

17 A He asked ---

18 Q --- particular ---

19 A --- for the ---

20 Q --- phone?

21 A --- mapping. The PowerPoint I do on my own.

22 Q Okay.

23 A But yes.

24 Q Did he submit any other requests to you?

25 A Not that I recall.

CROSS-EXAMINATION BY MS. PINNOCK - LINDA HOUCK 636

1 Q Did you know that they had pulled records from
2 Nicole Bryant's phone?

3 A Yes. I -- he did send me phone records for other --
4 I -- I apologize.

5 Q Okay.

6 A He did send me phone records for other phone work to
7 this case.

8 Q But he didn't ask you to do any sort of mapping or
9 anything like that for those numbers?

10 A I did do mapping those phone numbers ---

11 Q You did?

12 A --- as well. Yes.

13 Q Did you do it for Nicole's and Crystal's, or just
14 Nicole's?

15 A I believe I did it for Nicole's and Brittany
16 Steen's.

17 Q Okay. Do you recall where Nicole's phone -- I guess
18 what sector it was hitting off of?

19 A I don't. I don't have it in front of me.

20 Q Okay.

21 MS. PINNOCK: Beg the Court's indulgence.

22 (Off the record briefly.)

23 Q Thank you very much.

24 THE COURT: Any redirect?

25 MR. MCGLOTHIN: Nothing further, Your Honor.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 637

1 THE COURT: All right. You may step down.

2 (Whereupon, the witness exited the witness stand.)

3 THE COURT: Let me see you one second.

4 MS. SAMPSON: Oh. Can we excuse her?

5 THE COURT: Any objection to this witness being
6 excused?

7 MS. PINNOCK: No, Your Honor.

8 THE COURT: All right.

9 MS. SAMPSON: No objection.

10 THE COURT: You're -- you're free to leave, ma'am.
11 I'm sorry.

12 (Whereupon, a bench conference was held off the
13 record in the presence of the jury, but out of the
14 hearing of the jury.)

15 THE COURT: All right. Go ahead and your next
16 witness.

17 MR. MCGLOTHIN: The state calls Brian Metz.

18 (Whereupon, the witness came forward.)

19 BRIAN METZ, having been first duly sworn,
20 testified as follows:

21 DIRECT EXAMINATION

22 MR. MCGLOTHIN:

23 Q Good -- or good afternoon -- excuse me.

24 A Good afternoon.

25 Q Or maybe even evening at this point. Is it

1 Investigator Metz?

2 A It is.

3 Q Okay. Investigator Metz, where do you work?

4 A At the Richland County Sheriff's Department.

5 Q And what do you do there?

6 A I'm assigned to the technical-services unit, which
7 is a section of the criminal-investigations division.

8 Q And what does the technical-services division do?

9 A A lot of different things. Specifically in this
10 case, cell phones. We also collect video from scenes.
11 Sometimes we upload that video, cut it, clip it for
12 investigators to put out on what you would see on the
13 news media.

14 We also do a lot of other things. We'll put out
15 cameras sometimes. We'll put out law boxes. We control
16 the GPS systems for tracking. Pretty much anything
17 technical the investigators may need, they'll come to us.

18 Q And how long have you been with the technical-
19 services division?

20 A Been with the technical-services division since
21 2007.

22 Q Okay. So around 12 years, if my math is correct?

23 A I think so. I'll go with your math.

24 Q And did you have -- did you do anything in this
25 case?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 639

1 A I did.

2 Q What did you do?

3 A Did several cell phones.

4 Q When you said -- I don't mean to cut you off. But
5 when you said you did some cell phones ---

6 A We downloaded cell phones that were brought to me by
7 the investigators in the case.

8 Q Can you talk about the process of downloading cell
9 phones?

10 A It can vary, depending on the type of case and where
11 the investigators are in the case. Specifically in this
12 case, I believe Mr. Truluck's office and mine were both
13 at Pineview at that time. So as he would get a phone
14 that he felt needed to be downloaded, he would bring it
15 basically to the other side of the building where my
16 office was. And I would get it downloaded for him.

17 To download a phone, there again, depends on the
18 phone. And that's something that has changed
19 significantly in the last several years. At this time in
20 -- of this case, our go-to machine was made by a company
21 call Cellebrite, which is the go-to machine for law
22 enforcement and for the cell phone industry.

23 Q And so what does that machine do?

24 A So you'll connect it just like you would if you were
25 charging your phone usually. The machine will then

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 640

1 prompt you and will walk you through what needs to be
2 done so make it so you can access the phone. And then,
3 once it accesses the phone, depending on the technology
4 from the software manufacturers, it will start
5 downloading. It can download everything on the phone,
6 depending on the phone and sometimes it can download very
7 little. It just depends on each model.

8 Q And what type of information does it pull out?

9 A It can pull out anything that you've ever seen on
10 your phone. So all your pictures, your videos, it can
11 pull your text messages, your MSS messages, your call
12 logs, your contact information. And it can -- depending
13 on the phone and currently on a lot of phones, it can
14 pull out location information, a whole lot of other
15 information that goes with that phone.

16 Q And what does it do with that information?

17 A So it puts it into a file. That file is then
18 entered into software. In this case I was using the
19 software used by Cellebrite. That then parses out those
20 -- when it puts it into a file, it's usually in some type
21 of database. It will parse out the information from that
22 database.

23 There again, not all databases can be parsed. And
24 there are times where you can go in there and pull it
25 manually from the database. But most of the time,

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 641

1 Cellebrite will get you the information automatically.

2 Q And what kind of -- what form -- is this just --
3 once the information is pulled from these databases, what
4 form does it take?

5 A Another form that -- it can be done several
6 different ways. Currently, we use a different way than
7 we did in 2016. In 2016, it would have been put into a
8 PDF form, which would have everything separated by the
9 type of item it was.

10 Q And what -- is that generally a small PDF or a large
11 PDF?

12 A Depending on the phone, I've seen some that were,
13 you know, a couple dozen pages, but most of the time,
14 especially a smartphone, you're talking hundreds of
15 pages. I've seen some of them thousands. I've heard
16 Capt. McDonald talk about a phone that we did last week
17 that was 96 gigs on the report.

18 Q And were you provided phones in this case?

19 A I was.

20 Q And where did you get those?

21 A From Investigator Truluck.

22 Q And it was in the same manner you mentioned just a
23 minute ago, since he was in the same building?

24 A Yes, sir.

25 Q Okay. I'm going to show what's been marked as

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 642

1 State's 87 and 91. Do you recognize those?

2 A I do.

3 Q And what are those?

4 A These are the beginning of the extraction report and
5 the report that was done by me for two phones in this
6 case.

7 Q Is that the full report for each of those phones?

8 A That is not. That's basically the first two to
9 three pages -- or the first two pages. Like I said, if
10 you -- if you printed out this phone, it's probably going
11 to be several hundred pages, minimum.

12 Q And are the page -- are all of those contained --
13 the -- the information on the -- on State's 91 and 87, is
14 that information that is contained in those reports
15 respectively?

16 A That's correct.

17 Q In the full report?

18 A Correct.

19 Q Okay. And did those come from the phones you did an
20 analysis on ---

21 A These ---

22 Q --- for this case?

23 A These are the phones that I downloaded. Yes, sir.

24 Q Is -- can you identify which phones they came from?

25 A I can. The phones are both identifiable by either

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 643

1 serial numbers or other numbers on the phone. And also
2 in this case, since I actually got these phones before
3 they went to evidence, I would mark on there the case
4 number and the type of phone that it was.

5 Q Okay. So for State's -- I believe it was 87, do you
6 know what kind of phone that came from?

7 A For 87, that was an HTC phone, a 2PST2 model.

8 Q And where did -- do you know where that phone came
9 from before it got to you?

10 A It came from Investigator Truluck. I don't ---

11 Q Okay.

12 A --- know ---

13 Q But you don't know who that's attributed to?

14 A I do not.

15 Q Okay. But those records -- excuse me -- that
16 report, is what came from that phone?

17 A That's correct.

18 Q Okay. And is it in similar or the same condition as
19 when you ran the phone or -- excuse me -- analyzed the
20 phone back in 2016?

21 A That's correct.

22 Q Okay. So that fairly and accurately depicts your
23 report from -- from that phone?

24 A It does.

25 MR. MCGLOTHIN: At -- at this point the state would

1 move to introduce State's 87.

2 MS. EIGENBROT: Your Honor, we would object. May we
3 approach?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was held off the
6 record in the presence of the jury, but out of the
7 hearing of the jury.)

8 THE COURT: Ladies and gentlemen of the jury, let me
9 send you all out for one second.

10 (Whereupon, the jury exited the courtroom at 5:20
11 p.m.)

12 (Off the record briefly.)

13 THE COURT: All right. Let's -- it's -- it's kind
14 of hard to sit up here and whisper. Let's go ahead and
15 put the objection on the record and then we can go from
16 ---

17 MS. EIGENBROT: Your Honor, I'm objecting to the
18 portion of the report being entered into evidence at this
19 point. The portion that's being entered in -- or
20 attempted to be entered into evidence is a lot of text
21 messages that have already been testified to, meaning
22 they would then become prior consistent statements,
23 making them inadmissible.

24 And again, it's -- there's lots -- there's other
25 text messages that are hearsay that were not discussed

1 with other witnesses for that reason. So for this -- I
2 would move -- I would ask that they not be placed into
3 evidence.

4 THE COURT: All right.

5 MR. MCGLOTHIN: And, Your Honor, as to the
6 cumulative nature of them being -- having already been
7 testified to again, the defense's position in this case
8 is that law enforcement didn't do their job. This is
9 just a -- an arm of showing that the -- that law
10 enforcement did their job and took the time to go and get
11 these records.

12 As to any hearsay objection, anything Mr. White
13 texted in those messages is a statement by a party
14 opponent and can come in. Anything he received, I argue,
15 would come in under either is we are not offering for the
16 truth of the matter asserted on almost any of it. We're
17 not trying to prove that she did go to -- I -- I don't
18 know -- you've got mine. But at -- you know, on -- well,
19 this isn't it.

20 That she did or did not say, you know, whatever it
21 was, that -- that any of those single things did happen,
22 but just that they were said. Again -- and -- and as we
23 kind of spoke about, we have limited it down to the hours
24 around this incident and anything outside of that, I
25 don't believe would be relevant here. So I don't know

1 the full report needs to come in.

2 THE COURT: All right.

3 MS. EIGENBROT: And I'm ---

4 THE COURT: Yes, ma'am.

5 MS. EIGENBROT: --- I'm sorry, Your Honor ---

6 THE COURT: Go ahead.

7 MS. EIGENBROT: --- if I may. You know, to the
8 point that this should come in based on the theory of our
9 case, I think we, as the defense team, have made it
10 pretty clear that we have phone records. We're not
11 arguing that they didn't get the records. It's -- it's a
12 little bit more than that. And I'm not going to go into
13 it, because it is our theory of the defense,
14 specifically.

15 But these -- the text messages included in the pages
16 of their asking to be introduced have already been
17 testified to. So again, it's prior consistent statements
18 that were bolstering whatever's already been testified
19 to. So I don't believe that would make it admissible at
20 this point.

21 THE COURT: All right. So I am going to overrule
22 the objection. I think the statements that he's made are
23 statements against interests by the text messages. And
24 the -- the e-mails -- the text messages back and forth
25 responding to him -- how -- I understand his statements

1 of his statements against interests and it's established
2 -- it's been established that it's his phone number.

3 What about the response from the -- how is that not
4 hearsay, the response from the other parties on the phone
5 call?

6 MR. MCGLOTHIN: Because we're not offering what they
7 said for the truth of the matter asserted. And -- and it
8 -- in the times -- generally, we -- we don't care what
9 they said, just that they were said. But, I mean, for
10 example, there's one that says, you know, from -- I'm
11 looking at -- on the second -- it's page 40 -- oh, these
12 aren't -- it's on page 44 from it's No. 1 -- excuse me --
13 121. It says (as read): "Nah. I don't ducks with it."
14 I don't care if he ducks with it, whoever it is. We're
15 not trying to prove that those statements are correct.

16 Additionally, all this, I believe, comes in as a
17 business record, because the phone -- the -- this
18 information is stored on the phone in the course of
19 regular business. Information is stored on these phones
20 for the purpose of communicating that information to ---

21 THE COURT: But he don't work -- he works for the --
22 who does he work for, the sheriff's ---

23 MR. MCGLOTHIN: Richland County Sheriff's
24 Department.

25 THE COURT: Yeah. He doesn't work for the ---

1 MR. MCGLOTHIN: Sure.

2 THE COURT: --- phone company.

3 MR. MCGLOTHIN: But again ---

4 THE COURT: So it's not this -- it's not in his
5 business -- the phone company -- it would -- if it was
6 the phone company, it would be their business, under
7 business records. Yeah.

8 MR. MCGLOTHIN: But again ---

9 THE COURT: He -- yeah.

10 MR. MCGLOTHIN: --- we're ---

11 THE COURT: He works for the sheriff's department.
12 So it's not -- business-record exception would not apply.

13 MR. MCGLOTHIN: But again, we're aren't -- most --
14 but ---

15 THE COURT: I -- I understand. You're saying you're
16 -- you're not offering their responses for the truth of
17 the matter asserted.

18 MR. MCGLOTHIN: Correct.

19 THE COURT: They're just responses to the initial
20 ---

21 MS. EIGENBROT: And, Your Honor, I'm not sure that's
22 entirely correct, because some of those text messages, as
23 I've mentioned, were text messages they requested that
24 Ms. Steen testified about. And at that point, that's
25 exactly what they were doing, was that -- acknowledging

1 that those text messages were sent, that that
2 conversation was had, and they were meant -- and ---

3 THE COURT: Yeah. But she ---

4 MS. EIGENBROT: --- they were meaning what they were
5 saying.

6 THE COURT: She testified to, you know, the whole
7 time she didn't remember anything and she just -- "if you
8 said I did it, if that's what it said I said, then I said
9 it."

10 But she didn't -- she didn't -- she didn't -- I
11 don't want to say affirmatively, but she just basically
12 said, "I was -- I was out of it. I don't know. If
13 that's what the phone says, that's what it said. But I
14 don't know. I can't testify to it." It's basically what
15 she testified.

16 MR. MCGLOTHIN: And again ---

17 MS. EIGENBROT: But ---

18 MR. MCGLOTHIN: --- I -- I didn't -- I don't mean to
19 cut Ms. Eigenbrot off. But that is different than --
20 still from proving that those statements are -- what she
21 says in those statements are true. There's a difference
22 between saying that she said it and what she's saying is
23 true. And we're not trying to prove the latter.

24 THE COURT: All right. Well, I'm going to allow the
25 statements in. But then, I -- Ms. Osteen, at the bench,

1 made a comment regarding that whole day? I said Osteen?

2 MS. EIGENBROT: Yes, ma'am.

3 THE COURT: I'm sorry. It's getting late. I'm
4 sorry. Ms. Eigenbrot. I don't know where that --
5 Eigenbrot made a comment at the bench that you wanted all
6 of them again?

7 MS. EIGENBROT: Your Honor, if we're -- if we're
8 entering phone records, I want the entire report in. I
9 don't -- I mean, I -- to me, the -- that would be -- is
10 the only thing that would be and acceptable and make
11 sense. And that would include all of the phone records.
12 Because there are phone records we have for Ms. Posey and
13 Ms. Bryant as well. And I -- I -- I mean, there's been
14 testimony about their records and what they also did or
15 did not say or denied what they were saying and doing.

16 MR. MCGLOTHIN: And Your Honor, as to this account,
17 these phone records go back -- I -- I don't -- I don't
18 even know how far. So I would going to object to
19 relevance to -- at a certain point. I mean, text
20 messages from a year ago don't matter ---

21 MS. EIGENBROT: They don't ---

22 MR. MCGLOTHIN: --- for completeness ---

23 MS. EIGENBROT: --- go that back ---

24 MR. MCGLOTHIN: --- here.

25 MS. EIGENBROT: Ton't go back that far, Your Honor.

1 THE COURT: Well, really, the only thing you need
2 are the text messages from that -- the 7th and the 8th.
3 But her -- but she's saying that you should -- if you're
4 going to put Ms. Steen's text messages to him on his
5 phone, that you got to put her messages in too. I think
6 that's what she's saying.

7 MR. MCGLOTHIN: I -- I don't know that that -- that
8 is not what I understand her to be saying.

9 THE COURT: You're saying you wanted Ms. Posey's
10 records in also?

11 MS. EIGENBROT: I -- Your Honor, I want Ms. Posey; I
12 want Ms. Bryant; I want Brian's phone. I mean, if that's
13 where we're going with this, then to get a complete
14 understanding of the whole situation, that would be the
15 most appropriate way to do this.

16 MR. MCGLOTHIN: And, Your Honor, they can enter
17 those records if they want to.

18 THE COURT: But that can't -- you can't burden-
19 shift.

20 MR. MCGLOTHIN: But you -- but I can't be asked to
21 enter evidence that I'm -- that ---

22 THE COURT: I understand.

23 MR. MCGLOTHIN: --- I'm not trying to make part of
24 my case.

25 THE COURT: I understand. I understand.

1 MR. MCGLOTHIN: That's -- those are from separate
2 reports, is my ---

3 MS. EIGENBROT: I ---

4 MR. MCGLOTHIN: --- my main point.

5 MS. EIGENBROT: And I'm fine ---

6 THE COURT: All right. Let's go back to this --
7 just his phone records for -- you want complete records
8 for the entire day from the 7th and the entire day for
9 the 8th from him?

10 MS. EIGENBROT: Your Honor, I want the entire report
11 for rule of completeness.

12 MR. MCGLOTHIN: I -- I don't think that the full
13 report is relevant.

14 THE COURT: Yeah. Well, and I don't -- I don't --
15 I'm not sure how the full report is relevant if it's text
16 messages up to a year or so later or ---

17 MR. MARSH: It -- it's ---

18 MS. EIGENBROT: Your Honor ---

19 MR. MARSH: --- only December 1st ---

20 MS. EIGENBROT: Yes.

21 MR. MARSH: --- I believe.

22 MS. EIGENBROT: It's -- it's the month of December.

23 MR. MCGLOTHIN: So again ---

24 MS. EIGENBROT: And this happened December 8th, so

25 ---

1 THE COURT: When did he get arrested?

2 MR. MCGLOTHIN: December 8th.

3 MR. MARSH: Eight days of text messages.

4 MR. MCGLOTHIN: But again, those days prior to are
5 irrelevant.

6 MR. MARSH: Crystal Posey ---

7 MS. EIGENBROT: I -- and actually, Your Honor,
8 they're not completely irrelevant, because Ms. Bryant
9 testified, as did Ms. Posey -- actually, I believe it was
10 Ms. Posey -- denied any contact with Brian for the entire
11 month of December, or most of it. She, I think,
12 eventually acknowledged she may have asked for rides here
13 and there. But there are text messages in his phone
14 where she's contacting him about other things, contacting
15 to him for rides, where they're making fun of him, where
16 he's communicating with Nicole and Ms. Posey, when they
17 both said he was not. So I -- I actually think it's all
18 relevant, based on their testimony.

19 THE COURT: Yes, sir.

20 MR. MCGLOTHIN: Your Honor, these are very
21 complicated relationships. And if -- I mean, if -- if
22 it's just he was making -- they were making fun of him
23 then, or they went here or there days ago, that's --
24 doesn't -- I don't think that's relevant to what happened
25 this day. It may -- I mean, we -- under that -- if Jerry

1 Rabon was talking -- had said something like we -- we
2 could bring in a record of him whether or not they met in
3 high school, based on that.

4 I mean, they're very complicated relationships.
5 These people knew each other for years. So I -- but I
6 don't think those are relevant to this. And we're
7 talking about hundreds of pages of -- of data,
8 photographs, which I believe a number of them are quite
9 explicit, being sent to the jury, among other things.

10 THE COURT: All right. So what I'll allow is the
11 full text messages from the day of the 7th and the day of
12 the 8th until he's arrested.

13 The objection will be noted for the record. So I'll
14 allow you to ask him -- you need to put in -- because we
15 talked about the whole day of the 7th ---

16 MR. MCGLOTHIN: Yes, ma'am.

17 THE COURT: --- and the whole day of the 8th. Put
18 those records in. And -- unless there's something that
19 -- unless there's something specifically that is -- that
20 you all can pick out that's relevant in the -- in the
21 other 500 pages. I'll take a look at those, then. But I
22 mean, he -- he -- I mean, it's his case. So he -- he can
23 put in what he wants to put in. But we're going to do
24 the entire day. You got to put the entire day of the 7th
25 and the ---

1 MS. EIGENBROT: And, Your ---

2 THE COURT: --- entire day of ---

3 MS. EIGENBROT: --- Your Honor ---

4 THE COURT: --- the 8th.

5 MS. EIGENBROT: --- I will just ask, if they're
6 putting in the entire days, that we go beyond just the
7 text messages, and includes the phone calls and the --
8 that's included in the time line that are different pages
9 in the report. But that would include the -- all the
10 phone calls and all the text messages for those days.

11 MR. MCGLOTHIN: And Your Honor, I can -- I --
12 obviously, that -- that's not what I'm prepared -- that
13 -- that's not what he's holding, then. We can get the
14 time line, which, as she mentioned, will -- will log the
15 full usage, basically, through those -- through the 7th
16 and the 8th.

17 THE COURT: Can he testify -- he can testify for
18 that?

19 MR. MCGLOTHIN: That all came from the same report.

20 THE COURT: All right.

21 MR. MCGLOTHIN: It all comes in the same -- that one
22 report.

23 THE COURT: So you've got to go will put that
24 together?

25 MR. MCGLOTHIN: I have it all printed out. I just

1 need to get it.

2 THE COURT: Okay.

3 MR. MCGLOTHIN: While ---

4 MS. EIGENBROT: And ---

5 MR. MCGLOTHIN: Oh. Go ahead.

6 MS. EIGENBROT: You're fine. Go ahead.

7 MR. MCGLOTHIN: While we are here, State's 81 is a
8 single page of text messages from the victim. So I would
9 -- I don't know if we want to take that up now or not.

10 THE COURT: The day of, or ---

11 MS. EIGENBROT: Scott ---

12 MR. MCGLOTHIN: It is -- it's some of the day of. I
13 don't know if it covers the full day or not.

14 MS. EIGENBROT: And, Your Honor, again, if that's
15 what we're doing, I would object and contend that the
16 entire phone record should come in. However, based on
17 what Your Honor has already said at this point, I would,
18 at the very least, ask for the full two days, especially
19 because there are relevant conversations that Ms. Posey
20 denied having with him. Ms. Bryant ---

21 THE COURT: With the ---

22 MS. EIGENBROT: --- acknowledged it.

23 THE COURT: --- victim?

24 MS. EIGENBROT: Yes, ma'am.

25 THE COURT: Full two days for the victim too.

1 MR. MCGLOTHIN: Okay. Your Honor, I don't have that
2 one printed, so I need to do that, if I can just have a
3 few minutes.

4 THE COURT: All right. Well, let's -- is this -- is
5 he not available to come back tomorrow?

6 MR. MCGLOTHIN: He -- he is available tomorrow.

7 THE COURT: You're not?

8 THE WITNESS: I am.

9 THE COURT: Oh. I mean, I can keep going, but how
10 long is it going to take? Because the jurors are sitting
11 back there and it's after five o'clock.

12 MR. MCGLOTHIN: I don't know. It'll take me ---

13 THE COURT: Because, see, I thought ---

14 MR. MCGLOTHIN: --- ten or fifteen minutes just to
15 print them, the time line for both of those -- or for the
16 victim's. Because I'll have to find the disk and ---

17 MS. SAMPSON: Essentially, Your Honor ---

18 MR. MCGLOTHIN: --- go up ---

19 MS. SAMPSON: --- just to clarify, you got to print
20 all of them first and then pick out what you want. So
21 it's not as easy ---

22 MR. MCGLOTHIN: Well ---

23 MS. SAMPSON: --- as what he just said to print just
24 certain parts.

25 THE COURT: All right. Well, I -- what we may do is

1 just excuse them for the evening and start back with this
2 witness in the morning. If you all can exchange to them
3 what it is you want to show, but full days of the 7th and
4 the 8th. And then ---

5 MR. MCGLOTHIN: And time lines, just so we're
6 correct?

7 MS. EIGENBROT: Correct.

8 MR. MCGLOTHIN: Okay.

9 THE COURT: And the -- yeah, and the time line. And
10 then, the full -- same thing with the victim's records.

11 MR. MCGLOTHIN: Okay.

12 THE COURT: All right?

13 MR. MCGLOTHIN: Thank you.

14 THE COURT: Let's bring the jury back in.

15 THE BAILIFF: Yes, Your Honor.

16 (Off the record briefly.)

17 (Whereupon the jury entered the courtroom at 5:37
18 p.m.)

19 THE BAILIFF: Jury is seated, Your Honor.

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, I think this is probably going to take a little bit
22 longer than we expected. And so I'm going to go ahead
23 and release you all for the evening so you can go about
24 whatever you may have planned. We will start back at --
25 we'll start back at 9:30 in the morning.

1 Please do not discuss the case. I -- I will remind
2 you: Please do not discuss the case with anyone: not
3 your friends, your family members, anyone. Anything
4 that's going on here in the courtroom, you can discuss it
5 at the end of the trial.

6 Have a restful evening. Think of something else.
7 Do not do any independent research, no text messaging, or
8 anything regarding this trial. Have a good evening.
9 We'll see you at 9:30 in the morning.

10 (Whereupon, the jury exited the courtroom at 5:39
11 p.m.)

12 THE COURT: All right. All right. Nine o'clock?
13 Nine o'clock in the morning? We can start ---

14 MS. EIGENBROT: Yes, Your Honor.

15 THE COURT: --- around nine o'clock ---

16 MR. MCGLOTHIN: Thank you, Your Honor.

17 THE COURT: Yes, that should work. Yes. I'll try
18 to get here by nine. I'll see you all at nine. You'll
19 share those with the ---

20 MR. MCGLOTHIN: Yes, Your Honor.

21 THE COURT: --- other side?

22 MR. MCGLOTHIN: You want me to scan you a copy as
23 well?

24 THE COURT: Sure.

25 MR. MCGLOTHIN: Okay.

1 THE COURT: And do you -- you haven't had -- the
2 pathologist? She's -- we won't get to her tomorrow
3 morning, will we?

4 MS. SAMPSON: We'll get to her tomorrow morning.
5 She e-mailed me, but I can't see what she e-mailed. So
6 I'm going to go to my office. If I have them, I'll
7 forward them, which Ms. Pinnock ---

8 (Off the record briefly.)

9 THE COURT: Okay.

10 (Whereupon, the proceeding adjourned at 5:40 p.m.)

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1 TRIAL DAY 4 - 11/21/19

2 (Whereupon, the proceeding resumed at 9:24 a.m.)

3 (Whereupon, Defendant's Exhibits 3 through 5 and
4 State's Exhibits 96 through 129 were premarked for
5 identification prior to the resumption of the
6 proceeding.)

7 THE COURT: We can go ahead and get -- well, the
8 first course of business is -- well, the jurors aren't
9 here yet. But apparently, one of the juror's husband
10 died last night. Number -- which one is it?

11 DEPUTY CLERK OF COURT: 171.

12 THE COURT: 171, her husband died last night. So
13 obviously, she's not going to be here today. So I'm
14 going to have to seat one of the alternates. And so she
15 is not going to be here. And so Becky is prepared to
16 pull from the two alternates. Whenever you get ready,
17 we'll seat -- so the two alternates are 126 and 226? And
18 you said -- and I said 171 is the one that the husband
19 died. So whenever you're ready.

20 DEPUTY CLERK OF COURT: Number 226, Paulette Price.

21 THE COURT: All right. All right. I'll be glad to
22 hear from you all. And if they show up on the pleas,
23 we'll get those done. But I haven't ---

24 MS. SAMPSON: Your Honor, our first witness that you
25 -- that we finished with yesterday, apparently -- my

1 understanding -- I just talked to Investigator Truluck --
2 we called him, because he's not here. And the reason
3 he's not here is apparently the defense asked for some --
4 subpoenaed some documents, and he had to go get them and
5 made copies.

6 So he's on his way. I don't know what -- anything
7 about anything. So he's not here yet.

8 MS. EIGENBROT: I just sent a subpoena and said if
9 you had any reports -- I mean, if he's printing off the
10 reports, but ---

11 MS. SAMPSON: I'm just saying he's not here, and
12 that's why he's not here. We can probably go ahead and
13 take care of the Durso pictures right now instead. But I
14 -- I'm just telling you he's not here. And when we
15 called to see where he was, he said he was at his office,
16 getting whatever the defense had subpoenaed and he was on
17 his way.

18 THE COURT: All right.

19 MR. MCGLOTHIN: And, Your Honor, as to what we
20 finished with yesterday, I -- I do have copies for the
21 Court as to the time lines for both the phones that the
22 state intended enter. I've provided copy to the defense.
23 And they've been marked ---

24 THE COURT: All right.

25 MR. MCGLOTHIN: --- with the numbers that were used

1 for the ones prior. May I approach?

2 THE COURT: Yes. All right. Now, so these are the
3 victim's ---

4 MR. MCGLOTHIN: The ---

5 THE COURT: --- calls and the defendant's calls?

6 MS. EIGENBROT: I believe that's correct, Your
7 Honor. And I -- I respect your ruling, Your Honor. I
8 just wanted to clarify under what, I guess, ruling ---

9 (Whereupon, Ms. Eigenbrot and Ms. Pinnock
10 conferred.)

11 MS. EIGENBROT: Yeah. Clarify the reasoning for
12 allowing Mr. White's records along with the victim in
13 this case, who is obviously not here to testify, for the
14 record, Your Honor.

15 THE COURT: You want the ruling?

16 MS. EIGENBROT: Uh-huh. The reasoning, Your Honor.

17 THE COURT: The ruling is that the defendant's would
18 be a statement against interest, which is allowable under
19 the rules. The victim is -- declarant is unavailable
20 under 80 -- I thought that the -- and then, under the
21 doctrine of completeness, you asked for the -- you wanted
22 the entire day. And so I said that we would allow --
23 well, I think you wanted the entire phone record.

24 MS. EIGENBROT: Well, I -- and, Your Honor, that was
25 in response to Your Honor's indication that you were

1 going to allow the records in.

2 THE COURT: Uh-huh.

3 MS. EIGENBROT: I -- I still would object ---

4 THE COURT: I mean, I know you don't want any of
5 them in.

6 MS. EIGENBROT: --- to them being hearsay,
7 especially to the victim's phone records.

8 MR. MCGLOTHIN: Your Honor, again, the victim's
9 phone records were not -- they were not using them for
10 the truth of the matter asserted. So they are not
11 hearsay by its very definition.

12 MS. EIGENBROT: But I don't understand what the
13 purpose of or the relevance would be at this point.
14 We've discussed them through testimony. But aside from
15 that, I -- I don't know how else they'd be relevant
16 and/or apply under any of the other exceptions.

17 MR. MCGLOTHIN: To show calls or -- just ---

18 (Whereupon, Ms. Sampson and Mr. McGlothlin
19 conferred.)

20 MR. MCGLOTHIN: Yeah. A) to show that the -- the
21 record was taken -- the report was made; and to show the
22 existence or -- or nonexistence of any calls or texts
23 made between the victim and anyone else.

24 (Off the record briefly.)

25 THE COURT: Well, and then, all -- also, I think

1 under . . .

2 MS. EIGENBROT: And, Your Honor, I'm not intending
3 to reargue this. I -- I believe you've ruled. I just
4 wanted to make sure on the record that we ---

5 THE COURT: Well ---

6 MS. EIGENBROT: --- were clear ---

7 THE COURT: --- I didn't rule as to the victim's.
8 But I did rule as to the defendant's that it's a
9 statement against interests. And I think the hearsay
10 rule -- that I found that the others were not -- I think
11 I found that they were not hearsay and -- let me find my
12 notes.

13 So for purposes of the defendant's text messages,
14 the Court's ruling was that it was a statement against
15 interests and, therefore, not hearsay. And then, I think
16 you brought up what about the responses to the --
17 responses to his statements against interest. I don't
18 find that those are hearsay, because they're not offered
19 for the truth of the matter asserted.

20 But also, I do think, even if they are, there's the
21 present-sense impression, which is a response to the --
22 they would come in under the exception of 803(1) as
23 present-sense impression. So that's the ruling as to
24 his.

25 Now, let me hear from the state as to getting into

1 the victim's phone records, other than -- your position
2 is that they're not offered for the truth of the matter
3 asserted; is that correct?

4 MR. MCGLOTHIN: Yes, Your Honor. And -- and again,
5 we're -- we kind of -- I mean -- don't mean to -- to harp
6 on this again. But it's the -- the defense has been
7 hammering at -- at the state on them doing their job and
8 -- and entering these records is showing that they did
9 their job. They -- they went; they pulled these reports.
10 And it goes to the existence or nonexistence of any calls
11 -- calls or texts that may have been made during that
12 time. But the substance of those calls, we're not
13 saying, are necessarily -- or texts, are -- we are saying
14 are true, just that that data is stored in these phones.

15 THE COURT: All right. So you're saying you're
16 offering them to show that the police did, in fact,
17 investigate ---

18 MR. MCGLOTHIN: They were looking ---

19 THE COURT: --- look at all ---

20 MR. MCGLOTHIN: --- for evidence.

21 THE COURT: --- phone records, look for evidence.

22 All right. Not for the truth of the matter asserted?

23 MR. MCGLOTHIN: That's correct, Your Honor.

24 THE COURT: All right.

25 MS. EIGENBROT: Your Honor, I would still remain

1 that our position is -- this -- these are hearsay,
2 especially since he's not here to be cross-examined on
3 them. So we would ask that Your Honor exclude them.

4 THE COURT: All right. All right. Well, I'm going
5 to allow the -- over the objection of the defense, I will
6 allow the records. But -- but these are the complete --
7 the whole -- the entire day, 7th and 8th?

8 MR. MCGLOTHIN: Yes, Your Honor. And -- and to be
9 candid with the Court, it actually includes -- I think
10 one of them includes a -- three or four from the 6th as
11 well, because of the -- the way the page is laid out.
12 There was a few at the top that are just added on.

13 THE COURT: All right.

14 MR. MCGLOTHIN: But obviously, since we were the one
15 arguing against the completeness, I -- I -- we're okay
16 adding those just to make it -- to try and keep it in a
17 -- as accurate a copy from the report as we can.

18 THE COURT: All right. And then, the other reason,
19 I think, for allowing the messages in from the response
20 to his messages -- text messages was under the doctrine
21 of completeness under the rules to -- in -- in terms of
22 the communication between the defendant and the persons
23 that he was texting. All right.

24 MR. MCGLOTHIN: Thank you, Your Honor.

25 THE COURT: All right. Thank you.

1 MS. EIGENBROT: Thank you, Your Honor.

2 THE COURT: All right. Anything else?

3 MS. SAMPSON: I see there are some solicitors and
4 defense attorneys here if you want to do the plea. Is
5 that the plea you need to do?

6 (Off the record briefly.)

7 THE COURT: We'll keep working till they're ready.

8 MS. SAMPSON: I need one second, Your Honor.

9 (Off the record briefly.)

10 THE COURT: Real quick, back on the record: So what
11 I -- the clerk just asked me. What I will do is let the
12 jurors know -- she was asking should she tell them that
13 the lady's husband died or -- I'll just let them know
14 that her husband died last night and that we have to seat
15 an alternate and that it will -- 226 will be seated after
16 at that point. All right.

17 MS. SAMPSON: Yes, ma'am.

18 THE COURT: Okay.

19 (Off the record briefly.)

20 THE COURT: Go ahead.

21 MS. SAMPSON: All right. I've handed the defense
22 State's Exhibits 96 through 115. I'm going to hand them
23 to the Court so you can see them. She does not object to
24 State's 112, 113, 114, and 115. However, she does object
25 to 96 through 111. I'm going to hand them to the Court

1 so the Court can see what I'm talking about.

2 THE COURT: Those are the non -- which ones?

3 MS. SAMPSON: The ones that -- the ones that I did
4 not hand up, Your Honor, are 112 through 115. She does
5 not object. They're X-rays and the bullet that was
6 removed -- the projectile that was removed.

7 What you have, Your Honor, are the photos from
8 autopsy that show the entry and exit wounds and the
9 rodding that she -- that Dr. Durso had to use to show the
10 entry and exit wounds. Most of them are after they have
11 been cleaned. But some of them do show blood.

12 I don't think they're overly prejudicial. They're
13 not overly bloody. I mean, it's a murder. There's
14 clearly going to be some pictures to that. And I'll let
15 her make her argument before I make mine.

16 THE COURT: Yes, ma'am.

17 MS. PINNOCK: Thank you, Your Honor. If it please
18 the Court: Your Honor, this is not a issue that's new
19 before the Court. This is something that comes up every
20 time there is a individual charged with murder and the
21 state wants to introduce pictures from the autopsy.

22 If this were a sign where there was any question or
23 any argument as to what the cause of death was for Mr.
24 Turner, I could see how introducing trajectory of bullets
25 through the body and, you know, arguing about -- or, you

1 know, having testimony presented with the aid of pictures
2 would maybe assist the jury in determining the cause of
3 death. But that's not an issue in this case.

4 So I submitted a written memorandum for Your Honor
5 -- I have another copy if you -- if you need it -- that
6 lays out kind of, you know, the background and, you know,
7 some of the court rulings in the past when dealing with
8 pictures. One of the biggest things that the Court has
9 to consider in any circumstance when it comes to very
10 graphic photographs, like the ones Your Honor are looking
11 for -- looking at, is whether or not the pictures would
12 aid the jury in understanding a material fact at issue.

13 And that's the -- the most important thing to -- to
14 consider, is a material fact in issue. It is not an
15 issue that Scott Turner was shot. It is not an issue --
16 nobody has made an issue throughout any of the -- the
17 questioning of any witness about the location he was in
18 when he was shot, the location of his body when he was
19 shot.

20 So there is no -- under 401 there is no relevant
21 reason that these photographs should be entered into
22 evidence, other than to arouse the -- the passions of the
23 jury. Having a photograph of a -- a -- a metal rod
24 sticking out of the shoulder into the face of a deceased
25 person on a gurney, that is not proving an issue in this

1 case. The issue in -- in this case, from the beginning
2 of this case, is the identity of the shooter, not the
3 cause of death, not where his body was located. It's the
4 identity of the shooter.

5 These photographs and the testimony of Dr. Durso
6 that she's going to be providing, you know, about cause
7 of death does nothing to establish who pulled the trigger
8 on January 8th, 2016. So, Your Honor, I would stand on
9 the arguments that I put in the written memo, having seen
10 the photographs and, you know, just how this trial has
11 evolved over the past couple of days, I think I can just
12 stand on the written memo, stress the 401. It's
13 completely irrelevant at this point.

14 It does not -- it should not get past a 403
15 analysis, based on the -- the case that we have before us
16 and ask Your Honor to exclude all of them. It -- it is
17 completely irrelevant, pointless information to be
18 providing to a jury, when ultimately, it's not necessary.
19 Your Honor, I'd ask you to exclude all of the photographs
20 and just allow the testimony to go forward from the
21 witness stand.

22 And in the alternative, Your Honor, I don't know if
23 you are aware, there -- there's diagrams that are made
24 during an autopsy that indicate where the injuries are.
25 There's -- we have two that were provided to us. One has

1 documented with every -- you know, every single thing
2 that was found on Mr. Turners body; and then, one that's
3 cleaned up and only indicates where the gunshot wounds
4 were.

5 I think the testimony could be explained. There's
6 entrance wounds indicated. There's exit wounds. They're
7 labeled A/B/C to make the connection between where the
8 entrance if it exited and reentered. I just don't think
9 at this point it would be necessary for the jury to see
10 metal rods sticking out of somebody's body when the cause
11 of death and the manner of death are not an issue. It's
12 the identity of the person who pulled the trigger.

13 THE COURT: All right. Well, let's hear from the
14 state as to why it's necessary to substantiate a material
15 fact.

16 MS. SAMPSON: Beg the Court's indulgence.

17 THE COURT: And some of these are duplicative. So

18 ---

19 MS. SAMPSON: I'll explain.

20 THE COURT: --- you don't -- I don't think you need
21 all of them anyway.

22 (Whereupon, State's Exhibit 130 was marked for
23 identification.)

24 THE COURT REPORTER: Ms. Sampson, this is No. 130
25 for identification.

1 MS. SAMPSON: 130?

2 THE COURT REPORTER: Yes, ma'am.

3 MS. SAMPSON: And, Your Honor, for the record, I'm
4 going to hand you the diagram, which is now State's 130.

5 MS. PINNOCK: Which one is that?

6 MS. SAMPSON: It's the one without -- the least ---

7 MS. PINNOCK: Oh.

8 MS. SAMPSON: --- amount of stuff on it.

9 So, Your Honor, first of all, if -- I -- I have two
10 cases to point out: *State v. Gray* and *State v. Collins*.
11 *State v. Collins* is 409 S.C. 524, and *State v. Gray* is
12 408 S.C. 601. Both of these are 2014 cases. Both of
13 these are -- one's Supreme Court case and one's Court of
14 Appeals.

15 In both those cases, photographs were allowed. But
16 those photographs were way more gruesome than these
17 photographs. I will specifically talk about *Gray* in that
18 that was a case that I was involved in. And in that
19 case, he got to remove -- put the picture in that removed
20 the skull and showed the face pulled down.

21 Our pictures, most of those don't even have blood.
22 A lot of them were just holes so that they can show -- so
23 that Dr. Durso can explain the angles and how she came up
24 with those.

25 MS. PINNOCK: Your Honor, I'm ---

1 And I will ---

2 MS. PINNOCK: --- sorry to interrupt. Can I get the
3 cite to Gray? Because I don't have a copy of it.

4 MS. SAMPSON: Oh. I can give you a copy.

5 THE COURT: Can you give me a copy?

6 MS. SAMPSON: Sure. Yeah. There's *State v. Gray*
7 and *State v. Collins*. That's *State v. Collins* and *State*
8 *v. Gray*.

9 Specifically, in *Gray*, Your Honor, when it goes to
10 talking about the photographs -- and I will point out to
11 page 7 and page 8, where it talks about the probative
12 value and -- and the prejudicial effect, which I -- I
13 think is what Ms. Pinnock is getting at. And then, what
14 they talk about is exactly what Dr. Durso's going to say,
15 which is she can't just use the diagrams. They're not
16 very -- they're not as good as the photographs in
17 explaining it.

18 And also, that we have to show malice, and part of
19 showing malice is the fact that she's going to testify
20 that the pictures, based on the angles, show that the
21 victim was laying down; that he was most likely asleep.
22 That goes to malice, that you're shooting someone
23 sleeping in the van that many times.

24 She will also testify, Your Honor -- and I can put
25 her up -- but she's going to state that the diagram is

1 crude; that it doesn't show -- it -- she does not have
2 the ability to just show the jury what she's talking
3 about with those diagrams. Because his body is not
4 laying flat like that when he's shot.

5 The pictures state -- and you have them. But the --
6 I can kind of tell you the order. The first one shows
7 the -- the two holes in the front and the two holes in
8 the back. That's ---

9 THE COURT: How many gunshot wounds total?

10 MS. SAMPSON: And, Your Honor, these are all of
11 them.

12 THE COURT: No. How many were in the body?

13 MS. SAMPSON: How many were in the body?

14 THE COURT: Yeah. There's -- because there's ---

15 MS. SAMPSON: There's only two projectiles found ---

16 THE COURT: Yeah.

17 MS. SAMPSON: --- in the body.

18 THE COURT: Okay.

19 MS. SAMPSON: The rest go through. And that's part
20 of the argument, Your Honor. So State's Exhibit 96 shows
21 four holes. The jury will have no idea what that means.
22 Even with the diagram, you can't see them like that. And
23 that shows the -- she would use that to show the
24 trajectory.

25 State's Exhibit -- they're out of order; sorry, Your

1 Honor -- 97 is just -- she had to mark the -- because
2 there were so many. She marked them with the letters.
3 And then, she also put dowel rods through.

4 These pictures are not graphic. They're not --
5 there's no blood. He was actually cleaned up.

6 State's Exhibit 99 shows the rod. And how -- it
7 shows how she would know that they go through. Dr. Durso
8 would explain to you that just showing that diagram and
9 just reading her report, she -- it's hard for her to even
10 explain it without the photograph. We've gone over this,
11 and it was hard for us to do without a photograph.

12 State's 100 is a different gunshot wound. And
13 again, it is showing the rod. But there's -- there's no
14 blood in these pictures. In both *Gray* and *Collins*,
15 *Collins* was a child who was mauled by a dog, and those
16 photographs came in.

17 State's 103 is another one, again, with the rod
18 going through but showing the angle. State's 104 is a
19 longer shot. But it showing the angle again. It needs
20 to be long because State's Exhibit ---

21 THE COURT: Which one is that?

22 MS. SAMPSON: 104. Totally different -- different
23 gunshot. State's 105 is the end. If I had a picture
24 that showed the whole thing, I would use that. But I
25 don't. It shows that that same wound that goes through

1 the elbow ends up going through his hand as well. And
2 she would need to explain with the photograph how he's
3 not sitting like this when he's shot.

4 State's 106 is just a close-up of that. This is
5 even any worse than what we show when people are actually
6 alive.

7 State's 107 is, again, no bloody. It is just a
8 hole. She's going to explain. She -- that's where the
9 bullet projectile is, and she was able to dig it out. It
10 also shows the circumference. That's why we used the one
11 with the -- with the ruler.

12 And then, States 108, 109, 110, and 111 are all just
13 -- he had multiple gunshot wounds through his hand. It
14 helps her explain how he was laying with either his hand
15 under his hand, which, again, we say goes towards malice,
16 or on top and how she would know that.

17 And then, 1 -- they're out of order, so I'm sorry.
18 101 is -- there is not -- we don't have one of the rod
19 that goes into his face for this one. So it just shows
20 where the rod ended up and that there's a hole through
21 his face. And it correlates -- and she would correlate
22 the one that I showed you before, where it had come
23 through his arm and goes through his face.

24 And then, 102 is another wound that she would
25 explain that she's not -- she believes one of the bullets

1 came out, but she can't tell which one for sure. And she
2 would explain why. But it just shows the circumference.
3 And again, it's cleaned up.

4 None of those -- oh, I'm sorry. The last one is 98.
5 And again, it's got the trajectory. And it does show
6 where it enters. It's not the -- not that one I just
7 showed you, but the other one. There is some blood in
8 this one.

9 But she would explain, that's actually not blood.
10 It's a pad, sort of like what you have with -- for lack
11 of a better word, if you have a pee pad for your dog or
12 something like that, and it collects the -- the reason
13 that it's dark is not that it's blood. And she would
14 explain that. That's actually a pad under his head.

15 So this case is -- the -- the part that goes to the
16 -- it's pretty complicated. It's not that easy. And Dr.
17 Durso will explain. I can put her up to do that if you
18 would like me to proffer it. But she would explain each
19 and every one of these and why they were necessary.

20 We cut them down. We didn't use any of the ones
21 with his head open. We didn't use any of the ones with
22 his body open. We didn't use any of the ones where
23 there's blood all over the place. We've cut them down as
24 much as we could.

25 But we do have to prove malice. It does not matter

1 if they stipulate to malice. We have to prove it. It
2 does not matter if they stipulate to cause of death; we
3 still have to prove it.

4 There's case law about the stipulations are
5 irrelevant. These pictures are not that graphic.
6 They're not for -- to inflame -- there's only two that
7 even have his face on them.

8 Based on the case law, Your Honor, and based on the
9 need for us to do this through Dr. Durso -- again, I can
10 put her up if I need to. But she's going to almost say
11 exactly what *State v. Gray* says, because I've met with
12 her, so I know. She can't do it with just the diagram.

13 MS. PINNOCK: And, Your Honor, if I could just
14 respond to a few of the things that were brought up: I'm
15 also very familiar with *State v. Gray*. I was involved in
16 that case also. The issue in that case, which made the
17 photographs and the testimony of the pathologist relevant
18 were that the -- both defense counsel for both
19 codefendants who were on trial had hired their own
20 pathologist and they did not indicate at any point that
21 they were not challenging the cause of death.

22 So when the motion was made, the Court had no
23 information to go on. The defense counsel did not put up
24 any theories. They both had pathologists testify. I
25 personally witnessed them testify. And they both had

1 their own opinions on cause of death.

2 That is the difference between that case and this
3 case. Nobody is challenging the cause of death. The
4 issue is proof to a -- being able to prove a material
5 fact at issue. If -- if there is no reason and no fact
6 that is at issue, it makes, honestly, this entire
7 testimony ---

8 THE COURT: What about ---

9 MS. PINNOCK: --- irrelevant.

10 THE COURT: --- if they have to prove malice?

11 MS. PINNOCK: And, Your Honor, it's testimony from a
12 pathologist about cause of death. That's all -- that's
13 -- nobody is challenging that Mr. Turner's body -- he was
14 sitting or laying in a van every time he was shot.
15 Nobody has said anything different outside of that. So
16 they're proving an issue that nobody is challenging.

17 The *Collins* case, Your Honor, this -- this defendant
18 was charged with some sort of -- possession of a
19 dangerous animal. And that's why the Court said, based
20 on the specific nature of that charge, those pictures
21 were relevant to show the aggressive nature of that
22 animal.

23 It's case-specific. These cases do not allow the
24 state just to introduce pictures because they want to
25 introduce pictures.

1 THE COURT: Well, let me ---

2 MS. PINNOCK: The ---

3 THE COURT: --- let me have the doctor testify as to
4 why she needs to hear -- why she needs the pictures in to
5 testify as to his positioning, angling, and why she needs
6 those pictures. But in looking at those pictures, those
7 pictures -- I mean, and I -- you asked me if I'd seen the
8 autopsy report. Unfortunately, being here 8 1/2 years,
9 I've ---

10 MS. PINNOCK: Yes, ma'am.

11 THE COURT: --- seen lots of autopsy reports and
12 lots of pictures. And those pictures are not the
13 gruesome ones that we have -- that I've seen. And even
14 the one with the -- the dog-mauling case, I'm familiar
15 with it. I -- those pictures were -- I mean, it was a
16 child mauled. And the Court in that one said that --
17 that that -- that they were admissible for them to -- the
18 autopsy for the pathologist to testify to.

19 So I know -- what's the case that says you don't --
20 when we talk about the number of -- of pictures. So if
21 there's some pictures that can be eliminated, they need
22 to be eliminated. But she needs to be able to testify as
23 to why she needs those pictures.

24 MS. SAMPSON: And I can have her come testify, Your
25 Honor.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 682

1 THE COURT: All right.

2 MS. SAMPSON: I just want to add in a response to
3 what Ms. Pinnock said about Gray. I would just put the
4 Court to, again, page 7. The problem with the
5 pathologist didn't come up till after the pictures were
6 in. The pictures were in before they knew what the
7 pathologist was going to say. So the pictures were used
8 prior to there being an issue. And I was there for that.

9 THE COURT: All right.

10 MS. SAMPSON: The state calls Dr. Durso.

11 (Whereupon, the witness came forward.)

12 AMY DURSO, having been first duly sworn,
13 testified as follows:

14 DEPUTY CLERK OF COURT: Thank you. Have a seat in
15 the witness stand, please.

16 THE WITNESS: (Complied.)

17 DEPUTY CLERK OF COURT: State your name for the
18 record.

19 THE WITNESS: I'm Amy Durso, D-u-r-s-o.

20 (Off the record briefly.)

21 DIRECT EXAMINATION

22 BY MS. SAMPSON:

23 Q Dr. Durso, I won't have you go into your
24 qualifications right now. But did you examine the body
25 of James Scott Turner?

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 683

1 A I did.

2 Q And the -- how did you go about doing this? We'll
3 start with that first.

4 A As far as the autopsy?

5 Q Yes, ma'am. Can you just go up to looking at the
6 gunshot wounds? What did you do with those? We'll start
7 there.

8 A So each gunshot wound, we -- we document all of its
9 characteristics: where it's located, the size, if
10 there's soot or stippling, all of those things, looking
11 for abrasion collars to determine if it's an entrance or
12 an exit wound. We start looking at the outside; document
13 all of the wounds. And then, as we open the body, we use
14 the trajectory rods to try to trace the path of the
15 wounds, trying to line up what we can.

16 In this particular case, it got very complicated
17 because there were a lot of entrances, exits,
18 reentrances, reexits, that sort of things. So -- and
19 there were also quite a few wounds. So I labeled the
20 wounds by letters pretty arbitrarily when we start, just
21 so I can keep track of them for recording purposes. And
22 I got all the way to Letter M. And Letter M actually
23 includes several gunshot wounds themselves. It actually
24 consists of nine.

25 So there were numerous gunshot wounds in this case,

1 which is why my diagram, even the simplified one that
2 just has the gunshot wounds, is a bit complicated in this
3 case.

4 Q Can you explain to the -- to the Court why just
5 using the diagram would not be good enough?

6 A Well, the problem with the diagram is it's -- it's
7 very two-dimensional and I've yet to examine any deceased
8 person that looks exactly like the generic male diagram
9 that we have. So -- I'm also not an artist. So my --
10 where the actual exact entrance and exits and things in
11 the body are, it might -- is not as accurate on my
12 diagram as it is on an actual picture.

13 And also, in this case, I do think, especially the
14 pictures with the trajectory rods, you know, showing the
15 path through the body, is especially helpful for me to
16 try to explain the way these bullets go in, out, back in
17 again. Because even, honestly, trying to explain it to
18 Ms. Sampson this morning took some time.

19 Q All right. And I'm going to give you the
20 photographs and I'm just going to show the Court what we
21 -- what we present. All right. So if you -- since you
22 have the photographs, if you will say what exhibit number
23 this is.

24 A Sure. This is Exhibit -- is that 96?

25 Q Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 685

1 A Okay.

2 Q Yeah. They're in order.

3 A Okay. 96, and so this is showing on the bottom
4 there are two entrance wounds. You can see they have --
5 they're round. They have a little bit of an abrasion
6 collar, so that means they're entrance wounds. They're
7 going out. Those two wounds kind of on the right, those
8 are exit wounds. They have no abrasion collar exactly.

9 Q And on the diagram which -- which letter are they?

10 A This -- the two entrances are F and G. And the
11 exits are C and D.

12 Q And they're on -- on here they're on the back in the
13 front of the diagram. But they're actually -- can be
14 seen in the same picture if they're on the picture,
15 correct?

16 A Correct.

17 Q Okay. Can you -- and that doesn't really correlate
18 on this diagram, or does it? That they're ---

19 A Like I ---

20 Q --- that close ---

21 A --- said, they're not in the exact same position
22 probably on my diagram as you can see. Even my G, I kind
23 of have lower down on the diagram than I do. Like I
24 said, I'm not an artist. And it's hard to put it exactly
25 where it is on a diagram of -- doesn't quite exactly

1 represent the body habitus of the victim.

2 Q And the next? The next one?

3 A Okay.

4 Q State's 97.

5 A So this is showing the exit wound, C, and how it's
6 coming up at that angle. Because it actually reenters
7 through what is labeled gunshot wound B, which is down
8 near the left ear.

9 Q Is this a better shot?

10 A That's actually a better shot. And it's -- I --
11 again, I mean, if you want to eliminate the one before, I
12 can just use that one to show the whole thing if we're
13 trying to narrow down photos. I could just use that one
14 to show how it's going through his arm and then back into
15 his head there.

16 Q Okay. And that's ---

17 THE COURT: Which number is that?

18 MS. SAMPSON: This is State's 90 ---

19 THE WITNESS: Oh, I'm sorry. I forgot to ---

20 MS. SAMPSON: That's okay. I think this is 90 ---

21 THE WITNESS: This is 98. And so, like I said, the
22 one before, 97 -- if 98's allowed, I don't think 97 ---

23 MS. SAMPSON: Okay.

24 THE WITNESS: --- is necessary.

25 THE COURT: Go back to 97.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 687

1 A Since they're ---

2 Q And -- and that ---

3 A --- already in two other pictures, I -- I don't
4 think that would necessarily ---

5 Q But this ---

6 A --- be needed.

7 Q --- was one -- State's 98 is one ---

8 A Yeah. That's ---

9 Q --- you think ---

10 A --- more helpful because you can show it -- how it
11 goes through and goes back in.

12 Q State's Exhibit 99?

13 A This is also showing the trajectory -- it's -- it's
14 -- again, this one might be able to be eliminated just
15 because, again, it's kind of showing the same thing as
16 State's Exhibit 98.

17 Q So would it be fair to say that 98 is more important
18 than ---

19 A 98 is most ---

20 Q Okay.

21 A --- important, because I think it shows all the
22 entrance, exit, and reentrance ---

23 Q Okay.

24 A --- which is most helpful to try to help the jury
25 understand how it's actually traveling through the body

1 and back in.

2 Q Okay. State's -- I guess this is 100?

3 A So this is 100. This is showing the wound below
4 and, again, how it goes through. And this one actually
5 goes, I believe, back into the face, which is Exhibit A.
6 I guess the rod -- but I don't know why there's ---

7 Q Here ---

8 A --- not a picture of the rod ---

9 Q So on State ---

10 A --- going all the way through. I think that one was
11 very bloody, so you decided not to use that one. Because
12 the head was actually open at that time. But it does --
13 so the ---

14 THE COURT: What number is that?

15 MS. SAMPSON: This is State's 100, where it shows it
16 going through the arm.

17 A Yes. And 101 is showing the face. So those kind of
18 -- together kind of can show how it goes through the arm
19 and then into the face.

20 Q And that, on the diagram, is -- is -- here it's D?

21 A So it's G to D to A.

22 Q And can you do that with just the diagram?

23 A I think it's hard for the jury to understand how in
24 the world that would line up from the arm into the face
25 and ear, just by looking at the diagram. It's easier for

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 689

1 me, definitely, to use these photographs. They're a lot
2 more accurate. And they can actually show how I was able
3 to line them up.

4 Q And then, State's -- I believe it's 102, but I don't
5 know.

6 A This is 102.

7 Q Okay.

8 A So this is up on the left side of the head. This is
9 E on the diagram. So this is the exit from the one that
10 goes in through the face by the nose, and then it comes
11 out of this ear ---

12 Q And you said ---

13 A --- here.

14 Q --- left, but isn't that the right?

15 A I'm sorry.

16 Q I'm sorry.

17 A Yes, right.

18 Q Okay. And then, State's Exhibit 103?

19 A So 103, this is the right -- no, sorry. This is the
20 right wrist, isn't it?

21 Q This is the elbow.

22 A I'm sorry.

23 Q You can step ---

24 A Oh, I'm ---

25 Q --- down ---

1 A --- sorry.

2 Q --- if it's ---

3 A It's upside ---

4 Q --- easier.

5 A --- down compared ---

6 Q Yeah. You ---

7 A Okay.

8 Q --- if you need to step down, you can.

9 A Right. So this is H going in just above the left
10 elbow. It then comes out I, which is right there. And
11 then, up at the top of the screen, you can see where it
12 grazes along the arm. And then, I -- it actually
13 reenters through J. I think there's another picture ---
14 Q And then -- I just am going to go in order. So this
15 is 104?

16 A I'm sorry. I need to look at these in front of me.

17 Q That's okay.

18 A Yes. This is 105.

19 Q Five, okay.

20 A No. Is it 105? Yeah, 105. It's slightly
21 different. It's not ---

22 Q It's just ---

23 A --- the same.

24 Q --- a different -- it's the same. It's just -- oh,
25 that one. It's this one.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 691

1 A Oh, it's this one.

2 Q Yeah.

3 A Okay. That's 104.

4 Q Okay. So what -- 104 ---

5 A But 105 is better. So again, if we can eliminate
6 one, I would eliminate 104. 105 actually shows where it
7 reenters through the wrist in that one. So since it's
8 showing the same wound, I ---

9 THE COURT: Which one ---

10 A --- would say ---

11 THE COURT: --- is this?

12 MS. SAMPSON: This is 105.

13 THE WITNESS: This is 105, which actually shows it
14 going all the way through, which is the most helpful.

15 A So I would say eliminating 104 and, if necessary,
16 103, I could show all of that with that one rod going in
17 and out ---

18 Q And just ---

19 A --- and back in.

20 Q --- to be clear, 104 is the one that the rod is long
21 way, and 103 is just a close-up shot?

22 A Right.

23 Q Okay.

24 A They're all the same wound. So if we had to
25 eliminate down to one, just to show that whole

1 trajectory, the one showing everything which is -- I
2 don't ---

3 Q 105.

4 A --- know if -- 105 is the most helpful.

5 Q And then, 106 is just a close-up of his hand?

6 A Yes, 106 is just a close-up of his hand.

7 Q But it's the same ---

8 A Which is -- this is the left hand. And this is J
9 and K. So again, if you wanted to eliminate that one,
10 you know, that would be ---

11 Q Okay.

12 A --- I -- I could use -- I could use the other
13 pictures to explain. This is on the other hand. So this
14 is 107. This is actually the right wrist. So the
15 projectile barely goes in. That's like an entrance
16 wound. It's probably a reexit.

17 Like I said, there were so many wounds, I couldn't
18 with complete certainty line everything up. But this
19 one, you can see a little bit of the projectile sticking
20 out. So it doesn't go very far into the skin. So it's
21 likely a reentrance because it didn't have enough
22 momentum to keep going through the arm.

23 Q Okay. And then ---

24 A This is 108. So this is the right hand. And as I
25 said, there were numerous perforations through the right

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 693

1 hand. I think I said there were, I think, nine entrance
2 and exit wounds total.

3 So I think the hand was kind of clenched in fist
4 underneath his hand. So these were a lot of -- just
5 showing how many wounds there are in this hand and why I
6 wasn't able to completely line everything up, because I
7 wasn't able to get his hand back in that specific
8 position.

9 Q And so the rest of these are -- so I think you said
10 this is 109? I don't know what number this is.

11 A I'm sorry. This is 108.

12 Q So 108, 109, 110, and 111 are just hand shots ---

13 A They're ---

14 Q --- correct?

15 A --- all parts of the right hand, showing all of the
16 different -- how many wounds there are to it, basically.

17 Q Okay. That ---

18 A And why I couldn't line them up.

19 MS. SAMPSON: So that's all the ones that Ms.
20 Pinnock objects to.

21 THE COURT: All right.

22 Q And so just to make sure we're clear: Do you feel
23 like you can show the jury with just this diagram and
24 explain it to them in terms of how you made your -- your
25 conclusions or ---

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1 A I honestly don't think they'd understand this from
2 the diagram.

3 Q Okay. So the picture ---

4 A In this particular case, it's really a complicated
5 gunshot-wound case. So the pictures showing --
6 especially ones showing the rods going through, I think,
7 are necessary for me to be able to explain it to a jury.

8 Q Okay. Thank you.

9 MS. SAMPSON: I have no further questions, Your
10 Honor. I don't know if Ms. Pinnock has any.

11 THE COURT: Any questions for the witness?

12 MS. PINNOCK: Yes, Your Honor. Please the Court.

13 CROSS-EXAMINATION

14 BY MS. PINNOCK:

15 Q Dr. Durso, what is the cause of death in this case?

16 A The cause of death -- I'll read it word for word --
17 multiple gunshot wounds.

18 Q Okay. And how many gunshot wounds did you document?

19 A I'd say at least four, possibly more, depending how
20 many are truly reentrances for level -- level -- letter M
21 that I did. So I'd say ---

22 Q Okay.

23 A --- at least four.

24 Q Okay. So -- and you have them numbered. On your
25 report you have them numbered Wound 1, 2, 3, and 4.

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1 A I do.

2 Q And those have really no other significance, other
3 than you keeping track of ---

4 A Right. It doesn't mean what order they came in or
5 their severity, even. It was just a way for me to
6 record them.

7 Q Okay. So with the first wound that you have, you
8 have written down intermediate-range, nonexiting gunshot
9 wound involving ---

10 A In ---

11 Q --- the left shoulder -- I'm sorry?

12 A Indeterminate range.

13 Q Oh, I'm sorry. Yep. I can read this morning.
14 Indeterminate-range, nonexiting gunshot wound
15 involving left shoulder and head, right?

16 A Yes.

17 Q And the entrance for that you have is posterior left
18 shoulder?

19 A Yes.

20 Q Where is the posterior left shoulder?

21 A So posterior means back.

22 Q Uh-huh.

23 A So it's the back of the left shoulder.

24 Q Okay. And the exit wound for that, it says ---

25 A Well, the first exit is on the anterior-superior

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1 left shoulder, which is -- anterior means front; superior
2 means more towards the head ---

3 Q Uh-huh.

4 A --- left shoulder, so the front top of the left
5 shoulder.

6 Q Okay.

7 A And then, there's a reentrance inferior to the left
8 ear, which means below the left ear. And then, it goes
9 to the brain. And I get the projectile from the brain.

10 Q Okay. So it enters the back of the left shoulder,
11 exits the top, reenters the head, and you collect the --
12 the bullet from the brain?

13 A Yes.

14 Q Okay. And that's the bullet that's shown on the --
15 there's going to be an X-ray picture, but that's the
16 bullet you found ---

17 A Yes.

18 Q --- on the X-ray?

19 Okay. The second wound that you have,
20 indeterminate-range, exiting gunshot wound involving left
21 arm and head, right?

22 A Yes.

23 Q Entrance posterior left arm?

24 A Yes.

25 Q On your diagram where is that?

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1 A It's labeled G.

2 Q Labeled G?

3 A (No audible response.)

4 Q And where is that found on the body? Can you
5 describe ---

6 A The back ---

7 Q --- where it is?

8 A --- of the left upper arm.

9 Q Back of the left upper arm?

10 A Yeah. Which is very near where the first gunshot
11 wound I described goes in.

12 Q Okay. And exit anterior left arm? Where is that
13 located?

14 A Anterior left ---

15 Q Shoulder.

16 A --- shoulder.

17 Q I apologize.

18 A So the front of the left shoulder, again, very
19 similar to the one I just described as kind of going the
20 same angle.

21 Q Okay. And that one exits. You don't recover that
22 bullet?

23 A No. Well, that one reenters then. It goes back in
24 at A, which is the face.

25 Q Uh-huh.

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1 A And then, that one goes through the brain. And
2 then, it exits up near the right ear on the right side.
3 That one photo showed where it comes out by the right
4 ear.

5 Q Uh-huh.

6 A And then, so that one I did not recover. It does
7 exit.

8 Q Okay. So gunshot wound No. 2 enters the back of the
9 shoulder, exits near the top of the shoulder near the
10 head, reenters ---

11 A Uh-huh.

12 Q --- the head and exits -- it travels all the way
13 through the -- the head ---

14 A It goes ---

15 Q --- and exits?

16 A --- through the whole head.

17 Q Okay. And the associated injuries with gunshot
18 wound No. 2 are what?

19 A It's the same as No. 1, because they both went
20 through the head. So they both obliterate part of the
21 brain that they go through.

22 Q Uh-huh.

23 A They both cause skull fractures, and they both cause
24 bleeding around the brain in the subdural spaces.

25 Q Those two gunshot wounds by themselves, are they

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1 fatal?

2 A Yeah. Even by -- alone, they're fatal.

3 Q Okay.

4 A Yes.

5 Q Gunshot wound No. 3, indeterminate-range, exiting
6 gunshot wound to the left arm and hand?

7 A Right.

8 Q The entrance wound for that -- for No. 3 is located
9 where?

10 A It's H. So it's on the posterior-lateral left upper
11 arm. So the upper outside of the left upper arm, but
12 only an anatomical position, like if you're standing,
13 like, with your palms forward. So ---

14 Q Okay.

15 A --- which I'm sure he was not standing that way.

16 Q And did that one exit?

17 A So it exits at I, which is near the left crook of
18 the arm.

19 Q Uh-huh.

20 A And then, it kind of grazes and then it reenters the
21 left wrist and then comes out the left hand near the
22 thumb.

23 Q Okay. So it ---

24 A So this is very complicated, because it -- again,
25 it's going -- it's kind of weaving through the arm.

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1 Q But it enters ---

2 A The hand has to be in a very specific position for
3 that to all line up, so ---

4 Q Okay. Any, I guess, fatal injuries with gunshot
5 wound No. 3?

6 A No.

7 Q Okay. What about No. 4?

8 A Not necessarily, yeah. Number 4 goes in the right
9 wrist, and the projectile is right there. So again, I
10 think this is possibly one that could've been a
11 reentrance from somewhere. But I just -- it's -- it's
12 too much. It could've even been the reentrance from the
13 one that leaves the right side of the -- the head by the
14 ear. But ---

15 Q Okay.

16 A But I -- I -- I can't line it up for sure. So I
17 kind of just put it by itself.

18 Q Okay. And again, your -- the cause of death you
19 have listed is multiple gunshot wounds ---

20 A Yes.

21 Q --- right?

22 And your report and your diagram indicate where you
23 documented the gunshots' entrance, exits, and where you
24 believe they reentered?

25 A Yes.

1 Q We have the X-ray that shows the projectile that you
2 collected from the brain?

3 A Yes.

4 Q And the two gunshot wounds that had the most likely
5 fatal injuries were gunshot wound 1 and 2?

6 A 1 and 2, yes, would -- 1 alone would be fatal; 2
7 alone would be fatal.

8 Q Okay.

9 A Together, also fatal.

10 Q And both of those entered behind the left shoulder,
11 exited the arm, and entered the brain, and that's ---

12 A Yes.

13 Q --- what caused his death?

14 A Yes.

15 MS. PINNOCK: Thank you, Your Honor. Nothing
16 further.

17 THE COURT: Anything else?

18 MS. SAMPSON: No, ma'am.

19 THE COURT: All right. You may step down.

20 THE WITNESS: Thank you.

21 (Whereupon, the witness exited the witness stand.)

22 THE COURT: Can I have all the photos back, please.

23 All right. Anything else?

24 MS. SAMPSON: Not from the state, Your Honor. I
25 mean, I think it's clear that Dr. Durso has stated why

1 she needs to use the photographs. She's even agreed to
2 cut down some of the photographs, if necessary.

3 As Your Honor has already stated, they're not that
4 gruesome. They don't show brain or blood matter or what
5 we normally have. As both the cases talk about, this is
6 a murder. There's no way to get around some of the
7 pictures being needed that would be graphic. We're not
8 using -- we took out the ones that were terrible that --
9 such as the brain or the rod going through his head.

10 But we have to prove malice. We have to prove the
11 angles that goes towards malice in this particular case.
12 It shows how she opines that he was laying down with his
13 hands underneath his head. We cannot do that easily
14 without -- or at all, really, without the photographs.
15 As she stated, the diagram just doesn't do that.

16 And the jury doesn't -- it's not that we just have
17 to prove it. We have to prove it beyond a reasonable
18 doubt. So just her saying it isn't enough. She has to
19 be able to prove how she -- and that rods and the
20 photographs help her do that.

21 The case law says that it's not overly prejudicial.
22 We've given you the probative reasons why we need it.
23 And that's why we'd ask that we be able to introduce
24 them.

25 THE COURT: All right. Yes, ma'am.

1 MS. PINNOCK: And, Your Honor, I would just point
2 out that Dr. Durso was able to clearly explain the
3 entrance wounds and exit wound and cause of death in this
4 case. Introducing those photographs does not do anything
5 to prove whether or not Mr. White was the person that
6 pulled the trigger in this case. Again, that's the only
7 issue. So I believe the state still has failed to -- to
8 articulate what substantial and material fact or
9 condition that is at issue in this case these photographs
10 go to prove.

11 And again, Your Honor, I would just point out that
12 neither the *Collins* case or the *Gray* case allow for a
13 blanket just admission of autopsy photos. Those cases
14 are very specific to the facts and, you know, what was
15 going on with those cases.

16 Again, the *Collins* case was about a dog bite. I've
17 seen the photographs in that too. But it was introduced
18 for a particular reason, based on the charge that
19 defendant was facing. It was not just a "prosecution,
20 you can introduce whatever you want to." It was an
21 analysis that was done by the Court based on those
22 specific facts.

23 In the *Gray* case, Your Honor, the Court clearly --
24 well, the opinion clearly states that at the time the
25 objection was made, neither defense counsel had indicated

1 whether or not their pathologist was going to challenge
2 the cause of death or not challenge the cause of death.
3 So because they both had pathologists retained and under
4 -- and scheduled to testify, based on that, that made
5 those pictures and that testimony relevant. The fact
6 that they -- they didn't testify against it later on did
7 not go back and cure the fact that they did not bring it
8 up before.

9 So that is the only reason -- that's the reason that
10 -- that's part of the reason that the Court gives in that
11 case as to why the testimony and the photographs were
12 necessary, because there were two pathologists coming in,
13 under the assumption that they were going to be
14 challenging the cause of death.

15 This gentleman in our case died from two gunshot
16 wounds that traveled through his brain. It does not take
17 photographs of metal rods sticking out of his face and
18 his head to explain that he died from two gunshot wounds
19 that traveled through his brain.

20 There is a X-ray that I'm not objecting to that
21 shows the projectile that was collected. Nobody has said
22 he was not located in his van where he was, you know, by
23 all accounts, laying down. We are not arguing that he
24 was not. So there is no fact at issue.

25 These are extremely prejudicial photos. The -- any

1 probative value that they could have does not outweigh
2 the -- the -- the prejudicial nature of them, Your Honor.
3 And for those reasons, we would -- I would ask that you
4 exclude all of them -- yes -- exclude all of them. Thank
5 you.

6 THE COURT: All right.

7 MS. SAMPSON: And before -- I just need to put one
8 more thing on the record. My colleague reminded me of
9 something. Ms. Pinnock just says that we don't need them
10 for any reason because we're only using them for cause of
11 death. We're not -- as I've already said, we're using
12 them for malice.

13 But also, we have to corroborate, since my
14 understanding is they are now saying the defendant didn't
15 make statements. This corroborates the statement that
16 the victim was laying down, asleep when he was shot.
17 That is the statement the defendant gives, which they are
18 disputing. So the probative value to show that he
19 actually was laying down is huge.

20 THE COURT: All right. In looking at the cases and
21 -- and the testimony before the Court and the exhibits
22 before the Court, I do find, in -- in looking at *Gray* and
23 *Reese* and *Collins*, I do find that the photos -- the
24 following photos -- and I'll go through them individually
25 -- are necessary and material to the state proving

1 elements of the crime of the -- the crime as alleged in
2 the indictment as the state has to prove cause of death.
3 Also, the Court -- the state has to prove malice.

4 And so therefore I am going to allow the following
5 photos. Also, in the cases done -- this Court has done a
6 403 balancing test and I find that the probative value
7 outweighs any prejudicial effect. And as I stated
8 earlier, some of these pictures are -- you know, you can
9 see it's a gunshot to the hand.

10 In -- in considering pictures that this Court has
11 reviewed in the past, these pictures are not gruesome or
12 the -- in terms of gruesomeness, I guess, of the photos
13 that I've seen in -- in homicide cases that have been
14 allowed.

15 So I will allow Exhibit 96. Number 97, I'm going to
16 exclude -- I might've said that -- yeah, exclude, because
17 97 -- 98 shows the entrance and the reentrance, so she
18 doesn't need that one. 99, I think, is duplicative and
19 so is 100. 101, I will allow. That's from a different
20 angle. 102 is the photo of the ear, which I will allow.

21 103 and 104, I will exclude, because it's the same
22 photo, I think, from the same lens of the elbow. 105 is
23 the -- the total -- is the complete arm and elbow, so I
24 will allow that one. 106, I'm going to exclude as
25 duplicative. And 107, 108 -- 107 and 108 are -- are

1 gunshots to the hand. And I -- I don't find those to be
2 gruesome at all. So I am going to allow those.

3 And then, 109, 110, and 111 seem to be these other
4 -- are these three separate entries on ---

5 MS. SAMPSON: All the hands are different entry
6 wounds.

7 THE COURT: All right. And I'm going to allow
8 those, 109, 110, and 111. So that's one, two, three --
9 allow those ten and exclude these one -- it's the other
10 six. All right.

11 MS. PINNOCK: And, Your Honor, I'm sorry. Could you
12 run through the numbers you're excluding again? I -- I
13 just -- my brain stopped working.

14 THE COURT: 106 -- I'm sorry. They're not in order.
15 Let's make sure. Okay. 97, 99, 100, 103, 104, and 106.

16 MS. PINNOCK: Thank you, Your Honor.

17 THE COURT: All right.

18 (Whereupon, State's Exhibits 96, 98, 101, 102, 105,
19 107, 108, 109, 110, 111, 112, 113, 114, and 115 were
20 entered into evidence.)

21 (Off the record briefly.)

22 THE COURT: While she's doing that, I -- let me say
23 I -- the defendant's motion is -- as to the objection is
24 noted for the record. Anything else we need to take up
25 before I do these two pleas?

1 (Off the record from 10:27 a.m. until 10:42 a.m.)

2 THE COURT: All right. We ready?

3 MS. EIGENBROT: Defense is ready, Your Honor.

4 MR. MCGLOTHIN: Your Honor, just because you had
5 already asked if there was anything else we needed to
6 take up. I forgot that the defense did intend to -- I
7 believe it's their intention to enter Crystal Posey and
8 Nicole Bryant's phone records as well through
9 Investigator Metz. That's my understanding.

10 I have very similar objections to what Ms. Eigenbrot
11 said, based on hearsay. I don't think they're covered
12 the same way we are, through the statement by party
13 opponent, as well as the fact that I think they are
14 trying to get some of this -- a number of these specific
15 text messages in for the truth of the matter asserted.

16 And -- and there's a number of texts between Crystal
17 and Nicole that happened at around 5 a.m. that say:
18 "This m.f. just came in. I hear a car." These are
19 things that -- that they are trying to prove were
20 happened at the time. And these go to that.

21 Additionally, I think under 901 they haven't
22 authenticated any of these messages. When they asked
23 Nicole about them, she specifically denied using them.
24 And so I think authentication would also bar their
25 admissibility.

1 THE COURT: Yes, ma'am.

2 MS. EIGENBROT: Thank you, Your Honor. May it
3 please the Court: Your Honor, I -- I do intend to -- to
4 introduce some of the phone records from Ms. Nicole
5 Bryant and Crystal Posey in this case. Both -- both
6 women have testified at this point. Ms. Pinnock had
7 cross-examined them on certain issues.

8 At this point I believe some of these messages,
9 along with some of the calendar entries by Ms. Posey
10 would actually be prior inconsistent statements. They
11 both -- both deny using their phones, period, during the
12 course of the evening or into the early-morning hours.
13 We would be entering them to show that that is, in fact,
14 not true and that they were using their phones.

15 I believe authentication can be made just as they
16 can authenticate their records: through the fact that
17 they have this investigator testifying that he did the
18 phone downloads. They provided the records to us.
19 They're their records.

20 So for those reasons, Your Honor, I do think they
21 would be admissible. And I do intend to cross
22 Investigator Metz on them.

23 MR. MCGLOTHIN: Your Honor, there's a clear
24 difference here. We both asked -- we went into it with
25 -- excuse me -- Brittany Steen and Jerry Rabon going into

1 their conversations with him that night, Brittany even
2 saying she was in the same room as she was texting him.
3 So she clearly knows he was on the other side.

4 As well, the reply-mail doctrine would indicate any
5 -- as far as Brittany saying she -- she may not remember
6 sending them, but she does remember texting that night.
7 So I think that authenticates ours and clearly
8 distinguishes them from what Ms. Posey and Ms. Bryant
9 did, which is I -- I believe Ms. Posey is slightly
10 difference -- her texts are slightly different -- excuse
11 me -- set from Ms. Bryant's. Because I believe she
12 remembers texting again but not specific text messages,
13 whereas Ms. Bryant specifically denied that she sent
14 these messages. So that ---

15 THE COURT: So it ---

16 MR. MCGLOTHIN: --- would be ---

17 THE COURT: --- would be inconsistent, then. What
18 she saying is prior inconsistent statement.

19 MR. MCGLOTHIN: But that ---

20 THE COURT: And -- but she -- she said: "Yes,
21 that's my phone number, but I didn't send those text
22 messages." So ---

23 MR. MCGLOTHIN: But 901 ---

24 THE COURT: --- why would she not be able to show
25 that these text messages were sent -- these are the text

1 messages that were sent and the substance of those text
2 messages to -- as a -- I guess, as a prior inconsistent
3 statement. I don't know what the text messages say.

4 MR. MCGLOTHIN: Your Honor ---

5 THE COURT: But ---

6 MR. MCGLOTHIN: Oh. I apologize.

7 THE COURT: But if the -- if the substance of them
8 are -- I mean, it'd be one thing if the text message
9 said: "Oh, it's raining outside."

10 But if it's -- if it goes to the substance of and
11 it's inconsistent with what she testified to -- because I
12 think she testified that: "Yeah, that's my number, but I
13 didn't send those -- I didn't send any text messages. I
14 was asleep the whole time."

15 MR. MCGLOTHIN: And that's exactly my point as to
16 the authentication part. Prior inconsistent statement
17 doesn't go to authentication under 901. It goes to
18 hearsay.

19 As to the authentication, she's specifically denying
20 that these exist. So she can't authenticate that she
21 sent them. She specifically said she didn't send them.

22 THE COURT: But I think the authentication is that
23 she authenticated that that was her phone ---

24 MR. MCGLOTHIN: But ---

25 THE COURT: --- and that she had the phone. So I --

1 that's your authentication, is that -- that that is her
2 phone number. I'm assuming she's going to ask him: "Did
3 these calls come from -- are these the text messages that
4 came from that phone that night and what time did they
5 come and what did they say?"

6 And I think, under a prior inconsistent statement is
7 she's trying to -- I don't want to say impeach, but yes,
8 impeach this -- Ms. Bryant that maybe she wasn't sleep.
9 If she was, then I think it comes in that way.

10 MR. MCGLOTHIN: And I -- and I think they did that
11 when Ms. Bryant was on the stand. They used them to
12 impeach her. But I don't think those records are
13 admissible for that purpose.

14 And the -- on the authentication issue -- and I
15 don't mean to beat this over the head. But the nature of
16 the cell phone itself, we can't say that she sent those
17 messages. That's the point of the authentication.
18 Authentication means showing that they come from the
19 source that they say it's coming from. And she
20 specifically denied that. So they don't -- other than
21 saying it's on her phone, they can't say that she sent
22 them.

23 THE COURT: All right. Well, I'll rule on that at
24 the time. But more than likely, I'm -- I mean, you can't
25 have it both ways. She -- y'all -- you can't have some

1 of the records and then not have the other ones in, just
2 because she says that she didn't do it.

3 In -- but she clearly says that they were from her
4 phone; she didn't know how they got on her phone. I
5 mean, I think they have -- that's a -- that's
6 inconsistent. I think in terms of impeaching her, they
7 have a right to do that under a separate rule.

8 So you got authentication rule. You got the other
9 rule. But she says -- she says: "Yeah, that's my phone
10 and yet -- but I was asleep. But no, I wasn't sending
11 text messages."

12 So I think they have the right to question him
13 regarding that.

14 MR. MCGLOTHIN: Thank you, Your Honor.

15 THE COURT: But regarding those text messages,
16 regarding that, when -- I don't -- I'm not talking about
17 messages from four or five days before but the messages
18 that you specifically are saying that you're trying to
19 get in because she denied that she was texting that
20 night.

21 MS. EIGENBROT: And, Your Honor, I will be very
22 candid with the Court. There are some text messages that
23 I believe occurred within that week. But again, it goes
24 directly to Ms. Posey's impeachment.

25 She testified that she had had no contact with Mr.

1 White from the time he moved out of the house over the
2 summer up until this point in December. These phone
3 records prove that that's simply not true. There are
4 text messages where she's getting rides from him, where
5 she's communication with Nicole about getting rides from
6 him. I would intend to introduce those as well.

7 They're from -- not months away. I'm talking within
8 that week. Her records mainly start again from December
9 1st on. And there's -- those text messages are further
10 back.

11 MR. MCGLOTHIN: And, Your Honor, going back to my
12 argument from yesterday, I don't see how those are
13 relevant as to this. And I -- if we're going with
14 consistency, I believe limiting it to the two -- the day
15 before and the day of makes sense here.

16 THE COURT: And, Your Honor, I -- I would just
17 simply respond, you know, as Mr. McGlothlin stated
18 yesterday, these are very complicated relationships these
19 individuals are carrying on. And this does go to our
20 theory of the case, about the relationships that Mr.
21 White had with both Ms. Posey and Ms. Bryant.

22 Ms. Posey is indicating he had nothing to do with
23 them, up until I don't even know when she said. So those
24 text messages prove that that's not what was going on in
25 that -- and I do think that goes towards our theory of

1 the case. I think we would have a right to get into it,
2 as she testified on the stand that she was not in
3 communication with him at all.

4 MR. MCGLOTHIN: And, Your Honor, I think they
5 appropriately impeached her on it with those items. And
6 -- and the point I made about their relationships being
7 complicated is that they're going to have talked in the
8 past and we have to draw a line somewhere. And that -- I
9 believe that relevance -- that relevant line or horizon
10 is with the beginning of the day of the 7th.

11 THE COURT: All right. Well, I will allow -- she
12 did testify that she had not talked to him; that she and
13 her daughter had not had any contact with him. But I
14 think it goes to -- it's a issue of credibility if -- and
15 -- and that she -- that she did not -- I think the
16 question no, she didn't get rides with him.

17 So, I mean, I -- I think all that goes to
18 credibility. They have the right to -- I'll -- I'll
19 allow her to ask those. But we're not going far back.
20 You said the week of?

21 MS. EIGENBROT: Your Honor, I will tell you, the
22 first text message that I would intend to bring up is
23 from December 2nd at 9 p.m. And again, it's to Nicole
24 where she says: "So yeah. Tell Brian be here."

25 And then, it continues. And -- and I can give more

1 context. I can introduce the records if Your Honor would
2 -- I mean, but those are -- those are the type of things
3 I'll be getting into, Your Honor.

4 THE COURT: All right.

5 All right. Let's bring the jury in.

6 (Off the record briefly.)

7 (Whereupon, the jury entered the courtroom at 10:52
8 a.m.)

9 THE BAILIFF: The jury is seated, Judge.

10 THE COURT: All right. Good morning, ladies and
11 gentlemen of the jury. I apologize for the delay. But
12 we've had some matters that have come up outside of your
13 -- that I've had to take care of outside of your
14 presence. And so therefore, it has taken us a lot
15 longer. But I've been told that you all have ordered
16 lunch.

17 So we will -- we're going to work -- try to work for
18 the next couple hours and then we'll take a break a
19 little after 1 and then -- so we won't have to be out as
20 long as -- as we normally are to try to get through some
21 more of the testimony today.

22 So you all have probably realized that Juror 171 is
23 not here. We learned this morning -- which was one of
24 the other things that we were taking care of -- we
25 learned this morning that her husband apparently died

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1 last night. And so she will -- of course, we will not --
2 would not expect her to be here today and continue in
3 this trial.

4 And that is the reason why we have alternates. And
5 so we have -- we -- Ms. -- is it Juror 226, Ms. Price?

6 JUROR: Uh-huh.

7 THE COURT: I'll ask you to sit in that seat. And
8 you will -- you will serve as one of our jurors in this
9 case. And thank you, ma'am.

10 All right. Ladies and gentlemen of the jury, we
11 will continue. As you all recall, we were -- testimony
12 of Brian Metz. We will continue with his testimony.

13 MR. MCGLOTHIN: The state calls Investigator Brian
14 Metz.

15 (Whereupon, the witness came forward.)

16 THE COURT: Sir, you're still under oath.

17 DIRECT EXAMINATION

18 BY MR. MCGLOTHIN:

19 Q Good morning, Investigator Metz. How are you?

20 A Good morning. Fine.

21 Q To recall where we were yesterday, we had spoken a
22 little bit about some phones that you had run reports on.
23 And I'm going to again show you State's 91 and State's
24 87. Please refamiliarize yourself with those.

25 A Yes, sir.

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 718

1 Q Are those the same reports that you testified to
2 yesterday being the ones that you ran for this case?

3 A That's correct.

4 MR. MCGLOTHIN: At this time the state would enter
5 State's 91 and 87.

6 THE COURT: Same objection?

7 MS. EIGENBROT: Yes, Your Honor.

8 THE COURT: All right. 91 and -- and 97?

9 MR. MCGLOTHIN: 87 and 91.

10 THE COURT: 87 and 91 will be entered over the
11 objection of the defense.

12 MR. MCGLOTHIN: Thank you, Your Honor.

13 (Whereupon, State's Exhibit 87 and 91 were entered
14 into evidence.)

15 Q Thank you. No further questions. Please answer
16 anything the defense may have.

17 CROSS-EXAMINATION

18 BY MS. EIGENBROT:

19 Q Good morning, Investigator Metz.

20 A Good morning.

21 Q Now, I just want to go over a few things with you.
22 I know they talked a little bit about two phones that you
23 downloaded. But there were two other phones involved in
24 this case ---

25 A There ---

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 719

1 Q --- is that correct?

2 A There were several phones.

3 Q Several phones?

4 A (No audible response.)

5 Q And do you happen to have the extraction -- at least
6 the phone numbers that you did the extractions on or the
7 phones you've had the -- done the extractions on?

8 A I have the beginning pages of the -- of the reports.

9 Q Okay. So I'm going to show you what has been marked
10 as Defense's Exhibit 4 and Defense Exhibit 5.

11 A Yes, ma'am.

12 Q Now, those are the other two reports associated with
13 this case, correct?

14 A That's correct.

15 Q And those phones belong to Ms. Crystal Posey and Ms.
16 Nicole Bryant, correct?

17 A I have no idea.

18 Q Okay. But those were two phones associated with
19 this case?

20 A That's correct.

21 Q Investigator Metz, I'm going to do something a
22 little unorthodox. I'm going to hand you this laptop and
23 plug in -- this where you plug it in. Now, I'm also
24 going to show you what was previously marked for
25 identification as Defendant's Exhibit 3. Can you tell me

1 what the front of that disc reads?

2 A It has the case number for this case and Nicole
3 Bryant's cell phone.

4 Q And would you mind inserting that disc into the
5 player for me.

6 A You got two discs here. Is there a specific one?

7 Q Yes, sir. The one with the sticker on it, the
8 number 2.

9 A Okay. And there's a ---

10 Q Sorry about that. And, Investigator Metz, you work
11 in the I.T. department, correct?

12 A No, ma'am.

13 Q Well, you -- but you're familiar with computers. So
14 if ---

15 A Sure.

16 Q --- I walk you through some stuff, you'd be able to
17 do it?

18 A I think we can handle it.

19 Q All right. Once that opens up, if you could, go to
20 the -- the files currently on the disc and open that
21 folder up.

22 A You want me to open the tie report?

23 Q Well, you can start with the report if you wanted
24 to. I would actually -- would you open up the files
25 folder on there.

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 721

1 A The files?

2 Q Yes, sir. And then, once that opens, can you open
3 up the images folder for me.

4 A Okay.

5 Q All right. Now, if you could scroll down about
6 halfway -- and I'm looking for a specific file, and I'll
7 give that to you. It's 20161208_053637.

8 A There are numerous 2016 ---

9 Q Yes, sir. If you scroll ---

10 A --- so 10 ---

11 Q --- about halfway, it should be right there at the
12 bottom. You see which file I'm talking about?

13 A What was the last ---

14 Q It'd be 053637.

15 A Okay.

16 Q If you don't mind, open -- open that up for me real
17 fast. And that's a photograph, correct? Difficult to
18 ---

19 A Yes.

20 Q --- read, but it's a photograph?

21 A It's showing black on here. I -- it's a photograph.

22 Q Now, I'm going to show you what has been previously
23 marked as Defendant's Exhibit 1. And again, I know it's
24 a dark photo. But that's -- that's that photo, correct?

25 A It appears to me.

1 Q All right. Great. Then, what I ask you to is to
2 back -- back out of the image, Investigator, and pull up
3 the PDF report that's also on that disc.

4 A Okay. It's loading.

5 Q And if you could, bring up page 238. Actually, let
6 me ask you this: Investigator, when you run these -- do
7 these downloads ---

8 A Correct.

9 Q --- I think you mentioned yesterday you generate a
10 PDF report; is that correct?

11 A That's the way these phones were done, is PDF
12 reports.

13 Q And would that -- does that appear the same -- to be
14 the same PDF that you would've generated for this phone
15 download?

16 A Check and see. It is. And your page number?

17 Q Yes, sir. And then, page 238. And Investigator, at
18 the top of that page ---

19 A I'm still trying to get there.

20 Q Okay. If you want, I don't know if it's easier to
21 put the page number at the top where it has the page
22 numbers.

23 A Yeah. I'm not ---

24 Q 238.

25 A Yeah. You said 238?

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 723

1 Q Yes, sir. And you see at the top of there, there's
2 a -- a -- what they call thumb image or a smaller image?

3 A That's not going. Oh.

4 Q You see it?

5 A I'm looking for?

6 Q The -- at the top of the page, there should be ---

7 A Okay.

8 Q --- a -- a box where there's -- where it has an
9 image and it has a bunch of information about the image,
10 when it was created and all that stuff. Do you see all
11 that?

12 A The very first one?

13 Q Yes.

14 A Listed as 796?

15 Q Yes, sir.

16 A Yes.

17 Q Now, does that thumbnail or thumb -- thumb photo
18 appear to be the same? I know it's small. But it'd be
19 the same photo I showed you earlier?

20 A I'm not sure, looking at that thumb.

21 Q Now, you can try and pull it up, if you'd like, so
22 you ---

23 A I can try.

24 Q --- can click on it. Sometimes it'll open;
25 sometimes it won't.

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 724

1 A It's not.

2 Q Did you say allow? It should pop up? Sometimes
3 they do it in pop tones.

4 A That's not the same.

5 Q You don't think so?

6 A I'm on the wrong page.

7 MS. EIGENBROT: Beg the Court's indulgence.

8 (Off the record briefly.)

9 Q I'm sorry. I'm dyslexic, apparently. It's page
10 328.

11 A 328?

12 Q Yes, sir.

13 A That does appear to be the same.

14 Q And can you go back to the report itself and tell me
15 what date that was created?

16 A It says 12/8 of 2016.

17 Q And can you tell me at what time that document -- or
18 the file was created on the phone?

19 A 5:36 a.m.

20 Q Thank you.

21 MS. EIGENBROT: And at this time, Your Honor,
22 defense would move to enter into evidence Defense Exhibit
23 1.

24 THE COURT: Any objection?

25 MR. MCGLOTHIN: Beg the Court's indulgence for just

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 725

1 a moment.

2 (Off the record briefly.)

3 MR. MCGLOTHIN: No objection.

4 THE COURT: All right. That'll be entered without
5 objection.

6 MS. EIGENBROT: Thank you, Your Honor.

7 (Whereupon, Defendant's Exhibit 1 was entered into
8 evidence.)

9 Q Investigator Metz, I'll get this out of your way so
10 you can ---

11 A Okay.

12 Q --- see the jury again. Now, you still have Defense
13 Exhibit 4 and 5 up there, correct?

14 A That's ---

15 Q All right.

16 A That's correct.

17 Q All right. Let's start with Defense Exhibit -- I
18 believe it was 4.

19 A Okay.

20 Q And if I could direct your attention to page 99.

21 A Okay.

22 Q All right. And line 385.

23 A Okay.

24 Q That would be an outgoing text message, correct?

25 A Correct.

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 726

1 Q And that was on December 1st of 2016?

2 A That's correct.

3 Q And it's phone number 803-529-██████?

4 A That's correct.

5 Q And the name next to is Brian?

6 A That's correct.

7 Q And the text message says (As read): "Can you pick
8 K Cole up at 7?"; is that correct?

9 A That's correct.

10 MR. MCGLOTHIN: Objection, Your Honor. We're just
11 renewing our prior objection to ---

12 THE COURT: All right.

13 MR. MCGLOTHIN: --- this information.

14 THE COURT: All right. Objection is overruled.

15 Q And, Investigator Metz, there is a continued
16 conversation by text message after that -- that text
17 message we just read out loud; is that correct?

18 A Appears to be. Yes, ma'am.

19 Q And I apologize. I just want to go back a little
20 bit. This is for the phone -- the phone number
21 associated with this phone would appear to be ---

22 MS. EIGENBROT: Beg the Court's indulgence.

23 (Off the record briefly.)

24 MS. EIGENBROT: I apologize. I'm a little
25 disorganized this morning.

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 727

1 Q The phone number associated with this phone is 803-
2 586-██████; is that correct?

3 A That's correct.

4 Q All right. Then, Investigator Metz, I will direct
5 your attention to page 104.

6 A Yes, ma'am.

7 Q Line 534. Can you tell the jury what -- what that
8 line relates to?

9 A That is another outgoing text message on 12/2 of
10 2016 at 9:26 p.m. to phone number 348-██████, area code
11 803. And the message is (As read): "He said home. Tell
12 Brian to be here by 10:15, please."

13 Q Thank you. And if I could refer you to page 107.

14 A Yes, ma'am.

15 Q And I would refer you to line 621.

16 A Yes, ma'am.

17 Q Can you please tell us what that line says.

18 A Yes, ma'am. It's another -- it's a incoming text
19 message, 12/3 of 2016, 5:38 p.m. from 803-348-██████. And
20 the message is (as read): "Brian got to check the mail
21 and ask me who's Ricky Smithy."

22 Q And the one under that, can you read that line as
23 well.

24 A Which number?

25 Q 622.

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 728

1 A So 622 is an outgoing text message at 12/3/2016 at
2 5:42 p.m. to 348-██████, area code 803. The message is (as
3 read): "Really? Damn you if he checked -- he checking
4 our mail."

5 Q And then, Investigator Metz, if I could refer you to
6 page 109, line ---

7 A Yes, ma'am.

8 Q --- 670. Can you please read that line as well.

9 A That is an incoming text message that -- dated
10 12/3/2016 at 10:14 p.m. from 803-348-██████. And the
11 message (as read): "This m.f. just tried to come lay in
12 bed where I was sitting like no, bruhhh" -- bruhhh, b-r-
13 u-h-h-h.

14 Q Now, I know you don't know the context of these text
15 messages I -- correct?

16 A (No audible response.)

17 Q All right. Now, I want to refer you to page 129.

18 A Yes, ma'am.

19 Q Line 1,270. Can you please read that one?

20 A 1270?

21 Q Yes, sir.

22 A It's a incoming text message, dated 12/7 of 2016 at
23 6:53 p.m. that is from 803-348-██████. The message is (as
24 read): "Now Scott called me, asking where I was and you
25 was flipping or something -- LOL -- N when was I coming

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 729

1 back, N was I with, and all that."

2 Q And if you could go down to the line at 1278 and
3 read the next -- those next three lines.

4 A At 1278, -79, and -80?

5 Q Yes, sir.

6 A 1278 is an incoming text message, dated 12/7/2016 at
7 7:03 p.m. from 1-980-422-██████. The message is:

8 "Whatever."

9 The next message is an outgoing text message, same
10 date, dated at 7:03 time to the 1-908-422-██████ (as read):

11 "Just fuck it. We going to separate."

12 The next line, 1280, is an outgoing text message,
13 12/2016 at 7:03 p.m. to the 1-90-422-██████ (as read):

14 "I'm done. Can't do it no more."

15 Q And then, finally, Investigator, if I could refer
16 you to page 133. And it's line 1403.

17 A 1403?

18 Q Yes, sir.

19 A That is an outgoing text message, dated 12/8/2016 at
20 5:21 a.m. It's to 803-348-██████ (as read): "This m.f.
21 just came in."

22 Q Now, Investigator, when you run and download these
23 phones, you -- you cannot exchange messages; you don't
24 have any control over the time line? I mean, you -- you
25 can't mess with what's in the phone, correct?

1 A We do not make any changes to that.

2 Q So when you run these reports, that is -- what we
3 have is what came out of that phone?

4 A That's correct.

5 Q And whether you know the context of what's going on
6 in that phone or not, that's what's in that phone?

7 A Correct.

8 Q And then, if I could refer you to Defense Exhibit 5,
9 there's just a few I want to talk about in here. And
10 what phone number is this one associated with?

11 A This is a Samsung phone. And the phone number is
12 803-348-██████.

13 Q All right. And if I could refer you to page -- or
14 yeah -- page 99, line 884. It's the very bottom.

15 A Yes, ma'am.

16 Q And if you could read that one for the jury, please.

17 A That's an incoming text message, dated 12/8/2016 at
18 5:21 a.m. It's from 803-586-██████. Crystal Posey is the
19 contact. The message is (as read): "This m.f. just came
20 in."

21 Q And if you could flip to the next page, that top
22 line right there, 885, could you read that line for the
23 jury, please.

24 A 885 is a -- is a JPEG, a picture.

25 Q Correct. Can you tell us what the date was?

CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 731

1 A The date was 12/8/2016 at 5:36 a.m.

2 Q And then, if you could also read lines 886, 887, and
3 888.

4 A Okay. 886 is an outgoing text message, dated
5 12/8/2016 at 6:09 a.m. to 803-586-██████, Crystal Posey.
6 And the message is: "What."

7 887 is an incoming message at 12/8/2016, 6:44 a.m.
8 from the 803-586-██████, Crystal Posey. It says: "I heard
9 a car."

10 888?

11 Q Yes, sir.

12 A 888 is an outgoing text message, 12/8/2016 at 6:47
13 a.m. to the 803-586-██████, Crystal Posey. And the text
14 is: "No" -- N-o.

15 Q And then, if I could refer you to page 101, sir.

16 A Yes, ma'am.

17 Q And line 921.

18 A Line 921 is an outgoing text message, dated 12/8 of
19 2016 at 11:45 a.m. to 803-518-██████. And the message is:
20 "Just left hospital -- just left the hospital."

21 Q Thank you, Investigator.

22 A Yes, ma'am.

23 Q I appreciate your time. I don't have any further
24 questions.

25 MR. MCGLOTHIN: Briefly, Your Honor.

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRIAN METZ 732

1 THE COURT: Yes, sir.

2 REDIRECT EXAMINATION

3 BY MR. MCGLOTHIN:

4 Q Investigator Metz, I'm going to -- do you still have
5 Defense's 4 ---

6 A I believe it's . . .

7 Q I'm going to refer you again to line 885 there on
8 page 100. And the defense just asked you about this.

9 Does that item denote the taking of a picture?

10 A It does note on here whether it was taken by this
11 phone or sent to this phone.

12 Q Okay. And you -- so you can't say if that was taken
13 by the phone, where it came from?

14 A Right. Not just looking at the PDF.

15 Q Okay. And in general with State's 4 or -- excuse me
16 -- Defense's 4 and 5 and these records in general, can
17 you say who sent any of these messages?

18 A No.

19 Q Can you say who read any of these messages?

20 A I cannot.

21 Q Can you say who made any of these calls?

22 A I cannot.

23 Q Can you say who took any of these photos?

24 A I cannot.

25 Q Thank you. No further questions.

RE CROSS-EXAMINATION BY MS. EIGENBROT - BRIAN METZ 733

1 MS. EIGENBROT: Just briefly, Your Honor.

2 RE CROSS-EXAMINATION

3 BY MS. EIGENBROT:

4 Q Investigator Metz, back to the image we were
5 discussing, I just want to be clear that it -- in that
6 notation it says created on that date, correct?

7 A What page was that again, ma'am? 100?

8 THE COURT: He's asking which page.

9 Q I believe it -- I apologize. This is the one I had
10 up on the computer for you, Investigator. On that JPEG
11 part of that report, it says created on that date,
12 correct?

13 A We're talking 1323, the ---

14 Q Yes, sir.

15 A That's correct.

16 Q Thank you.

17 MS. EIGENBROT: Your Honor, I have no further
18 questions.

19 THE COURT: All right. You may step down.

20 THE WITNESS: Thank you.

21 THE COURT: Any objection to this witness being
22 excused?

23 MR. MCGLOTHIN: No, Your Honor.

24 MS. EIGENBROT: I have no objection, Your Honor.

25 THE COURT: All right, sir. You're free to leave.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 734

1 (Whereupon, the witness exited the witness stand.)

2 (Off the record briefly.)

3 THE COURT: All right. Let's call your next
4 witness.

5 MS. SAMPSON: The state calls Dr. Durso, Amy Durso.

6 (Whereupon, the witness came forward.)

7 AMY DURSO, having been first duly sworn,
8 testified as follows:

9 DEPUTY CLERK OF COURT: Thank you. Have a seat in
10 the witness stand, please.

11 THE WITNESS: (Complied.) Amy Durso, D-u-r-s-o.

12 DIRECT EXAMINATION

13 BY MS. SAMPSON:

14 Q Dr. Durso, where do you work?

15 A I work for -- as a forensic pathologist at
16 Professional Pathology Services.

17 Q And you -- can you tell the jury: What is a
18 forensic pathologist?

19 A Right. So a forensic pathologist is a medical
20 doctor that has training after medical school, not just
21 in general pathology, which is looking at any parts of
22 the body with a microscope, that sorts of thing, but
23 specifically looking at patterns of injury and illness
24 and specifically doing autopsies, which are examinations
25 of bodies after deaths.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 735

1 Q And can you tell the jury a little bit about your
2 educational background?

3 A Sure. So I got a bachelor's degree in psychology
4 from Emory University. After college I went to the
5 University of North Carolina in Chapel Hill, where I got
6 my M.D. And then I went to Wake Forest at the Winston-
7 Salem, where I did a four-year residency program in
8 anatomic and clinical pathology. And then, I spent an
9 additional year at Wake Forest, doing a fellowship
10 specifically in the field of forensic pathology.

11 Q And are you board-certified?

12 A Yes. I'm board-certified in clinical pathology,
13 anatomic pathology, and forensic pathology.

14 Q And how long have you been a pathologist or doing
15 this?

16 A I've been out of training for over nine years.

17 Q And do you get ongoing -- like, continuing education
18 or do you just do it one time and are done?

19 A No. So I just had to recertify this past year,
20 retake another board examination. So I just reboarded.

21 Q And are you a member of any associations?

22 A Yeah. The prominent one I'm associated with is the
23 National Association of Medical Examiners, which is a
24 group for -- national group for forensic pathologists.

25 Q And have you been qualified as an expert before?

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 736

1 A Yes. Many times.

2 Q In what field?

3 A In forensic pathology.

4 MS. SAMPSON: At this time, Your Honor, I'd ask to
5 introduce Dr. Durso as an expert in the field of forensic
6 pathology.

7 THE COURT: Any objection?

8 MS. PINNOCK: No, Your Honor.

9 THE COURT: All right. Ladies and gentlemen of the
10 jury, Dr. Durso will be entered as an expert in the field
11 of forensic pathology to give opinion testimony in that
12 area. Thank you.

13 Q All right, Dr. Durso. So can you tell the jury a
14 little bit about what happens when you first get a body
15 for autopsy?

16 A Right. So the first thing we start off, after we
17 identify the person, is we look at the outside of the
18 body, everything from eye color, length, weight, tattoos,
19 all that sort of thing, as well as any injuries on the
20 outside of the body. So if there are gunshot wounds, we
21 -- we have a -- kind of a generic diagram where we can
22 kind of try to label approximately where they are. And
23 then, we measure, you know, where they are, how big they
24 are, its characteristics, that sort of thing.

25 After the external examination, we start opening the

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 737

1 body. So to do that, we actually make a Y-shape
2 incision. So it's going to go from both shoulders down
3 to the middle of the chest and downwards; open that up;
4 take off the front of the rib cage. At that point we can
5 see pretty much all of the internal organs.

6 So we're looking for abnormal collections of fluid,
7 like blood. We remove each of the organs; weigh it;
8 dissect it; again, just noting any illness, injury,
9 anything. We then also remove the brain by reflecting
10 the skin up. We use a saw to remove the top-back of the
11 skull; take the brain out, which we can then weigh and
12 examine as well. And during this, you know, if there are
13 gunshot wounds, we have trajectory rods that we can stick
14 through to actually follow the path of any projectile
15 through the body as well as recover any projectiles that
16 are in the body.

17 Q And so I'm going to move you to this. Were you
18 doing this back in December of 2016?

19 A I was.

20 Q Okay. And how did you become part of this case?

21 A So most of the cases I do are for the Richland
22 County Coroner's Office. So when they deem -- they
23 investigate the case, respond when there's a death. And
24 if they decide that an autopsy is necessary, they will
25 contact me or whoever is on-call for autopsies to perform

1 the autopsy, usually the next day.

2 Q And did that happen in this case?

3 A Yes.

4 Q And how were you contacted in this case?

5 A I was contacted, actually, that morning on the case
6 of James Turner; that there were multiple gunshot wounds.
7 He was brought to the emergency room and he needed an
8 autopsy. And we were actually able to do it that same
9 day.

10 Q And I'm -- did the coroner attend the autopsy with
11 you or a deputy coroner?

12 A Yes. So a deputy from the Richland coroner's office
13 always attends the autopsies, every single one; takes
14 pictures. And in cases where there's gunshots, usually a
15 member of law enforcement, from the sheriff's department
16 or whatnot, will also -- a crime scene investigator will
17 also come and collect evidence and take pictures.

18 Q And do you remember who the deputy coroner was in
19 this case?

20 A Not off the top of my head, I do not. I'm sorry.
21 It's on paperwork. I don't ---

22 Q It's fine.

23 A --- have it.

24 Q I -- my question is: Do they tell you what to do,
25 or do you decide what to do?

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 739

1 A No. I -- I run the show at that point.

2 Q What about with the sheriff's department that shows
3 up?

4 A Again, I'm there to do my job, which is examining
5 the body. And then, I pretty much kind of guide them to
6 taking pictures and that sort of thing.

7 Q Okay. So can you tell the jury what was the first
8 thing you did with this body?

9 A So again, we do the external examination. And there
10 were numerous gunshot wounds on Mr. Turner. So I just
11 start giving gunshot wounds letters when there's an
12 entrance/exit. I don't -- you can never tell what's
13 going to match up until you really open up the body and
14 are able to put the rods through.

15 And so I started giving letters. And I got up to
16 letter M. And N actually consists of -- I would say -- I
17 think it was seven different -- or nine different wounds
18 to the hand. So there were numerous gunshot wounds in
19 this case.

20 I was able to go with the trajectory rod and follow
21 each of the paths. There's several -- where it enters
22 the body, exits, reenters, some of them exit again. I
23 was able to recover projectiles. It was one projectile,
24 I believe -- or two, I think, that did not exit the body.

25 Q And I'm going to refer you to your report. Under

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 740

1 your case summary, does it tell you which coroner was --
2 was there with you?

3 A That tells the coroner that responded ---

4 Q And who ---

5 A --- to the ---

6 Q --- was that ?

7 A --- scene. That was Leonard Bradley.

8 Q And do you know if Mr. Bradley is still working for
9 the coroner's office?

10 A He is no longer working for the coroner's ---

11 Q Is he ---

12 A --- office. No.

13 Q --- deceased?

14 A He is ---

15 Q Okay.

16 A --- deceased.

17 Q So can you tell the -- the jury -- I want to go back
18 to some descriptions of the body. What -- how tall and
19 how much did the victim weigh?

20 A Sure. So Mr. Turner was 134 pounds, and he was 66
21 inches tall. So that's 5 feet, 6 inches.

22 Q Okay. And did you find any evidence of disease or
23 anything like that?

24 A No.

25 Q So now I'm going to talk about -- can you tell the

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 741

1 jury what you determined the cause of death was? I'll
2 start there.

3 A Multiple gunshot wounds.

4 Q And you just went through how you had to put
5 letters, etc., on them. And in your report they're
6 listed as different numbers. Can you explain to the jury
7 how you come up with those numbers and what they actually
8 mean?

9 A Right. So I can't -- I almost never can tell which
10 gunshot wound is going to come first or which one
11 happened first. There's really no way for me to tell
12 that in typical gunshot wounds. So I just kind of assign
13 them random numbers, just for recording purposes. So
14 even though I have them labeled gunshot wound No. 1,
15 gunshot wound No. 2, it doesn't reflect the order in
16 which they occurred. I do not know the order they
17 occurred in.

18 Q Okay. And before we get started on that, I'm going
19 to show you what's been marked State's Exhibit 96, 98,
20 101, 102, 105, 107, 108, 109, 110, 111, 112, 113, 114,
21 and 115 and ask if you recognize those.

22 A Yes. So these are all photographs, pictures taken
23 during the autopsy I did on Mr. Turner.

24 Q And do those photographs fairly and accurately
25 depict what you saw back in December of 2016?

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 742

1 A Yes.

2 MS. SAMPSON: At this time, Your Honor, we'd ask to
3 introduce State's Exhibits No. 96, 98, 101, 102, 105,
4 107, 108, 109, 110, 111, 112, 113, 114, and 115 into
5 evidence.

6 THE COURT: All right. Any objection?

7 MS. PINNOCK: Your Honor, I would just renew our
8 previous objections.

9 THE COURT: All right. So 96 through 111 -- 96, 98,
10 101, 105, 107, 108, 110, and 111 will be entered over the
11 objection of the defense. And I believe 112 through 115,
12 any objection?

13 MS. PINNOCK: No, Your Honor.

14 THE COURT: All right. That will be entered without
15 objection.

16 Q And I'm also going to now show you what's been
17 marked as State's Exhibit 130 and ask if you recognize
18 that.

19 A Yes. This is a copy of the external-exam diagram
20 with just the gunshot wounds basically all listed.

21 Q And is it -- does it fairly and accurately depict
22 the diagram that you created?

23 A Yes. It's a copy of it. Yes.

24 Q Has it been altered in any way?

25 A No.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 743

1 MS. SAMPSON: Your Honor, I'd -- at this point I'd
2 ask to introduce State's Exhibit 130 into evidence.

3 THE COURT: Any objection? Is that the diagram?

4 MS. SAMPSON: That's just the diagram.

5 THE COURT: Any objection to the diagram?

6 MS. PINNOCK: No, Your Honor.

7 THE COURT: All right. And that's without
8 objection.

9 (Whereupon, State's Exhibit 130 was entered into
10 evidence.)

11 Q And can you tell the jury a little bit about why you
12 do a diagram?

13 A Well, I always have an external-exam diagram no
14 matter what, even if it's going to be, like, a heart
15 attack case and there's no gunshot wounds, just so I can
16 mark down all of my external findings for my reference
17 when I go back and do my report.

18 In gunshot-wound cases, I actually usually do two:
19 one that would have all of the findings, including
20 anything they used to try to resuscitate him, EKG leads,
21 tattoos, scars, everything. But I find that it's
22 overwhelming how much is on there. And especially if
23 there are multiple gunshot wounds, to simply things I
24 usually do a second diagram and just draw the gunshot
25 wounds on that one.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 744

1 Q And so we're going to be talking about the second
2 diagram; is that correct?

3 A That's correct. This is the one with the gunshot
4 wounds listed.

5 Q And so is -- is this the -- a blowup of what is
6 State's Exhibit ---

7 A Yes.

8 Q --- 130?

9 A It's a very much enlarged copy of it.

10 Q So just to be clear, this -- this -- these body is
11 kind of this way without any of the -- of the writing on
12 them?

13 A Right. So all the blue writing is mine. All of the
14 black ink on it is of the standard copy we use for all of
15 our male autopsies.

16 Q So would it be fair to say this is on a template ---

17 A Yes.

18 Q --- and then you add information?

19 A Correct.

20 Q Okay. So in this case -- and I'm -- in a minute I'm
21 going to have you step down. So where they have A, B, C,
22 D, E, etc., you've put that on here?

23 A Yes.

24 Q And what do those letters represent?

25 A So basically, when I have a case with gunshot

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 745

1 wounds, I just start assigning letters to each and every
2 hole that I find. And then, I can document them and then
3 just kind of line them all up at the end.

4 Q Okay. And would it help to orient the jury if you
5 step down and kind of show them what the pictures and the
6 diagram ---

7 A Yes.

8 Q Okay. So I'm going to have you step down. And you
9 can bring the pointer with you so it helps you.

10 (Whereupon, the witness exited the witness stand.)

11 (Off the record briefly.)

12 Q All right. Just keep your voice up, Dr. Durso.

13 A Yes.

14 Q So I'm going to show the -- turn the pictures on and
15 tell you which exhibit we're talking about. All right.
16 So -- all right. So we're going to start with State's
17 Exhibit 96. So -- so what does this tell us?

18 A Okay.

19 Q That's fine.

20 A So this is the back of Mr. Turner's shoulder. So
21 his head is up here. This is the top of his shoulder.
22 This is his left arm going down. So it's kind of showing
23 from this angle.

24 So these are two entrance wounds. So this is an
25 entrance. See how it has this little kind of rim of ---

1 Q That's fine.

2 A --- I don't know how to -- of darkness around it?

3 So that's called an abrasion collar. That tells me that
4 it's an entrance wound. It's one of the characteristics.
5 So there's an entrance wound here and an entrance wound
6 here.

7 And using my trajectory rods that I think you'll see
8 in later pictures, this one actually lines up so it exits
9 here. And this one come in here and exits up here.

10 Q And just for the record, when you're saying this one
11 ---

12 A Yeah. So ---

13 Q --- just so ---

14 A --- this ---

15 Q --- that there's ---

16 A --- is actually letter F on the diagram. So F and G
17 are these entrance wounds. So this is F and this is G.
18 And the exit wounds are C and D here kind of on the --
19 they would be like here on me. And so these are those
20 two exit wounds.

21 Q Okay. And State's Exhibit 98?

22 A Right.

23 Q So what ---

24 A So this ---

25 Q --- is this?

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 747

1 A --- is kind of going through what I labeled gunshot
2 wound No. 1.

3 Q Okay.

4 A So it's going in through the shoulder on the left
5 side. It actually goes through the bone here, the
6 humerus, the upper-arm bone. It exits the top of the
7 shoulder. And it then actually -- I was able to kind of
8 make it line up.

9 So it actually then reenters the body through what I
10 call reentrance wound B down -- just below his left ear.
11 So it then goes into his head. It perforates through the
12 base of the skull. It goes through his brain.

13 And I was actually able to recover the projectile in
14 this case that stayed in his brain. And so I recovered
15 that at autopsy. So again, it's kind of going kind of
16 upwards, left to right.

17 Q And so on the diagram, is that letter B?

18 A Yes.

19 Q Okay. The one to the ear, under the ear?

20 A Yeah. This -- just below the left ear.

21 Q And the next photo?

22 A And that would be considered a fatal wound. It went
23 into his brain, which is pretty much a standardly fatal
24 gunshot wound.

25 Q And so this State's Exhibit 101, what does that

1 show?

2 A So this is the reentrance wound. So remember from
3 that first diagram showing the two entrances? So the
4 lower one, again, goes in here; comes back out the front
5 of the shoulder. And this one I actually was able to
6 realign, and it actually reenters through the body
7 through what I labeled A on my diagram.

8 So again, the other one -- it's kind of -- they're
9 -- they're both kind of following the same basic
10 trajectory. So they both go through the left-upper arm,
11 hit the bone up there. And this actually goes through
12 the sinuses, the bones of the face.

13 It goes through the brain. So this is also by
14 itself a fatal wound. And then, it actually exits up by
15 the right ear, which is labeled E on this diagram here.

16 So this is going from G to D to this reentrance
17 wound A, and then out through E.

18 Q And then, State's Exhibit ---

19 A So this is exit wound E. So this is the top of his
20 head here, his right ear. So after it goes in through
21 his face, it comes out through his ear here. So it -- it
22 gets his face, the sinuses, and it does get part of his
23 brain as well. So this is the exit wound just above the
24 right ear.

25 Q And this is State's Exhibit 102.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 749

1 And so I'm -- just to clarify, on any of these
2 wounds, did you find stippling or soot?

3 A Right. So no, I did not on any of them. So soot
4 and stippling is stuff we look for to see how far away
5 the gun was when they were shot. So if there's nothing
6 in between, no heavy layers of clothing or a car window
7 or a car, the soot that comes out of the end of the gun
8 can deposit on the skin or within the wound.

9 So in a contact, it's going to be, like, in the
10 wound. Close range, within 6 inches, you'll see it on
11 the skin.

12 Stippling is where the actual pieces of gunpowder
13 will hit the skin and cause these tiny little almost
14 pinpoint abrasion around the wound. And that we can see
15 up to 18 to 24 inches away. So I saw none of that.

16 Again, I don't go to the scene and investigate. So
17 if it did not go through anything major, like a car
18 window or the side of a car or multiple heavy layers of
19 clothing, we can see that these are at least about 18 to
20 24 inches away. But after that, it's -- it could be 20
21 feet; it could be 18 inches. I can't tell the
22 difference. So I just labeled them as indeterminate
23 range.

24 Q Okay. And the next one, which is State's Exhibit
25 105, what does that show?

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 750

1 A Okay. So this is the third listed gunshot wound.
2 So this one is actually going in the back of the left
3 arm. So you can see this is his left hand, kind of
4 sitting like this. So it's going in the back of his arm,
5 out through the front. It then comes along and enters --
6 there's actually a little graze wound here.

7 So it kind of grazes along there and then goes in
8 right here, this part of the hand, and then out the palm
9 of the hand. So his arm had to be kind of in this flexed
10 position and only that -- for these two to actually go
11 through his face as well, his arm had to have been kind
12 of up and over him, so consistent with kind of laying on
13 his side with his arm over his head.

14 Q Okay. What does State's Exhibit 107 show?

15 A So this is an entrance wound to the right wrist. So
16 this is what is labeled L over on my diagram. And as you
17 can see here, this is an entrance wound. It doesn't go
18 very far. It's just a little out of focus.

19 But in focus you can see that the projectile is
20 right there underneath the skin. So it's another
21 projectile. And because it didn't go far -- it doesn't
22 have a lot of momentum -- this is very likely a
23 reentrance wound, possibly from the one that exited up by
24 the right ear, E. So that would mean that his right arm
25 was kind of under his head. So at this point we can kind

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 751

1 of tell that he was kind of laying like so, with his
2 hands up.

3 Q And just so -- you're saying that the -- it's your
4 opinion -- in your expert opinion, he's laying down when
5 he's shot?

6 A Yes. This is most consistent with him laying down
7 with his right arm kind of underneath him. And we'll go
8 through the gunshot wounds to the hand that kind of go
9 with that kind of his hand had to be kind of balled up
10 and the other kind of up this way.

11 Q Above, like, his -- his ear ---

12 A Yeah. Kind of up. Yeah.

13 Q Okay. State's Exhibit 108?

14 A So this is his right hand. So as I said, there were
15 nine different perforations to his hand. And at this
16 point trying to manipulate a hand that's going through
17 rigor, which is the stiffness after death, was just
18 really impossible for me to completely line all of them
19 up. So I kind of just lumped them all together.

20 But there are multiple entrance and reexits, as you
21 can see, probably an exit there, kind of maybe going that
22 way, as well as a hole here and there.

23 Q And so ---

24 A There was ---

25 Q --- just to interrupt you a little bit, so what

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 752

1 you're describing when -- this is -- and I'm pointing to
2 the middle where there's sort of a hole, these are maybe
3 graze marks through ---

4 A Yeah. Those ---

5 Q --- his fingers?

6 A --- are kind of graze marks through the fingers,
7 again here. There's definitely kind of either an
8 entrance or exit here. Again, when some things start
9 entering and reexiting, the bullet's tumbling so much,
10 you're not really going to get as many of those abrasion
11 collars.

12 And also, the -- the surface of the palm, it's just
13 different skin. So it doesn't really get those abrasion
14 collars, like the skin on the rest of the body because
15 it's so thick, that skin there. It doesn't really abrade
16 it as much.

17 So it doesn't have those wound characteristics. So
18 it was really impossible for me to tell what was
19 entrance/exit. So I just kind of lumped them together.
20 There's at least two gunshot wounds going through that
21 right hand.

22 Q Okay. And State's Exhibit ---

23 A And this is the other side of the right hand. So
24 you can see there's something either coming in or out of
25 this muscle here, up here, and down here. So ---

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 753

1 Q And that's State's Exhibit 109, for the record.

2 So those are grazing and/or penetrating; is that ---

3 A Well, I think ---

4 Q --- correct?

5 A --- most of them are penetrating. Yes. And I can
6 even see where there's a hole down here too. So again,
7 this thing is going in and out of his hand. Because it
8 probably was clenched. So that would explain, you know,
9 why it went through so many layers.

10 Q And then, 110?

11 A And once more, this is the hand. So this is the
12 palm, kind of near the -- the pinky. And again, that's
13 definitely a perforation there.

14 Q And 111?

15 A And that's one more of the right hand, showing all
16 nine of these wounds. And this is an -- either an
17 entrance or an exit on the back of the right thumb.

18 Q And on your diagram, it's just marked M; is that
19 correct?

20 A Right. So and, like I said, there were -- there
21 were nine different wounds. And lining them all up was
22 just impossible. So I just lumped them all together.
23 There was at least two wounds going through. And I think
24 they're likely reentrances from the ones that exited
25 further up. I just couldn't line them up for sure.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 754

1 Because I can move that arm around so much, I couldn't
2 tell which one went with which.

3 Q Okay. And then, State's Exhibit 112?

4 A So in all of our gunshot-wound cases, we take X-rays
5 to make sure we don't leave any projectiles behind.
6 Because we recover those and hand them over to law
7 enforcement for evidence. So this is one of the skull.
8 And you can see, this is the projectile we recovered from
9 that gunshot wound that -- I believe it's the one that
10 goes into the back of the left arm, out the front of the
11 left shoulder, and then goes in by -- below the left ear.
12 And this is where the projectile ended up here.

13 Q And I -- and you didn't mention this. In the prior
14 photos where there were rods, do you put those rods
15 through?

16 A Yes.

17 Q Why do you do that?

18 A Because we need to be able to follow the path of the
19 bullet and see what it hit. Did it hit vital organs,
20 structures, that sort of thing? And also, to line them
21 as best as we can, as far as entrances and exits.

22 Q And were you able to do that?

23 A For the most part, except for the ones on the right
24 hand.

25 Q And we didn't -- we did not show these pictures.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 755

1 But were you able to put rods through the ones that went
2 through his head ---

3 A Yes.

4 Q --- all the way through?

5 And were you able to follow the path ---

6 A Yes.

7 Q --- on it?

8 Okay. And State's Exhibit 113, what is that?

9 A So this is the projectile that we recovered from the
10 brain at autopsy.

11 Q And State's Exhibit 114?

12 A So this is the one -- you remember you saw that one
13 photo on the front of the right wrist here, where it was
14 just -- and the bullet was just kind of sitting there.
15 So this is just a side view, just showing that there is
16 indeed a projectile in his wrist.

17 Q And then, 115?

18 A And this is the projectile that we recovered and
19 handed over to law enforcement.

20 Q You can have a seat.

21 (Whereupon, the witness reentered the witness
22 stand.)

23 Q So I -- I think you stated this already. But cause
24 of death was?

25 A Multiple gunshot wounds.

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 756

1 Q And you opined that, in your opinion, he was laying
2 down?

3 A Yeah. It -- so for all of those to line up, it --
4 it makes the most sense, if his arm is kind of under his
5 right arm; and then, his left hand is kind of up over
6 him, for this all to line up, you know, you saw how I had
7 to twist the arm in order to get the rod to go through
8 those wounds in the arm. So it had to be bent -- we know
9 it was bent. We kind of this kind of had to be tilted up
10 to line those up. So kind of on his right side and all
11 of the bullets were coming from the left side.

12 Q Did you find any what you would call -- call --
13 qualify as defensive wounds?

14 A No.

15 Q And can you tell the jury what would be a defensive
16 wound, in your opinion?

17 A Well, I -- defensive -- we use it more with stab
18 wounds. But something where you put your hand up, trying
19 to stop a bullet, which is never going to work. But --
20 but in this case, it was more just consistent with just
21 possibly sleeping, you know, with your hands up.

22 Q And after you complete that part of your autopsy,
23 what did you do?

24 A So I -- after we document all of the gunshot wounds
25 and if you look at all the organs, I write up an autopsy

DIRECT EXAMINATION BY MS. SAMPSON - AMY DURSO 757

1 report. And that is pretty much it.

2 Q Do you take any samples from tissue?

3 A Oh, yes. So during the course of the autopsy, we
4 do. We take blood; urine, if it's available; sometimes
5 vitreous fluid; as well as samples of the brain, liver,
6 and kidney. And the Richland County Coroner's Office
7 submits what they need to for toxicology testing.

8 Q And that -- was -- was that done in this case?

9 A It was.

10 Q Okay. You don't have to go into the results. The
11 jury ---

12 A Okay.

13 Q --- has that. I just wanted to make sure that that
14 was done in this case.

15 A Yes.

16 Q All right.

17 MS. SAMPSON: Beg the Court's indulgence.

18 (Off the record briefly.)

19 Q Thank you, Dr. Durso. Please answer any questions
20 the defense has.

21 A Of course.

22 MS. PINNOCK: Beg the Court's indulgence.

23 (Off the record briefly.)

24 MS. PINNOCK: May it please the Court, Your Honor?

25 THE COURT: Yes.

1 CROSS-EXAMINATION

2 BY MS. PINNOCK:

3 Q Dr. Durso, just very briefly, you just mentioned
4 that there was no evidence of any defensive wounds that
5 you documented ---

6 A Right.

7 Q --- in there? Okay. Thank you.

8 THE COURT: Anything else?

9 MS. SAMPSON: Not from the state, Your Honor.

10 THE COURT: All right. You may step down ---

11 THE WITNESS: Thank you.

12 THE COURT: --- Doctor.

13 Any objection to this witness being excused?

14 (Whereupon, the witness exited the witness stand.)

15 MS. PINNOCK: No, Your Honor.

16 (Off the record briefly.)

17 THE COURT: All right. Call your next witness.

18 MS. SAMPSON: The state calls Jennifer Miller.

19 (Off the record briefly.)

20 (Whereupon, the witness came forward.)

21 JENNIFER MILLER, having been first duly sworn,
22 testified as follows:

23 DEPUTY CLERK OF COURT: Thank you. Have a seat in
24 the witness stand, please.

25 THE WITNESS: (Complied.)

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 759

1 DEPUTY CLERK OF COURT: State your name for the
2 record and spell it for the court reporter.

3 THE WITNESS: Jennifer Miller, J-e-n-n-i-f-e-r,
4 M-i-l-l-e-r.

5 DIRECT EXAMINATION

6 BY MS. SAMPSON:

7 Q And is it Analyst Miller, Investigator -- like, what
8 am I supposed to call you?

9 A I'm a DNA analyst.

10 Q Okay. So Analyst Miller.

11 A Yeah.

12 Q Where do you work?

13 A Richland County Sheriff's Department.

14 Q And what do you do there?

15 A I'm a DNA analyst in the forensic lab.

16 Q And how long have you worked for Richland County?

17 A Little over four years.

18 Q Okay. So what do you do as a DNA analyst?

19 A My job as an analyst is to develop DNA profiles from
20 any biological material that is left behind at a crime
21 scene.

22 Q Can you speak up just a little bit? Because you
23 speak really low.

24 A Sure.

25 Q All right. So you had -- were you trained in order

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 760

1 to do that?

2 A Yes, ma'am.

3 Q Can you tell the jury a little bit about your
4 training?

5 A So I have my bachelor's degree in chemistry from the
6 University of South Carolina. When I began at Richland
7 County, I started an in-depth training program in the
8 areas of forensic serology and DNA. And I was trained by
9 three court-certified analysts and deemed competent by
10 FBI and DAB guidelines.

11 Q And could you even do tests if you weren't deemed
12 competent?

13 A No, ma'am.

14 Q Okay. And how many -- how often do you do these DNA
15 tests -- every day? once a week?

16 A Testing goes on basically all the time. It just
17 depends on the analyst.

18 Q Okay. And have you ever been qualified as an
19 expert?

20 A Yes, ma'am.

21 Q In what?

22 A In the areas of forensic serology and DNA analysis.

23 Q Okay.

24 MS. SAMPSON: Your Honor, at this time I'd ask that
25 be -- she be qualified as an expert in DNA analysis.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 761

1 MS. PINNOCK: No objection, Your Honor.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, this witness will be qualified as an expert as in
4 -- an expert in the area of -- you said forensic DNA?

5 MS. SAMPSON: DNA analysis.

6 THE COURT: --- of DNA analysis to give opinion
7 testimony in that area. Thank you.

8 Q So can you tell the jury: How do you extra DNA from
9 something?

10 A So first, the DNA -- excuse me -- the evidence is
11 picked up from the evidence room. We bring it up to the
12 lab, and it is processed. In this case the DNA was
13 processed by our technician, Ashleigh Dixon, which I
14 believe y'all already heard from.

15 So Ashleigh will cut out the DNA -- or the evidence
16 -- excuse me -- depending on what form it's in, whether
17 it's clothing or swabs or whatever. She will then put it
18 in tubes. She or I or both of us will then run the --
19 the -- whatever the evidence is that she's cut out, we'll
20 run it through an extraction process. That gives us the
21 DNA in a purified form.

22 We then quantitate the DNA that we have present.
23 That just tells us how much is in the tube. And then, we
24 run it through another instrument that separates out the
25 DNA fragments and gives us the ability to create DNA

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 762

1 profiles to then interpret.

2 Q And you were provided some evidence to test in this
3 case, correct?

4 A Yes, ma'am.

5 Q What were you provided?

6 A You just want me to list the items?

7 Q You can just go through each item you were provided
8 and ---

9 A Sure.

10 Q --- we'll go over what they were.

11 A Item 4, which is a swab from fired cartridge
12 casings, marked A through H; Item 20, which is a buccal
13 swab from James Turner; Item 26, which is a buccal swab
14 from Nita Rabon; Item 32, which is a swab from the
15 driver's door, exterior smudges/handle; Item 34, which is
16 a swab from a Smith & Wesson handgun; Item 35, which is a
17 swab from a magazine and two unfired cartridge casings;
18 Item 36, which is a buccal swab from Jerry Rabon; and
19 Item 62, which is a buccal swab from Brian White.

20 Q And can you tell the jury: What is a buccal swab?

21 A A buccal swab is just something that we use to
22 develop a DNA profile from a known person. So a swab is
23 taken and rubbed against the inside of the person's
24 mouth.

25 Q So is that, like, the little Q-tip things you see on

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 763

1 TV?

2 A It is.

3 Q Okay. And so you had buccal swabs from, I think you
4 said, James Turner, Nita Rabon, Jerry Rabon, and Brian
5 White; is that correct?

6 A Yes, ma'am.

7 Q Okay. And so do you do that extraction process on
8 those swabs the same way you just described to the jury
9 on other items?

10 A Yes, ma'am.

11 Q Okay. So what results did you come to in this case?

12 A There was no DNA extracted from Item 4.

13 Q Which was the swab from the markers ---

14 A Correct.

15 Q --- from the cartridge casings?

16 Is that out of the ordinary for you to swab -- or
17 get something that was swabbed, like -- like fired
18 cartridge casings and not get DNA?

19 A No, that's not unusual, especially for a fired
20 cartridge casing.

21 Q Why is that?

22 A Well, the casing, obviously, has been exposed to
23 multiple things, as it's shot through. And so DNA
24 obviously is left from a cartridge casing, typically from
25 someone's fingers, which is what we consider touch DNA.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 764

1 And that's also the weakest form of DNA.

2 So just having someone touch the fired cartridge --
3 or the cartridge casing doesn't give us a lot to work
4 with when it comes to extracting the DNA from it.

5 Q So touch DNA -- now, I watch probably too much TV
6 crime scene stuff. They make it sound like touch DNA --
7 you touch something; you leave DNA everywhere. Is that
8 true?

9 A It's not always the case. It's possible for someone
10 to lay their hand on something or handle something and
11 not necessarily leave behind enough DNA for us to pick up
12 with our methods.

13 Q Okay. So what is the next thing that -- the next
14 result that you have?

15 A The DNA result from Item 32 -- 32 was the swab from
16 the driver's door exterior smudges/handle -- was too weak
17 for match purposes.

18 Q What does that mean?

19 A So that means we made an attempt to get a DNA
20 profile from this item. But the DNA that was present was
21 too weak for us to interpret. So there wasn't enough
22 there.

23 Q So my understanding would be there was DNA left, but
24 it was just not enough or too weak for you to decide
25 whose it was?

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 765

1 A Correct.

2 Q Okay. Unlike the first you said, there -- when
3 there was no DNA.

4 A There was nothing.

5 Q Okay.

6 A Uh-huh.

7 Q So what -- what was the next thing you tested?

8 A The DNA results from Items 34 and 35, those were
9 mixtures.

10 Q And can you remind the jury: What were 34 and 35?

11 A 34 was the swab from the Smith & Wesson handgun.
12 And 35 was the swab from the magazine and two unfired
13 cartridge casings.

14 Q And were you able to exclude anyone in that?

15 A I was. Yes, ma'am.

16 Q Who were you able to exclude?

17 A I excluded James Turner, Nita Rabon, and Brian White
18 as contributors to those mixtures.

19 Q And who could you not exclude?

20 A I could not exclude Jerry Rabon.

21 Q Okay. And can you tell the jury how you come to
22 decide that you can exclude or can't exclude someone?

23 A Well, we set the profiles side by side. And we look
24 for markers in the evidence profile that are consistent
25 with markers in the buccal-swabs profile.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 766

1 Q Okay. And if -- let's say that someone touched the
2 gun. Would they necessarily leave DNA?

3 A Not necessarily.

4 Q Okay. At what -- are there -- what would keep
5 someone from leaving DNA on a gun if they -- if they
6 touched it?

7 A A number of things. If they were handling it
8 through some sort of clothing, like a glove, a glove
9 would make it difficult for you to leave DNA behind on
10 something. Some people are what we call shedders. So
11 when you touch things, you leave behind more DNA than
12 other people. So that could have contributed as well.

13 Q So we don't all equally leave DNA?

14 A No.

15 Q They don't say that in TV.

16 Okay. So -- so it's possible for someone to touch
17 something and not leave DNA, and it's also possible for
18 someone who's a shedder to leave more than someone else,
19 fair?

20 A Correct.

21 Q Okay.

22 MS. SAMPSON: Beg the Court's indulgence.

23 (Off the record briefly.)

24 Q And you talked about weak matches. Is that common
25 or uncommon that you get a weak match?

CROSS-EXAMINATION BY MS. PINNOCK - JENNIFER MILLER 767

1 A A weak match?

2 Q Yeah. Or something that's too weak to match. You
3 said ---

4 A Is it ---

5 Q --- that ---

6 A --- uncommon?

7 Q Yeah.

8 A No, ma'am.

9 Q Okay. And you will test whatever is submitted to
10 you for DNA, correct?

11 A We test things on a request basis. So we wait to
12 hear from the investigator or from the solicitor's
13 office, whoever, what they would like tested in the case.

14 Q Okay. So it's up to the law enforcement or if
15 someone from my office gives you something, you would
16 just -- you would test it?

17 A Correct.

18 Q Okay.

19 MS. SAMPSON: No further questions, Your Honor.

20 THE COURT: All right. Yes, ma'am.

21 MS. PINNOCK: Thank you, Your Honor. If it please
22 the Court.

23 CROSS-EXAMINATION

24 BY MS. PINNOCK:

25 Q Hi, Ms. Miller.

CROSS-EXAMINATION BY MS. PINNOCK - JENNIFER MILLER 768

1 A Hi.

2 Q Okay. Just very quickly, when you do your reports
3 with the items you have listed -- do you have your report
4 up there?

5 A I do. Yes, ma'am.

6 Q Okay. Awesome. So you had some known buccal swabs
7 that were provided to you ---

8 A Yes, ma'am.

9 Q --- right?

10 And Number -- Item 20, that's the buccal swab from
11 James Turner. You have a V in parentheses behind --
12 beside that. What does that mean?

13 A That stands for victim ---

14 Q Okay.

15 A --- for our purposes.

16 Q And then, the buccal swab, Item 26, for Nita Rabon,
17 there's an E beside that. What does that mean?

18 A Elimination for our purposes.

19 Q So elimination would mean -- and correct me if I'm
20 wrong -- but law enforcement took a swab, submitted it
21 for testing to rule out Ms. Rabon or -- what -- what does
22 that mean?

23 A So if we get an item to test they know has been
24 touched by someone else but they're not necessarily the
25 victim in the case -- say, a vehicle, especially -- if a

CROSS-EXAMINATION BY MS. PINNOCK - JENNIFER MILLER 769

1 vehicle belongs to someone but they weren't that
2 particular victim but they know that their DNA is
3 possibly or more than likely going to be in the vehicle,
4 they'll submit that standard for us to use that for
5 comparison or elimination purposes.

6 Q And sometimes law enforcement will submit their --
7 like, the investigators or -- or deputies will submit
8 their own swabs for that same purpose, right?

9 A Yes, ma'am. If they've touched something with no
10 gloves on, then we do request a standard for them.

11 Q And that's because when you test the questioned
12 item, the more profiles you have -- you know, if -- if
13 you identify a -- a profile, the more known samples you
14 have, would give you a better idea on whether or not a --
15 a profile matched that particular sample. Does that make
16 sense?

17 A Correct. We can make comparisons.

18 Q Okay.

19 A Yes.

20 Q And there's not a time limit on when an investigator
21 or the solicitor's office could've given you a sample to
22 test, right?

23 A No, ma'am. They can request them at any time.

24 Q Okay. And the only known samples that you received
25 in this case were from James Turner, Nita Rabon, Jerry

CROSS-EXAMINATION BY MS. PINNOCK - JENNIFER MILLER 770

1 Rabon, and Brian White?

2 A Correct.

3 Q And the profile -- the profiles that you were able
4 to determine, those came off of Item 34 and 35?

5 A Correct.

6 Q Which were the Smith & Wesson handgun and the
7 magazine?

8 A Correct.

9 Q And you ---

10 A Well, they ---

11 Q I'm sorry.

12 A --- were -- excuse me -- they were swabs from. We
13 specify that, because that means someone else took the
14 swab from that item ---

15 Q Okay.

16 A --- and we strictly worked with the swabs.

17 Q Okay. So those swabs from those items were submitte
18 for you to test?

19 A Correct.

20 Q And you said that the results you got were mixtures?

21 A Correct. For Items 34 and 35.

22 Q And mixtures means there's more than one profile
23 present ---

24 A Correct.

25 Q --- correct?

CROSS-EXAMINATION BY MS. PINNOCK - JENNIFER MILLER 771

1 A Uh-huh.

2 Q But even with those profiles that were present, you
3 still excluded Nita, James, and Brian?

4 A Correct. Uh-huh.

5 Q So that means we know there's -- Jerry Rabon could
6 have contributed to that profile. But there's also
7 somebody else, outside of Nita, James, and Brian, that
8 also contributed to that profile, correct?

9 A Right. And I didn't specify how many were in that
10 mixture. So there could be one more; there could be two
11 more. I would have to sit and then interpret how many
12 contributors I feel there are present in the mixture.

13 Q But at least one more?

14 A Correct. Yes, ma'am, at least ---

15 Q Okay.

16 A --- one more.

17 Q And you can't -- you did not -- you were not able to
18 differentiate if that unknown extra profile was male or
19 female, correct?

20 A Correct.

21 Q Okay.

22 A Because Mr. Rabon is a male, if a profile is
23 strictly female, there will be an X and no Y. But
24 because this profile had an X and a Y, all I can tell you
25 is I know for sure there's a male present.

REDIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 772

1 Q Okay. But I'm going along those same lines. It
2 could've been a female present also?

3 A Correct. Could be. Yes, ma'am.

4 Q But without any more known samples provided to you,
5 you can't identify who could that possibly be?

6 A Correct.

7 Q Okay.

8 MS. PINNOCK: Beg the Court's indulgence.

9 (Off the record briefly.)

10 MS. PINNOCK: Thank you, Your Honor. I have no
11 further questions.

12 THE COURT: All right. Yes, ma'am.

13 MS. SAMPSON: Just a couple.

14 REDIRECT EXAMINATION

15 BY MS. SAMPSON:

16 Q You said the swab that the mixture came from was the
17 gun and the magazine. The magazine's what's up inside
18 the gun, correct?

19 A Correct.

20 Q Okay. And she asked you about the mixture. It's --
21 could be two more people? three more people? You don't
22 know?

23 A Correct.

24 Q And then, she asked you about being able to submit
25 evidence at any point. When was that initiated?

REDIRECT EXAMINATION BY MS. SAMPSON - JENNIFER MILLER 773

1 A We initiated our work in this case on September 1st
2 of 2017.

3 Q So after -- almost a year after this happened. This
4 happened in December of 2016.

5 A Yes, ma'am.

6 Q Okay. Thank you. No further questions.

7 THE COURT: All right. You may step down. Any
8 objection to this witness being excused?

9 MS. PINNOCK: No, Your Honor.

10 MS. SAMPSON: No, Your Honor.

11 THE COURT: All right. Thank you.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: All right. Ladies and gentlemen of the
14 jury, at this time I think we've been going about an hour
15 and a half. We're going to take about a ten-minute
16 break. We'll take a -- about a ten-minute break for you
17 all to refresh yourselves, and then we'll receive you
18 back shortly. Thank you.

19 (Whereupon, the jury exited the courtroom at 12:08
20 p.m.)

21 (Off the record briefly.)

22 THE COURT: All right. We'll take -- we'll take
23 about ten minutes.

24 (Off the record from 12:09 p.m. until 12:22 p.m.)

25

1 (Whereupon, State's Exhibits 131 and 132 were marked
2 for identification while off the record.)

3 THE COURT: All right. Let's bring them on in.

4 THE BAILIFF: Yes, ma'am.

5 (Off the record briefly.)

6 (Whereupon, the jury entered the courtroom at 12:22
7 p.m.)

8 THE BAILIFF: Jury is present, Judge.

9 THE COURT: All right. I'm going to ask the state
10 to call the next witness.

11 MS. SAMPSON: Thank you ---

12 THE COURT: Are y'all ---

13 MS. SAMPSON: --- Your Honor.

14 THE COURT: --- done with that easel? If so, can
15 somebody move it?

16 MS. SAMPSON: Oh, I can move it. The state calls
17 Investigator Truluck.

18 (Whereupon, the witness came forward.)

19 CRIS TRULUCK, having been first duly sworn,
20 testified as follows:

21 DEPUTY CLERK OF COURT: Thank you. Have a seat in
22 the witness stand, please.

23 THE WITNESS: (Complied.)

24 DEPUTY CLERK OF COURT: State your name for the
25 record and spell it for the court reporter.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 775

1 THE WITNESS: It's Sgt. Cris Truluck. Again, that's
2 spelled C-r-i-s, T-r-u-l-u-c-k.

3 DIRECT EXAMINATION

4 BY MS. SAMPSON:

5 Q Good afternoon.

6 A Good afternoon.

7 Q Can you -- I had to look at the clock. Can you tell
8 ---

9 A I almost said morning.

10 Q Can you tell the jury where you work?

11 A Yes. Richland County Sheriff's Department.

12 Q And what do you do there?

13 A I am a sergeant over the burglary unit.

14 Q And how long have you worked there?

15 A I have been there approximately ten years.

16 Q And can you kind of tell them your path through the
17 sheriff's department?

18 A Yes. Originally, I have 25 years in law
19 enforcement. I spent 15 1/2 years in Florida before I
20 moved back here. I grew up in this part of the country,
21 so I wanted to come back.

22 I moved here in March of 2010; went to work for
23 Richland County Sheriff's Department, working the road.
24 Worked the road for two years and was moved to criminal-
25 investigation division. While I was there, I started off

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 776

1 in burglaries. Then I worked my way to major crimes;
2 became a primary homicide investigator and then went to
3 the robbery unit, still as a primary homicide
4 investigator and then promoted to sergeant.

5 Q But now you're a sergeant?

6 A Yes, ma'am.

7 Q And so what -- and what -- I don't think I asked the
8 prior officers this. Do you guys get training as part of
9 law enforcement?

10 A Yes. Throughout my career in law enforcement, I
11 have probably approximately 100 certifications in law
12 enforcement-related courses, anywhere from SWAT tactics
13 -- I did that for years -- to road patrol to field
14 investigator, all the way up to homicide. I've taken the
15 initial homicide classes and advanced homicide classes.
16 I've done crime scene to court preparation. Just about
17 any homicide class I could find, I will take.

18 Q So I want to back to December of 2016. What was
19 your rank and job duties at that time?

20 A I believe I was assigned to the assault unit and
21 still as a primary homicide investigator. But my title
22 was only investigator -- senior investigator.

23 Q And so can you tell the jury how you became involved
24 in this case?

25 A Yes, ma'am. Normally, the way our -- we don't

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 777

1 particularly have a -- what we call a homicide unit at
2 the Richland County Sheriff's Department. Every six
3 weeks you would have a on-call team. And on each one of
4 those on-call teams -- and what I mean by on-call team is
5 that I mean you are handling cases that happen that
6 night.

7 So on every team there is a primary homicide
8 investigator there. So anything that normally happens
9 late-afternoon hours into the night, whoever that primary
10 investigator is would get that call. However, if you're
11 -- if something occurs during the day shift, early-
12 morning hours, usually, it could be assigned to another
13 primary investigator that's going to be working through
14 the days.

15 I was not on nights. I was working days and
16 actually on my way into work the morning when I got the
17 call to respond to the scene.

18 Q And you just told the jury the day shift and night
19 shift. What is day shift start -- what's the time
20 period?

21 A Just normal working hours, 8 to 5, say. Afternoon
22 shifts, they -- it depends on who the supervisor is that
23 night that's running that shift. It could start at three
24 o'clock in the afternoon or four.

25 But you don't want to burden a nighttime

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 778

1 investigator with something that happened during the day
2 because there's still that possibility something could
3 happen at night throughout that week.

4 Q So how do you get advised of what happens? How does
5 that work?

6 A Normally, you just get a call from the supervisor.
7 If you're not paying attention through the radio and
8 listening to it, the road would respond to the incident.
9 And if it's something that investigations need to get
10 involved with, that supervisor on the road makes a call
11 to the desk sergeant, who informs a supervisor for
12 investigation, who, in return, calls us. And then,
13 that's pretty much the way it happened that morning.

14 Q So in that morning, you got called to respond?

15 A Yes. I was actually on my way into work that
16 morning when I got the call. So I never even went to the
17 office. I just went straight to the scene.

18 Q And what time did you get to the scene or about what
19 time?

20 A I arrived there almost at 8:30.

21 Q And what did you do upon your arrival?

22 A Well, first, you get there and you try to assess the
23 scene of what's going on, which I did. I knew the area
24 because I used to work the patrol in that area. So I --
25 I'm -- matter of fact, I knew the trailer park.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 779

1 Initially, I would sign into the crime scene. And I
2 would meet Sgt. Martin, who was already there. He would
3 brief me on what he knew so far. And then, again, I
4 would kind of inspect the scene.

5 Q And I'm going to stop you for a second. Why would
6 he brief you versus you just figuring it out for
7 yourself?

8 A Well, he was there before me. So it was always a
9 possibility somebody had already briefed him with more
10 information that he would want me to know. So, of
11 course, if I was the first one there, he would probably
12 come right to me and say, you know, normally, "What do
13 you got? What's going on?" That's -- that's usually the
14 way that works.

15 Q Okay. So he advised you of what he knew at that
16 point?

17 A Yes.

18 Q And so what did you all know at that point?

19 A Pretty much what I saw. He had already spoken to
20 Crystal and Nicole there. They were there. They were
21 very upset.

22 Q Can you tell the jury about their demeanor?

23 A Yes. Crystal, as you saw her before, she was in
24 hysterics. She -- I mean, you couldn't calm her down.
25 She was crying. It was cold.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 780

1 Nicole, from face value, did appear to be upset.
2 But she was also trying to take care of her mother and
3 calm her down at the same time. Pretty much as far as
4 them, I didn't really interview and talk to them that
5 much because that is a sensitive situation at the time
6 when you arrive there and you got family members pretty
7 distraught over what happened.

8 So you -- I don't normally immediately jump on
9 family or whatever and say, "Can you tell me what
10 happened?" I try to let things calm down a little bit.

11 So at that point I began to assess the scene as to
12 what was there.

13 Q Do you remember what Nicole was wearing?

14 A No. I remember she -- her wearing a tank top, kind
15 of like pajamas. I mean, it looked like they just came
16 out of the house. It was a cold morning. No jackets, no
17 nothing. I -- I recall actually getting a blanket for
18 them because it was cold.

19 The house, of course -- always, when something like
20 this happens, you have to take the residence under
21 consideration if anything was there. From what I recall,
22 they had already given consent to search the house. So
23 we didn't want them going back in. So ---

24 Q Why don't you ---

25 A --- I do ---

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 781

1 Q --- want them to go back in?

2 A Because you don't want anything disturbed. Pretty
3 much, you just don't know. You know, you don't know what
4 -- what could be in there. You don't know exactly -- I
5 didn't have all the information at the time what even
6 actually happened. So just out of precaution, you
7 wouldn't want anybody going back in the house.

8 Q Okay. Is that typical?

9 A Yes.

10 Q Okay. And so what did you do at that point?

11 A I would walk around the scene. I did notice the
12 van. At that time I believe the doors were open. There
13 was glass all at the outside of the driver's door. I
14 noticed bullet holes through the van, through the door;
15 blood inside of the van. I think by then the passenger
16 door might've been open where I could see how bullets
17 maybe hit the passenger door.

18 But pretty much, just trying to walk around the van
19 and -- and in the residence, the yard. You know, people
20 drop things in the yard. So just an all-around view of
21 the scene without contaminating anything, if that makes
22 sense.

23 Q And why do you do that?

24 A People drop things. You just never know what you're
25 going to find. I -- I've found cell phones, where people

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 782

1 drop cell phones. People drop IDs by accident. You
2 know, it's -- it's just part of the techniques of
3 involving the crime scene around you.

4 Q And did you -- did any -- had anyone looked in the
5 van or did anyone look in -- in the van that morning?

6 A When I first got there, I looked in the van, but not
7 -- just as standing out at a distance, what I could see.
8 I don't open anything or -- or tamper with anything.
9 That's crime scene's job. And those investigators know
10 what they're doing more than I do when it comes to that.
11 So, of course, I probably peeked in there through the
12 window just to see what I could see. But I never touch
13 or try to open or move anything.

14 Q And were you able to find the victim's phone?

15 A I think eventually we did. I don't believe I
16 personally did. But we eventually did have his phone. I
17 believe it was found in the van.

18 Q Okay. And you said you didn't really interrogate
19 Crystal and Nicole. But were they -- did they -- were
20 they spoken to at the scene?

21 A Yes. I believe -- Sgt. Martin spoke to them more
22 than I did. I did engage in a few conversations with
23 them while I was there. But he had done most of the
24 talking with them there at the scene that morning.

25 Q And can you just tell the jury: What is the basic

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 783

1 information y'all had gotten from the two of them?

2 A Pretty much is that they were awake by gunshots.

3 And they came out. Crystal was the first one that comes
4 out. She sees that the -- the door -- the glass had been
5 shot out.

6 She yells for Nicole. Nicole comes out with her.
7 They eventually open the van. I recall them saying that
8 they had gotten towels or something to put on him to try
9 to stop the bleeding.

10 But that's what -- that was the basic information
11 that we obtained from them at that time.

12 Q Did they give you any information about the victim?

13 A Only that that was -- I knew that Scott, the victim,
14 was Crystal's boyfriend. And, of course, I knew that
15 Nicole was the daughter to Crystal, so ---

16 Q Did they provide you any information about where
17 he'd been that night or that morning at that time? Do
18 ---

19 A I think ---

20 Q --- you remember?

21 A --- the briefly did say he had been out all night
22 and that he had taken the TV and was on crack then. And
23 she -- and it was insinuated that he bought his crack
24 from across the street. And there was a -- some duplexes
25 across the street.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 784

1 I believe they even told me that their TV was
2 probably over there. I -- matter of fact, I know someone
3 did. Because I went over there and knocked on doors once
4 the scene had calmed down, just to see if anybody was
5 home or try to get me any information. But I never was
6 able to speak to anyone there.

7 Q So no one was -- was there at the apartment that --
8 or the duplexes they talked about?

9 A That's correct.

10 Q Okay.

11 A But ---

12 Q But you ---

13 A --- in ---

14 Q --- did go look?

15 A I did. And also, in this little trailer park --
16 it's kind of a cul-de-sac, so there's surrounding
17 trailers. And there -- I would also knock on everybody's
18 door; spoke to everyone there that would come open the
19 door.

20 Nobody saw anything. They heard the shots.
21 Everybody there heard them. I was informed by one of the
22 neighbors that there was a boyfriend that lived at the
23 trailer with them, but he didn't know his name.

24 Q Okay. So you were told at that point there was
25 another male that lived in the trailer?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 785

1 A Or was there frequently. I don't know -- I don't
2 recall if they said he actually lives there.

3 Q Okay. Were you able to at that point get the name
4 of the boyfriend from anyone?

5 A Only from Sgt. Martin. Because I went back to him
6 after talking to everybody and, you know, just kind of
7 let him know what I had so far. I had knocked on the
8 doors, and one of the neighbors had told me that there
9 was a boyfriend that usually stays here. And that's when
10 I was informed of Brian.

11 The deputy -- I believe it was Deputy Cahill -- had
12 relayed information to Sgt. Martin that as he was pulling
13 up to the scene, he was stopped by an individual who
14 pointed, like, "I heard shots over there; the bullets
15 whizzed by my head." He pointed in the direction.

16 Just like Cahill did, anybody would've done that;
17 immediately left and went to the scene.

18 Q So it was -- I think you said anybody would've did
19 this. Was that -- was that proper for Cahill to have not
20 right that minute investigated the person who said
21 bullets whizzed by them?

22 A Yes. That's only a normal reaction. You're --
23 you're headed to a hot call, such as a shots-fired. I
24 mean, it is total chaos. You want to get there as soon
25 as you can.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 786

1 Any person that would say the shots came right over
2 there, you would immediately go over there. You know, as
3 you know well, it was Brian who actually stopped him.
4 However, nobody knew he was a suspect at that time.

5 So Deputy Cahill goes around like he did. Now,
6 there is a -- also a neighbor that later came back
7 around, which would be, I believe, Mr. Knowles, who told
8 Cahill that he -- he knew the subject by Brian. I
9 believe that's the way it goes.

10 So then, we were able to figure out who the
11 boyfriend was, which was Brian.

12 Q And so at that point you talked to Samuel Knowles?

13 A I never did. No.

14 Q Okay.

15 A I would never speak to him until later during the
16 interview.

17 Q And were you able to get a written statement from
18 him?

19 A Yes. So eventually, I would get a statement from
20 him.

21 Q Okay. And it was your understanding that he saw
22 Brian White ---

23 A --- talking to his neighbor, who lives across the
24 street, which I believe his first name was Randell, who
25 also testified already.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 787

1 Q And this was all around the time of the shooting?

2 A Yes. I would never go -- actually speak to Mr.
3 Knowles. It was probably a few months later. But I
4 eventually did. But he -- the date of the incident,
5 Knowles had relayed that information to a deputy. And --
6 and we had known about it.

7 Q And is it normal to not give statements till later,
8 or do you always get them right then?

9 A No. If you get -- it depends on the situation. If
10 I get a statement from somebody that minute, I might have
11 a little suspicion I might not be able to get to them at
12 a later time. You know, if it's that important that
13 there's something that -- I mean, if Mr. Knowles -- of
14 course, I believe I was told at the time he worked -- he
15 lived there in the neighborhood. He -- he worked out at
16 the police department on the base.

17 But every situation is different. It -- it pretty
18 much depends on how you feel about the person. You know,
19 do you think he can come back later or do you think, you
20 know, they're just giving you that information now and
21 you'll never get to them again? So sometimes you do;
22 sometimes you don't.

23 Q Okay. So after you get this information, what do
24 you do?

25 A Regarding from the scene?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 788

1 Q What do you do after you've looked at the scene and
2 -- and done what you said, knocked on the doors and done
3 all that? What do you do?

4 A We would leave the scene. Once we left the scene --
5 and, of course, talking to everybody there that we knew
6 was Crystal and Nicole and the neighbors, we would go
7 back to our office at Pineview, myself and Sgt. Martin,
8 and pretty much brief with command staff, whoever was
9 there, to discuss the case so far as what we knew.

10 Brian at the time was -- seemed very suspicious to
11 us. We ---

12 Q And can you explain to the jury why, at that time,
13 he seemed suspicious to you?

14 A Well, first of all, he was a boyfriend that lived
15 there at the residence. He was a boyfriend that cared
16 about the people that lived there. However, he was the
17 same boyfriend seen running from the scene that we knew
18 left the scene.

19 You know, it -- I would believe that if it's people
20 you care about and you heard gunshots whizzing from your
21 head that occurred right over there where they live, you
22 would have at least stayed to check on them to make sure
23 everybody was okay. So why -- where was he? Why did he
24 leave? That -- I mean, that's -- that's normal. Why is
25 he so suspicious all the time and -- and not come back?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 789

1 Q So him fleeing the scene and him saying that there
2 was gunshots near his girlfriend but not checking on his
3 girlfriend ---

4 A Yes.

5 Q --- and her mother, that's why you at that ---

6 A Right.

7 Q --- point -- all right.

8 A And, of course, you got to start somewhere. You
9 know, if -- if -- any normal person who knew those facts,
10 you would think that was odd. So let's just try to talk
11 to him and figure out what's going on too. That's
12 exactly what was the game plan.

13 Q And at that point why weren't Crystal and Nicole
14 suspects, or were they?

15 A To me, they were victims. You know, they acted like
16 victims. You have a family member of theirs, they've
17 just been brutally murdered while he was sleeping in his
18 van.

19 That's just the call we made at the time. I -- I --
20 I felt like they were victims. I didn't suspect them of
21 anything at the time. It just wasn't there. I've --
22 I've been to numerous murder scenes where those are
23 things you treat delicate, you know, as family.

24 Q And have there been times when there is a family
25 member at a scene and you do immediately suspect them?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 790

1 A Not me personally. But it -- it could happen. Yes.

2 Q Okay. And let me just -- there's been times in
3 Richland County that that's happened?

4 A Yes.

5 Q Okay. So what did you do after this briefing?

6 A Well, we would begin to research Brian a little bit
7 more. We would find out that ---

8 Q Oh.

9 A --- there was some ---

10 Q Just ---

11 A Anyway ---

12 Q --- one ---

13 A --- we -- we would get him identified. And again,
14 the suspicion was there. So my intent was to -- Okay. I
15 don't know how to get in touch with Brian. I need to get
16 Nicole back in here and Crystal and let's talk to them
17 and figure out a little bit more about Brian. Why wasn't
18 he there?

19 I began calling Nicole at her phone number. And she
20 had been to the hospital, her and Crystal. I remember at
21 the time scene them wanting to leave and go to the
22 hospital, because Scott had been transported there, so --
23 which I allowed them. I'm not going to keep that from
24 them. You know, go -- go -- that's your family that --
25 that just was shot.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 791

1 So I stayed in touch with her periodically through
2 that morning until finally we made arrangements for me to
3 go pick her up. And I would go pick Nicole up at her
4 trailer and drive her back to the office there at
5 Pineview.

6 Q And before we get into the interview, you -- when
7 they were on scene, why didn't you have a gunshot residue
8 done on Nicole and Crystal at that point?

9 A Again, I never suspected them, even at the scene, of
10 being the shooter. Her being the shooter has never even
11 come into light until Tuesday when we all heard it.
12 Suspecting her of -- of other things is one thing. But
13 her being the shooter never, ever came into play. But
14 that's one reason why the -- the gunshot residue wasn't
15 taken from her.

16 Q Okay. So when she's at headquarters, what do you do
17 or -- at your office when you interviewed her? What's
18 the process?

19 A Well, of course, she's read her *Miranda*.

20 Q And why did you do that?

21 A Just out of precaution. Because even though I don't
22 suspect her as a suspect, you never know what she's going
23 to say. You -- you really don't.

24 And, you know, at least I'm covered; she's covered.
25 So it -- it just -- in a murder investigation when you

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 792

1 interview somebody like that -- and there again, we knew
2 that was her boyfriend that -- that left. So just out of
3 precaution of what she might say, it -- it's just the
4 right thing to do.

5 Q Okay. And did she give you a statement at that
6 point?

7 A Yes.

8 Q Okay. And we went over the statement with her. But
9 what she talked to the jury about, is that what -- the
10 statement that she gave you, more or less?

11 A More or less.

12 Q And was there, at any point during talking to her,
13 that you became suspicious that she was involved?

14 A Yes.

15 Q And why was that?

16 A Normally, the way we conduct interviews in -- is
17 that you talk to the person one on one. And that's what
18 we did. We talked to her one on one about what was going
19 on.

20 And increasingly, we began to know or find out
21 things that had happened the night before, about Scott
22 and what he had been doing, and pretty much that he had
23 -- he -- he had a drug problem, and he had taken the TV,
24 sold it for crack, and, of course, everybody's upset
25 about it. You know, we were able to learn that.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 793

1 So my next move, of course, is your cell phone.
2 What's -- what's in there? And -- and we want to explore
3 that and see if it will shed any light on anything else,
4 because she seemed very hesitant about just giving it --
5 everything -- there was just some hesitation there that
6 made me curious.

7 So, of course, we asked for the cell phone. And she
8 consented. So I believe we took it to Capt. McDonald to
9 download.

10 However, Sgt. Martin had the phone. And then, when
11 he goes to walk out of the office, she tells me that
12 something crazy happened to her cell phone last night,
13 which I automatically assumed -- Okay. She -- there's
14 more -- definitely more to the story.

15 So we discussed that. And her -- the way she
16 explained it to me is that last night when she got out of
17 the car, coming back from the Marriott motel, which y'all
18 have heard about, over at the hot tub, when she came back
19 in the yard and she gets out of -- I believe it's Scott's
20 car, her cell phone fell out on the ground in the
21 driveway. However, this morning of the shooting, she
22 happened to find her cell phone under the front porch.

23 So, of course, that's very odd, and which I didn't
24 believe it from the get-go. So I asked her -- I said,
25 "Is there something that's going to be in that cell phone

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 794

1 that's going to tell me about what happened?"

2 And she said, "Yes," and that there was a
3 conversation between her and Brian that he had either
4 taken care of it, was going to handle it, and had taken
5 care of it.

6 Q And did you find text messages to that respect -- or
7 were they found at some point?

8 A Yes.

9 Q All right. And did she tell you verbally about
10 anything that Brian had said about taking care of the
11 victim?

12 A Pretty much what y'all have heard: that he would --
13 you know, they -- they were upset; he was going to handle
14 the situation; and he would take care of it. Later on,
15 the more the interview got, I actually wanted her to call
16 him. And that's what we call a controlled phone call.

17 So I want her to call him, which was being recorded,
18 and have her talk to him about what it is of -- because
19 -- to see if he will admit to it. A conversation was
20 made. She would -- without trying to be so obvious that
21 she's standing in front of law enforcement, you know,
22 trying to -- to talk to him about what happened, she
23 wanted -- she had told him that we were accusing her of
24 doing this and -- and pretty much to see if he'd say,
25 "No, you didn't do it," which he did. You -- he would

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 795

1 even say in this phone call, "You had nothing to do with
2 this -- you know, absolutely nothing to do with it."

3 Well, towards the end of the call, I had her ask,
4 "Where's the gun? What happened to the gun?" And in her
5 own terms, she asked him that. And he assured her that
6 he got rid of the gun.

7 Q Okay. Now, this call, did you record it?

8 A Yes.

9 Q And can you hear that recording?

10 A I have listened to it. I know what was said on it.
11 It -- and this is what happened with the first call.
12 There was two calls.

13 The first call it was a little -- a little tape
14 recorder. And what you do is you put a piece in your
15 ear; and then, you put the phone up to it.

16 However, on the first call, when I received it,
17 undoubtably, it was wired up backwards. So you can hear
18 Nicole talk clear as day. However, Brian is very faint.
19 So you've really got to manipulate the volume, put some
20 headphones on, and listen to what was said.

21 I knew there was a problem with that. So I had her
22 make another call ---

23 Q And ---

24 A --- you know, which ---

25 Q And does he say the same thing on the second call?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 796

1 A Yes. That he took care of it.

2 Q Okay. And however, on either of those calls, did he
3 say he did it?

4 A No.

5 Q Okay. So ---

6 A I believe ---

7 Q --- what did ---

8 A --- it -- I believe it was said that it was handled
9 or that he handled it.

10 Q Okay. So what did you do after this call?

11 A Then we take a written statement from her at the
12 time. And now you're talking about this one got later in
13 the day now, five going on six o'clock in the afternoon.
14 So she would be giving a written statement.

15 Based on that conversation, everything that had led
16 up to this time, I actually was starting proceedings on
17 -- on warrants for his arrest.

18 Q And I want to ask you: Why didn't you do gunshot on
19 her at that point?

20 A Again, she was never deemed to be a suspect as a
21 shooter. Now, I always suspected them of being involved,
22 always, whether -- if my involvement is you had him do
23 it. And I explored that route hard, probably harder than
24 I did with Brian. Because I always felt that they put
25 him up to it or -- or he did it for them, because I knew

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 797

1 the relationship. He was wanting to get back to be her
2 girlfriend [sic]. She didn't want it. He had a close
3 relationship with the mom.

4 So just to put it out there, I always suspected them
5 of being involved, but never her being the shooter.

6 Q Okay.

7 A And -- and that was pretty much based on his
8 confession, which I'm sure we'll get into.

9 Q Yes, we will.

10 Did you have Nicole identify the defendant from
11 anything?

12 A I believe I did. From a DMV lineup.

13 Q Okay.

14 A Or was ---

15 Q It ---

16 A --- there a photo lineup? One of ---

17 Q No.

18 A --- the two.

19 Q It was DMV. Did -- is ---

20 A Okay.

21 Q --- that normal?

22 A Yes.

23 Q Okay. And why ---

24 A Which really ---

25 Q --- do you ---

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 798

1 A --- you -- you really don't have to do that.
2 Because what -- you know, if you know somebody by sight
3 and sound and you live with them and in a relationship
4 that much -- but again, out of precaution, I like to have
5 them do that.

6 Q Okay. And so I think you said this. But at that
7 point, after the call and speaking with Nicole, you start
8 getting warrants for Mr. White?

9 A Yes.

10 Q Okay. And what is -- what do you all decide to do
11 at that point, after speaking with Nicole?

12 A Well, we want to talk to Crystal more. So I don't
13 even recall if I even started typing the paperwork. But
14 I know I was my cubicle, working on it. But however,
15 Capt. McDonald and Lt. Eisenhower would go back to the
16 scene because we want to talk to Crystal as well and --
17 which is normal again.

18 You know, you want to -- we -- by then we had got
19 Brian fully identified. So we want to go get her and see
20 what everybody -- get all their statements first and then
21 proceed. However, when they arrived at the scene,
22 Crystal and Brian were both standing on the porch.

23 Capt. McDonald and Lt. Eisenhower knew that was
24 Brian because of the photos. I mean, we have all passed
25 those around and looked at it and discussed it. And he

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 799

1 knew some issues with them. So he was -- he was taken
2 into custody at that time.

3 Q Okay. And what -- when -- okay. So then they have
4 -- they bring Crystal back or they have Crystal brought
5 back; is that correct?

6 A They're both brought back.

7 Q Okay.

8 A I wasn't there. So I -- I believe the way it is,
9 they brought Brian back and Crystal was brought in a
10 patrol car back. But they -- they were pretty much
11 simultaneously brought back to the office to be spoken
12 to.

13 Q But in separate vehicles?

14 A Yes.

15 Q Okay. And that -- at that point did you speak to
16 Crystal?

17 A Yes, we did.

18 Q And what was her demeanor like at that point?

19 A Again, she was hysterical, crying. And I -- the way
20 I described it, snorting, spitting. It -- it was to the
21 point that I was like there's no way I can get a
22 statement out of her. There's just -- it's no way.

23 I mean, the intent was to try to get a written
24 statement from her. But again, I'm -- I still consider
25 her as a victim. You know, her -- her boyfriend was just

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 800

1 murdered. And she's clearly upset. So if that's an act,
2 that's a heck of an act.

3 Q All right. So were you able to get a written
4 statement from her?

5 A I never did. However, she was -- I believe she did
6 give the deputies that were on scene, which -- which I do
7 have, it was just something brief from her.

8 Q And if ---

9 A Something that she wrote herself.

10 Q Is it normal, if someone gives a short little
11 statement like that to the responders, that you all go
12 back and try to do a written statement?

13 A Yeah. And -- and again, every call is different.
14 Some deputies will do that; some deputies won't. To be
15 honest with you, we prefer that they don't. Because the
16 -- the investigators know a little bit more of what to
17 ask and -- and how to format the statement. But, I mean,
18 I -- I got to give it to the officer. He's doing a
19 little extra.

20 Q And so talking about what you prefer, let's talk
21 about recording interviews. Back in 2016 did you all at
22 the sheriff's department record interviews?

23 A No, we did not.

24 Q Did you prefer that?

25 A I did.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 801

1 Q Okay. Why did -- you do prefer that you didn't or
2 you prefer that you do?

3 A I wish we had been recording for a long time. And I
4 -- I've verbalized that. Because there are tons of
5 reasons why. Specifically, this case right here.

6 But you miss a lot of stuff by not recording. You
7 miss the emotion. You miss the actual confession. You
8 -- you miss the lies that are told. You -- I mean, you
9 miss a lot that goes into the interview. So ---

10 Q And what do you mean by miss? Do you mean that you
11 miss it or that missing to give to ---

12 A Everybody ---

13 Q --- the jury?

14 A --- misses it.

15 Q Okay.

16 A Not me. I'm there. So, of course, I see it. But
17 when it comes to a situation like this with a jury, you
18 miss the emotion that was put in. You miss how the
19 person was spoken to or how they were acting.

20 So, you know, that is something that you miss, which
21 I wish this was. But that wasn't our policy. And ---

22 Q And could you go against policy?

23 A I could not.

24 Q Okay. All right. So after you try to talk to
25 Crystal but you can't get a written statement, what do

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 802

1 you do?

2 A Well, Brian's there, of course. And he is in Capt.
3 McDonald's office.

4 Q Oh. At -- I'm sorry. I want to talk about Crystal.
5 Were you ---

6 A Okay.

7 Q --- able to get anything from her?

8 A Nothing no more than we already had.

9 Q I'm not being specific. Anything physical?

10 A No.

11 Q You didn't take her phone?

12 A Oh, yes. I'm sorry. Yes, we did.

13 Q All right.

14 A Yes. We did take her phone as well ---

15 Q Okay.

16 A --- and for it to be downloaded. And it was
17 returned to her several days later.

18 Q Okay. Now you can go to it. What did you do after
19 that?

20 A Myself and Sgt. Martin would interview Brian White.

21 Q Okay. And I'm going to show you what's been marked
22 as State's Exhibit 1 and ask if you recognize that.

23 A Yes, ma'am.

24 Q And what is that?

25 A That is Brian White's advisement-of-rights form that

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 803

1 was read to him.

2 Q And is it a fair and accurate copy of what you gave
3 to him that day?

4 A Yes, ma'am.

5 Q Has it been altered in any way?

6 A No, ma'am.

7 MS. SAMPSON: At this time we'd ask to introduce
8 State's Exhibit No. 1 into evidence.

9 THE COURT: Any objection?

10 MS. EIGENBROT: Just renew our objection from
11 pretrial, Your Honor.

12 THE COURT: All right. It'll be entered over the
13 objection of the defense.

14 (Whereupon, State's Exhibit 1 was entered into
15 evidence.)

16 Q All right. Can you tell the jury a little bit how
17 you go about going over their rights with a defendant or
18 anybody you're talking to?

19 A Yes, ma'am. Firstly, at the top it has your name
20 and the place where we were, where it was read, which is
21 was -- and I was do this -- RCSD, which is Richland
22 County Sheriff's Department, and what location we're at,
23 which we were at the Pineview office. So I marked "RCSD
24 Pineview." If I was at our headquarters, I would put
25 "HQ" for headquarters.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 804

1 The next statement is officers, which mean who are
2 the officers present for it. It was Sgt. Martin and
3 myself; then, the date, which was 12/8/2016; and the
4 time, which is 1804 in the military time; it's 6:04 in
5 the afternoon.

6 Q Okay. And -- and we talked about earlier that you
7 did the same with Crystal and Nicole -- or at least --
8 yeah -- with Crystal and Nicole. Did you do the exact
9 same thing with them?

10 A Yes.

11 Q Okay. So can you tell the jury what rights you go
12 over with them ---

13 A Yes.

14 Q --- when you talk to them?

15 A Before I actually read their rights, I also ask
16 which is their education level. And I start by: "Did
17 you graduate high school? And if so, where?"

18 And he had told me Richland County High School. And
19 I asked: "What's your highest level, whether that
20 include high school or college?" And his highest
21 education level was the 11th grade.

22 My next question I asked is: "Can you read and
23 write?" And I put down their exact answer, whether it
24 was, "Yeah, no, a little." But his answer was: Yes, he
25 could read and write.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 805

1 Q Okay.

2 A And the reason being is because if I read this form
3 to you, I don't -- I want him to be able to say he can
4 read this himself and it says the same thing that I read.

5 Q And this is a -- a -- small, so it's kind of hard
6 for the jury read. And they'll -- they'll get a copy
7 later. But -- so right here, down at the bottom, this is
8 a form. And all this information you put in yourself; is
9 that right?

10 A Just down at the bottom.

11 Q And -- like, we're going to go over the check marks
12 and all this information. You write all that in there
13 ---

14 A Yes.

15 Q -- correct?

16 And then, this down here is what you were just now
17 talking about, where he -- he told you this information
18 and you wrote it down?

19 A Yes, ma'am.

20 Q And I see here that there are initials beside it.
21 Why do you have those initials beside what you wrote
22 down?

23 A Because again, I have them initial it -- after I go
24 through it, initial each one of those rights that I've
25 explained to you, letting me know that you understand

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 806

1 your rights.

2 Q And whose initials are those?

3 A Those would be Brian White's.

4 Q Okay. So what rights do you go over with him?

5 A The first one is your right -- you want me to read
6 each one?

7 Q You can -- what you do is you read each one, and
8 tell them how you go through and -- and then read them to
9 them. Yes.

10 A Okay. Pretty much, I read each right to you. And
11 on this form, there's a check box. And I check that I
12 just read that to you. And I'll go all the way down the
13 whole form with them.

14 And once I read the whole form to them, I --- like
15 -- as I explained, I'd give it to them. And then, it's,
16 like, "Hey, please initial each one of these rights that
17 I explained to you."

18 Now, of course, on this one I do see he missed the
19 waiver of rights, where he didn't put his initial on
20 there. And undoubtedly, I didn't catch that. However,
21 he did sign the section and I checked it that I read it.
22 So it's just possibly he was initialing and -- and
23 skipped that one over.

24 Q Okay. And did you -- did you make him talk to you?

25 A No.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 807

1 Q What was his demeanor like while you were doing the
2 advice of rights?

3 A He was, like, one of the nicest people I've met. He
4 was very cordial. He was polite, just overall nice,
5 willing to talk. There was no harsh words between
6 anybody. And he was willing to sit there.

7 I've never had any issues with him or the
8 conversation we had. He never got excited or anything.

9 Q Okay. So after you go over the rights, you said you
10 have him check and you do the initials. He does the
11 initials, or you write his initials?

12 A No. He does his own initials while he's signing the
13 form.

14 Q And did he do that?

15 A Yes, ma'am. It's ---

16 Q Was anybody else in the room while you were doing
17 it?

18 A Yes, ma'am. Sgt. Martin.

19 Q Okay. All right. So now I'm going to go to State's
20 Exhibit No. 2. And let me ask you this: Any doubt in
21 your mind that he was the person doing all that?

22 A No, ma'am.

23 Q Do you -- do you see Brian White in the room?

24 A Yes, ma'am.

25 Q Where is he sitting?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 808

1 A He's sitting to my left, the white button-up shirt
2 -- white checkered and possibly black plaid.

3 MS. SAMPSON: Please let the record reflect that
4 he's identified the defendant.

5 THE COURT: So noted.

6 Q Okay. So now I'm going to give you State's Exhibit
7 No. 2 and ask if you recognize that.

8 A Yes, ma'am. That is his statement that was typed
9 and signed that I notarized.

10 Q Okay. And is it a fair and accurate copy of that
11 statement?

12 A Yes, ma'am.

13 Q Has it been changed or altered in any way?

14 MS. SAMPSON: At this time we'd ask to introduce
15 State's Exhibit No. 2 into evidence.

16 THE COURT: Any objection?

17 MS. EIGENBROT: Your Honor, we would ---

18 THE COURT: Same objection?

19 MS. EIGENBROT: --- just renew our pretrial
20 objections, Your Honor.

21 THE COURT: All right. It'll be entered over the
22 objection of the defense.

23 (Whereupon, State's Exhibit 2 was entered into
24 evidence.)

25 Q Okay. So before we go into the specifics of that --

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 809

1 the specific of his written statement, what happens when
2 you first start asking Mr. White about what happened?

3 A First, he denied any involvement in it or even being
4 there at the scene.

5 Q Okay. And so what did you do once he said that?

6 A Well, I pretty much confronted him as to what we
7 knew so far about ---

8 Q Which was?

9 A Which was about him running from the scene; him
10 being seen there; Nicole's statement; and the phone call
11 that she made, which pretty much, soon as he was
12 confronted with the phone call that was made, he knew
13 that -- that it was definitely him on the phone call that
14 was talking to Nicole because I was telling him facts
15 that was discussed. So he knew what he had said. And I
16 -- at that point he immediately confessed to it.

17 Q And how -- what do you mean, he immediately
18 confessed? What did he -- like, how did that happen?
19 What did he say?

20 A I don't recall exactly his words. But pretty much,
21 it was me that did it.

22 Q Okay. And so once he says, "I did it," what did you
23 do then?

24 A Well, we had him tell what happened.

25 Q Okay. And what did he tell you happened?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 810

1 A He had told us about them being at the Marriott.
2 They had went up there to go swim with Brittany, who was
3 there, and her friend. They had gone down to the hot
4 tub.

5 And when they got back to the room, they realized
6 that Crystal had pretty much been blowing their phone up,
7 trying to get in touch with them. I believe he told me
8 that he did call Crystal back and was told that Scott had
9 taken the TV and probably sold it for crack and she was
10 wanting them to come back to the trailer. I believe
11 Crystal also spoke to Nicole as well.

12 So Brian, Nicole, Brittany, Elexia, all of them
13 drive back to the trailer. When they get there at the
14 trailer, of course, they discuss what happened. It was
15 discussed that this was an ongoing problem.

16 Pretty much, after that discussion, Brian would take
17 Brittany and Elexia back to the hotel. However, he would
18 leave Crystal and Nicole there at the trailer. So he
19 goes back to the -- the -- the motel.

20 He stays there for a while, and he goes and gets the
21 gun. All right. And he did not want to tell me where he
22 got the gun from. So at that time I was, like, "That's
23 fine. You know, we'll -- we'll try to explore that
24 later."

25 Because that's normally what I do. I'm not -- I --

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 811

1 I wasn't trying to pressure him at that point. Just let
2 him get his statement out, and then we'll pressure these
3 other issues later.

4 So he had told me he had gotten a gun, drove back to
5 the scene -- back to the area of the scene, and parked
6 his car at the apartments, where he had went through the
7 cut. Now, when he goes through the cut, he tells me that
8 he blacks out, which is fine. I've heard that a hundred
9 times, believe it or not. Everybody -- a lot of times,
10 before people commit a crime, it's kind of like their go-
11 to. Like, I hear it a lot that I blacked out and don't
12 remember.

13 So that was what he had said. He had said that he
14 blacked out. However, the more we questioned him about
15 it, he blacked -- during his blackout stage, he knew
16 details about the scene, which tells me you weren't
17 really blacked out. He knew about going through the cut.

18 He knew about standing there in front of the van,
19 shooting through the door. He even mentioned that the
20 victim raised his hand up. Now, whether that was
21 defensive hand or a reaction to when he started shooting,
22 I don't know. But those were details that he had told
23 me.

24 He remembers having to maneuver a large tree when he
25 left. You know, and there was a large tree. It was a

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 812

1 huge oak tree, probably like that, that they had cut down
2 that he would have to go around. He remembered that, and
3 he he remembered urinating on himself as he was leaving.

4 He says he gets back into his car. He drives out to
5 Watermelon Hill Road and runs in the woods as far as he
6 can, takes the gun apart, and throws it in different
7 directions.

8 Of course, I wanted the gun now. So I -- I actually
9 ask about it. But he didn't seem to be able to -- he
10 wouldn't be able to take me back and get it.

11 So at that point my experience is that's probably
12 not where it's at. I immediately thought that, because a
13 lot of people say, "I threw it in Broad River," or "I
14 took it here and threw it," which is always in a location
15 that's hard to find. So that was my train of thought at
16 the time.

17 Q Okay. So you first talked to him. Do you -- are
18 you writing his statement or just talking to him at
19 first?

20 A I'm normally talking to him, because in -- normally,
21 if you have a person there, which was Sgt. Martin, and I
22 already knew he was taking notes. So I'm -- it's -- this
23 was a conversation between me and you.

24 I don't want to be distracted by everything you say
25 I write down. Because that's just not the way I

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 813

1 interview like that. I -- I think it's a distraction.

2 So, of course, Sgt. Martin was the one taking notes as to
3 what he was saying during this interview.

4 Q Okay. And once you're finished with this first
5 round of talking to him, what happens?

6 A Once he confesses to it, I mean, he clearly -- he's
7 the shooter. He gives details would -- would lead me to
8 believe you are. I have no reason not to believe your
9 story. You -- you gave detail -- he gave details that I
10 didn't even know yet.

11 Q And I'm going to get back to those. But why didn't
12 you do a gunshot-residue test at that time on the
13 defendant?

14 A In him I knew it had been past six hours. And I
15 know the -- the gateway of it is about six hours.

16 Q Okay.

17 A So ---

18 Q All right. So I'm going to back to the details.
19 But let's first go -- what happens after you finish this
20 first go-round of talking with him?

21 A If you could understand, this -- this first initial
22 interview with him did not take very long. I -- I -- I
23 would say probably the maximum of him -- the time we
24 started to the time he confessed -- I'm trying to think
25 back -- maybe not even 30 minutes.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 814

1 That's what I was saying: He never put up any big
2 fight or nothing. So it -- it didn't take very long.

3 Once he confesses, well, now it's the time -- let's
4 put it on paper. So we take him from Capt. McDonald's
5 office. And the reason we were in his office, there's a
6 big conference table in there and we could all sit there.
7 But now we need to go to Sgt. Martin's office, where he
8 was going to type the statement on his computer.

9 Q And at that time does -- does Capt. McDonald do
10 anything?

11 A Yes. Capt. McDonald, the whole time, pretty much
12 was there. But, like, he was sitting outside the office.
13 But he would -- he left at that point. Because he knew
14 what was about to happen. We were going to put it on
15 paper now, and he left to go get Brian something to eat.

16 Q Why ---

17 A And I ---

18 Q --- did he ---

19 A --- believe that was at his request, McDonald's. So
20 Capt. ---

21 Q Wait. Because there's two people -- two things
22 being called McDonald's.

23 A Yeah. McDonald ---

24 Q Who's ---

25 A --- and McDonald.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 815

1 Q Right.

2 A Let's just refer to him as Captain left and he went
3 to McDonald's.

4 Q Who requested McDonald's?

5 A Brian did.

6 Q Okay. There we go. All right. So he could -- did
7 y'all do that?

8 A Capt. McDonald did.

9 Q Okay. And was he allowed to eat?

10 A Yes, he was.

11 Q Okay. And then, at that point what happened?

12 A Well, we would go in the office and I -- I don't
13 believe the statement even started until the food got
14 back. You know, I remember being there in the office and
15 -- and when the food got back, again, Capt. McDonald sat
16 outside the door.

17 I was there for a little bit of it. And I would
18 leave. Because now he's confessed to the crime. We need
19 to get going with the paperwork. So I would actually
20 start doing that.

21 And in that process I'd be in and out while the --
22 the statement was actually being typed. However, Sgt.
23 Martin was there the whole time. Of course, he typed it.
24 And McDonald was there the whole time until the end.

25 Q And with this -- you said you let him eat. Did you

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 816

1 force -- did you, like, not say -- did you say, "I won't
2 let you eat unless you write this statement"?

3 A No. Again, he was very nice, cordial, respectful,
4 no cross words whatsoever. I really have nothing bad to
5 say about him except for the act. But the way he treated
6 us and the way the conversation was going, it was never
7 at issue.

8 Q Did you have any reason to want Brian White to be
9 the suspect more than anybody else?

10 A No.

11 Q And while he's talking to you all and you -- while
12 the written statement is being done, why don't you let
13 him write it?

14 A Because it's just -- just our procedure and our --
15 our policy as to how we do it. We -- it's a question-
16 answer format. So we try to -- we type the questions
17 that we've already gone over. And then, we put his
18 answer down.

19 So handwriting it, it just always seems to cause a
20 lot of problems. Because if you -- a lot of people, if
21 they handwrite their statement, they leave the details
22 out that we've already discussed. So we want to make
23 sure that all the details you've already told us are
24 there.

25 He could read that statement later and sign it,

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 817

1 which we give him that opportunity to do. And if they
2 need to make any changes, they're more than welcome to do
3 it.

4 Q Okay. Now, I know you said you were going in and
5 out. Were you there when he signed the statement?

6 A Yes.

7 Q How do you know you were there when he signed the
8 statement?

9 A Because I was the one that notarized it.

10 Q Okay. And so did you all force him to sign it?

11 A No, ma'am.

12 Q And how does it go about that they sign it? Do you
13 let them read it, or how does that work?

14 A It's always explained. There's two signatures on
15 this form. There's one that you sign your statement, and
16 there's one that you're receiving a copy of your
17 statement. So that's usually explained, because that
18 requires a signature in both spot -- spots.

19 Q Okay. And did you let -- you all let him look at it
20 and make any changes if he wanted to?

21 A Yes.

22 Q Do you remember if he wanted to make any changes?

23 A Not that I recall.

24 Q Did he look at it and go, "I did state that"?

25 A Not that I recall, no.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 818

1 Q Did he look at that and say, "I never said I shot
2 anybody"?

3 A No.

4 Q Okay.

5 A But he wouldn't have signed it, then.

6 Q But he signed it, no problem?

7 A Yes.

8 Q Okay. So after he signed it, what did you do?

9 A Well, once he signed the statement, pretty much the
10 end -- the end of the interview was done. He would
11 eventually be taken to jail.

12 Q And let me ask you this: When somebody gives you a
13 statement, do you assume that everything they said in
14 that statement is true?

15 A No. Because -- well, yes. I mean, what they tell
16 me, I -- I -- from what he told me, from what I knew, he
17 was being truthful. However, there's always there's that
18 they tell you that aren't the truth. Believe it or not,
19 sometimes a lie is better than the truth. Because
20 sometimes the lie is so far-fetched, nobody reasonably
21 would believe it.

22 So a lot -- a lot of times, I would write down a lie
23 in their statement. But I had no reason to think he was
24 lying, none whatsoever.

25 Q And were you able to corroborate the details that he

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 819

1 gave you? And we're going to go over the specifics. But
2 in general, were you corroborate some and not able to
3 corroborate others?

4 A Yes. The only thing I couldn't corroborate at the
5 time was about the gun.

6 Q Okay. So let's start there. What happened with the
7 gun?

8 A Later on down the road?

9 Q Yes. Well, how did you -- you said you could not
10 corroborate ---

11 A Eventually, the -- on the 9th, which the following
12 the day, this -- it hit the media; the word had got out
13 that he was arrested. And Jerry Rabon had contacted the
14 sheriff's department and said that he felt like he had
15 the murder weapon.

16 Q And we heard earlier that he had to call twice.

17 A Yes.

18 Q Was that your fault or what ---

19 A No.

20 Q --- happened?

21 A He -- he originally called Columbia Police
22 Department. And after giving them details, they realized
23 it was sheriff's department. So he calls the sheriff's
24 department. And he is told, "Well, call back the
25 following day," which is insane.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 820

1 All right. The only thing I can say is that the --
2 a lot of times, the people that work the front desk,
3 they're new. They don't understand the importance of
4 something. Why you wouldn't understand the importance of
5 this, but what should've been done that day is either me
6 being contacted or an investigator who was working on
7 call then been informed and go get that gun then.

8 However, it didn't occur. It didn't happen. So I
9 ended up meeting with them the following day and getting
10 the gun.

11 Q Okay. So but you did -- once you knew about it, you
12 went and got the gun?

13 A Yes.

14 Q Okay. And can you tell the jury a little bit about
15 how that happened?

16 A I would contact Jerry, because he left his name and
17 number, which he was referred to as Alex. And he
18 explained to over the phone what had -- what had happened
19 and he had -- that Brian had showed up at his house early
20 in the morning. He wanted to come borrow his rifle. He
21 said he didn't have ammunition for his rifle, but somehow
22 or another, he knew about the handgun and wanted to
23 borrow the handgun.

24 He said matter of fact, he -- Jerry said he thought
25 the gun was in his car. And they couldn't find it, which

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 821

1 to me -- that was, like, that's a lie that you can't find
2 your gun. However, Brian was so eager to get the gun
3 that he came in the house and began helping him search to
4 find the gun.

5 So he said he loaned him the gun. And he says the
6 reason for wanting to loan the gun was that Brian had
7 told him his boss was having problems with coyotes and he
8 needed to go -- he was going to go do a little coyote-
9 hunting. However, every coyote he killed, he would get
10 paid \$50 for it.

11 So Jerry was thinking, You actually owe me money for
12 rent. That's -- that's okay. That's a pretty good deal.
13 And then, you can pay me what I owe you. So he loans him
14 the gun.

15 Then Jerry says later on that morning, a few hours
16 later, 7:30 or so, he returns -- he's going to work. And
17 Brian's sitting in his car out in the driveway. And he
18 says he returns his gun to him minus a good bit of the
19 bullets. And he's -- and Brian tells him, "I missed."
20 Pretty much, he was shooting at coyotes but missed.

21 So Jerry automatically was, like, Wow, this -- this
22 -- something's really odd about this. And he'd -- him
23 knowing that Brian had got arrested for murder, you know,
24 he puts two and two together. And he feels like this was
25 the murder weapon.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 822

1 Q And so did you go obtain the murder weapon?

2 A I did. He told me -- I was ready to come get it
3 right now. He said it was in the trunk of his wife's car
4 and that I could meet her. I met his wife. I believe it
5 was at the grandmother's house or babysitter's house and
6 retrieved the gun from the trunk of her car.

7 Q I'm going to show you what's been marked as State's
8 Exhibit 116 through 119 and ask if you recognize those
9 photos.

10 A Yes, ma'am.

11 Q And what are those photographs?

12 A This would be the car that Jerry's wife was driving.
13 It was a white Saturn. The gun was inside of a white
14 bag. So I took a photo of the white bag.

15 I would then open the white bag. I would take a
16 photo of what was inside the white bag, which was a
17 pistol and a magazine.

18 I would remove the pistol from the white bag. And
19 then I would take another photo of just the gun and the
20 magazine.

21 Q And do those photographs fairly and accurately
22 depict what -- the way you saw the scene in December of
23 2016?

24 A Yes, ma'am.

25 MS. SAMPSON: At this time we'd ask to introduce

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 823

1 State's Exhibit 116 through 119 into evidence.

2 THE COURT: Any objection?

3 MS. EIGENBROT: No objection, Your Honor.

4 THE COURT: All right. Those will be entered
5 without objection.

6 (Whereupon, State's Exhibits 116 through 119 were
7 entered into evidence.)

8 MS. SAMPSON: And we're going to show them in a
9 little bit. I just wanted to get them in.

10 Q And so did you take hold of the gun at that point?

11 A Yes, I did. I took possession of it.

12 Q Okay. And the defense asked you -- or has -- I
13 shouldn't say asked you. Sorry. There has been some
14 mention of the defendant's clothing being in a trunk.
15 Did he tell you that?

16 A Yes. In his statement.

17 Q And were -- did you ever go look for that?

18 A I did. He had given -- and which actually, I was
19 just looking through my notes. And we -- according to my
20 notes, we had searched the car pursuant to a search
21 warrant. However, which was incorrect; we search the car
22 pursuant to his consent that he had given us the day of
23 the incident, which Lt. Eisenhower and them had obtained
24 from him.

25 Of course, you always wanted clothes that are

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 824

1 involved -- involved in a crime scene. I knew what I was
2 looking for specifically was a black hoodie and a pair of
3 jeans. So we would go and search the car, myself and
4 Sgt. Tim Lee, who was from crime scene.

5 We went and searched the car; nothing inside the
6 vehicle that I found. However, in the trunk it was
7 loaded full of clothes. I mean, it was wet -- the
8 clothes were wet. I don't know how they got wet. But
9 the clothes were wet. It was nasty.

10 Again, I tried to go through some of them. I didn't
11 see anything that I thought he was wearing during the
12 scene. Now, what you probably will see and I've seen,
13 there is a photo of a black-hoodie jacket. I recall
14 seeing that.

15 And it did not look like the black hoodie that he
16 was wearing the night that is on the Marriott video.
17 When he leave Marriott, I have video from that, where he
18 leaves. And to me it did not seem to match it.

19 Q Okay. I'm going to show you what's been marked --
20 well, I'll show you all of it right now. I'm going to
21 show you what's been marked as State's Exhibit 120
22 through 129 and 131 and 132 ask if you recognize -- start
23 with these first, 120 through 129.

24 A Yes, ma'am. These were the photographs that were
25 taken from the items in the car belonging -- that Sgt.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 825

1 Tim Lee took.

2 Q And do those pictures fairly and accurately depict
3 the trunk as you saw it back in December of 2016?

4 A Yes.

5 MS. SAMPSON: At this time we'd ask to introduce
6 State's Exhibit 120 through 129 into evidence.

7 THE COURT: Any objection?

8 MS. EIGENBROT: No objection.

9 A The other photos are just a -- of Brian White either
10 coming in or leaving the motel, again, wearing what
11 appears to be dark or -- or kind of faded pants. One's
12 when he's coming in; it's a black T-shirt and kind of
13 like acid-wash back jeans -- denim jeans. And the other
14 one's when he's leaving. It is, like, a black hoodie and
15 black pants. So he's all in black when he's leaving the
16 motel.

17 Q And ---

18 A I'm trying to see if it's stamped time.

19 Q Do those pictures -- do those pictures fairly and
20 accurately depict the stills that you saw and -- from the
21 camera from the Marriott?

22 A Yes, ma'am.

23 MS. SAMPSON: At this time we'd ask to introduce
24 State's Exhibit 131 and 132 into evidence.

25 THE COURT: Any objection?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 826

1 MS. EIGENBROT: No objection.

2 THE COURT: All right. Those will be entered
3 without objection.

4 (Whereupon, State's Exhibits 120 through 129 and 131
5 through 132 were entered into evidence.)

6 MS. SAMPSON: We got to get something else marked.

7 (Whereupon, State's Exhibits 133 and 134 were marked
8 for identification.)

9 Q And last but not least, I'm going to show you what's
10 been marked as State's Exhibit 133 and 134. And I'm
11 going to ask if you recognize these. And if I need to
12 show you the Google map, I will.

13 A Yes, I do.

14 Q And what are those?

15 A It's pictures of apartment that's down -- down the
16 street from the incident location.

17 Q Is that the one that's at the corner of Woodmont and
18 -- or Fairmont and ---

19 A Woodford ---

20 Q Yeah. That on.

21 A --- and Fairmont? Yes.

22 Q And do those pictures fairly and accurately depict
23 that apartment?

24 A Yes.

25 MS. SAMPSON: At this time we'd ask to introduce

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 827

1 State's Exhibit 133 and 134 into evidence.

2 THE COURT: Any objection?

3 MS. EIGENBROT: No objection.

4 THE COURT: All right. Those will be entered
5 without objection.

6 MS. SAMPSON: Thank you, Your Honor.

7 (Whereupon, State's Exhibits 133 and 134 were
8 entered into evidence.)

9 MS. SAMPSON: May we approach?

10 THE COURT: Yes.

11 (Whereupon, a bench conference was held off the
12 record in the presence of the jury, but out of the
13 hearing of the jury.)

14 MS. SAMPSON: Beg the Court's indulgence one second.

15 (Off the record briefly.)

16 Q You can step down if you need to, Investigator, but
17 just remember to keep your voice up. Or can --

18 A No. I --

19 Q --- you see?

20 A --- think I'm good. With my glasses on, I can see
21 right.

22 Q Okay. So let me get all the pictures so I can use
23 the right numbers for them. All right. So State's
24 Exhibit -- State's Exhibit 116, what is that?

25 A That would be the gun that I got from the back of

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 828

1 Jerry's wife's car, which I believe her name is Nita.

2 Q All right. And State's Exhibit 117?

3 A It was once I opened the bag, the gun inside of it.

4 Q That's how you found it?

5 A Well, I found it with the bag closed. But yes. It
6 was ---

7 Q So 118 ---

8 A --- like ---

9 Q --- shows how ---

10 A Yes, ma'am.

11 Q --- how you found it?

12 A That's -- that's how I found it.

13 Q And so the picture before that is once you open the
14 bag?

15 A Yes.

16 Q Okay. And then, State's Exhibit 119?

17 A Just the car that I took the gun out of. So that
18 would show, if you run the tag, it would come back to
19 Rabon.

20 Q Okay. And then, State's Exhibit 120, what is that?

21 A That would be the car. That's Brian's car and the
22 trunk.

23 Q Okay. And that -- so this -- the stuff that's in
24 the -- that's how you found it?

25 A Yes.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 829

1 Q Okay. And State's Exhibit 121?

2 A Again, those are items that were in the trunk of the
3 car. And I believe that Sgt. Tim Lee took that shirt out
4 to photograph it.

5 Q And so ---

6 A And in ---

7 Q --- 122 is a closer-up shot?

8 A Of a shirt. And he knew -- Sgt. Tim Lee knew we
9 were looking for black clothing. So I am assuming that
10 that is why he took the photos.

11 Q Okay. And did you take any of these clothing into
12 evidence?

13 A No, ma'am, I did not.

14 Q Why not?

15 A They were -- as I say before, it didn't match what I
16 was looking for. There -- there was a lot of clothes in
17 there that didn't appear to be what I was looking for.

18 Q All right.

19 A I -- I do know the importance of clothing. Because
20 you always want that from a crime scene. But none of
21 that appeared to be what I was looking for.

22 Q And were all the clothes wet?

23 A From what I recall.

24 Q All right. And State's Exhibit 123?

25 A It's just a T-shirt. I don't ---

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 830

1 Q Okay.

2 A --- know the relevance of it.

3 Q And it just says (as read): "Everyone has the right
4 to be an idiot, but you are abusing the privilege"?

5 A Yeah.

6 Q Okay. And State's Exhibit 124?

7 A Just some shorts. Again, he knew I was looking for
8 some acid-wash jeans. In the photo from the Marriott,
9 they're long pants. They're not -- they're not shorts.

10 Q Okay. And State's Exhibit 125?

11 A Just more clothing.

12 Q Okay. And State's Exhibit 126?

13 A That would be the -- a black -- that's a black-
14 hoodie jacket.

15 Q Okay. And why did you not take that into evidence?

16 A Because again, by watching the video from the
17 Marriott, that's -- it -- it appears to be a black
18 hoodie, not a jacket such as that. Specifically, the
19 shoulder -- the button -- the clear button, I didn't see
20 anything like that.

21 Q And then, State's Exhibit 127?

22 A It's just a black T-shirt.

23 Q Okay. Didn't take that into evidence?

24 A No, ma'am.

25 Q Why not?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 831

1 A Again, didn't feel like it matched what I was
2 looking for.

3 Q And then, State's Exhibit 128?

4 A A pair of shorts with some boxers in it.

5 Q And then, State's Exhibit 129?

6 A It says "Sauza."

7 Q And all that was in the car?

8 A Yes.

9 Q Okay. All right. And that's all that's on the --
10 on the board. I'm just going to show you and hold up the
11 other two. State's Exhibit 131 and 132, are these the
12 stills?

13 A Yes.

14 Q And what does 131 show?

15 A Him coming into the motel.

16 Q Okay. And ---

17 A And which ---

18 Q --- is that ---

19 A --- that would ---

20 Q --- what you ---

21 A --- be Brian coming into the motel.

22 Q And is that what you're talking about with his pants
23 and his shirt that you were going ---

24 A Yeah. And ---

25 Q --- to be looking for?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 832

1 A --- again, this is a short-sleeve -- it looks like a
2 short-sleeve T-shirt, which in the thing, that's a long-
3 sleeve black T-shirt.

4 Q Okay. And there is a black shirt that's taken. But
5 it had a collar. Does this one seem to have ---

6 A No.

7 Q --- a collar?

8 Okay. And then, State's Exhibit 132?

9 A Is again, him leaving with what appears to be black
10 pants and a black hoodie.

11 Q Now, we only have the stills here. But you had --
12 there was a video that you actually ---

13 A Yes.

14 Q --- watched? Okay. And you ---

15 A Hours of it.

16 Q And why do you say it was hours? And give that to
17 the jury.

18 A There's several entrance and exits of the Marriott.
19 You can imagine the Marriott downtown. It's a big motel.
20 You get -- there's a parking garage. There's a front
21 door. I believe there's a side entrance.

22 And they're all videoed. So you're talking about a
23 -- a big time frame that I had to try to narrow down and
24 catch them coming and going.

25 You know, and not only that -- not only looking at

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 833

1 the front door, you got to watch the same amount of time
2 for the side door to see if anybody exited out that door.
3 So I watched hours of it. And then, I had other people
4 watch hours of it myself.

5 Q Okay. And then, I'm going to show you -- the jury
6 State's Exhibits 133 and 134. These are what?

7 A Pictures of the apartment where -- pretty much is
8 where he -- Brian had said he parked the car before
9 walking to the scene.

10 Q And can you walk from that part ---

11 A Yes.

12 Q --- to the -- to the incident location?

13 A Yes, ma'am.

14 Q And is there a cut? Were you able to find a cut?

15 A We did. It was photographed. I think ---

16 Q And ---

17 A --- it was introduced earlier.

18 Q Yeah. It was -- okay. So I'm going to -- you
19 talked about there were some details to his statement
20 that you were able to corroborate. So I'm going to go
21 through those. Is that okay?

22 A (No audible response.)

23 Q So you -- were you able to corroborate that they
24 went to the Marriott?

25 A Yes.

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 834

1 Q Okay. And at that time did you know that they had
2 gone to the Marriott, other than talking to Nicole?

3 A I'm sorry?

4 Q Did you know they'd been to the Marriott, other than
5 talking to Nicole?

6 A Yes.

7 Q Okay. Did you corroborate that he was with
8 Brittany?

9 A Yes.

10 Q And Elexia?

11 A Yes.

12 Q And also with Nicole?

13 A Yes.

14 Q All right. Were you able to corroborate that they
15 all sat in the hot tub?

16 A Yes.

17 Q All right.

18 A Well, I didn't physically see them sitting in the
19 hot tub. However, they all told me they -- they were
20 sitting in it. So I was taking their word for it. It
21 wasn't on video.

22 Q Okay. And were you able to -- to confirm that they
23 left the hotel together?

24 A Yes.

25 Q All right. Were you able to confirm that they went

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 835

1 back to the hotel together?

2 A Yes.

3 Q All right. How about -- now, you already went over
4 that you did not corroborate his version of the gun.

5 A Not till later.

6 Q But were ---

7 A Which was ---

8 Q --- you able ---

9 A --- the following day.

10 Q Were you able to establish that the gun you got from
11 the Rabons was the gun that shot the victim?

12 A Yes. Let me back up. No, I did not corroborate his
13 statement because he told me he threw it in the woods. I
14 found it by another source.

15 Q Okay. And he told you that he fired at least six
16 shots at Turner.

17 A Yes. In his statement.

18 Q And were you able to get -- establish that there
19 were at least six shots fired?

20 A Yes.

21 Q How about that the victim was asleep when he was
22 shot?

23 A Yes. He ---

24 Q Was ---

25 A --- had mentioned that when he walked up, he was

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1 sleeping in his vehicle.

2 Q And when the defendant was talking to you all, did
3 you know that at the time?

4 A No.

5 Q Okay. Did you know that -- had you have talked to
6 Dr. Durso to establish that he was laying down when he
7 was shot at the time you're talking to the defendant?

8 A At the scene I kind of assumed that he was sleeping,
9 because he'd kind of like had a makeshift bed that he
10 made. There was something in between the seats so that
11 he could lay down. So based on the blood and everything,
12 I did kind of assume that he -- he was sleeping when it
13 happened.

14 Q Okay. But that -- were you able to ---

15 A I was able ---

16 Q --- corroborate ---

17 A --- to corroborate that fact by his statement, that
18 when he approached him, he was laying down in his car --
19 in his van.

20 Q All right. And I think you said this. But even
21 though he blacked out, were you able to corroborate that
22 there was a tree he would've had to go around?

23 A Yes.

24 Q Okay. And he told you -- and correct me if I'm
25 wrong -- that he was planning to go man to man with

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1 Turner?

2 A Yes.

3 Q What did you take that to mean?

4 A I took that to be as -- what anybody would:
5 fighting. You're going to, like, fistfight someone.

6 Q And were you able to establish that that's what was
7 -- what -- that there had been some conversation about
8 fighting the victim?

9 A Yes.

10 Q And who had -- you got that information from him?

11 A I got that from several people. Nicole had told me
12 that. Brittany even said it. Matter of fact, Brittany,
13 in Brittany's statement, she says that on the way back to
14 the motel, that he pulls out a pair of brass knuckles and
15 says he's going to come back later and handle that --
16 n-word. So that -- that was in her statement.

17 Q And instead of doing that, he went straight for the
18 gun and shot the victim? That's what he told you?

19 A Yes.

20 Q Okay. Now, you talked about Brittany's statement.
21 Did you take her statement?

22 A I did.

23 Q Did you make her talk to you?

24 A I did not.

25 Q Okay. What did -- did your -- how did that

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1 interview go for you?

2 A Again, I wished it was on video so it'd kind of
3 explain it to you. I did contact Brittany early on in
4 the investigation. And I wanted her to come talk to me.
5 Okay. There's -- without talking to a person and finding
6 their whole details, maybe I just have to go by what I
7 know.

8 What I knew was you conspired to commit this crime
9 with him. However, if I had the availability to talk to
10 you, you might be able to shed some light on it. So I
11 did give her that option.

12 But instead, she told me no; she doesn't do the
13 police. Now, as you mentioned, I know Brittany. I know
14 her from other instances that I've investigated before.

15 So -- and as she said, she was a suspect in a
16 burglary. Well, of ---

17 MS. EIGENBROT: Objection.

18 A --- course, all suspects ---

19 MS. EIGENBROT: Objection, Your Honor.

20 THE COURT: Sustained.

21 A Okay. We had past. Well ---

22 THE COURT: Hold on ---

23 A --- anyways, I ---

24 THE COURT: --- one second. Ladies and gentlemen

25 ---

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1 MS. EIGENBROT: Move to strike ---

2 THE COURT: --- of the jury ---

3 MS. EIGENBROT: --- that last -- part of ---

4 THE COURT: Ladies and gentlemen ---

5 MS. EIGENBROT: --- the statement, Your Honor.

6 THE COURT: --- of the jury, please disregard that
7 last statement. I don't believe she testified to that.

8 Q But you had dealt with Brittany before?

9 A Yes, ma'am.

10 Q And so this wasn't the first time you'd ever spoken
11 to her?

12 A No.

13 Q Okay. So what did you do once she got to
14 headquarters -- or did you ever get the chance to speak
15 with her?

16 A I did. However, I was also informed by a family
17 member of hers that she wanted to speak to me and that
18 she was going to tell me what she knew, which was great.

19 So the next morning, she was arrested in Charleston.
20 So she was extradited back up here. So, of course, any
21 investigation, the following morning, you know as an
22 investigator you want to go and pick them up and -- and
23 interview them. So that's exactly what I did. I would
24 go pick her up and bring her back to the office at
25 Pineview to interview her.

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1 Q And did she talk to you?

2 A She did. And matter of fact, that was the first
3 time she's ever been cordial and nice to me at all in the
4 past that we've met. Again, she was nice, polite.

5 We never even had words at all during the whole
6 interview. Again, if this would be -- was recorded,
7 y'all could see that.

8 Q Was her demeanor the same with you as it was in
9 court?

10 A No. Not at all.

11 Q Okay. All right. Did she -- was she argumentative
12 with you or anything?

13 A No, ma'am. I -- we -- like I said, she wanted to
14 give her statement. And, of course, I wanted to take it.
15 And everything that's in her statement, she willfully
16 gave to me.

17 Now, in her statement, as she says, that, you know,
18 she wanted something changed. Well, if it was me not
19 wanting to change something, I wouldn't have gave her
20 that statement back to change. So I allowed her to do
21 that. She was able to change whatever she wanted.

22 I offer her and Brian that same opportunity. If
23 there's something in your statement you don't like, well,
24 let's change it. I could've very easily misunderstood
25 what you said.

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1 And let's just say for -- what if I did put
2 something intentionally wrong in there? I allowed her to
3 change it. It wasn't a problem. But I didn't. I don't
4 know what was changed, but I didn't have a problem with
5 her changing it or anybody.

6 Q And were you able to get any text messages to show
7 she and the defendant were texting each other?

8 A Yes.

9 Q And is that the basis for her charge?

10 A Yes.

11 Q Okay. And she is charged with conspiracy?

12 A Yes, ma'am.

13 Q All right. And during your investigation as the
14 lead -- you're the lead investigator in this case, right?

15 A Yes, ma'am.

16 Q So you -- are you in charge of collecting all the
17 evidence and making sure all the evidence was collected?

18 A It's kind of -- when you have an investigation to
19 this intense, there's numerous hands in it. I know of
20 all the evidence, but I'm not always in charge of
21 collecting all the evidence.

22 That's why we have crime scene unit. And that --
23 those guys are -- and girls, they're -- that's their
24 profession. They're -- they're schooled in all that.

25 But I am normally aware of all the evidence that's

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1 collected. And I do collect evidence at times too, a lot
2 of it.

3 Q Okay. In this case I'm going to talk to you about
4 some of these. So there's a -- State's Exhibit 72 is a
5 buccal swab of James Turner. Did you have any knowledge
6 about this buccal swab?

7 A I did not take that, but I do know of it.

8 Q Okay. And was it -- but you have the property
9 report that shows it was put into evidence?

10 A Yes.

11 Q Okay.

12 MS. SAMPSON: We'd ask to introduce State's Exhibit
13 72 into evidence.

14 THE COURT: Any objection?

15 MS. EIGENBROT: No objection, Your Honor.

16 (Whereupon, State's Exhibit 72 was entered into
17 evidence.)

18 Q And State's Exhibit 78, that is the swab from the
19 Smith & Wesson handgun and the -- and the magazines.
20 Were -- do you have the property for -- report for that?

21 A I did not do the swabs.

22 Q But do you have the property ---

23 A Yes.

24 Q --- report?

25 And so you are aware of this being ---

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1 A Yes.

2 Q --- done?

3 MS. SAMPSON: I'd ask to introduce State's Exhibit
4 78 into evidence.

5 THE COURT: Any objection?

6 MS. EIGENBROT: No objection.

7 (Whereupon. State's Exhibit 78 was entered into
8 evidence.)

9 Q State's Exhibit 66, the swab of the -- the fired
10 cartridge casings from the scene, again, are you aware of
11 these?

12 A Yes.

13 Q And do you have the property report for these?

14 A Yes.

15 MS. SAMPSON: I'd ask to introduce State's Exhibit
16 66 into evidence.

17 THE COURT: Any objection?

18 MS. EIGENBROT: No objection, Your Honor.

19 (Whereupon, State's Exhibit 66 was entered into
20 evidence.)

21 Q 79, that is the swab of the driver's door of the
22 victim's van. Are you aware of this swab?

23 A Yes, ma'am.

24 Q Have a property report?

25 A Yes, ma'am.

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1 MS. SAMPSON: I'd ask to introduce State's Exhibit
2 79 into evidence.

3 THE COURT: Any objection?

4 MS. EIGENBROT: No objection.

5 THE COURT: It'll be entered without objection.

6 (Whereupon, State's Exhibit 79 was entered into
7 evidence.)

8 Q And 81, the swab from the defendant, Brian White,
9 were you aware of this swab?

10 A Yes.

11 Q And did you actually take this?

12 A I did. In, I believe, February of 2018.

13 Q And any problems taking it, just do his mouth, that
14 sort of thing?

15 A That's correct.

16 Q Okay.

17 MS. SAMPSON: At this time I'd ask to introduce
18 State's Exhibit No. 81 into evidence.

19 THE COURT: Any objection?

20 MS. EIGENBROT: No objection, Your Honor.

21 THE COURT: All right. It'll be entered without
22 objection.

23 (Whereupon, State's Exhibit 81 was entered into
24 evidence.)

25 Q And you said you didn't actually obtain this until

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1 February '18?

2 A Yes.

3 Q February of 2018.

4 A That is correct.

5 Q Okay. All right. And then, State's Exhibit 80,
6 which is the buccal swab from Nita Rabon?

7 A I did collect that one.

8 Q So you did that one yourself?

9 A Yes, I did.

10 Q And did she consent to that?

11 A Yes, ma'am.

12 MS. SAMPSON: I'd ask to introduce State's Exhibit
13 81 into evidence.

14 THE COURT: Any objection?

15 MS. EIGENBROT: No obj.

16 THE COURT: 80 -- that's' 80, right?

17 MS. SAMPSON: 81.

18 THE COURT: I thought ---

19 MS. SAMPSON: Oh, I'm sorry. I'm sorry. 80.

20 THE COURT: Okay.

21 MS. SAMPSON: I'm so sorry. Yes.

22 (Whereupon, State's Exhibit 80 was entered into
23 evidence.)

24 Q And then, State's 82, the -- is the buccal swab of
25 Jerry Rabon.

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1 A Yes. I took that one as well.

2 Q And did he consent to that?

3 A Yes, ma'am.

4 MS. SAMPSON: I'd ask to introduce State's Exhibit
5 82 into evidence.

6 THE COURT: Any objection?

7 MS. EIGENBROT: No objection.

8 THE COURT: It'll be entered without objection.

9 (Whereupon, State's Exhibit 82 was entered into
10 evidence.)

11 Q Okay. And you -- I think you said this already.
12 But you, at some point, did get a written statement from
13 -- from Samuel Knowles?

14 A Yes.

15 Q Okay. And you also got a written statement from
16 Randell Wilson at some point?

17 A No. Randell did not want to give me one. He told
18 me verbal that he had talked to Brian that morning. But
19 it was one of those things that he didn't want to get
20 involved; he didn't want to put it on paper.

21 He pretty much didn't want to be involved. However,
22 I was obligated to note that, you know, he told me that.
23 So ---

24 Q But you tried?

25 A Yes, I did try.

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1 Q And you make a report of what you do.

2 A I'm sorry?

3 Q You make a written report of what you do?

4 A Yes.

5 Q Now, let me ask you this: Is everything you did
6 written in that report?

7 A I'm sure there's not.

8 Q Is that normal?

9 A Yes, it is normal.

10 Q Does that mean you didn't do it?

11 A No, not at all. I mean, you try -- just for
12 instance, I believe my -- my follow-up here is -- it's
13 nine -- ten pages long. I've done some 20 pages long.
14 And still end up in the situation and get called out for
15 things maybe I didn't do.

16 There's just so much that you do is easy -- there's
17 -- of course, there's going to be things you don't do as
18 well. I try to do most of it and note it.

19 Q Okay. And there's been some discussion about a rush
20 to judgment. Does it make any difference to you whether
21 you arrest Brian White, Brittany Steen, Nicole, Crystal,
22 anybody, as far as this goes?

23 A No. There was -- there was no rush to judgment.
24 However, the thing is, is that you got to start
25 somewhere. And he was the suspect from the get-go.

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1 And on into the investigation, Nicole and Crystal
2 were as well. I can assure you. I looked at them
3 probably harder than I did Brian. Because I always felt
4 like they were involved.

5 However, Brian confessed to this incident. His
6 statement corroborates the scene. Why -- I have no other
7 reason to believe that somebody else was the shooter.

8 Had I thought or there was ever any evidence or if
9 someone had ever told me that, "Hey, Brian says she's the
10 shooter," it would've been a whole different story.
11 Because I all along felt like they were involved some
12 kind of way. But there was never any proof of it. But
13 the shooter? Never her being the shooter.

14 Q And did Brian White give you any information about
15 their involvement?

16 A He said that they were boyfriend and girlfriend. I
17 asked him were they involved. When -- in his interview I
18 asked him were they involved. And again, no.

19 He has had -- here we are, three years later -- to
20 express to law enforcement or anyone, for that fact ---

21 MS. EIGENBROT: Objection, Your Honor.

22 THE COURT: It's -- hold on ---

23 MS. EIGENBROT: It's -- I think ---

24 THE COURT: --- one second.

25 MS. EIGENBROT: --- it's a matter of law, Your

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1 Honor, at this point.

2 THE COURT: Hold on one second.

3 All right. Ladies and gentlemen of the jury, I am
4 going to send you all out. I will send you all out. And
5 I think their lunch is back there already.

6 Let me send you all out before you get started,
7 because I'm going to try to -- was trying to finish up
8 with direct examination, and then we were going to take a
9 lunch break. So I'll see you all back out. Please do
10 not discuss the case.

11 (Whereupon, the jury exited the courtroom at 1:38
12 p.m.)

13 THE COURT: All right. Yes, ma'am. Your ---

14 MS. EIGENBROT: Your Honor ---

15 THE COURT: --- objection?

16 MS. EIGENBROT: --- at this time I would need to
17 move for a mistrial based on the testimony that Sgt.
18 Truluck was about to present. Essentially, what he was
19 about to say was my client has, for the past three years,
20 not said anything further about his case. He's under no
21 obligation to speak to law enforcement, to reach out to
22 law enforcement, especially when he's being represented
23 by attorneys.

24 He's essentially just shifted the burden at this
25 point that Mr. White would've needed to have come forward

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1 prior to now, commenting on, at this point, our case.
2 And he's right -- right -- and he has a right to remain
3 silent. He never had to talk to him to begin with or
4 continue to talk to him afterwards. But -- so based on
5 what the jury just heard, I would move for a mistrial,
6 Your Honor.

7 MS. SAMPSON: And where we were going, Your Honor,
8 but he was cut off, is the jail call; that even in the
9 jail calls, which are after he's arrested -- but we
10 hadn't got there. So it wasn't going to be that he
11 needed to talk to his -- us or -- but that he listened to
12 the jail calls that are after, which we already ---

13 MS. EIGENBROT: And -- and ---

14 MS. SAMPSON: --- had talked about.

15 MS. EIGENBROT: And, Your Honor, I will say: He
16 prefaced that statement by saying "in the last three
17 years." We have already discussed the fact that these
18 jail calls are from his -- like, the first few weeks of
19 his arrest.

20 THE COURT: All right. Well, I am going to sustain
21 the objection. You'll have to rephrase the question. He
22 did not get the answer out before I think you objected.
23 He said in the last three years, Mr. -- and then, I think
24 you objected.

25 MS. EIGENBROT: And, Your Honor, I think that's kind

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1 of an -- a bell you cannot unring. Because I think that
2 based ---

3 THE COURT: He didn't ---

4 MS. EIGENBROT: --- on the question ---

5 THE COURT: --- say anything.

6 MS. EIGENBROT: But I think based on the question
7 and that particular part of the response, suggests that
8 at this point he -- Mr. White has not come forward and
9 said anything besides his statement in the past three
10 years.

11 THE COURT: What was the question?

12 MS. SAMPSON: My question, I believe, was just did
13 he provide any -- what did he say about the involvement
14 of Nicole and Crystal, which we've already talked about
15 that he gave him a statement. That was my question, I
16 ---

17 MS. EIGENBROT: And, Your Honor ---

18 MS. SAMPSON: --- believe.

19 THE COURT: I don't think the question -- I just --
20 but he started -- I think the objection was -- he -- he
21 did not -- he did not -- I don't -- he did not have an
22 opportunity, I think, because you objected. I know you
23 -- what you -- you all may think he was going to say.
24 But I think you objected before he could.

25 MS. EIGENBROT: Your Honor, respectfully, I would

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1 ask that we play back that part of the testimony. I --
2 because I -- I believe even the questions leading up to
3 that was kind of leading in that direction: essentially,
4 that he has never heard Brian say anything other than his
5 statement.

6 THE COURT: We can listen to it, but I don't --
7 we'll -- which means we all have to be quiet so that she
8 can play it back.

9 Yes, ma'am.

10 (Whereupon, the audio recording of the last three
11 questions and answers were replayed.)

12 THE COURT: All right. I'll be glad to hear from
13 you all.

14 MS. EIGENBROT: Your Honor, I -- I think that
15 statement, the implication behind it is enough at this
16 point for a mistrial.

17 THE COURT: All right. Yes, ma'am. Any ---

18 MS. SAMPSON: Your Honor, sorry. At -- my question
19 didn't elicit that. My question was: Has he ever given
20 you any information about their involvement?

21 And the answer was: No. Because -- and I -- it was
22 going to go towards the statement, but also the jail
23 call, where he's talking about it. We hadn't got there
24 yet, but that's where we were going.

25 I think the curative of striking the three years, if

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1 that's what Your Honor wants to do, would be enough. I
2 literally was just going to -- about to play the jail
3 call and talk about listening to the jail call.

4 MS. EIGENBROT: And, Your Honor, respectfully, I
5 don't believe moving to strike the three -- just the
6 three-year part of that would cure any of that. Like I
7 said, that's -- that's something the jury has already
8 heard. The statement itself is it's been three years he
9 had to express to law enforcement, which is also not
10 true. He is not -- not required under any law to express
11 anything to law enforcement, especially after his arrest.

12 So I think there's all sorts of problems with that
13 little statement you can't unring.

14 THE COURT: All right.

15 MS. SAMPSON: And he did ---

16 THE COURT: I'm going ---

17 MS. SAMPSON: --- say to anyone else too. I mean,
18 he didn't just say law -- just so we're clear, I mean,
19 don't know what that meant. But ---

20 MS. EIGENBROT: But then, he's also commenting on
21 private conversations that he does not know that I've had
22 with my client.

23 MS. SAMPSON: He didn't say you.

24 THE COURT: What did he comment on?

25 MS. EIGENBROT: Well, and if he's saying anyone, I

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1 would be included in anyone.

2 MS. SAMPSON: But he didn't ---

3 THE COURT: All right.

4 MS. SAMPSON: --- say the defense or anything.

5 THE COURT: All right. I'm going to sustain the
6 objection, have you rephrase the question. I do not find
7 that this rises -- that it is -- it's -- I will give an
8 instruction to the jury to disregard the last question
9 and last answer; instruct Ms. Sampson to rephrase the
10 question.

11 The motion for a mistrial will be denied. This is a
12 curable offense. He did not get the entire answer or
13 whatever it was that he was about it to say out. But I
14 will give a -- a curable instruction to disregard the
15 last question and statement.

16 How much longer? Because I need -- they're probably
17 back there, smelling their food.

18 MS. SAMPSON: I was going to play the call. There's
19 -- there's just one. And that was it, Your Honor. Yeah.
20 That's it. But the call is, like, ten minute.

21 THE COURT: Well, I'm going to go ahead and let them
22 eat.

23 MS. SAMPSON: Okay.

24 THE COURT: Plus, I've got that other group coming
25 in here at -- about 15 minutes to do those pleas. So

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1 we'll go ahead and take a break and start back around
2 2:30-ish.

3 MS. SAMPSON: Okay.

4 THE COURT: All right. Thank you.

5 MS. SAMPSON: Thank you, Your Honor.

6 THE COURT: You may step down. Investigator,
7 Sergeant, you do know you're under oath, so you cannot
8 speak to anyone during the lunch break. You're under
9 oath and still on the witness stand, so you cannot speak
10 to anyone regarding your testimony.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: All right. Thank you. But when we come
13 back, do not get into any ---

14 THE WITNESS: All right.

15 THE COURT: --- three years or anything ---

16 THE WITNESS: I understand.

17 THE COURT: --- like that. All right. Thank you.

18 THE WITNESS: Yes, ma'am.

19 (Off the record from 1:47 p.m. until 2:55 p.m.)

20 THE COURT: All right. We're ready to bring them
21 in?

22 MS. SAMPSON: The -- the state's ready.

23 MS. PINNOCK: Your Honor, before the jury comes back
24 in, we -- if I could just kind of expand on our request
25 for a mistrial that was made when the jury was sent out?

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1 THE COURT: Yes, ma'am.

2 MS. PINNOCK: Thank you. Your Honor, it's -- based
3 on the testimony of Investigator Truluck, who we --
4 nobody can argue or pretend that it was a rookie mistake.
5 Because it's somebody who's been in law enforcement for
6 over 25 years. The testimony and the -- the information
7 provided to the jury that we attempted to stop was a
8 comment on Mr. White's constitutional right not to have
9 any contact with law enforcement.

10 Your Honor, the case law is very clear on the state
11 making any comment, directly or indirectly, on a
12 defendant's constitutional rights. And it's our position
13 that the testimony of the investigator, the questions
14 that were asked by the assistant solicitor leading up to
15 him making those comments, was just leading into it. And
16 when you take the testimony that was provided with --
17 along with the state's attempts through the entire
18 testimony of Investigator Truluck to pick apart the
19 theory of defense that was presented to the jury on
20 Monday, the comment that he had three years to come up or
21 mention an -- an -- an alternative theory, the
22 prejudicial effect of that, it's our position, would not
23 be cured with any sort of instruction.

24 It is inferring that Mr. White has come up with an
25 alternative theory just for purposes of trial, which is

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1 what the protections that are provided to him are
2 designed to not happen. So, Your Honor, we are asking
3 for you to -- I guess, this is just expanding on our
4 request for a mistrial.

5 This was not a rookie mistake. This investigator is
6 a veteran; he knows exactly what he was doing. And they
7 know what they can and cannot say.

8 A direct violation or an indirect violation is what
9 the case law protects against. And, Your Honor, I do
10 believe this would qualify as an indirect violation.

11 THE COURT: Any response from the state?

12 MS. SAMPSON: Your Honor, I stand on what I stated
13 earlier. You had the court reporter play my question.
14 My question was specifically about the information the
15 defendant had provided that said that -- whether Nicole
16 or Crystal was involved. I think Ms. Pinnock's argument
17 would be more on point if the defendant had never said
18 anything.

19 In this particular case, not only did he give a full
20 confession. As we were about to get into, there's a --
21 there's jail calls where he talks about the issue. So I
22 do think that that is relevant and -- and therefore,
23 talking about him implicating himself isn't just that he
24 suddenly did it or that he -- that his right to remain
25 silent or his right to not incriminate himself has been

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1 violated. He already did that.

2 As to the comment of three years, he did not say
3 that he had three years to come up with some story. They
4 stopped him before anything else was said, other than the
5 three years. Before we left, it was that he's had three
6 years to speak to him. Now it's that it was three years
7 that he had to come up with something.

8 He was stopped before he said anything else. I
9 think a curative instruction is the right call. I do --
10 or not -- either a curative instruction or just the
11 motion to strike his statement, as you said you would do.
12 I think that is the correct call.

13 There are different results that you can have prior
14 to a mistrial. There are other things that can happen.
15 A mistrial is the utmost sanction at this point.

16 I do not think the state was improper in the
17 questioning. I do think it was a mistake by Investigator
18 Truluck that he made. I don't think any of it rises to
19 the level of a mistrial at this point.

20 THE COURT: All right. As stated before the break,
21 this Court does find that -- make a finding that a
22 mistrial should only be granted when absolutely necessary
23 and there is no other manner to cure. As stated prior to
24 the break, the -- and the factors that the Court must
25 consider is the character of the testimony, the

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1 circumstances under which it was offered, the nature of
2 the case, and the other testimony in the case.

3 In considering the question, the other testimony,
4 and the case, I do not find that a mistrial should be
5 granted at this time, based on the question of the
6 solicitor and the answer, which was stopped mid -- I'll
7 make a note -- we stopped midrange before he could fully
8 get the entire answer out.

9 For those reason -- reasons, I'm going to deny the
10 motion for a mistrial. But I am going to sustain the
11 objection. I will instruct the jurors to disregard the
12 question that was previously asked and that they must not
13 discuss it at all during their deliberations -- the --
14 the question or the answer during their deliberations.
15 And I'll ask them to strike that from the record.

16 MS. SAMPSON: Thank you, Your Honor.

17 THE COURT: All right. Let's bring them in.

18 (Off the record from 3:00 p.m. until 3:03 p.m.)

19 (Whereupon, the witness reentered the witness
20 stand.)

21 (Whereupon, the jury entered the courtroom at 3:03
22 p.m.)

23 THE BAILIFF: All jurors are seated, Your Honor.

24 THE COURT: All right. Thank you.

25 Ladies and gentlemen of the jury, before we broke

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 860

1 for lunch, there was an objection by the defense
2 regarding a question and answer. I have sustained that
3 objection. And I am going to strike the question and
4 answer from the record. You are not to consider anything
5 that was said in that answer by the witness or not
6 discuss it in your deliberations. It is struck from the
7 record.

8 I will ask the state to rephrase their question.

9 MS. SAMPSON: Thank you, Your Honor. May it please
10 the Court.

11 DIRECT EXAMINATION BY MS. SAMPSON CONTINUED.

12 Q Investigator Truluck, when you interviewed the
13 defendant, he told you specifically that Nicole and
14 Crystal had nothing to do with this and he took it upon
15 himself to kill Turner; is that correct?

16 A Yes, ma'am. That is correct.

17 Q Okay. That is the only way he discussed Nicole and
18 Crystal's involvement in this case when he was talking to
19 you, correct?

20 A Yes.

21 Q All right. Now, during your investigation and after
22 you had arrested the defendant, did you do anything else?

23 A Yes. There's plenty do. When -- a lot of times,
24 your case is made after the arrest. But there's plenty
25 of follow-ups to do, such as review phone records, jail

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 861

1 calls. There's all kinds of things that -- that come
2 into play after -- search warrants at locations,
3 vehicles, homes. It's -- it's just a slew of things that
4 could probably or needs to be done afterwards.

5 Q Okay. And in this case did you listen to any jail
6 calls made by the defendant?

7 A Yes, ma'am, I did.

8 Q And how does that work?

9 A Pretty much, it's a -- it's called AmTel. It's a
10 website that law enforcement has access to. And you're
11 granted access with a ID user and a password. And it's
12 generic to the sheriff's department investigations.

13 So we would log on that. And there's several
14 different ways you can do it. Once an inmate is booked
15 in to Alvin S. Glenn, they are given a identification
16 number.

17 You can go onto this website and put their
18 identification number in, and you can click on it. And
19 you can make your -- a date range. So I can do it for
20 three years back, a month back, or a week back. Put
21 their ID number in there; hit enter; and it will show a
22 list of calls that that person has called.

23 The second way to do it would be if I had your phone
24 number of if I had a phone to a person I suspected he was
25 calling. I can enter that phone number in and the same

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 862

1 time range, and still it will show me who called that
2 number from that website.

3 Q And in this case you listened to a jail call by the
4 defendant?

5 A Yes, ma'am.

6 Q And would you recognize that call if I played it for
7 you?

8 A Yes, ma'am.

9 Q Okay. And I'm going to use State's Exhibit No. 92.
10 You were here earlier when Investigator -- when Mr.
11 Waters was talking?

12 A Yes.

13 Q Is that the call that he was referencing and we put
14 into evidence?

15 A Yes. It was one of numerous.

16 Q Okay.

17 MS. EIGENBROT: And, Your Honor, prior to this phone
18 call being played, I would just renew our objection from
19 pretrial.

20 THE COURT: Yes, ma'am. Objection is overruled, but
21 noted for the record.

22 (Off the record briefly.)

23 MS. SAMPSON: If you can't hear it, let me know,
24 okay?

25 (Whereupon, a portion of audio recording was

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 863

1 published in open court.)

2 Q And where that starts with the personal
3 identification number, is that what you were talking
4 about?

5 A Yes. We're -- you're speaking of being the ---

6 (Whereupon, a portion of audio recording was
7 published in open court.)

8 A I'm sorry. I understand now. Yes.

9 (Whereupon, a portion of audio recording was
10 published in open court.)

11 MS. SAMPSON: I'm sorry, y'all. I messed that up.

12 (Whereupon, a portion of audio recording was
13 published in open court.)

14 Q So was that the defendant saying the only person
15 around when James Turner was shot was him and James
16 Turner?

17 A Yes, ma'am.

18 Q Okay. Now, just to finish up, the statement that
19 you received -- or that you did with the defendant, any
20 doubt in your mind that he told you what he told you?

21 A No, ma'am. Not at all.

22 Q Any doubt in your mind that the statement he gave
23 and signed was his statement and not something you did?

24 A No, ma'am.

25 Q Any doubt in your mind that he is the person that

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 864

1 said he shot the defendant -- victim while he was
2 sleeping six times?

3 A No, ma'am.

4 MS. SAMPSON: No further questions, Your Honor.

5 Q Please answer any questions the defense has.

6 THE COURT: All right. Yes, ma'am.

7 MS. EIGENBROT: Thank you, Your Honor. May it
8 please the Court.

9 CROSS-EXAMINATION

10 BY MS. EIGENBROT:

11 Q Afternoon, Sgt. Truluck.

12 A Good afternoon.

13 Q Now, you mentioned you've been in law enforcement
14 for 25 years now, right?

15 A That is correct. Yes, ma'am. ,

16 Q That's a long time.

17 A Yes, ma'am.

18 Q Safe to say, this is not the first time you've
19 testified before?

20 A That is correct.

21 Q Now, I want to -- you went over a lot of stuff. So
22 I want to kind of focus on a few things. You were on
23 your way to work when you got called about this shooting,
24 correct?

25 A Yes, ma'am.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 865

- 1 Q Went straight to the scene?
- 2 A Yes.
- 3 Q Said you got there approximately 8:30?
- 4 A Actually, in my notes it says 8:24. So yeah,
- 5 approximately 8:30. Yes, ma'am.
- 6 Q You spoke to Sgt. Martin?
- 7 A Yes.
- 8 Q You get the gist of things; is that right?
- 9 A Yes.
- 10 Q Look around the scene for ---
- 11 A Yes.
- 12 Q --- yourself?
- 13 A Yeah.
- 14 Q And I know you said Sgt. Martin did the -- most of
- 15 the talking to Nicole and Crystal. But you did speak to
- 16 them briefly?
- 17 A Yes.
- 18 Q And you said Crystal was hysterical and upset; is
- 19 that right?
- 20 A Yes.
- 21 Q Nicole upset, but being there for her mom?
- 22 A Yes.
- 23 Q Okay. Now, I want to talk to you a little bit about
- 24 this whole GSR thing, all right?
- 25 A (No audible response.)

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 866

1 Q Now, we've heard testimony that GSR is a -- what
2 they call easily -- it's easily destroyed type of
3 evidence, right?

4 A Yes, ma'am.

5 Q Doesn't stay on your hands or clothes all that
6 easily, correct?

7 A Yes.

8 Q Now, you guys know that Mr. Scott Turner is shot,
9 right?

10 A Yes, ma'am.

11 Q So a gun was used at some point, right?

12 A Yes.

13 Q And you stated earlier, when you got to the scene,
14 you don't actually know what happened, right?

15 A That's correct.

16 Q You have a little bit of information, right?

17 A Yes.

18 Q And Nicole and Crystal aren't the only people on
19 scene at that time?

20 A Yes.

21 Q There is some evidence that they had contact, not
22 only with the van but with Mr. Turner himself, right?

23 A Helping him with his gunshot wounds. Yes.

24 Q But he -- they were in contact with the van at some
25 point?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 867

1 A Yes.

2 Q And we also heard that GSR is easily transferrable,
3 right?

4 A Yes.

5 Q So them having contact with the van and on Mr.
6 Turner at some point could've transferred GSR?

7 A It could.

8 Q So even though they're not your suspects -- you're
9 treating them like victims -- you still could've done the
10 test?

11 A You're not going to test someone unless you suspect
12 them in some kind of way. No. I would not have GSR'ed
13 them because I didn't suspect them as being the shooter.

14 Another thing, if GSR would've transferred from the
15 gun to the vehicle, we could've -- we could've tested the
16 vehicle for GSR and got GSR. Then, that would explain,
17 say, perhaps there was GSR on -- on Nicole or them.

18 So no. I did not GSR them because I didn't suspect
19 them as being the shooter.

20 Q But you would agree that more information in an
21 investigation like this is generally a better policy,
22 correct?

23 A It always is. And a lot of -- a lot more
24 information always comes later.

25 Q And GSR test was a simple test, right?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 868

1 A Yes.

2 Q So after briefly speaking with them and looking at
3 the scene, you then talk to some neighbors, right?

4 A Yes.

5 Q And that's how Brian's name kind of gets brought up?

6 A Well, I ---

7 Q One of them ---

8 A Him having ---

9 Q --- mentions ---

10 A --- a boyfriend -- her having a boyfriend gets
11 brought up to me. I relay that to Sgt. Martin, who had
12 already figured out -- or had been told that Brian was
13 the boyfriend's name. And he had been given more
14 information than me at the time.

15 Q And you guys make all those connections and realize
16 we probably should talk to this Brian person?

17 A Yes.

18 Q And I think you said you left maybe around 9:40?

19 A I don't know the exact time unless it's noted in the
20 report. Is it noted ---

21 Q Approximately.

22 A --- at that time?

23 Q I believe ---

24 A Okay.

25 Q --- so ---

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 869

- 1 A Then ---
- 2 Q --- Sgt. Truluck.
- 3 A --- I -- I would leave there to go back to the
- 4 office.
- 5 Q And you said you went back to the office, and that's
- 6 when you guys continued discussing your next moves,
- 7 right?
- 8 A Yes, ma'am.
- 9 Q And again, you guys talk about Brian?
- 10 A Yes.
- 11 Q Rightfully so, right?
- 12 A (No audible response.)
- 13 Q And that's when you decide it's -- it's -- probably
- 14 a good idea to bring Nicole in for an interview?
- 15 A Yes. Because hopefully, she could shed some light
- 16 on Brian as to maybe why he wasn't there and why he's
- 17 running away. So yes.
- 18 Q Yeah. They knew each other, right?
- 19 A Yes.
- 20 Q And that was pretty obvious from the information you
- 21 received at this point.
- 22 A That's correct.
- 23 Q Especially because Sgt. Martin had seen his name pop
- 24 up on her phone.
- 25 A That is correct. Yes.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 870

1 Q And so you go pick her up?

2 A I'd been -- as I mentioned before, I'd been in
3 conversation with her throughout the day, calling to her,
4 trying to see if she was at the hospital, trying to
5 figure out when she was going to be home. So yes. I did
6 eventually -- when she called me when she got home, I
7 went and picked her up.

8 Q And that was around one o'clock; is that right?

9 A Yes, ma'am.

10 Q So you bring her in, go over *Miranda*, and you guys
11 start talking ---

12 A Yes.

13 Q --- right?

14 And she tells you that she was at the Marriott that
15 night with some friends.

16 A Yes.

17 Q She doesn't mention Brian at that point.

18 A I don't recall if she does or not. I'm pretty sure
19 she did let me know she was there with him.

20 Q She said that Brittany's the one that brought her
21 home?

22 A Is that in her statement?

23 Q Would you like to see a copy of her statement?

24 A Yes, ma'am.

25 MS. EIGENBROT: Let me get this marked real fast.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 871

1 A I have a copy of it, if you'd like to just tell me
2 where you're at and we'll -- we'll look at it.

3 (Whereupon, Defendant's Exhibit 7 was marked
4 for identification.)

5 THE COURT REPORTER: Ms. Eigenbrot, this will be
6 Defendant's 7.

7 MS. EIGENBROT: Thank you.

8 THE COURT REPORTER: Yes, ma'am.

9 Q Just so for identification in the record, Sgt.
10 Truluck, I'm going to hand you Defendant's Exhibit 7.
11 That first paragraph, where you ask the first question
12 and she gives a response, she does not mention Brian in
13 that paragraph, correct? It may be at the very end when
14 she says she called him.

15 A Yes. It does say (as read): "Brittany then brought
16 me home. And I got there between 11:45 and 12."

17 Q All right. So she does not actually say Brian
18 brought her home?

19 A That is correct. She does not say that in her
20 statement.

21 Q And she mentions that she tries to calm Mom down,
22 right?

23 A Yes.

24 Q And there's still no mention of Brian at that point
25 in this statement.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 872

1 A Just to clarify the Brian thing: Even though she
2 doesn't mention him, when we take their statement, we
3 take it verbatim from what we're saying. So I didn't
4 change it and say who it was. I let her say Brittany
5 brought her home.

6 Q No. We heard ---

7 A So that was her quote.

8 Q No. We heard Brittany testify earlier. She didn't
9 really know Nicole. She'd just met her that night,
10 right?

11 A Yes.

12 Q Now, she also doesn't mention in that statement
13 having a conversation with Mom, Brittany, Brian, anybody
14 about being angry, being pissed off, or any kind of
15 conversation, aside from her mother; is that right?

16 A No, she doesn't.

17 Q And she even says then, after she calmed her mom
18 down, she calls Brian.

19 A Yes.

20 Q And at that point in her statement she tells --
21 she's saying she told Brian what was going on at that
22 point?

23 A I think what she was trying to say at the time is
24 that she just -- after he left, she recalls him and they
25 discuss the situation. However, in her statement, she

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 873

1 doesn't say that.

2 But by reading it and looking it over, of course,
3 it's normal. If something happens, you discuss it. We
4 call later and we talk about it again. That's the way I
5 take this to be.

6 Q But that's not what she testified to at trial,
7 right?

8 A No.

9 Q And then, she then says: I don't hear again --
10 again from Brian until the next morning, right?

11 A Yes.

12 Q Now, we know that's not the case, right?

13 A That is correct.

14 Q The phone records from T-Mobile show -- I think it
15 was 17 text messages between the hours of midnight and 7
16 a.m.?

17 A Yes.

18 Q Now, those text messages were not in the phone
19 dumps, right?

20 A Between Brian and Nicole?

21 Q Uh-huh.

22 A I can tell you that there were text messages between
23 them. I don't know specifically which ones you're
24 speaking of.

25 Q Well, let me put it this way: We did not

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 874

1 specifically reference those text messages or the content
2 of those text messages, aside -- aside from the T-Mobile
3 records, correct?

4 A Yes. That's correct.

5 Q They have not been presented today -- or in -- this
6 week in trial?

7 A No, ma'am.

8 Q Now, you then mention that you start asking about a
9 phone, right?

10 A (No audible response.)

11 Q I'm sorry. Is that ---

12 A Yes.

13 Q --- correct?

14 A Yes, ma'am.

15 Q And that's when she gives you this story about
16 something weird happening, right?

17 A Right.

18 Q And that only puts you on notice?

19 A Yes, it does.

20 Q But she does sign a consent to search her phone ---

21 A Yes.

22 Q --- right?

23 And I just want to be clear: This consent form that
24 you have them sign also has her name, the type of phone,
25 and the phone number?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 875

1 A Yes, it does -- or it should. Can I see it?

2 Q You sure can. I've got to get it marked first.

3 (Whereupon, Defendant's Exhibit 8 was marked for
4 identification.)

5 THE COURT REPORTER: Ms. Eigenbrot, this will be
6 Defendant's 8.

7 MS. EIGENBROT: Thank you.

8 THE COURT REPORTER: Yes, ma'am.

9 Q Sgt. Truluck, this is marked as Defense Exhibit 8.
10 That has Ms. Bryant's name on it, correct?

11 A Yes.

12 Q Your name on it ---

13 A Yep.

14 Q --- right?

15 A Yep.

16 Q And it has the type of phone?

17 A Yes.

18 Q The Samsung of some sort?

19 A A Samsung Galaxy J-7, white in color; cell phone
20 number 803-348-██████. And I also put the code on it.

21 Now, all this information that's here is -- is because it
22 was available. A lot of times, you would recover a phone
23 and maybe all's you have a Samsung Galaxy. And that's
24 what you would put on it. So as much as information as I
25 have, I try to put in on there.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 876

1 Q And you guys give those codes because these smart
2 phones, with them you can download sometimes ---

3 A That is ---

4 Q --- is that ---

5 A --- correct.

6 Q --- right?

7 A Yes.

8 Q And as we've heard, these downloads pull up all
9 sorts of information, right?

10 A Yes, ma'am.

11 Q Phone calls?

12 A Pictures, texts.

13 Q Texts?

14 A Yes.

15 Q Now, we can't know the content of a phone call,
16 right?

17 A Yes.

18 Q But it does show the content of text messages?

19 A Yes.

20 Q The text messages that are saved and filed on the
21 phone, right?

22 A Yes, ma'am.

23 Q Same with the images.

24 A Yes, ma'am.

25 Q They even show locations, right?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 877

1 A Yes. Sometimes ---

2 Q And ---

3 A --- they do -- sometimes they do; sometimes they
4 don't. It depends.

5 Q Sure. And sometimes, even if they've got a bunch of
6 stuff in their calendar, that'll show up too, right?

7 A That will. I didn't go in her calendar. But --
8 actually, I don't even know that I have been in one's
9 calendar to look for things, but I will now.

10 Q And so at this point, she's giving you the phone.
11 You are suspicious of her involvement?

12 A Yes.

13 Q And you're still questioning her?

14 A Yes.

15 Q And that's when she tells you about Brian saying,
16 "I'll handle it"?

17 A Yes. Well, that is only after she gives me the far-
18 fetched story of her phone falling out in the driveway
19 and we find it under the porch the next morning. So, you
20 know, my radar is going at that point.

21 Q And again, and she tells you she doesn't talk to him
22 again until the next morning?

23 A Yes.

24 Q And that's when she says he says something along the
25 lines of, "I took care of it"?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 878

1 A I asked her would -- once she told me that, I
2 immediately thought something was awry. So I -- I just
3 asked her straight up. I was, like, "Is there going to
4 be something in your phone that I'm going to phone
5 regarding this incident and -- or about Brian or if Brian
6 did this?" And she said, "Yes."

7 Q Now, at some point -- actually, I want to be very
8 clear. There are no text messages that we have
9 referenced here at trial between Nicole and Brian where
10 he says specifically, "I'll handle it," correct?

11 A Between who?

12 Q Nicole and Brian.

13 A Not between Nicole and Brian. No.

14 Q And again, there are no specific text messages
15 between Nicole and Brian, saying, "I took care of it"?

16 A No.

17 Q Now, we do know that Nicole and Brian had some sort
18 of conversation, though, that night, right?

19 A Yes.

20 Q And that's because Jerry actually overheard part of
21 this phone -- phone conversation.

22 A Yes.

23 Q But he did not know how long they'd been talking.

24 A No. When he walked out of his house, Brian was
25 already on the phone and actually put it on speaker phone

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 879

1 to let Jerry hear the conversation.

2 Q And she's telling you that she woke up to the shots?

3 A Yes.

4 Q And when you talked to her or took her statement --
5 did the typing of the statement, she certified all that
6 was what she was saying was true?

7 A At the time that's all we had. Yes. But yes.

8 Q Now, I want to go back to her phone, because we've
9 talked a lot about their phone records this week.

10 A Uh-huh.

11 Q You have access to all of those records, right?

12 A That's correct.

13 Q Now, I know Nicole's was pretty extensive, right? I
14 believe it was over 600 pages.

15 A Yes.

16 Q And you reviewed all 600 pages of that phone record.

17 A Absolutely not. My investigation was usually within
18 those day -- a couple days of, the day of, a couple --
19 maybe the day prior, day after, unless those
20 conversations that I read lead me further. Then, I'll
21 try to check further. But matter of fact, on some of the
22 search warrants, I didn't even go that far back for it.

23 Q Now, Sergeant, you mentioned on direct that you feel
24 like you investigated Nicole and her mother even harder
25 than you investigated Brian because you were suspicious

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 880

1 of them and you had nothing, right?

2 A That is correct.

3 Q And yet you have these phone records?

4 A Yes.

5 Q Albeit long records, right?

6 A That's correct.

7 Q And you didn't review them.

8 A Six hundred pages of them? No, I did not.

9 Q And we've heard today -- or this week in court that
10 there are text messages in that phone from five o'clock
11 in the morning between Crystal and her mother, right?

12 A Yes. I knew of those. That was -- that's another
13 reason for my suspicion of the mom and her. Because I
14 knew that one had sent the other a text message about
15 "That m.f.'er just pulled up." So, of course, I feel
16 like this is all coordinated between all of them.

17 Q So you knew about -- you're telling me you knew
18 about these text messages?

19 A Yes, I do.

20 Q Why in her statement do you never ask her about
21 those text messages?

22 A Because I didn't have all the downloads till after
23 she had given me the statement and left.

24 Q Now, you ---

25 A I didn't ---

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 881

1 Q --- on more than ---

2 A --- I didn't ---

3 THE COURT: Let him ---

4 A --- hold on.

5 THE COURT: --- finish ---

6 MS. EIGENBROT: Okay.

7 THE COURT: --- please.

8 A Let me finish. You take a phone -- we're talking
9 about in the afternoon. I don't recall when it was
10 there. But really, I never started putting all this
11 together until days after, by getting time to sit down,
12 read every text message.

13 Sometimes it's not practical, when you're where we
14 are, taking her statement, dealing with Brian, and then
15 getting 600 pages of text messages and trying to go
16 through every single one of them. So the day her
17 statement was taken and the day that Brian was arrested,
18 no. I did not go through all those text messages, unless
19 it was on her phone and I noticed it.

20 Q You also mentioned that you could continue
21 investigating after making an arrest, right?

22 A Yes. That is normal. Any major-crimes
23 investigation and any major-crimes investigator,
24 including murder, a lot of times, you develop -- you have
25 developed probable cause to make an arrest. But

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 882

1 afterward, a lot of times, you really make your case
2 afterwards. So that -- that is not out of the ordinary.

3 Q But Nicole and Crystal are still in town, right?

4 A That's correct.

5 Q You could bring them in for questioning again.

6 A I could.

7 Q While they don't admit to anything in the text
8 messages, you still could've asked them about it
9 afterwards.

10 A I could have. Matter of fact, I had got the text
11 messages. I reviewed them. I spoke to legal authority
12 about them. We discussed it within the ranks. And there
13 still was never enough to get them that, yeah, they're
14 involved.

15 There was no text message -- yeah. I very well
16 could have called them back in there and interviewed
17 them. But at this stage it was important enough to me
18 that I wanted to really have the clincher before I call
19 her in.

20 Very easily, she could come in and tell me -- with
21 these text messages, she could come in and tell me, "No.
22 I didn't have anything to do with it." And I've looked
23 at that. We've looked at that.

24 Q But again, you didn't call her in.

25 A No, I did not. Because I just explained it.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 883

1 Q And the same goes for Crystal.

2 A Crystal -- this is the way I felt about her. I felt
3 like she might've had knowledge of it, especially after
4 it, but wasn't going to throw her daughter under the bus,
5 so to speak. I never felt Crystal really was in the
6 plannings of it.

7 Nicole? I felt she had knowledge of what was going
8 to happen. Crystal? I just never got that from her. It
9 was -- it was nothing there to try to get me to explore
10 her more. I just felt like she knew after the fact.

11 Q But again, you never actually asked the question.

12 A That is correct.

13 Q Despite your suspicions of them.

14 A Yes.

15 Q Okay. Now, let's talk a little bit about Brian's
16 statement. As you've mentioned, as we've all talked
17 about, Brian gets picked up when law enforcement goes to
18 talk to Crystal, right?

19 A Yes.

20 Q He's taken into custody?

21 A Yes, ma'am.

22 Q And brought to headquarters -- or to Pineview --
23 sorry ---

24 A Yes.

25 Q --- to your offices?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 884

1 Oh, actually, I -- I want to go back to when you're
2 talking to Nicole. We've talked a little bit about these
3 controlled phone calls, right?

4 A Yes.

5 Q Which you recorded?

6 A Yes, we did.

7 Q With a recording device?

8 A Yes, ma'am.

9 Q And I think the -- as you characterized it, Brian
10 told her that he took care of the gun.

11 A That is correct. In those terms, it was taken care
12 of; he got rid of it. Unless you have the specific from
13 the phone call, or we can note what I put in my report.

14 Q That's what you put in your report.

15 A Okay. It was definitely along those lines. He took
16 care of the gun, is what the call was.

17 Q All right. So Brian gets brought in. Now, as
18 you've told the jury, you went through *Miranda* rights
19 with him, right?

20 A Yes.

21 Q Standard procedure, right?

22 A Yes, ma'am.

23 Q He noted and 11th grade education?

24 A Yes, ma'am.

25 Q Never mentioned a GED?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 885

- 1 A Nope.
- 2 Q And so he didn't graduate from high school?
- 3 A No, ma'am. Not according to him.
- 4 Q And prior to his being interviewed, like I said we
- 5 -- like we talked about, you had Nicole at the station?
- 6 A Yes.
- 7 Q She was up there for a while with you.
- 8 A No. I don't think she was there that long.
- 9 Q Like three hours maybe?
- 10 A I -- I don't recall it being three hours.
- 11 Q Well, you bring her in around ---
- 12 A It -- it ---
- 13 Q --- one o'clock, right?
- 14 A I was with -- I was not with Nicole for three hours.
- 15 If she was there the whole three hours, I wasn't with
- 16 her. Me and Sgt. Martin did talk to her. She was,
- 17 again, hysterical -- or let's just put it, she was
- 18 uncontrollably crying. Once we determined we weren't get
- 19 anything from her or a statement from her, we
- 20 transitioned to Brian.
- 21 Q I'm sorry. I'm sorry. Maybe I confused you. I was
- 22 talking about Nicole.
- 23 A Okay. Well, I'm -- you're correct. Yes.
- 24 Q Okay.
- 25 A When Nicole was there.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 886

1 Q And when she -- you were with her, she was on her
2 phone, using her phone, right?

3 A We pretty much stopped that from the get-go. I
4 believe she was at first. But ---

5 Q But during ---

6 A --- I -- I don't ---

7 Q --- your ---

8 A --- know what she did with it. But I believe she --
9 it was in her possession at first until we just went in,
10 asked for it, and got it.

11 Q But during your interview, she's not allowed to use
12 ---

13 A No.

14 Q --- it, access it?

15 And like we talked about, she gave it to you, right?

16 A Yes.

17 Q So when Brian gets picked up, it's a little bit
18 later, around 4 p.m.?

19 A No. I believe it was closer to 6. At least that's
20 where we read his *Miranda*. Where'd you get 4 from?

21 Q Your report.

22 A His *Miranda* is read at 6:04. So ---

23 Q Keeping in mind, Sergeant, that you talked to
24 Crystal first, right?

25 A Crystal and them pretty much simultaneously got ---

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 887

1 Q Right.

2 A --- brought there at the same time.

3 Q But you talked to Crystal first?

4 A Yes, we did.

5 Q And I know you were saying you didn't talk to her
6 for too long. But Brian did sit for a minute.

7 A I don't know how long he sat.

8 Q But it wasn't -- you didn't immediately start
9 talking to him?

10 A No, I did not.

11 Q So when he gets picked up, he sits briefly or
12 however long it was, right?

13 A Yes.

14 Q And I know you said you take him into a conference
15 room?

16 A Well, it's -- it's Capt. McDonald's office, where he
17 has a conference table there.

18 Q He is handcuffed.

19 A He was handcuffed, but he was -- would be uncuffed
20 when we interview him. Now, if he was handcuffed, which
21 I don't remember precisely, it would've been in front.

22 Normally, if you're going to leave him cuffed during
23 an interview such as this, you would cuff him to the
24 front, uncuff them, or to the chair. From the best I can
25 remember, I believe he wasn't handcuffed.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 888

1 Q When you started talking to him.

2 A Yes. I'm sure he was cuffed on the way there. And
3 he probably sat there for a while, cuffed. But
4 eventually, he would've been uncuffed.

5 Q And you read the *Miranda*, like we've already talked
6 about ---

7 A Yes.

8 Q --- right?

9 A Yes, ma'am.

10 Q And start talking.

11 A Yes.

12 Q Now, one of the things we didn't bring up is Brian
13 told you he had been using some drugs the night before,
14 right?

15 A He probably did. Yeah.

16 Q Now ---

17 A In fact ---

18 Q --- I know ---

19 A --- I will just say yeah, he did. I remember us
20 talking about it.

21 Q And I know you testified that he was calm, alert
22 during the interview ---

23 A Yes.

24 Q --- right?

25 A Yeah.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 889

1 Q But he did acknowledge that he took some drugs?

2 A Yes.

3 Q Now, you don't -- do you remember exactly what they
4 were?

5 A I do not.

6 Q But you do remember him giving ---

7 A I believe it was some kind of pills.

8 Q Okay. Fair enough. Now, based on your
9 understanding of all of this, Brian also hadn't had a lot
10 of sleep that night.

11 A If you -- once you do the math, it was fair to say
12 he probably didn't have much sleep. He had been up all
13 night.

14 Q And interrogations can be kind of a stressful
15 situation for a suspect or a witness, right?

16 A It can be. And as an investigator you have to take
17 this all into consideration. He could not be up night.
18 He could've been doing drugs.

19 But what we have to evaluate: Is he comprehending
20 what I'm saying? Is he speaking well with us? Does he
21 know where he's at? Does he know what's going on? Is he
22 falling asleep as we're talking?

23 You know, somebody that's extremely intoxicated, you
24 -- you can tell that or smell it. He had no symptoms of
25 that. So I don't know what -- if he had been doing

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 890

1 pills. I don't know how high he was or how high he
2 wasn't. I know that my evaluation of him, that he knew
3 exactly what was going on and there wasn't an issue.

4 Q All right. But based on what he told you, it
5 would've been around the time the whole talking-about-
6 Scott stuff was going on, maybe even a little after.

7 A Yes. Again, had he taken a pill three or four hours
8 prior, if he is understanding me, I've read him his
9 rights. He's telling me he understands that. He's not
10 showing any signs of being under the influence. And yes.
11 We're going to continue with the interview.

12 Q So you continued?

13 A Yes, I did.

14 Q And at first, he denied being there at all, right?

15 A Yep. Which is normal.

16 Q And I believe your testimony was he almost
17 immediately started confessing after that?

18 A It didn't take long. Once he was confronted with
19 what we knew so far, then yes, he did.

20 Q Now, Ms. Sampson kind of went over some of the
21 details that he provided to you, right?

22 A In his written ---

23 Q In his ---

24 A --- statement?

25 Q --- written statement.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 891

1 A Yes.

2 Q And I want to talk a little bit about those.

3 A Okay.

4 Q So one of the things she brought up -- find my notes
5 -- very specifically was the Marriott situation, right?

6 A Yes.

7 Q Which I don't think anyone's denied any of that,
8 right?

9 A No.

10 Q Brought up the hot tub. Again, no one denied any of
11 that, right?

12 A No.

13 Q They left the hotel together; came back to the hotel
14 together, right?

15 A Yes.

16 Q Minus Nicole when they came back, right?

17 A That's right.

18 Q Now we start getting to stuff at the scene. Now, we
19 mention this big tree that was in the yard, right?

20 A Yes.

21 Q And we use that a corroborating piece of evidence,
22 right?

23 A Yes. It was photographed, actually, the tree was.

24 Q Sure. But we also know that Brian lives in that
25 residence for a year, right?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 892

1 A Yes.

2 Q So over that year he very easily could've noticed
3 the big tree lying in the front yard?

4 A I don't know when the tree was cut down. But I knew
5 he had been there frequently. So I would assume he would
6 know the tree was there.

7 Q He didn't mention that it'd fallen in the hurricane,
8 or somebody didn't mention that?

9 A I don't recall. That's possible. However, what he
10 did mention is that he had to hurdle it or go around it,
11 not that all of a sudden a tree was there.

12 Q Sure. It's a big tree, right?

13 A It is a very big tree.

14 Q The other thing she mentioned is Scott sleeping in
15 the vehicle, right?

16 A You mean Brian mentioned that? You said she.

17 Q Well, Ms. Sampson brought it up as ---

18 A Oh, okay.

19 Q --- one of the ---

20 A I'm sorry.

21 Q --- one of the corroborating points ---

22 A Yes.

23 Q --- right?

24 A Yes.

25 Q Now, sure. A shooter -- the shooter would probably

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 893

1 know that, right?

2 A Yes.

3 Q Now, a shooter could also relay that information to
4 somebody else, correct?

5 A Yes.

6 Q And the same -- I can't read my handwriting. I
7 don't see what else she brought up, as far as
8 corroboration. Now, he corroborated the color of the
9 gun, right, or close to it?

10 A Who did, Brian?

11 Q Brian.

12 A Yes.

13 Q And Jerry also corroborated that he picked the gun
14 up, right?

15 A Yes.

16 Q Now, we mentioned that he's -- he told you he fired
17 the gun six times, right?

18 A That's what he said in the statement. It was six
19 times.

20 Q And we ---

21 A Could've been more; could've been less. But we know
22 that it was at least six times.

23 Q Right. We -- we heard about a lot of wounds to the
24 victim, right?

25 A That's correct.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 894

1 Q And I believe the testimony was there were eight
2 shell casings picked up at the scene, right?

3 A I believe eight or nine.

4 Q And those matched ---

5 A The gun.

6 Q --- the gun, right?

7 A That's correct.

8 Q Okay. Now, he also mentions that he peed himself
9 ---

10 A Yes.

11 Q --- right?

12 Now, some of the stuff we've talked about -- like I
13 said, the scene, knowing how many times somebody fired --
14 all of that could also come from an eyewitness, right?

15 A Say that again?

16 Q So all the stuff you've also talked about at the
17 scene, that information could also come from an
18 eyewitness?

19 A Yes, ma'am, it could.

20 Q So hypothetically speaking, if Brian had witnessed
21 it, he would also give you that information?

22 A That is correct.

23 Q And anything else could've been provided by another
24 individual, right?

25 A Such as?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 895

1 Q Well, for instance, I think in his statement there
2 is -- they talk about Nicole throwing a towel over Scott,
3 right?

4 A Yeah. That was never disputed. That was after the
5 fact of hearing the shots fired and Nicole and Crystal go
6 outside. I mean, I think that's a normal thing to do.

7 Q Sure. But ---

8 A And that's after the fact.

9 Q Right. So Brian's ---

10 A Uh-huh.

11 Q --- not at the scene to see that, right?

12 A That's correct.

13 Q But yet he knows that information?

14 A He knows that because Nicole had called him and told
15 him that. And I believe it might've been during the
16 phone call while he was at Jerry's house. So ---

17 Q Now, I also want to talk about this whole recording
18 thing, because I made a big deal about it.

19 A Okay.

20 Q And I keep making a big deal about it. It's been
21 your testimony that you wish that you guys recorded these
22 back then, right?

23 A Yes, ma'am.

24 Q That you had spoken to your bosses about it on a
25 number of occasions?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 896

1 A Not on official way of speaking to him. I've always
2 brought it up. It -- because there's a lot of interviews
3 that you do that you miss a lot by it recording.

4 And it -- when I bring it up, you know, it's told
5 that, "Well, we don't have that policy yet. And there
6 needs to be a set standard for it. So that's why don't
7 do it at that point."

8 Q But in your experience as a law enforcement officer,
9 you know that having a recording and/or a video protects
10 you, right?

11 A Yes.

12 Q Also protects the -- the clients or defendants,
13 right?

14 A That is correct.

15 Q And despite your misgivings about this, you've
16 stayed on in the department for ten years now, right?

17 A Yes. I would not leave an agency, especially
18 Richland County Sheriff's Department. It is a very good
19 agency to work for. I would not leave that agency
20 because we don't record interviews.

21 Q Even though you think it's a better policy?

22 A There's a lot of better policies anywhere you work.
23 I'm sure where you work, there's some things that can
24 improve.

25 Q That's one thing Capt. McDonald mentioned yesterday.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 897

1 You know, part of is funding, right? Is that right?

2 A You hear that a lot. Yes. Now, why that wasn't the
3 issue, I don't know. But it could've been.

4 Q But you guys have funding for mini recorders, right?

5 A You're going to have to get with somebody else about
6 the funding as to why we don't have recording. I -- I
7 can't answer that for y'all.

8 Q But that was one of the reasons McDonald said that
9 y'all didn't have it back then?

10 MS. SAMPSON: Objection, Your Honor. Now she's
11 pitting. She's asking what ---

12 THE COURT: Sustained.

13 MS. SAMPSON: --- McDonald said.

14 Q But basically, though, you didn't agree necessarily
15 with that policy; it's not the best policy, right?

16 A I would like to have -- I would like to have been
17 able to interview this one especially. But it's not like
18 I didn't agree to the point like I'm a disgruntled
19 employee over it. That's just the rule. That's the --
20 that was the rule at the time.

21 You know, you don't buck the system because it's not
22 -- everything's not like you want it. It's just the way
23 it was. I understood how it was to be done. We did
24 interviews and especially on a profile case like that --
25 this, when you take a written interview or a statement,

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 898

1 it's done with a witness there.

2 So again, I do wish this would have been recorded.
3 Because you would have been able to see the confession
4 yourself and to how pretty much easy was and him
5 admitting to doing the shooting.

6 Q And ---

7 A We've ---

8 Q --- like you said ---

9 A --- covered that.

10 Q --- you miss the demeanor?

11 A Right. You miss a lot. You miss the interaction.
12 You miss the conversation. You -- you do -- you miss a
13 lot of body language that you -- there -- there is a lot
14 you miss.

15 Q Now, you had met Brian before this day, right?

16 A That's correct.

17 Q So you at that time did not really know his
18 mannerisms, right?

19 A I knew nothing about him, except what paper told me.

20 Q Now, once Brian was arrested ---

21 A Yes.

22 Q --- Jerry comes forward, right?

23 A The day after.

24 Q And you meet with his wife the day after, right?

25 A Yes.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 899

1 Q On December 9th?

2 A Yes.

3 Q But you didn't turn that gun in until December 12th.

4 A That's incorrect.

5 Q So the chain witness that testified earlier this
6 week ---

7 A I believe the box reflects what day I turned it in.
8 That would be the 9th. As soon as I got it from her, I
9 put it in evidence that day.

10 Q Okay.

11 A I believe that's a Friday. And evidence doesn't
12 come in till Monday. So if your records show the 12th,
13 that's the day it got logged in.

14 Q Yeah. But it was testimony about the sheriff's
15 department's records, not my records.

16 A Well, there is no record to putting something in a
17 locker. The only record would be if she pulled the video
18 from the sheriff's department, it would show that I took
19 the gun in there on the 9th and put it into evidence.

20 Q Now, once you talked to Jerry, that's how you
21 learned about Brittany, right?

22 A Yeah. I believe so. Yes.

23 Q Because she's ---

24 A I think I learned from her from calls as well for,
25 like, the text messages.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 900

1 Q I believe in your report you indicate ---

2 A Early on -- I mean, I pretty much knew about her
3 early on.

4 Q You talked to Jerry on the -- the 9th, right?

5 A Yes. Yeah.

6 Q And he mentions, I think, at that point that
7 Brittany's the one that told him Brian got arrested,
8 right?

9 A Yes. And I believe the day of, on the 8th, that --
10 that Nicole or Crystal brought up their name.

11 Q And you reached out to her?

12 A Yes. Brittany?

13 Q Yes.

14 A I do.

15 Q She declined to speak with you at that time?

16 A She does.

17 Q And you get a warrant for her arrest?

18 A Yes.

19 Q Based on text messages?

20 A Based on -- I can clearly read you these text
21 messages. Based on she clearly conspired to go with him
22 to commit a crime. As I had mentioned before, I gave
23 Brittany the opportunity to come in and clear it up.

24 Instead, Brittany tells me, "Don't come back and
25 talk to me without a warrant. I don't do the police."

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 901

1 Now, she could've very easily came in here and
2 cleared that up. Those text messages clearly show that
3 she conspired to go with him. She was going to be the
4 driver of the car.

5 Brian had told her in the text messages -- if you
6 can imagine this, they're sitting in the living room with
7 -- of this trailer. They're texting back and forth to
8 each other.

9 Brian sends her a text message, saying: "I'm going
10 to come back here and handle this n-word." Okay?

11 She pretty much -- I'm going to paraphrase it --
12 says: "No. They'll box -- or they'll box your car in.
13 You need a driver." And she was going to be the driver.

14 Okay. We can read those verbatim or you can --
15 that's where the conspiracy charge came from. And again,
16 that was -- I conversed these facts with the solicitor,
17 and it was agreed upon it sufficed a charge for
18 conspiracy.

19 Q And Investigator, I believe those text messages are
20 in evidence, right?

21 A Yes. I'll be glad to read them.

22 Q I think you pretty sufficiently paraphrased them.
23 But I do want you to read the last -- not last, because
24 they're still trying to leave -- but one of the last text
25 messages in that conversation on line 976. And I'm --

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 902

1 I'm handing you State's Exhibit 87.

2 A Let me just -- you want me to read it verbatim?

3 Q It's what it says, Sergeant.

4 A (As read): "No, nigga."

5 Q So she tells him no after ---

6 A Well, ---

7 Q --- this conversation ---

8 A --- hold on, now. Let's -- let's see exactly what's
9 going on here before it.

10 Q You've already paraphrased them. But if you'd like
11 to read them to the jury, they're -- they're going to be
12 available for them in the back.

13 A It says (as read): "Are you about ready to run us?"
14 In other words, run us back to the motel, is what they're
15 talking about. And then: "Uh, no, nigga," is what that
16 says.

17 Now, to me, without reading everything that could
18 possibly say: "Are you ready to go back to the motel?"
19 And then, that says: "No."

20 So how are you reading it? Or ask me.

21 Q So that line, that content you just read, that is an
22 incoming text message to Brittany, right?

23 A Let me see it again.

24 Q Or from Brittany. I'm sorry. Those are Brian's
25 records. So Brittany is telling him: "Uh, no." I'm not

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 903

1 going to use the word.

2 A Okay. Yes, ma'am.

3 Q So she's saying ---

4 A That's what ---

5 Q --- no ---

6 A --- she's saying. Yes.

7 Q --- to him, right?

8 A Let me go to the one above it. (As read): "Bruh, I
9 was already planning on leaving the car down the road.
10 But hell, yeah. If you want to do that, you can, broski.
11 It'd be awesome to have a getaway nigga."

12 So in other words, it'd be awesome to have you drive
13 for me. That's exactly what that says. Do you not
14 agree?

15 Q But -- sure.

16 A Okay.

17 Q But Brittany doesn't actually leave the motel,
18 right?

19 A No, she doesn't. And I think -- I can explain that,
20 just as Brittany did. That was the plan. They -- they
21 set the plan out on the text messages.

22 Brittany does pills and drinking, smoking weed. She
23 gets sick, as she told you. What, she threw up three
24 times? I believe that's what she said, three times. She
25 goes up to her room and passes out.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 904

1 Brittany also says she wakes up maybe three or four
2 and being that was her plan to go with him, she still
3 sees Brian ---

4 Q I ---

5 A --- in the room.

6 Q I think we're speculating a little bit about what --
7 at that point ---

8 A I think ---

9 Q --- she said ---

10 A --- that's in her statement.

11 Q --- she -- she -- no. I ---

12 A In Brittany's statement?

13 Q Can we ---

14 A Did she not say that she woke up at three or four
15 and Brian was still there?

16 Q She -- she does. And she ---

17 A Okay.

18 Q --- said to check on Brian.

19 A Right. And he's still there.

20 Q Right.

21 A However, she wakes up again and he's gone. So her
22 reason for not going, and which she clearly said, is she
23 passed out. But in her statement, when we finally sit
24 down and take a statement, she says: "Oh, no. I wasn't
25 really planning on going. You like -- that's just what I

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 905

1 said to get him to take us home."

2 So it's -- really comes down to who you believe.

3 You know, at -- what was the context of the text messages
4 at the time and what was the conversation? What was the
5 topic?

6 Q Sgt. Truluck, have you ever been intoxicated, like
7 on alcohol?

8 A Yes.

9 Q You know sometimes that affects your sleep
10 abilities?

11 A Yes.

12 Q And she was intoxicated on pills.

13 A When she made the text messages? Is that what we're
14 getting at? She was intoxicated and didn't know what she
15 was texting? If -- if you want to believe that, that's
16 possible. Yes.

17 Q Or why she's waking up a couple times in the middle
18 of the night, looking around, going back to bed.

19 Possible, right?

20 A Are you saying she's seeing things? I -- I don't
21 ---

22 Q I'm just ---

23 A --- know. I don't ---

24 Q Sergeant ---

25 A --- know what ---

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 906

1 Q --- I said ---

2 A --- you're getting at.

3 Q --- I said ---

4 A Are you trying to say she didn't see -- she's saying
5 she saw Brian there but -- but ---

6 Q I'm ---

7 A --- she really didn't?

8 Q --- I'm simply saying sometimes alcohol affects your
9 sleep. We wake up; don't really sleep that well. We
10 don't know what effect the pills had, right?

11 A Right.

12 Q So they ---

13 A I ---

14 Q --- easily could've affected her sleep, where she's
15 popping up in the middle of the night and then going back
16 to bed?

17 A I can assure you, alcohol will affect your sleep.
18 Matter of fact, me personally, too much, a headache wakes
19 me up in the middle of the night. So I'm sure it affects
20 people differently.

21 Q Now, there is one other thing I want to talk about
22 in the statement. I think you testified that Brian
23 mentions that Scott puts his hand up when they're ---

24 A Yes.

25 Q --- shooting? Do you have ---

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 907

1 A Is that in -- isn't that in his statement?

2 Q Do you have a copy of his statement?

3 A I do.

4 Q I'll show you -- for record purposes I'm going to
5 hand you State's Exhibit 2, which is Mr. White's
6 statement.

7 A Okay.

8 Q Can you tell me in there where that says that?

9 A Well, without directing to the whole statement,
10 undoubtably, it must not be in the statement and in my
11 follow-up. Is that where we're going?

12 Q (Nodded head up and down.)

13 A Okay. But it's in my follow-up.

14 Q Sure.

15 A So every little thing that you put in someone --
16 every word that's said to us in there is not completely
17 in the statement. I didn't type the statement; Sgt.
18 Martin did. Maybe that was something that got overlooked
19 at the time.

20 However, during the interview Brian clearly says he
21 threw his hand up. Now, is -- I guess it's who you
22 believe. Again, if it was recorded, you would see he
23 said that.

24 I have no reason to make that up and lie. Why would
25 you -- why would I lie about that? I mean, why would

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 908

1 someone lie about that? Just I -- I mean, without him
2 throwing his hand up, he's still shot so many times while
3 he's sleeping. But ---

4 Q But you want us to also believe it's an accurate
5 rendition of the things he said to you during your
6 interrogation of him.

7 A I don't think anything he told me was inaccurate,
8 except the fact he wasn't there and -- several things,
9 which I know is inaccurate, about what he did with the
10 gun. Other than that, I really had no reason to dispute
11 anything else.

12 Once you -- once that person finally confesses to
13 something, they're always going to leave out some of the
14 -- the details. But sometimes they put in good details,
15 just like he did. I mean, he remembers blacking out. He
16 -- he clearly says he blacks out going through the cut
17 but, again, remembers specific things.

18 Let's just say he didn't tell us that he threw his
19 hand up. He still remembered urinating on himself, him
20 sleeping, and him maneuvering the tree. So he remembers
21 a lot.

22 And the autopsy supports that it's a possibility he
23 did throw his hand up. And I don't think Dr. Durso was
24 able to say these are entry or exit wounds. But when
25 you're sleeping on this side and you got holes in your

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 909

1 hand, it's a good possibility he -- he woke up during the
2 shooting and tried to deflect or defense. So ---

3 Q But you weren't ---

4 A I can't prove that.

5 Q You weren't there to see that?

6 A No. He was.

7 Q You mention one other thing in that, you know,
8 explanation of stuff. You talk about him urinating
9 himself, right?

10 A Yes.

11 Q And again, more corroboration, the better for you,
12 right?

13 A Yes.

14 Q Sorry. You got to say ---

15 A Yes.

16 Q --- "yes" or "no."

17 And you did go to the -- the trunk of his car,
18 right?

19 A Yes.

20 Q And look for clothes?

21 A Yes.

22 Q But didn't collect anything?

23 A That's correct.

24 Q Now, your explanation here today has been that none
25 of those clothes matched what you saw in this Marriott

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 910

1 video ---

2 A Yes.

3 Q --- right?

4 A That's correct.

5 Q Now, Sgt. Truluck, I don't see a face in that
6 screenshot, right?

7 A Not in that one. However, if you watch the video,
8 you can clearly see it's him. So don't let one picture
9 try to show that that's not him. I would -- there's no
10 way I would put that screenshot in a case if the video
11 didn't show that that's him. And if you would like to
12 watch the video ---

13 Q But based on this screenshot ---

14 A Based on that screenshot ---

15 Q --- you cannot say that this is Brian White?

16 A You cannot say if it is or if it isn't.

17 Q So you can't say for sure these were the clothes he
18 was wearing that night.

19 A No. In your theory.

20 Q So again, you know, if the clothes didn't match,
21 collecting them and testing them wouldn't have been such
22 a bad idea, right?

23 A If I had saw clothes that I thought he wore, we
24 would've taken those clothes. And let's just say I took
25 the clothes and did not put them in for submitting to be

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 911

1 tested. They're there; that I could do it anytime.

2 So if that question arises later, like, hey -- and
3 -- and a lot of times, we have a case, we brief and
4 discuss it later on down the road. "Did you test these
5 clothes?"

6 Well, we got him. The clothes, I did not collect
7 because they didn't appear to match him in that video
8 that night.

9 Q But again, you can't say for sure that was him in
10 that video?

11 A Yes. That's him in that video. We can go back and
12 watch the video of the Marriott and show that would be
13 him coming out.

14 Q But in that shot, you cannot see his face?

15 A That is correct.

16 MS. EIGENBROT: Beg the Court's indulgence.

17 (Off the record briefly.)

18 Q Now, Sgt. Truluck, when you're taking statements and
19 you're getting them written out, you -- I think you
20 testified you do your best to get them as close to what
21 the person is saying as possible, right?

22 A No. Most of the statements that you're typing is
23 pretty verbatim. I know I -- when I type one, I -- I'll
24 put exactly what they're saying.

25 Q So those are ---

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 912

1 A Or ---

2 Q --- his ---

3 A --- try to.

4 Q --- those are his words in that statement?

5 A That -- that -- you can get Sgt. Martin up here to
6 testify to that. He typed that statement. But normally,
7 that is the -- the process of doing that.

8 Q Now, I just want to go back, just very briefly, to
9 me asking about the phone call that Nicole and Brian were
10 having at Jerry's house.

11 A Yes.

12 Q I just want to reiterate again: You don't know what
13 they talked about that night, right?

14 A I don't. All's I know is what Jerry told us. And,
15 I mean, he was there. He was on the stand. So I guess
16 he was asked about it, correct?

17 Q And there was no recording of that phone call?

18 A No, there was not.

19 Q So again, we don't know what else was said between
20 Nicole and Brian at that point in time?

21 A All's I know is what Jerry said that he heard in the
22 phone call.

23 Q All right. Thank you, Sergeant.

24 MS. EIGENBROT: I'm sorry. I've got a lot of stuff
25 here.

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 913

1 THE COURT: All right. Redirect?

2 MS. SAMPSON: Yes -- yes, ma'am.

3 REDIRECT EXAMINATION

4 BY MS. SAMPSON:

5 Q Okay, Mr. Truluck. I'm going to go back. She just
6 asked you about the phone call between Jerry Rabon and
7 the defendant -- I mean -- excuse me -- the -- the phone
8 call between the defendant and Nicole that Jerry Rabon
9 overheard.

10 A Yes.

11 Q Did the defendant tell you, "Hey, Crystal told me
12 she did it," in that phone call?

13 A No.

14 Q Okay. Did the defendant even mention the phone call
15 at all?

16 A I don't recall ---

17 Q Okay.

18 A --- if he did or not.

19 Q And she ---

20 A I don't think so. I think Jerry -- Jerry was the
21 one.

22 Q Exactly. And when she talked to you about these
23 stills and what you can see or not see, can you tell that
24 that's Brian White in the still in State's Exhibit No.
25 131?

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 914

1 A Yes, ma'am.

2 Q And there's another still that was introduced
3 earlier that showed the defendant, Brittany, Elexia, and
4 Nicole. Do you see him in that as well?

5 A Yes.

6 Q Could you tell ---

7 A I believe he was wearing a red shirt in that one?

8 Q I don't know what -- I'm trying to find it. But you
9 could tell that's him?

10 A Yes.

11 Q No doubt in your mind?

12 A No. No, ma'am.

13 Q And unfortunately, these don't have time stamps on
14 them, do they?

15 A I -- you might be able to get it from the video
16 itself. But no, not on these pictures.

17 Q And you told us already, I believe, but the video is
18 hours long.

19 A Yeah. It's -- it's a long video. Because you're
20 looking at from they left there -- I don't know --
21 10-ish/11-ish, and never came back till two o'clock in
22 the morning maybe. That was a long time. But like I
23 said, I did it for hours.

24 We had an investigator that was on light duty. I
25 gave it to him. He viewed it for hours. And so it

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 915

1 wasn't neglected, the video wasn't, from the motel.

2 Q And here is State's Exhibit 89, showing them
3 leaving?

4 A Yes, ma'am.

5 Q And what color shirt does he have on?

6 A He does have a black shirt.

7 Q Okay. And that's them leaving the Marriott?

8 A Yes. At some time, yes. I believe this is them
9 leaving to go -- this was either them leaving to go out
10 to smoke weed and then come back or leaving to go to the
11 thing. But I think the -- the gist of the photo was that
12 -- all of them together.

13 Q Okay. And then -- and, in fact, you were able to --
14 there was a text message from Brian White to Jerry Rabon
15 about being in all black, correct?

16 A That, I would like to see, too, to confirm. But I
17 know -- I believe the witness, Mr. Knowles, even mentions
18 about him wearing black as well. And the deputy -- I
19 believe the deputy did.

20 Q Okay. I'm going to show you -- actually, let me use
21 a -- I can't find anything up there. I'm going to show
22 you my version. So I'm going to show you the highlighted
23 portion here on December 8th, 2016, and where it says
24 sent to and it has the number. And then, this is from
25 Brian's cell phone, correct?

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 916

1 A Yes.

2 Q And what does he tell Mr. Rabon about here?

3 A This is at 4:11 in the morning?

4 Q At 4:11 in the morning the day of the incident?

5 A (As read): "Hey, sorry about all this is going on.
6 Just got off. I'm about to be downtown by the state
7 house" -- which he's, of course, talking about -- we're
8 talking about four in the morning, the state house
9 downtown here -- "I'm coming to the house because I need
10 to grab some clothes, some stuff. So just in case you
11 hear something coming in and walking through the door,
12 through the house, it's me. LOL. I'm dressed in all
13 black."

14 Q So he ---

15 A "So don't shoot me."

16 Q So he confirms that he's wearing all black, right?

17 A Yes.

18 Q Okay. Now, she also talked to you about that only
19 he -- that Nicole didn't bring up Brittany, but she did,
20 correct?

21 A I believe she did.

22 Q And Brittany was given the opportunity to talk to
23 you eventually, correct?

24 A Yes, ma'am.

25 Q But only after you had a warrant?

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 917

1 A Yes.

2 Q All right. And she wanted to talk to you about the
3 9th -- of putting the gun in and not really putting it in
4 12th -- can you explain to the jury how that works when
5 you turn in evidence on a Friday?

6 A I'd have to look and see if the box is also marked.
7 Can I see the box?

8 Q Yes, sir, you can. That would be State's Exhibit
9 84. And I'll just show you what you're talking about.
10 What date is it submitted on right there on the box?

11 A 12/9 of 2016 ---

12 Q 12/9 of ---

13 A --- at ---

14 Q --- 2016.

15 A --- 1616 hours, which is 4:16 in the afternoon.

16 Q So not on the 12th?

17 A That's correct.

18 Q And what happens when you put it in on the 9th, on a
19 Friday?

20 A Well, being that time, evidence would -- they're
21 going to put it in the locker and -- if they're there --
22 I don't even recall if they were there -- they could
23 possibly get it out. Normally, that late in the day,
24 they don't. They'll leave it. It's -- the -- the
25 lockers are double-locked. You have to turn a handle and

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 918

1 push a button, and that secures it double.

2 Come the following workday, which would be Monday,
3 they would go through all the lockers that have things
4 that have been put in throughout the weekend and then
5 enter them in to evidence.

6 Q And so once you put something into the evidence
7 locker, can you get it back out?

8 A No, I cannot. Without -- you have to have a key to
9 unlock it and to get into it.

10 Q Okay. And lastly, she talked to you about Nicole
11 and Nicole not mentioning some things about what Brian
12 said. Did you believe everything Nicole told you?

13 A Absolutely not.

14 Q Okay. And did you investigate Nicole?

15 A Thoroughly, as much as I could.

16 Q But did you ever believe that Brian White was not
17 involved?

18 A No.

19 Q And as to his statement, everything in that
20 statement he told you or told Investigator Martin?

21 A Yes, ma'am.

22 MS. SAMPSON: Beg the Court's indulgence.

23 (Off the record briefly.)

24 Q She talked to you a little bit about GSR and not
25 doing Crystal and Nicole. What is your understanding of

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 919

1 what happens if you've touched someone who's been shot or
2 could happen?

3 A It could be transferred.

4 Q What about if it's on the van?

5 A It -- it could be transferred. I do know that much.

6 Q And to your knowledge, did Nicole and -- did Nicole
7 touch the van?

8 A Yes.

9 Q To your knowledge, did Nicole touch the -- the
10 victim?

11 A Yes.

12 Q Okay.

13 MS. SAMPSON: No further questions, Your Honor.

14 MS. EIGENBROT: No recross.

15 THE COURT: All right. You may step down. Any
16 objection to this -- well, he's not leaving.

17 MS. SAMPSON: He won't be ---

18 THE COURT: Yes.

19 MS. SAMPSON: He can't go nowhere.

20 (Whereupon, the witness exited the witness stand.)

21 THE COURT: Yes. He has to stay.

22 All right. Call your next witness.

23 MS. SAMPSON: The state calls Robert -- Rob Martin.

24 (Whereupon, the witness came forward.)

25 ROBERT MARTIN, having been first duly sworn,

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 920

1 testified as follows:

2 DEPUTY CLERK OF COURT: Thank you. Have a seat in
3 the witness ---

4 THE WITNESS: Excuse me.

5 DEPUTY CLERK OF COURT: --- stand, please.

6 THE WITNESS: (Complied.)

7 DEPUTY CLERK OF COURT: State ---

8 THE WITNESS: Robert Martin.

9 DIRECT EXAMINATION

10 BY MS. SAMPSON:

11 Q Good afternoon.

12 A Good afternoon.

13 Q I'm backing real far away from you.

14 A I apologize.

15 Q How are you feeling today?

16 A I'm not very well today. I'm sick. I've been ---

17 Q Okay.

18 A --- since last night -- since yesterday afternoon.

19 But I'm on the mend, I hope.

20 Q So hold your breath and don't breathe on anything.

21 A Yeah. I apologize in advance.

22 Q So where do you currently work?

23 A I work for HawkLaw.

24 Q HawkLaw, like the commercials?

25 A 888-HAWKLAW. Yes.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 921

1 Q All right.

2 A We'll fight for you. That's us.

3 Q How long have you been working there?

4 A It's been just over a year.

5 Q And prior to that where did you work?

6 A I worked for George Sink.

7 Q Okay. Didn't know that. Prior to that where did
8 you work?

9 A I worked for the -- let's see -- Norfolk Southern
10 Railroad for a ---

11 Q Lord have mercy.

12 A --- brief while.

13 Q When did you work at the sheriff's department?

14 A Up until -- let's see -- March the 20th, 2017.

15 Q Okay. So how long did you work at the sheriff's
16 department?

17 A Off and on, I think it was a total of 16-plus years.

18 Q Okay. And when you left, what was your designation
19 -- sergeant? lieutenant?

20 A I was a sergeant ---

21 Q Okay.

22 A --- of the major-crimes unit.

23 Q And what did you do a sergeant of the major-crimes
24 unit?

25 A I oversaw a team. I think at the time it was ten

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 922

1 people. They were -- it's the hard-charging
2 investigators for the sheriff's department. We worked
3 all the major crimes. So it was shootings, stabbings,
4 murders. We did get involved in some of the robberies.
5 Domestic violence, domestic aggravated assaults, and we
6 actually had harassing phone calls as well.

7 Q All right. I'm going to need you to get a little
8 closer to the mic, although not make it germey.

9 A Can't promise you anything.

10 Q All right. How did you become involved in this
11 case?

12 A I got a call on the way to work, asking to respond
13 to Patricia Drive.

14 Q And is that the normal procedure when a call happens
15 early in the morning?

16 A Yeah. It depends. We have an evening shift. They
17 would've been getting off that morning. I'm on call
18 during the day at the time. So we wouldn't bring out the
19 evening shift to -- to continue to work, to continue on
20 with it, so we took it during the day.

21 Q Okay. So what did you do upon getting the call?

22 A Proceeded to Patricia Drive. I think I reached out
23 to Investigator Truluck, who's now a sergeant. He worked
24 for me. And I think it was his turn up for a -- a major
25 case.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 923

1 Q And is that the way you always do it, is you notify
2 another investigator?

3 A Correct. I wasn't going to be the primary on this
4 one. I had been primary many times before. I was aware
5 that my retirement date was coming up. This was
6 December. I was gearing up to getting out. So yeah. I
7 was giving it off to someone else.

8 Q Okay. So that -- part of that was normal procedure,
9 and part of it's because you knew you were leaving; is
10 that fair to say?

11 A Yeah. I was -- I was in the process.

12 Q Okay. And so what did you do once you got to the
13 location?

14 A I walked up. There was crime scene tape at the
15 front. I addressed a deputy; asked him what we had. If
16 I remember correctly -- I can't remember his name. There
17 were so many at the time.

18 But he didn't have a good grasp of what was going
19 on, and I kind of quoted policy to him and told him it
20 was his job to know what was going on when I got called.
21 Again, it's first thing in the morning.

22 Q Okay.

23 A He caught a little bit of it. And then I proceeded
24 to -- up to where the crime scene was.

25 Q Okay. And did you speak to anyone, other than the

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 924

1 deputy, while you were there?

2 A A gentleman showed up and wanted to know about his
3 truck. I'm not sure what the time line is on that. But
4 he came up and asked about his truck. He was the owner
5 of the vehicle, if I understand correctly, that the
6 deceased was found in.

7 Q So when you said truck, you mean the van?

8 A Yeah. It was a work van.

9 Q Okay.

10 A Yeah.

11 Q And ---

12 A He just needed his tools and stuff, because they had
13 stuff to do that day.

14 Q Okay.

15 A And he had other ---

16 Q Was he allowed ---

17 A --- laborers ---

18 Q --- to get stuff out of the van?

19 A No. He didn't touch -- he didn't come inside the
20 crime scene at that initial barrier there, the crime
21 scene tape.

22 Q Okay. And is that policy?

23 A Yeah. We don't -- once we put the tape up, we
24 don't, you know, just let anybody walk around to ---

25 Q Did you speak to anyone else on the scene?

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 925

1 A I walked up and I spoke -- there were two women
2 there: the deceased's girlfriend or common-law -- they
3 lived together -- and her daughter.

4 Q And do you remember what their demeanor was like?

5 A They were pretty shaken up. Now, you got to
6 remember, this is December the 8th. It was cold. I
7 mean, I'm standing out there. I had a sport jacket, a
8 shirt, and a tie. And it was cold.

9 So they're standing out there in their bed clothes
10 or what appear to be bedclothes. And they're -- they're
11 cold. I made a call to victim services to have some
12 blankets brought or some warmer clothes brought for these
13 people. Because we couldn't let them back inside the --
14 the residence because the crime scene tape engulfed that
15 area.

16 So we couldn't let them go back in and get warm
17 clothes. And it was cold. And my first response was to
18 get -- get them some comfort.

19 Q Okay. So they looked to be, I think you said, in
20 sleep clothes or pajamas? I don't want to put ---

21 A Yeah. They had on sleep clothes.

22 Q All right. And so you got them blankets. And then
23 what happened?

24 A Well, spoke to them about what was going on, who --
25 try to find out some basic information, who the victim

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 926

1 was and their relationship. Some more information came
2 out as we were there. Was there any problems? Anybody
3 looking for him? Trying to find out what happened to the
4 deceased. The deceased isn't there when I show up. He's
5 not still in the car. The van, I think, was left behind,
6 but he had already been transported.

7 Q Okay. And were you able to get information about
8 the victim at that time, like his name and that kind of
9 information?

10 A We got his name and -- and his connection to that
11 residence.

12 Q Okay. And did you talk to Nicole, the daughter, at
13 that time?

14 A I did.

15 Q Okay. And what, if anything, happened with her
16 phone? Do you remember?

17 A At some point the phone was going off and there was
18 a -- a name on the phone. I believe it was a Brian.
19 That name had come out because they guy that owned the
20 van, Brian used to work for him in some kind of capacity.
21 They -- Brian and Scott worked together with this guy.
22 So he knew that name.

23 Q Okay. So the owner of the van told you Brian. And
24 then, also, she saw -- you saw Brian on her phone?

25 A Brian popped up on her phone while we were there.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 927

1 Q And was -- did you -- or had you heard anything
2 about anyone running from the scene or talking about
3 bullets whizzing past?

4 A Yeah. We had a witness who was walking a dog. He
5 saw someone come through the cut. And they call it the
6 cut. There's a break in the -- in the fence on the other
7 side.

8 It was just this tree. And I -- I don't -- I can't
9 even say. It's a huge, old, old tree. I can't tell you
10 what kind it is. But it was tall.

11 And it had fallen over. And when it fell over, it
12 was still pretty -- pretty high off the ground, compared
13 to the van and everything and where it was at. And it
14 hadn't been cleaned up. It was actually still draped
15 across part of the house to the right and where the
16 victim used to live that was, like a root bud. That tree
17 was really big.

18 So anyway, somebody had come through that cut and
19 that tree in that area and came out. And when they did,
20 they were confronted by someone that -- that saw them and
21 -- when they were walking their dog.

22 Q Okay. And, Sgt. Martin -- I guess I don't have to
23 call you that anymore.

24 A No.

25 Q Did you do a report in this case?

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 928

1 A I did. I took a statement. But as far as, like, a
2 ---

3 Q Like, did you write ---

4 A --- a summary ---

5 Q --- a report or anything like that?

6 A I did not. This was Investigator Truluck's case.

7 Q Why didn't you do a summary?

8 A By the time -- a -- a good reason? I don't have a
9 good reason. I was doing multiple tasks on other things.
10 My involvement with this case was just the tip, the very
11 beginning.

12 He had asked me, as I was leaving, to come back and
13 do a statement. I was already out. I didn't -- I didn't
14 work for the sheriff's department anymore. I didn't do
15 any more paperwork for them.

16 Q Okay. All right. And so were you there when the --
17 when the defendant was interviewed?

18 A Yes.

19 Q Okay. Can you tell the jury about how that
20 happened?

21 A He was brought in. Some other officers, I think,
22 spotted him at the location, at the residence on another
23 task; brought him in. By the time I got to approach him,
24 he was sitting in -- I'm not sure what McDonald's rank
25 was at the time. But he was sitting in McDonald's

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 929

1 office.

2 Q Okay. And do you remember the defendant's demeanor?

3 A Talking like you and I are. I mean, he was pretty
4 coherent, clear. He didn't seem rattled; didn't seem
5 surprised to be at the sheriff's -- or being spoken by
6 officers; pretty clearheaded.

7 Q Did he seem inebriated or high?

8 A No, he did not.

9 Q Okay. Was he able to talk coherently?

10 A Coherently, he was able to draw time lines and speak
11 clearly about getting his thoughts across. There wasn't
12 any stuttering or problems. He was able to tell what he
13 needed to tell.

14 Q And in your years in law enforcement, have you ever
15 interviewed someone who is inebriated?

16 A Yes.

17 Q Okay. And so did he seem like that at all?

18 A No, he did not.

19 Q Okay. And so did y'all force him to talk to you?

20 A No.

21 Q Okay. And did he ever confess?

22 A He did confess.

23 Q Okay. And once he started talking, were you there
24 for the entire interview or just parts of it?

25 A Initially, I was in there when we were talking

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 930

1 initially. We moved from that office to my office to
2 finalize the report.

3 Q So you were there the whole time?

4 A I believe so. Yes.

5 Q Started in McDonald's office and then went to yours?

6 A Correct.

7 Q Why did you move to yours?

8 A That's where my -- my computer is. My computer was
9 one of those desktop computers. And it was just easier
10 to go there and -- and bang out the statement in my
11 office than sit there and try to use Scott McDonald's
12 equipment.

13 Q Okay. And why didn't you let the defendant write
14 his own statement?

15 A That's not our policy. We do -- we do our own. I
16 say that. It's the policy when I was there. I have no
17 idea what they do today.

18 Q And let's just go with what was the policy in 2016.

19 A Yeah. Well, I don't -- I don't hand you a -- a
20 piece of paper and say, "Fill it out," because I can't
21 quite glean sometimes: 1) what you're writing; and 2)
22 what you're meaning is. I'm trying to get to the points
23 of the facts.

24 Q And ---

25 A So it's he speaks and I type. And then, he's given

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 931

1 opportunity to review it, read it. If they have
2 difficulty with it, we read it together. And then, he
3 signs is if he feels it's true or correct. He can make
4 any alterations that he wants to during the -- the
5 statement part of it.

6 Q And in this case -- so he's talking and you're
7 typing the answers?

8 A Yes. And I'm not the fastest typist, so he's got to
9 go a little slow for me.

10 Q Okay. So do you go back and forth with him, like,
11 "Oh, I didn't hear that. Can you repeat it?" or anything
12 like that?

13 A Yeah. We had to go back and -- and clarify points.
14 Because he would say something; I'd type it. And like I
15 said, you're doing -- you're kind of multitasking.
16 You're asking questions, typing, and listening, all at
17 the same time. So you kind of try to glean all that
18 information.

19 Q And did he at any point say, "Oh, that's not what I
20 said"?

21 A I don't recall that being an -- an issue at any
22 point.

23 Q When he said he shot him six times, did he say, "Oh,
24 no, I didn't really mean that"?

25 A No. He actually -- we got kind of -- when we first

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 932

1 discussed it, he kind of got a little emotional about it.
2 But he wasn't -- he didn't disturb -- it -- it was like
3 he was reliving it, like he was seeing it through his own
4 eyes about what took place.

5 Q Okay. Never denied shooting him once ---

6 A No.

7 Q --- while he's giving you the statement?

8 A Never denied shooting him while the victim was
9 asleep.

10 Q Okay. And when you're finished with the statement,
11 did you give him a chance to read it?

12 A Yes.

13 Q Did he need to make any changes or ask to make any
14 changes?

15 A I don't recall any changes. But the final product
16 is what he signed.

17 Q Okay. And there's been some talk about the policy
18 of recording. Do you remember what the policy was back
19 then on recording statements and interviews?

20 A We didn't record statements or interviews in CID at
21 that time.

22 Q Why not?

23 A Why not would be above my pay grade. And the
24 understanding was -- is that it just wasn't established
25 policy. Even when they came out with -- if I may, even

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 933

1 when they came out with doing body cams and dash cams and
2 everything else, you start off and you create a database
3 to store all this information. It's got to be stored for
4 a long period of time.

5 So you're not just taking -- even back when it was
6 Breathalyzer tapes in the Datamaster room, you had these
7 video -- V -- VHS tapes that you were carrying and
8 keeping and -- and keeping and maintaining in evidence.
9 Something's got to be in place to store all that data.
10 Something's got to be in place to make sure and ensure
11 all that data is correct and accurate and the time lines
12 are correct and there's no tampering and all that stuff.

13 So it's -- there's -- there's got to be some --
14 something in place to keep that honest. And it just --
15 at that time I don't think there was, one, funding; I
16 don't think there was anybody that was looking that far
17 ahead at that point. And the system we had wasn't broke,
18 so they continued to use it.

19 Q Okay. And any doubt in your mind that the statement
20 that you took from the defendant were the words that were
21 coming out of his mouth?

22 A No. It was his statement.

23 Q And just to be clear, do you see the defendant in
24 here?

25 A Yeah. He's sitting at the table between two young

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT MARTIN 934

1 ladies.

2 Q What's he got on?

3 A Glasses -- yeah -- I'd say that's blue, but I'm nto
4 sure. Button-up shirt ---

5 MS. SAMPSON: Let the record ---

6 A --- buttoned ---

7 MS. SAMPSON: --- reflect he's ---

8 A --- all the way up top.

9 MS. SAMPSON: --- identified the defendant, Your
10 Honor.

11 THE COURT: Oh. So noted.

12 MS. SAMPSON: Okay.

13 Q And no doubt in your mind that that's the gentleman
14 that gave the written statement that we have as State's
15 Exhibit No. 2?

16 A That's correct.

17 Q Okay.

18 MS. SAMPSON: Beg the Court's indulgence.

19 (Off the record briefly.)

20 Q And as my colleague pointed out, did this happen in
21 Richland County?

22 A Yes, it did.

23 Q Thank you.

24 MS. SAMPSON: No further questions, Your Honor.

25 THE COURT: Yes, ma'am.

CROSS-EXAMINATION BY MS. EIGENBROT - ROBERT MARTIN 935

1 MS. EIGENBROT: Beg the Court's indulgence. Honor.

2 THE COURT: All right.

3 (Off the record briefly.)

4 CROSS-EXAMINATION

5 BY MS. EIGENBROT:

6 Q Good afternoon, Mr. Martin. I don't know that you
7 and I have ever met before. I think ---

8 A I don't ---

9 Q --- you may have ---

10 A --- believe so.

11 Q --- left before I started.

12 A And what's your name.

13 Q Megan Eigenbrot. It's nice ---

14 A Nice to ---

15 Q --- to meet you.

16 A --- meet you. You too.

17 Q I just want to ask you a few follow-up questions.

18 A Okay.

19 Q I know we've mentioned that you were present for the
20 entire interview, right?

21 A Correct.

22 Q And I know Ms. Sampson asked you about you not
23 writing a report, right?

24 A Right.

25 Q Which you didn't do?

CROSS-EXAMINATION BY MS. EIGENBROT - ROBERT MARTIN 936

1 A I did not.

2 Q But you did take some notes during the interview
3 process, right?

4 A I did.

5 Q Because I think you would probably be the one that
6 typed it later on.

7 A Yes. While we're -- we start off, like I said, in
8 McDonald's office, and I had a pen and paper. And then
9 we moved over -- transitioned to my office.

10 Q And I think Sgt. Truluck mentioned, you know, when
11 someone's asking the question, they'll have a second
12 person writing the stuff down?

13 A I like ---

14 Q So ---

15 A --- to have -- I'm sorry.

16 Q So he doesn't get distracted when he's asking the
17 questions or the suspect doesn't.

18 A Sometimes. I personally just like to have two
19 people in the interview. For a while I worked in the
20 cold-case squad. Most of the cold-case investigators at
21 that time were elderly gentlemen with lots of heart
22 attacks and ailments. I insisted that they all had pairs
23 and buddies because one of them was going to pass away.

24 Q Okay.

25 A And, you know, I'm not -- that's the way life is.

CROSS-EXAMINATION BY MS. EIGENBROT - ROBERT MARTIN 937

1 So I like to have two sets of eyes on statements.

2 Q I got you. But you were the one taking notes in
3 that -- that statement -- or the ---

4 A My role wasn't ---

5 Q --- conversation ---

6 A --- just take notes. My role was, like I said,
7 interview and -- and take statements or -- or take notes.

8 Q And Brian mentioned to you that he still cared a lot
9 about Nicole, right?

10 A Absolutely. He said he loved her and that he wore a
11 faux wedding ring to show his support for her.

12 Q But you kind of knew at that point she had -- they
13 had been broken up, according to everybody else?

14 A Yes.

15 Q And we mentioned he didn't type the statement, as
16 you said, per policy?

17 A He did not.

18 Q Where exactly is he sitting when you're typing?

19 A At this time he would've been -- I'm -- I think he
20 was sitting across from me. He was in a chair across
21 from me.

22 Q So he can't see you while you type, right?

23 A I'm not sure if he can see the computer or not.

24 It's a double monitor. So he might've been able to see.

25 Q But you don't know for sure?

CROSS-EXAMINATION BY MS. EIGENBROT - ROBERT MARTIN 938

1 A As we're going, I -- I have no idea. I don't
2 remember if he could see it from his vantage point or
3 not. It wouldn't be impossible. But I can't say that --
4 what he saw.

5 Q And at some point I think Capt. McDonald brought him
6 some McDonald's while you guys are doing the typed
7 statement?

8 A Was it McDonald? I know I had ordered -- I had
9 asked one of the victims advocates to go and gather -- we
10 asked him what he wanted to eat. He told us what he
11 wanted to eat. We got him some food. And it was
12 brought. But I can't remember who brought it to the
13 door. It might've been McDonald. It might've been the
14 advocate that I asked. I do not recall.

15 Q But you remember him eating at some point?

16 A Yeah. He -- he ate a sandwich. Yeah.

17 MS. EIGENBROT: Beg the Court's indulgence.

18 (Off the record briefly.)

19 Q And just one more question, Mr. Martin: Brian also
20 told you he was worried about Nicole at some point,
21 right?

22 A Medical condition, I believe. She has -- it -- she
23 had gone into a lot of detail about her feminine issues.
24 She had some kind of, I think -- I believe it was cancer,
25 she told me. Whether that's true or not, I -- I never

CROSS-EXAMINATION BY MS. EIGENBROT - ROBERT MARTIN 939

1 followed up to see.

2 That was part of the reason that they weren't
3 together intimately and that they had done other things.
4 Something was going on that -- she -- she went into a lot
5 -- a lot of detail about her personal life.

6 But yeah. He said that he was worried about Nicole.
7 I told him he needed to be kind of worried about himself.

8 We actually asked him about Nicole's involvement.
9 And he was adamant that she had nothing to do with it. I
10 even brought to his attention that she was seeing someone
11 else. And he didn't seem to be fazed by that. He -- he
12 was adamant that he did this all on his own.

13 Q But again, he -- he mentioned being worried about
14 Nicole, right?

15 A Well, I don't think he was worried about her
16 involvement in the shooting. He was worried about her
17 medical condition. He had taken the ---

18 Q Right.

19 A --- he'd taken her to the doctor -- some doctor ---

20 Q Sure.

21 A --- or whatever. She -- like I said, a lot of
22 information but anyway ---

23 Q Okay. Thank you. I appreciate it.

24 A You're welcome.

25 MS. EIGENBROT: No further questions, Your Honor.

1 THE COURT: All right. Anything else from the
2 state?

3 MS. SAMPSON: No, ma'am. And may he be released to
4 take his germs home?

5 THE WITNESS: I'll gather them with me.

6 THE COURT: You may step down. Any objection to this
7 witness being excused?

8 MS. EIGENBROT: No objection, Your Honor.

9 THE COURT: All right. You're free to leave.

10 (Whereupon, the witness exited the witness stand.)

11 THE COURT: Call your next witness.

12 MS. SAMPSON: At this time the state rests, Your
13 Honor.

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, the state has rested. There's some matters I need
16 to take up outside of your presence. So I am going to
17 send you all out for a break for about ten or fifteen
18 minutes, and then we'll receive you back in. Thank you.

19 (Whereupon, the jury exited the courtroom at 4:32
20 p.m.)

21 THE COURT: All right. The state has rested. I'll
22 be glad to hear any motions from the state/defense.

23 MS. EIGENBROT: Your Honor, at this time defense
24 would move for a directed verdict. Even taking all the
25 evidence that's presented in the light most favorable to

1 the state, I think -- I think they have failed to meet
2 their burden at this point, Your Honor.

3 There's been an abundance of circumstantial evidence
4 that has been presented that there's another individual
5 that was the shooter in this case.

6 (Off the record briefly.)

7 MS. EIGENBROT: But at this point, Your Honor, we
8 would just move that and state that in the light most
9 favorable to the state, it should -- it's not something
10 that should go to the jury at this point. We'd move for
11 directed verdict on this matter.

12 THE COURT: All right. Yes, ma'am.

13 MS. SAMPSON: Thank you, Your Honor. As she stated,
14 the -- viewing the evidence in the light most favorable
15 to the state, there isn't the state's position is there
16 is enough evidence to go to the jury. We have provided
17 evidence that the defendant shot the victim and that he
18 -- the statement has come in. We've provided evidence
19 that there is malice and that is asleep when he is shot
20 at least six times. Dr. Durso testified that the cause
21 of his death was being shot.

22 We have provided numerous pieces of evidence ---
23 photographs, etc. -- that put the defendant in the
24 location; that -- that -- running from the location;
25 having gotten the gun; taking it back to where he got it

1 from; and then, also, having confessed. I think there's
2 the -- more than a scintilla of evidence. So therefore,
3 I would ask that the directed-verdict motion be denied.

4 THE COURT: All right. And this Court does find
5 that, in the light most favorable to the nonmoving party,
6 that sufficient evidence has been placed into the record
7 and that there is an issue of fact for the jury to
8 decide. And so therefore, the defendant's motion for
9 directed verdict will be denied.

10 MS. EIGENBROT: Thank you, Your Honor. At this
11 time, though, I would also renew all of our pretrial
12 motions, motions made during the course of the trial, any
13 of our objections; most specifically, Your Honor, in
14 reference to the jail calls, the autopsy photos, and all
15 the other objections made throughout the course of the
16 trial. Also, renew our motion for a mistrial, based on
17 the violation of *Doyle*, based on Sgt. Truluck' testimony
18 prior to our break.

19 THE COURT: All right. Those motions are renewed by
20 the defense. The Court will deny the motions, but you
21 are protected for -- those motions are protected for the
22 record.

23 MS. EIGENBROT: Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 All right. So at this time I need to have Mr. White

1 to stand and raise his right hand.

2 THE DEFENDANT: (Complied.)

3 THE COURT: Madam clerk?

4 BRIAN WHITE, having been first duly sworn,
5 testified and/or stated as follows:

6 THE COURT: All right. Thank you. You may put your
7 hand down. You got to stand up, sir.

8 THE DEFENDANT: I'm sorry.

9 THE COURT: All right. Mr. Brian White, at this
10 time I'm going to explain to you certain of your rights.
11 If you do not understand anything I say, please let me
12 know. If you want me to explain anything in more detail,
13 please let me know. Do you understand?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: We have now reached the stage of the
16 trial where you may present your defense. You have the
17 right to claim the protections given to you by the Fifth
18 Amendment to the Constitution of the United States.

19 This amendment states in part: No person shall be
20 compelled in any criminal case to be a witness against
21 himself. This means that you cannot be required to
22 testify in this case. You have the right to testify on
23 your own behalf. However, no one can make you testify.
24 This is a personal right, and no one can waive that right
25 except you. If you decide to testify, you will be

1 subject to the same rules that govern other witnesses and
2 you may be examined and cross-examined on any relevant
3 issue in this case.

4 In addition, if you have any convictions involving
5 dishonesty or false statements or for crimes punishable
6 by imprisonment for more than one year and the Court
7 determines that the probative value of admitting this
8 evidence outweighs its prejudicial effect to you, the
9 solicitor will be able to introduce your record -- record
10 and attack your credibility.

11 If you decide to testify, this decision on your part
12 must be freely, voluntarily, and intelligently made, with
13 the knowledge of the protections given to you by the
14 Fifth Amendment and the consequences of your decision to
15 testify.

16 If you decide not to testify, I will instruct the
17 jurors that they cannot give the fact that you did not
18 testify any consideration whatsoever and that there is to
19 be absolutely no prejudice to you because you did not
20 testify.

21 It is left entirely up to you whether or not you
22 testify. You may talk with your attorney, your family,
23 or -- and friends or anyone else, but the final decision
24 will left entirely up to you.

25 Do you understand what I have explained to you?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you have any questions about what
3 I've explained to you?

4 THE DEFENDANT: No, ma'am, I don't.

5 THE COURT: And would you like to discuss with your
6 attorney at this time whether or not you should testify?

7 THE DEFENDANT: Yes.

8 THE COURT: All right.

9 All right. What we will do is take about a ten-
10 minute break. And then we'll come back and see what he
11 says. And if he's going to -- if he decides to testify,
12 we're going to do that today.

13 Or if there's any other -- any other witnesses you
14 wish to call, we will go ahead and try to call those
15 witnesses today. I was thinking I'd -- we'd stay here
16 till about six o'clock, if -- if necessary, to try -- not
17 to rush you all. But if there is anything that needs to
18 be done to try to get as much or if not all of the
19 evidence in.

20 MS. SAMPSON: The only thing I'd ask, Your Honor, is
21 if the defense is going to put up a case, we never were
22 provided with the birth dates of their witnesses that
23 they had on the list. So if I need to run rap sheets, I
24 need to know now.

25 THE COURT: Well, I think all except for ---

1 MS. SAMPSON: They had like three I -- well, two ---

2 THE COURT: Yeah. Because you ---

3 MS. SAMPSON: --- I didn't recognize.

4 THE COURT: --- all the other ones have already been
5 called. Tressel ---

6 MS. SAMPSON: Right. There were two ---

7 THE COURT: --- Reeves ---

8 MS. SAMPSON: I don't remember their names.

9 THE COURT: --- and Water.

10 MS. EIGENBROT: And, Your Honor, they're not being
11 called to testify.

12 MS. SAMPSON: Okay.

13 THE COURT: Okay. All right. And if the state --
14 I'm not sure if he does. But during the break, if -- if
15 he does have some type of record, if you can just show
16 that and share that with her.

17 MS. SAMPSON: With -- about the ---

18 THE COURT: And see if ---

19 MS. SAMPSON: --- defendant?

20 THE COURT: --- you all -- huh? Yeah ---

21 MS. SAMPSON: The defendant?

22 THE COURT: --- the defendant. Yes.

23 MS. SAMPSON: No.

24 THE COURT: And we can -- okay. All right. And --
25 all right. All right. Take -- we'll take about ten

1 minutes.

2 MS. EIGENBROT: Thank you, Your Honor.

3 (Off the record from 4:40 p.m. until 5:02 p.m.)

4 THE COURT: All right. Yes, ma'am, Ms. Eigenbrot.

5 Does your client wish to testify?

6 MS. EIGENBROT: He does, Your Honor.

7 THE COURT: All right. We'll ---

8 MS. EIGENBROT: And so, Your Honor, I would ask at
9 this time that his leg shackles be removed so he can walk
10 to the stand.

11 THE COURT: You know I don't do that. He can -- he
12 don't have them on his hands, does he?

13 MS. EIGENBROT: No.

14 MR. MARSH: No.

15 THE COURT: All right. Then can -- he can just go
16 ahead and take the stand now.

17 (Whereupon, the defendant came forward and entered
18 the witness stand.)

19 (Off the record briefly.)

20 THE COURT: All right. We'll go ahead and put him
21 -- we'll -- no. You're -- you're going to put him under
22 oath when they come in.

23 All right. Let's bring the jurors on in.

24 (Off the record briefly.)

25 (Whereupon, the jury entered the courtroom at 5:04

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 948

1 p.m.)

2 THE BAILIFF: Jury is seated, Your Honor.

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, as you heard, the state has rested. At this time I
5 -- we will turn to the defense to see if they have any
6 witnesses that they wish to call.

7 MS. EIGENBROT: Your Honor, we call Mr. Brian White
8 to the stand.

9 THE COURT: And he's already on the stand. We were
10 -- and so we'll go ahead and put him under oath at this
11 time.

12 BRIAN WHITE, having been first duly sworn,
13 testified as follows:

14 THE COURT: All right. If you can pull the
15 microphone a little bit closer.

16 THE WITNESS: (Complied.)

17 THE COURT: There you go.

18 All right. Yes, ma'am.

19 MS. EIGENBROT: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. EIGENBROT:

22 Q Good afternoon, Brian. Can you tell the jury a
23 little bit about yourself? Where are you from?

24 A Well, I was actually born and raised in Florida. I
25 moved up here during my middle school times.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 949

1 Q So you've been in Columbia since middle school?

2 A Yes.

3 Q And where did you go to school in Columbia?

4 A I went to Southeast Middle School and Lower Richland
5 High School.

6 Q And did you graduate?

7 A No, I did not.

8 Q How far did you go?

9 A About 10th/11th grade.

10 Q And what did you do after that?

11 A Well, I immediately started working whenever I
12 dropped out. I started off doing kitchen jobs. But I
13 was -- honestly, on the side I was -- was working towards
14 being a carpenter. I am actually a carpenter by trade
15 that has eventually turned into complete home remodeling
16 and flipping.

17 Q And what about kids? Do you have any children?

18 A I do. I have a beautiful little girl.

19 Q And how old is she?

20 A Seven.

21 Q All right, Brian. Let's dive right into it.

22 A Okay.

23 Q Did you shoot Scott Turner?

24 A No, ma'am.

25 Q Let's -- and we'll back up. So we can start on the

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 950

1 7th, right?

2 A (No audible response.)

3 Q What were you doing that day?

4 A That day I was -- well, during the day I had taken
5 Nicole to the doctor. I was actually supposed to be
6 doing a side job that day, but that didn't end up
7 happening. That was actually how I was available to take
8 Nicole to the doctor. But after that, I had went to the
9 Marriott with Brittany.

10 Q And how did you know Brittany?

11 A I've known Brittany pretty much my whole time here
12 in South Carolina.

13 Q And you mentioned the Marriott. Which Marriott was
14 that?

15 A The Marriott right down the road, down here
16 downtown.

17 Q And why were you guys hanging out at the Marriott?

18 A Well, she was -- at -- her -- her wife, Elexia, was
19 a part of a ongoing case that was going on at the time.
20 And through the case they were put up at the Marriott.
21 And I -- they allowed me to come over.

22 Q Okay. Where were you staying at that time?

23 A I was -- technically, all my stuff was at Jerry's,
24 Jerry Rabon's house. I was technically staying there.
25 But I was really more living out of my car than anything.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 951

1 Q What do you call Jerry?

2 A I call him Alex. I -- I mean, I've always known his
3 as Alex.

4 Q So what were you all doing at the Marriott?

5 A I -- hanging out at ---

6 Q And at some point did anyone else join you?

7 A Yes.

8 Q Who?

9 A We went to -- I -- I went to pick up Nicole.

10 Q And how did you know Nicole at that time?

11 A I -- well, at -- at that time she was -- she was an
12 ex. We were, technically separated. I'd known her for a
13 while, though.

14 Q How long did you two date?

15 A We dated for right between a year/year and a half.

16 Q And you said you were kind of an ex. But how did
17 you feel about her at that time?

18 A I mean, I still cared about her.

19 Q And did you ever live with her?

20 A I did.

21 Q Where?

22 A I lived at the [REDACTED] Patricia Drive.

23 Q And who else lived there with you guys?

24 A It was me, Nicole, Crystal, and Scott.

25 Q All right. Now, how did Nicole end up with you at

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 952

1 the Marriott?

2 A I -- I went to pick her up from the -- from the [REDACTED]
3 Patricia Drive.

4 Q What time did you pick her up?

5 A I honestly can't remember an exact time. I know it
6 was still daytime when I got there.

7 Q And so you pick her up, and you take her to the
8 Marriott. What do you guys do then?

9 A We -- well, we go to the Marriott and we change into
10 some clothes to go to the hot tub.

11 Q And do you go to the hot tub?

12 A Yes.

13 Q How long were you guys in the hot tub?

14 A I -- I can't remember an exact time. It was -- it
15 might've been 30/45 minutes.

16 Q And what happened after the hot tub?

17 A Well, we -- we went back to the room.

18 Q Now, when you get back to the room, what, if
19 anything, do you guys notice?

20 A Well, our phones -- we had left them in the room
21 that we -- well, I had left mine on a charger. I can't
22 remember exactly, you know, the state of Nicole's phone.
23 But when we got back, there -- both of our phones had
24 repeatedly been called and text by her mom, Crystal.

25 Q And you Crystal's her mom?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 953

1 A Yes.

2 Q Now, how well did you know Crystal?

3 A I -- I knew her pretty well. We -- I've known her
4 the whole time I've known Nicole.

5 Q What did you refer to Crystal as?

6 A I -- Mom or Mama.

7 Q And why was she calling?

8 A Well, whenever we got back in touch with her, she
9 said that she was locked out of the house and that Scott
10 hadn't picked her up from work again and she was -- she
11 was in hysterics.

12 Q So you said she was in hysterics?

13 A Yes.

14 Q Was this something that had been going on for a
15 while?

16 A Yes, it had.

17 Q And was it common for Crystal to reach out to you?

18 A It wasn't uncommon, no. She -- she would -- I mean,
19 we -- throughout -- based on the relationship that we had
20 ended up with through me dating Nicole, yes. We'd still
21 have conversations with each other.

22 Q And what would she call you about?

23 A I -- whether it be picking up from work, something
24 that directly had to deal with Nicole, whether it be
25 where she's at, if she's around me, or it -- anything of

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 954

1 the sort.

2 Q How long had you and Nicole been broken up at this
3 point?

4 A I can't remember an exact reference of time. I know
5 it was months.

6 Q And how often were you still seeing her?

7 A Maybe once a week -- once every couple weeks,
8 something like that.

9 Q Would you spend time at the house still?

10 A Yes.

11 Q And we've talked a little bit about Scott. How did
12 you know Scott?

13 A Scott was Crystal's longtime boyfriend.

14 Q And what kind of relationship did you have with
15 Scott?

16 A I had a very good relationship with Scott. We
17 worked together. We'd hang out a lot at the house. We'd
18 -- we'd -- we'd -- we had gained a pretty good bond.

19 Q A little nervous Brian?

20 A Yeah.

21 Q Now, after you get this phone call from Crystal --
22 or you and Nicole get these phone calls from Crystal,
23 what do you all do then?

24 A Well, I -- then I tell her calm down; Nicole's
25 telling her to calm down. And Nicole's saying, "Go

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 955

1 ahead; take me back to the house."

2 And all four of us, actually -- not just me and
3 Nicole -- but me, Nicole, Brittany, and Elexia do take
4 her back to the house.

5 Q And who drives?

6 A I do.

7 Q Whose car are you driving?

8 A My car.

9 Q And what time did you go back to the house?

10 A I can't remember exact times. But I know it was
11 late.

12 Q And, Brian, when you arrive at the house, are there
13 any other cars there?

14 A Not that I can recall, no.

15 Q And what do you all do once you get to the house?

16 A Well, once I get there, we go inside. And we -- we
17 smoke. We talk; we're trying to get Crystal calmed down.
18 I mean, she's -- she's pretty upset.

19 Q What was Crystal's demeanor like?

20 A I mean, as -- as I said before, she was -- she was
21 in hysterics. It was -- honestly, it was kind of back
22 and forth between mad and just genuinely upset.

23 Q What about Nicole?

24 A Honestly, the same thing: She was -- she -- I -- I
25 could say she was more mad than upset. But she was back

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 956

1 and forth between the two.

2 Q Now, why were they upset?

3 A They were tired of what had been going on.

4 Q Were you upset about it?

5 A Honestly, yes.

6 Q Why?

7 A I mean, I -- I cared for them still, even -- we
8 might've been split up, but I -- that still didn't change
9 my feelings for either of them.

10 Q Now, while you guys are there, are you talking?

11 A Yes.

12 Q And at some point do you make any threats towards
13 Scott?

14 A I cannot recall making any exact threats to anybody,
15 and Scott included. No. But I know that I was going
16 along with any conversation that was going on that night.

17 Q And at that point were you worried about Nicole and
18 Crystal?

19 A Yeah. You could say that.

20 Q Now, what are Brittany and Elexia doing during this
21 time?

22 A Honestly, they're kind of just sitting on the couch.
23 They -- they really don't want too much to do with the
24 situation. It's more of a they're just there. They're
25 talking -- we can talk to.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 957

1 Q And are you texting Brittany?

2 A I am.

3 Q And we've heard a little bit about some of those
4 texts.

5 A Uh-huh.

6 Q What were you referring to when you were texting
7 Brittany at that point?

8 A Mostly, we were having conversations about that
9 between us. We'd have -- you know, it was one of them
10 situations you have a conversation with somebody that you
11 don't technically want everybody to hear.

12 Brittany had, you know, started it. "You know, hey,
13 I need to get Elexia back. I'm trying to go."

14 And that's mainly what we was talking about, is she
15 -- her need to get Elexia back.

16 Q Now, at some point during those texts, are you
17 talking about coming back to the house to handle it?

18 A I can recall us -- me having comments that dealt
19 with the situation going on. Yes.

20 Q Now, you mentioned Brittany wanting to get back to
21 the hotel. What eventually happens?

22 A Well, we -- we left. I mean, me -- well, when I say
23 we, it's me, Brittany, and Elexia, the -- her -- her
24 girlfriend.

25 Q And who stayed?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 958

1 A Nicole and Crystal did.

2 Q What time do you get back to the Marriott?

3 A I -- like I said, it had -- it -- I can't remember
4 exact times. But I know it was late. Because, I mean,
5 it was -- it was late whenever we had left to go to
6 Nicole's house.

7 Q And what are you doing when you get back to the
8 Marriott?

9 A I had -- really, just playing on my phone, going
10 through Facebook, talking -- talking to Nicole still.
11 Brittany and Elexia had pretty much went straight to
12 sleep.

13 Q Do you stay at the Marriott all night?

14 A Most of it. Yes.

15 Q At some point did you leave?

16 A Yes, I did.

17 Q Why did you leave?

18 A Because during conversations with Nicole that night,
19 that's -- as I said, we were still talking through text
20 message, mostly, that night. She was trying to drive --
21 really, she was mostly venting, driving home the fact
22 that she couldn't stand it; she didn't -- she was ready
23 for Scott -- she -- she couldn't stand what Scott was
24 doing. She -- she had made comments about she -- he
25 can't do this anymore; that she -- she's tired of it.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 959

1 And to bring up the reason of me leaving, she
2 actually at one point did -- how would I say it? She did
3 tell me about her concerns, her worries about the fact of
4 Scott possibly having a gun. And she actually asked me
5 to bring a gun over because she wanted me there in the
6 first place in case of, when he got back, what might
7 happen. She was expressing concerns that she didn't know
8 what might happen when he got back this time.

9 Q Now, when you guys are having this conversation, do
10 you know if Scott's at the house?

11 A No, I do not.

12 Q Do you ---

13 A I know that they -- I know they -- they have not
14 told me that he has made it back yet. But I can't say
15 for sure.

16 Q Do you know for sure if he's even coming back to the
17 house that night?

18 A No. I can't say for sure.

19 Q So Nicole asked you to bring a gun?

20 A Yes, ma'am.

21 Q And what do you do in response to that?

22 A It took a little bit, but I eventually ended saying
23 I would go get one. And so I -- I left.

24 Q And where did you go?

25 A I went to Alex's house.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 960

1 Q What time is this?

2 A This was very early morning. It had to be somewhere
3 between -- somewhere between 4 and 6. I -- I know it was
4 around -- I can't -- I still can't remember exact times,
5 like I said.

6 Q Why were you going to Alex's house?

7 A Because me and -- me and Alex were very close, like
8 -- like -- as he had testified that we'd -- we've known
9 each other for around the same amount of time, too, the
10 ten-plus years. And I -- I considered him a brother.
11 And I knew -- and I also knew, if -- I -- I knew I could
12 probably obtain a gun from him.

13 Q Did you know if he had weapons at the house?

14 A Yes. I -- I knew he had weapons at the house.

15 Q All right. So you -- you go to Alex's house?

16 A (No audible response.)

17 Q What happens when you get to Alex's house?

18 A Well, I go in. I -- I -- first, I'm going to get
19 clothes out of -- out of the -- out of the spare -- well,
20 the side room where my clothes were kept at, at the time.
21 And that actually woke him up. And he came and asked me
22 what I was doing.

23 Q What kind of house did Alex have at that point?

24 A He was staying in a trailer.

25 Q How big do you think the trailer was?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 961

1 A It was -- it was -- it was a single-wide trailer.

2 So, I mean, it's -- you know, it's one -- two bedrooms --

3 no. I'm sorry. It's three bedrooms.

4 Q So you wake Alex up?

5 A (No audible response.)

6 Q And what happens then?

7 A Well, then he -- he asked, "Hey, what's up? You
8 know, what's going on -- or what are you doing?" Because

9 I -- I -- I guess I was making a lot of noise whenever I
10 came in. And I told him that -- well, actually I asked
11 him for the rifle.

12 Q Now, that brings up another point, Brian. Did you
13 text Alex prior to going to his house?

14 A Yes, I do.

15 Q And what did you tell him in that text?

16 A I was texting him to let him know that I was on the
17 way in the house in -- to the house in general and that I
18 was dressed in black, so, you know, just making the joke,
19 "Hey, if you get up and just see somebody in your house,
20 that -- early in the morning wearing black, don't shoot
21 me."

22 Q What time did you send the text?

23 A That had to be around 5. I -- I -- like I said, I
24 -- I don't know exact times. But I know it was that
25 early-morning area.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 962

1 Q So you ask -- ask Alex for the rifle?

2 A Yes, ma'am.

3 Q What happens then?

4 A He then tells me that the -- it -- that he doesn't
5 have any ammunition for the rifle but that he did have
6 the pistol and did have bullets for it.

7 Q Now, what did you tell Alex about needing the gun?

8 A I made up a story that -- especially after hearing
9 it so many times, that I probably could've made up a
10 better one. But I made up a story about a boss that
11 needed help with coyotes at the time and that I was going
12 hunting for them where -- with him and asked to borrow
13 the gun because of that.

14 Q Why do you feel like you couldn't just tell him the
15 real reason?

16 A I mean, I guess I -- really, honestly, it was to
17 give a good enough -- a -- a -- let me -- okay. I'm
18 sorry. Let me start over.

19 I came up with the story because I figured, if I
20 just walked in and asked for a gun, he would ask why.
21 And if I just told him, "Well, my girlfriend -- or my ex
22 wanted me to bring a gun over," you know, of course, he
23 might have some concerns with that. And I was -- I -- I
24 just wanted to get the gun without having to go in --
25 into too many -- too much detail, to be honest.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 963

1 Q Had Alex met Nicole at that point?

2 A No.

3 Q So do -- to your knowledge, he didn't really know
4 anything about her?

5 A No, he didn't.

6 Q So he brings up the pistol and ---

7 A Yeah.

8 Q --- what happens then?

9 A Well, then we actually have to look for it because
10 he can't remember where he had placed it.

11 Q And did you eventually find it?

12 A Yes, we did.

13 Q And what happens after you find the pistol?

14 A Well, then he immediately goes into safety
15 precautions: you know, how to carry a weapon so -- with
16 -- without a concealed permit; you know, the hammer open,
17 clip out; don't put it under anything; make sure it's in
18 clear view. And then -- then I left.

19 Q And after the safety lesson and you leave, where do
20 you go?

21 A I then actually -- I do not go to Nicole's house. I
22 actually park the car down the road.

23 Q Why?

24 A I was told to.

25 Q By who?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 964

1 A By Nicole.

2 Q And what do you do once you park your car?

3 A I park my car. I get out. I walk down -- I believe
4 it's Woodford. I -- sometimes I can't remember if it's
5 Woodard or Woodford. But I walk down, and I take the
6 side road that goes to the cut. And I approach the
7 house.

8 Q So, Brian, you get to the house, right?

9 A (No audible response.)

10 Q What do you do then?

11 A Well, I -- you know, I go into the yard. And I walk
12 around, as was mentioned earlier, the -- I walk around
13 the big tree that is laid out in the yard. And I
14 approach the van, which is in the driveway.

15 Q Okay. Where's Nicole?

16 A Whenever I get around the front of the van, Nicole
17 is actually in between -- actually -- you want me to
18 reference ---

19 Q Sure. If that would help you, please reference the
20 ---

21 A She actually -- well, honestly, where the back of
22 the first rectangle that was drawn that was supposed to
23 be the van and then it was changed ---

24 Q So you're talking about this rectangle right here?

25 A Yes.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 965

1 Q Okay.

2 A She pretty much would've been in the middle of that
3 rectangle. So she was in between ---

4 Q So, like ---

5 A --- the -- the steps and the ---

6 Q --- there was ---

7 A --- car door ---

8 Q --- some space -- a little bit of space?

9 A Yes.

10 Q And she's kind of in here?

11 A Yeah.

12 Q And, Brian, what happens when you see Nicole?

13 A Well, at -- everything that I'm about to say,
14 honestly happened kind of fast. I don't even know if it
15 was a complete minute in the time frame that it happened.

16 But I approach her. She asks, "Did you bring the
17 gun?"

18 I say, "Yes." When I do, I -- I say, "Yes," lifting
19 my shirt, exposing it.

20 And she immediately grabs the gun from my waist,
21 turns towards the door, and starts shooting.

22 Q Could you see Scott at that point?

23 A No, I could not.

24 Q So what happens after you see Nicole just start
25 firing the shots?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 966

1 A I -- well, she immediately turns to me -- well,
2 after shooting, she turns to me and kind of shoves the
3 gun to me. Of course, first reaction, grab it. And she
4 says, "Get rid of it." And she runs around the back side
5 of the trailer.

6 Q What do you do?

7 A I -- panic, honestly. But my first instinct is run.
8 That's exactly what I do. I -- I ran.

9 Q Now, Brian you mention going around the back side of
10 the trailer. Is there an entrance to the back of the
11 trailer?

12 A Yes, there is.

13 Q I'm going to show you a photo.

14 (Whereupon, Defendant's Exhibit 9 was marked for
15 identification.)

16 THE COURT REPORTER: Ms. Eigenbrot, this is
17 Defendant's 9 for identification.

18 Q Brian, I'm going to show you what's been marked as
19 Defense Exhibit 9, okay?

20 A Yes, ma'am.

21 Q I'm showing the jury. I want you to take that
22 photo. Now, Brian, you mentioned being at the house
23 earlier that night, right?

24 A Yes, ma'am.

25 Q What is that a photo of?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 967

1 A That is the -- that would be the inside view of the
2 back door to the trailer.

3 Q And --

4 MS. SAMPSON: Your Honor, may I see the photograph?
5 She never ---

6 MS. EIGENBROT: Oh, I apologize.

7 MS. SAMPSON: --- showed it to me.

8 THE COURT: And that's Defendant's ---

9 MS. EIGENBROT: --- 9, Your Honor.

10 THE COURT: --- for ID.

11 Q Now, Brian, is that a -- a fair and accurate
12 depiction of what the back -- inside of the back door
13 looked like that night?

14 A Yes, ma'am, it is.

15 MS. EIGENBROT: Your Honor, at this time I would
16 move to enter into evidence Defense Exhibit 9.

17 THE COURT: Any objection?

18 MS. SAMPSON: No, ma'am.

19 THE COURT: Defendant's No. 9 will be entered
20 without objection.

21 MS. EIGENBROT: Thank you.

22 (Whereupon, Defendant's Exhibit 9 was entered into
23 evidence.)

24 Q Now, Brian, you -- let's go back. You mentioned you
25 started running. Where did you go?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 968

1 A I -- actually, I did not go the same way I came in.
2 What -- as I had mentioned, the -- I came in through the
3 road that leads to the cut. I actually went straight
4 through somebody on Woodard -- on Woodford's -- somebody
5 that lives there's backyard.

6 Q And what happened after you ran?

7 A Well, I made it to Woodford. And then I stopped and
8 -- you -- well, I stopped because there was people
9 outside that I had stopped to talk to.

10 Q Do you recall who you stopped to talk to?

11 A Oh. That was Randell Wilson, who we'd heard from
12 already.

13 Q Did you know Randell before now?

14 A Yes.

15 Q Did y'all talk about hearing gunshots?

16 A I believe we did. I can't remember exactly what was
17 said. But I believe we did.

18 Q And what happens after you talk to Randell?

19 A Well, we talk for a few minutes. And I then go on
20 my way towards the car.

21 Q And at some point do you see law enforcement?

22 A Yes, I do.

23 Q What happened when you saw law enforcement?

24 A Well, I -- I actually flagged him down.

25 Q Do you remember who you spoke to?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 969

1 A I don't remember his name, honestly.

2 Q What was the purpose of flagging him down?

3 A To let him know where shots had just come from,
4 honestly to get -- get them to where, to my knowledge, I
5 guess Scott had just got shot.

6 Q And I think you -- you mentioned you weren't able to
7 see Scott. Did you know what his condition was like at
8 that point?

9 A I -- honestly, I didn't even know if it was him that
10 got shot. I can't for sure say, you know, that it --
11 that he was even in the van. But, I mean, that was --
12 that was my only logical explanation for what had just
13 happened.

14 Q You mean at that point, right?

15 A Yes.

16 Q Okay. So you flag this officer down. Then where do
17 you go?

18 A After flagging him down and him -- after our
19 conversation, him leaving, I go to my car.

20 Q And where do you go once you reach your car?

21 A I go to take the gun back to Alex's house.

22 Q Now, at some point when you're at Alex's house, do
23 you see Alex again?

24 A I do.

25 Q Explain to us what happened when you saw Alex.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 970

1 A Well, he came out of his house on -- to come out to
2 leave for work. And he approached me. I was actually
3 already on the phone with Nicole at the time. I had been
4 trying to call her, text her, after what had happened.
5 But she did -- she never got back in contact with me
6 until closer to me arriving at Alex's house.

7 Q Do you remember what time that was?

8 A I -- it had to be around seven something -- I -- I
9 don't -- like I said, I -- I know it was somewhere around
10 that time.

11 Q Did you make any other phone calls or texts to
12 anyone else that morning?

13 A I believe I was trying to blow up -- well, in -- in
14 words, blow up Crystal's phone too, you know, just
15 honestly trying to get a sense of what the hell just
16 happened.

17 Q Okay. Now, you've mentioned being on the phone with
18 Nicole when Alex shows up. How long had you been talking
19 to her at that point?

20 A I -- we'd probably been talking for at least a good
21 15/20 minutes.

22 Q And what -- what do you do after you give Alex the
23 gun back?

24 A Well, I gave him the gun back. And then he leaves.
25 And then I actually end up I -- I sit there for a little

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 971

1 bit on my phone, kind of just -- kind of trying to clear
2 -- excuse me; I'm sorry. I'm trying to clear my head.
3 But then Nicole asked me to take her and her mom to the
4 hospital where they had taken Scott.

5 Q And do you do that?

6 A Yes, I do.

7 Q So you saw Nicole and Crystal in person?

8 A Yes, ma'am.

9 Q What happens when you guys get to the hospital?

10 A I -- as soon as we get there -- I actually drop them
11 off. I drop them off in the emergency entrance. And I
12 go to try to find a parking space. But by the time I
13 actually found a parking spot and got to them, they had
14 already been told that Scott was announced dead.

15 Q Now, Brian, you mention communicating with Nicole
16 throughout some of the night.

17 A Yes.

18 Q What did you do with those either phone calls or
19 texts?

20 A I deleted them for the most part.

21 Q Why?

22 A I -- Nicole told me to.

23 Q Did she delete hers?

24 A As far as my knowledge, most likely, yes.

25 Q So you take them to the hospital; Scott has been

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 972

1 pronounced dead. What do you do then?

2 A I then take them back to the house.

3 Q And where does Nicole go?

4 A She go -- she goes back to the house with us.

5 Q What happened after you guys get back to the house?

6 A Well, about the same time that we get there, not too
7 long after, Investigator Truluck had actually -- was
8 getting in contact with her, saying that he wanted to
9 talk to her.

10 Q And what did she do in response to that?

11 A She told me that she wanted me to go ahead and
12 leave. She -- she knew I had bad tags. You know, there
13 was -- the -- she didn't want -- she didn't want me to
14 end up being a part of anything, honestly. That was her
15 explanation to me, and she asked me to leave.

16 Q Where did you go?

17 A I went right up the road, actually, to the
18 laundromat right there on the corner of Leesburg and
19 Patricia.

20 Q And did you ever speak to Nicole again later that
21 day?

22 A I did.

23 Q Do you remember what that conversation was about?

24 A I might not be able to remember, you know, in
25 complete detail. But for the most part, yes.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 973

1 Q Brian, we've heard a little bit about a recorded
2 phone between you and Nicole. And I think Sgt. Truluck
3 described it as you indicated that Nicole hadn't done
4 anything, right? Do you ---

5 A I, of course, can't -- I don't remember exact words.
6 But yes. I do believe I said that.

7 Q And you remember telling Nicole that you took care
8 of the gun?

9 A I can remember saying something about getting rid of
10 the gun. Yes.

11 Q After you talked to Nicole that -- at that point,
12 what do you do?

13 A Well, after that, honestly, my mind is now --
14 something's not right. I -- I -- I already have some
15 kind of idea of what might possibly be going on, as far
16 as she might be trying to point a finger at me or
17 something, honestly. The -- I was -- I was -- I wanted
18 to get to the bottom of what was going on. So I then go
19 back to Crystal's house to honestly try to get to the
20 bottom of what all is going on.

21 Q And what happens when you get to Crystal's house?

22 A Well, me and Crystal are on the porch, talking, when
23 investigators end up pulling up in the yard.

24 Q And what do you do when you see the investigators?

25 A I -- I immediately walk to them.

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 974

1 Q And what happens when you walk up to them?

2 A I -- they ask me my name. I give it to them. And
3 they immediately place me under arrest.

4 Q Now, what happens when they place you under arrest?

5 A Well, they -- they put me in the back of the car.

6 Q And where do they take you?

7 A They take me to -- I -- I know it was -- I don't
8 remember the exact location of it. But I know they --
9 they took me somewhere for questioning.

10 Q Was it a police station of some sort?

11 A It -- some sort, yeah.

12 Q And we've all heard that you talked to law
13 enforcement. What -- so what happens when you get to
14 that police station?

15 A When I get there, I'm taken to what I would describe
16 as a side room. It was -- it was a small room. There
17 really wasn't a lot in it.

18 Q Are you in handcuffs at that point?

19 A I honestly can't remember.

20 Q And how long do you think you sat in the side room?

21 A I -- it -- it honestly was a while. I know I sat in
22 the room long enough for me to be asked about using the
23 bathroom, for me to go outside and get a chance to smoke
24 a cigarette, and still sit for a little bit after sitting
25 before and after those -- after that happened and then

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 975

1 finally being pulled out of there.

2 Q So at some point they do pull you out?

3 A Yes.

4 Q And what happens when they pull you out of that
5 room?

6 A They take me into a much bigger room and I actually
7 meet Investigator Truluck and we -- he begins to ask me
8 questions -- well, I'm -- I'm sorry. He reads me my
9 rights and -- and then begins to ask me questions.

10 Q Now, Brian, we've all heard about your statement at
11 this point.

12 A Yes.

13 Q Can you explain to us a little bit about what you
14 remember about the -- the questioning process and how
15 that played out?

16 A I can remember a good -- I -- I might not be able to
17 remember exact wording. But I know I can remember pretty
18 much what all was -- almost what was asked and -- and, of
19 course, I -- what all was said. But -- I'm sorry. I --
20 I just got lost. I started thinking too much. Please
21 repeat the question.

22 Q Well, let me ask it this way: Who was asking you
23 questions?

24 A Investigator Truluck was.

25 Q And were you answering his questions?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 976

1 A Yes, I was.

2 Q Brian, did -- did you admit to them that you shot
3 Scott?

4 A No, I did not.

5 Q Did you tell them Nicole shot Scott?

6 A No, I did not.

7 Q Why in the world, when you're in this situation,
8 would you not tell Investigator Truluck that Nicole shot
9 Scott?

10 A Honestly, I can't think of any good reason why I
11 didn't. But my thoughts at the time was -- I mean, of
12 course, I still cared about it. I -- I didn't want to
13 see anything happen to her. I'm not a snitch. I'm
14 sorry. I'm not.

15 And also, I didn't think it would ever get this far.
16 I honestly never seen myself sitting on this stand,
17 fighting for my life in a sense.

18 Q Now, but we've heard about a written statement where
19 they're saying you confessed. So tell me how -- what do
20 you remember about that written statement being done?

21 A I remember, as we said, Truluck asking questions.
22 And there was another investigator, somebody sitting on
23 the side. But what I -- the -- at the table, I was
24 sitting here. Truluck would've been sitting across from
25 me. And along the wall, there was, I think maybe a

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 977

1 couple chairs. And there was somebody else over there,
2 taking notes while I was being asked questions with me
3 answering.

4 Q At some point did they take you to another room?

5 A Yes, they did.

6 Q And what was going on in that room?

7 A Well, that is where me and the other gentleman went
8 in there for him to type up a statement based off of what
9 I had said and notes that he took.

10 Q Were you continuing to ask -- answer questions while
11 he was typing?

12 A At that moment, no. I -- he might've asked me a
13 couple questions. But I can't remember, honestly,
14 anything really pertaining to the statement.

15 Q And who was doing the typing?

16 A The -- I believe -- I believe it -- his name was --
17 the -- I know it's -- was it Martin?

18 Q It -- was it ---

19 A I believe ---

20 Q --- another officer?

21 A I -- I know it was -- yes. A ---

22 Q And while you're in the interrogation, do -- does
23 law enforcement bring you anything?

24 A Yes, they do. They -- they bring me food.

25 Q And when does that happen?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 978

1 A That happened at some point. I know I got the food
2 -- I believe it would've been right around the same time
3 that they would've been that -- or that he would've been
4 finishing up typing.

5 Q And, Brian, did you read the statement when it was
6 completed?

7 A I did not.

8 Q Why?

9 A At the time the -- the way that that entire process
10 happened -- well, that part of that process happened was
11 when he finished typing, he then printed it up. I would
12 -- during that moment I had already started eating.

13 He then provided me copies. He did provided me
14 copies and set them in front of me and then began to read
15 off from his computer screen what he was saying, you
16 know, while I was eating. And honestly, I -- I trusted
17 him. I -- in my mind I -- I didn't see no reason to read
18 the statement.

19 Q But did you sign it?

20 A Yes, I did.

21 Q And what happens after the statement's been done?

22 A After the statement is complete, they then -- they
23 finish it. They go to take me to the jail.

24 Q And when you get to the jail, do you have copies of
25 any of your paperwork?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 979

1 A I am not in actual possession of the copies of the
2 paperwork. Truluck actually has those in his hand.

3 Q So when you got booked in, did you have a copy of
4 your statement?

5 A I did not. My copy of my statement was actually
6 handed to the C.O., described as part of paperwork, or
7 part -- well, part of paperwork that was part of -- to be
8 in part of my property. And that was honestly the last I
9 seen it until I was brought it by my public defender
10 later on ---

11 Q But ---

12 A --- months later on.

13 Q Now, Brian, I already asked you why you didn't tell
14 law enforcement about Nicole. And they brought up the
15 jail call.

16 A Yes.

17 Q Who were you speaking to on that call?

18 A That is a very, very close friend of mine that I
19 actually considered honestly more family than I consider
20 my blood relatives, but I consider her my sister.

21 Q What's her name?

22 A Kelly.

23 Q Did Kelly know Nicole at that point?

24 A Yes, she did.

25 Q Was that the only call you made to Kelly?

DIRECT EXAMINATION BY MS. EIGENBROT - BRIAN WHITE 980

1 A Of course not.

2 Q And to your knowledge, was Kelly seeing Nicole
3 afterwards?

4 A Yes. She would -- she -- she kept in contact with
5 Nicole while I was at Alvin S. Glenn. Yes.

6 Q Brian, if Kelly's such a close friend of yours, why
7 didn't you tell her that Nicole was the shooter at that
8 point?

9 A Honestly, I didn't tell anybody for the same reasons
10 I didn't tell investigators. I -- I cared about her. I
11 didn't want to see her get in trouble. And I'm not a
12 snitch.

13 Q Brian, I'm going to ask you again: Did you shoot
14 Scott Turner?

15 A No, ma'am, I did not.

16 Q Who did?

17 A Nicole did.

18 Q Brian, I'm -- I'm -- I'm going to stop asking
19 questions. I'm going to let Ms. Sampson get up here and
20 talk to you. Please answer any ---

21 A Okay.

22 Q --- questions, okay?

23 A Okay.

24 MS. SAMPSON: Beg the Court's indulgence.

25 THE COURT: Yeah.

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 981

(Off the record briefly.)

CROSS-EXAMINATION

BY MS. SAMPSON:

Q So, Mr. White, I want to go through some of the things that you just told your attorney, okay?

A Yes, ma'am.

Q You stated that you did actually talk to police; that correct?

A Yes, ma'am, I did.

Q They didn't force you to talk to them, did they?

A No, they did not.

Q And -- and she asked you about reading your statement. They didn't keep you from reading it, did they?

A No, they did not.

Q Okay. Could've done whatever you wanted to with that statement, right?

A Yes, ma'am.

Q Now, you said that the reason you went and got a gun is because Nicole asked you to?

A No, ma'am.

Q Okay. And Nicole was sending you all these texts and you all decided to delete those?

A Yes, ma'am.

Q Okay. And Nicole shot a man in front of you and you

1 take the gun back?

2 A Yes, ma'am.

3 Q All right. I'll show you -- actually, there's a
4 copy of it right here, State's Exhibit 3 -- or 2. Excuse
5 me. That's your statement, right?

6 A Yes, ma'am. It looks like it.

7 Q And it's three pages, correct?

8 A Yes, ma'am.

9 Q And that's your signature at the bottom of each
10 page?

11 A Yes, ma'am, it is. Actually, twice on each page.

12 Q Right. You have to sign it in two different places.
13 Let's go over that. It first said (as read): "I have
14 made the foregoing statement freely and voluntarily
15 without fear, threat, promise, or reward or hope of
16 reward of any kind." That what it says above your
17 signature?

18 A Oh, above this -- yes. Yes, ma'am.

19 Q And then, on the bottom of each page it says: "This
20 is to certify that I have read or have read to me the
21 foregoing statement consisting of" -- in your case --
22 "three pages and a true copy has been given to me this
23 8th day of December 2016." That correct?

24 A Yes, ma'am. That's what it says.

25 Q And it says that on each page?

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 983

1 A Yes, ma'am, it does.

2 Q And you signed it in two places ---

3 A I did.

4 Q --- on each page?

5 A Yes, ma'am.

6 Q And it ends with: "Is everything you stated here in
7 your statement the truth?" on page 3. That's how it
8 ends, correct?

9 A Yes, ma'am. That is the question that it says that
10 I was asked. And it does give an answer that it says
11 that I was at -- that I answered, saying: "Yes, sir."

12 Q So the question is: "Is everything you stated here
13 in your statement the truth?" And it ends with: "Yes,
14 sir"?

15 A That's what's on this paper. Yes.

16 Q That's what it says, correct?

17 A Yes, ma'am.

18 Q And the question before that is: "Did anyone but
19 you kill James Scott Turner?" And your answer is "No,"
20 according to this paper, correct?

21 A That's what's on the paper. Yes.

22 Q All right. And you were given an opportunity to
23 change that if you wanted to.

24 A I guess you could say that. Yes.

25 Q Did you change it?

- 1 A No, ma'am ---
- 2 Q Okay.
- 3 A --- I didn't.
- 4 Q And anywhere in that statement does it say that
- 5 Nicole told you to go get a gun?
- 6 A No, ma'am.
- 7 Q And does it say anywhere in that statement Nicole
- 8 told you to take some texts out your phone?
- 9 A No, ma'am, it doesn't.
- 10 Q Is there anything in that statement about Nicole
- 11 taking the gun from your waistband?
- 12 A No, ma'am, there isn't.
- 13 Q Anything in that statement about you standing there
- 14 while she shot the gun?
- 15 A Well, honestly, I'm -- I'm sorry. I'm -- I'm
- 16 honestly really not trying to be smart. I just -- I
- 17 would like to read this.
- 18 Q You can take ---
- 19 A I'm ---
- 20 Q --- as much as time as you ---
- 21 A I'm sorry.
- 22 Q --- want to read that statement that apparently has
- 23 existed for three years, correct?
- 24 A Yes, ma'am.
- 25 Q Okay.

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 985

1 A Okay. Please repeat the question.

2 Q Anything in there where you say you stood by while
3 Nicole shot the victim?

4 A Not that I can see. No.

5 Q Anywhere in there where she tells you to park,
6 instead of at the house, down the street?

7 A Not that I can see. No.

8 Q Anything in there about her telling you -- anything
9 in there at all about Nicole running to the back door?

10 A No, ma'am, there isn't. Not that I can see.

11 Q Okay. Not that you can see. Now, look.

12 A No.

13 Q Is it ---

14 A Yeah.

15 Q --- in there ---

16 A Yeah.

17 Q --- or not?

18 A That's -- that's what I'm saying. I -- I can't see
19 it. No.

20 Q All right. Because it's not in there?

21 A No.

22 Q It's not that you're blind or can't see ---

23 A Oh.

24 Q --- because you're wearing glasses. It's not in
25 there?

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 986

1 A No.

2 Q Okay. So all this that you're telling the jury, the
3 first time you've said that is today?

4 A Yes, ma'am.

5 MS. EIGENBROT: Objection, Your Honor.

6 Q Based on the statement, it's the first time you've
7 said anything other than what you're saying?

8 THE COURT: What's the ---

9 MS. EIGENBROT: Your Honor, may we approach?

10 (Whereupon, a bench conference was held off the
11 record in the presence of the jury, but out of the
12 hearing of the jury.)

13 THE COURT: Objection overruled.

14 Q So this is the first time you've told law
15 enforcement about Nicole's involvement?

16 A Clarify, please?

17 Q This is the first time you've told -- called -- told
18 law enforcement about Nicole's involvement: that she's
19 the one that shot the victim? that she's the one that
20 took the gun out of your waistband? that she's the one
21 that shot six times into the van? This is the first time
22 you've said anything to law enforcement?

23 A This would be the first time me saying these things
24 in front of any law enforcement. Yes.

25 Q Okay. And let's go over what you -- you do admit

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 987

1 saying.

2 A Okay.

3 Q You do admit saying that you were going to take care
4 of this in -- in the text messages between you and
5 Brittany?

6 A (No audible response.)

7 Q I didn't ask if it's in your statement. Do you
8 remember sending those texts that are on your phone?

9 A I remember sending texts between me and Brittany
10 that night. Yes.

11 Q Okay. And those -- that -- those are your words,
12 not hers, where you say you're going to handle it, and
13 you wanted Nicole and -- and ---

14 A Yeah. Yes. Yes. I'm ---

15 Q Those were ---

16 A --- sorry.

17 Q --- your words?

18 A I was -- I was making sure I understood correctly.
19 Yes, ma'am.

20 Q But today you're saying that you didn't really mean
21 that?

22 A Yes, ma'am. I ---

23 Q So you lied to her back then when you said you were
24 going to go take care of it?

25 A Yes, ma'am, I did.

1 Q Okay. And when you were at the house and comments
2 were being made at Nicole and Crystal's house about
3 beating his ass -- I'm talking about the victim -- you
4 were just part of the conversation? You didn't mean that
5 either?

6 A Yes, ma'am.

7 Q You lied then?

8 A Yes, ma'am.

9 Q Okay. And you go to your good friend Alex's house,
10 who you've known since middle school?

11 A Yes, ma'am.

12 Q And you lie to him?

13 A Yes, ma'am, I do.

14 Q Okay. You lie about shooting coyotes?

15 A Yes, ma'am.

16 Q Okay. So you could get a gun?

17 A Yes, ma'am.

18 Q All right. Couldn't tell your best friend the truth
19 -- your ---

20 A No, ma'am.

21 Q --- good friend?

22 Okay. Because you couldn't your good friend you
23 just want to go defend your girlfriend?

24 A Yes, ma'am, that's correct.

25 Q Okay. And you go to the house; you watch her shoot.

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 989

1 But you just don't do -- you didn't know anybody was in
2 the van?

3 A Yes, ma'am.

4 Q So you just thought she was just shooting it up?

5 A No. As a matter of fact, I actually remember saying
6 earlier -- and whenever I was being asked questions by
7 Ms. Eigenbrot where -- to my only logical knowledgeable
8 explanation would be for someone, being Scott, to ---

9 Q Right.

10 A --- be in the van. That -- there's -- of course, I
11 -- my -- as I said, I did not see him. No.

12 Q Okay.

13 A But there's no reason for anybody else to be in that
14 van ---

15 Q You didn't ---

16 A --- at that time.

17 Q --- think she was just shooting at the air? I mean,
18 you thought somebody was in the van?

19 A Yes, ma'am.

20 Q Okay. And so after you see her shoot at someone,
21 whether you knew who it was or not, you took the gun
22 back?

23 A Yes, ma'am, I did.

24 Q That's your -- that's your testimony today?

25 A Yes, ma'am.

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 990

1 Q And then you don't really run; you just proceed to
2 walk down Woodford Road after just witnessing a shooting?

3 A Yes, ma'am.

4 Q And then you just talk to your friend, Randell?

5 A Yes, ma'am.

6 Q And you actually tell him bullets whizzed by your
7 head?

8 A I can't remember anything that was exactly said
9 during that conversation. I just know that I did stop
10 and I did talk with him.

11 Q Just had a little conversation with him after
12 witnessing a shooting?

13 A Yes, ma'am.

14 Q Okay. And then when the police show up, while you
15 have the gun that just shot someone, you didn't tell
16 them?

17 A No, ma'am, I did not.

18 Q And, in fact, you tell them bullets were whizzing by
19 your head?

20 A As I said, I can't remember ---

21 Q You don't ---

22 A --- exactly ---

23 Q --- remember saying that?

24 A --- what -- no, ma'am.

25 Q Okay. And so you don't remember telling him that.

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 991

1 That would be a lie, though, right? Because no bullets
2 were whizzing past your head.

3 A I'm not saying I didn't say it ---

4 Q Okay.

5 A --- honestly. I'm saying I can't remember exactly
6 what I said.

7 Q But that would be a lie, because no bullets went
8 whizzing past your head ---

9 A Yes, ma'am, that would ---

10 Q --- right?

11 A --- be a lie.

12 Q And you didn't hand them the gun and say, "Hey, this
13 gun was just used in a shooting?"

14 A No, ma'am, I did not.

15 Q All right. Just proceed to walk on to your car?

16 A Yes, ma'am.

17 Q And when you go back to your friend's house, you
18 don't -- you again lie to him, correct?

19 A Yes, ma'am.

20 Q You tell him, in a lie, that you miss all the
21 coyotes, correct?

22 A I can't remember exact wording. But yes. That was
23 -- that's what was said.

24 Q You didn't bother to tell him that you just returned
25 a gun that, at this point, you know killed someone?

1 A No. I did not say that.

2 Q Did you know that it shot someone? You didn't
3 probably tell him that either.

4 A No, I did not tell ---

5 Q Your good ---

6 A --- him that.

7 Q --- friend, who now has the gun that just killed
8 someone, you didn't bother to tell him that?

9 A No, ma'am, I didn't.

10 Q Okay. And then, you continue on with that story
11 when you go and talk to police. You don't tell them that
12 you're -- either is what you're telling this jury today?

13 A No, ma'am, I did not.

14 Q Okay. And let's go over what you did tell them,
15 since, apparently, the only thing that you didn't tell
16 them in this entire statement is that you shot him; is
17 that correct?

18 A That's not the only thing that ---

19 Q Okay. Well, let's go over ---

20 A That's not ---

21 Q --- everything ---

22 A --- correct.

23 Q --- since you say you told them. Did you tell them
24 that, yes, I have known Scott for about a year? Did you
25 tell them that?

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 993

1 A I had -- I probably told them that. Yes.

2 Q (As read): "I was seeing Nicole Bryant. And we are
3 currently separated, but I care for her a lot and her
4 mother, Crystal Posey." Did you tell them that?

5 A I said something around that. Yes.

6 Q Okay. "I was visiting some friends, Brittany Steen
7 and her girlfriend, Elexia, at the Marriott on Main
8 Street." Did you tell them that?

9 A I can't guarantee that it was that precise words.
10 But in a roundabout sense, yes.

11 Q So you told them something to that effect?

12 A Yes, ma'am.

13 Q All right. How about: "They were part of a rape
14 trial at the courthouse"? You tell them that or
15 something to that effect?

16 A I probably told them that. Yes.

17 Q All right. "I had taken Nicole to her doctor's
18 appointment earlier yesterday." Did you tell them that?

19 A Most likely, yes.

20 Q "We got back to Nicole's house around 5 p.m." You
21 tell ---

22 A I ---

23 Q --- them that?

24 A I can't exactly tell you those were my exact. But I
25 can remember saying something around that. Yes.

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 994

1 Q And Scott was there. That's what you told them back
2 in December of 2016, correct?

3 A Yes, ma'am.

4 Q All right. You also told them that you asked Nicole
5 to go swim at the Marriott?

6 A Yes, ma'am.

7 Q And you -- she got her swim stuff and you went to
8 the Marriott?

9 A Yes, ma'am.

10 Q You tell them that?

11 A (No audible response.)

12 Q "Our cell phones had died, and we left them to
13 charge in the room." Did you tell them that?

14 A I can remember saying something about that. Yes.

15 Q Okay. "When we got back from swimming in the hot
16 tub, there were several missed calls on our phone from
17 Crystal." Did you tell them that?

18 A Yes.

19 Q How about: "I called Crystal back and she told me
20 that Scott did not pick her up from work"?

21 A Yes, ma'am.

22 Q You told them that?

23 A Yes, ma'am.

24 Q Okay. "That he had taken her TV and was out smoking
25 crack." Did you tell them that?

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 995

1 A I can't actually say that those are the exact words,
2 but along those ---

3 Q Along ---

4 A --- lines ---

5 Q --- those ---

6 A --- most likely.

7 Q --- lines. So all ---

8 A Yes.

9 Q --- this so far, something to that effect, you have
10 told them?

11 A Almost.

12 Q Almost?

13 A Almost.

14 Q What did I miss reading?

15 A All right. If you would like me to point out my
16 points in this ---

17 Q No. I want to know what I have read so far that is
18 not what you told them.

19 A Oh. What you've read so far, no. I'm not saying
20 that I didn't say any of these things. What I'm saying
21 is ---

22 Q Right.

23 A --- the wording is -- is -- and most likely is
24 different.

25 Q And my question is not is the wording different.

1 Did you tell them these things? Whether it's in this
2 exact words or something in general, did you tell them
3 these things or not?

4 A As far as we've read so far, yes.

5 Q That's my question. Because you said there's just a
6 couple things, Brian -- and I just want to make sure that
7 we know exactly what you didn't tell them. You told them
8 that Nicole's -- you were back at Nicole's house and
9 Crystal told you what happened? More or less, what you
10 told them?

11 A Yes, ma'am.

12 Q You left around 11:30 and Brittany and Elexia went
13 back -- and you went back to the Marriott and you stayed
14 all night. That's what you told them.

15 A Right. Yes, ma'am.

16 Q That you got the gun around 5:30 this morning. Is
17 that what you told them?

18 A More -- I don't think I remember exactly saying
19 that. But I -- I'm not going to say that I didn't
20 either, just because, as I said, I don't remember exactly
21 what was said there.

22 Q Don't remember exactly what you said. How about
23 that -- the -- the color of the Smith & Wesson that you
24 took? You tell them that?

25 A I -- I can remember telling them about a color of a

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 997

1 gun. Yes.

2 Q So you did tell them about the handgun that you
3 took?

4 A I -- I did tell them something about a gun. Yes.

5 Q Okay. And did you tell them that you're not going
6 to say where you got it from?

7 A I did say that.

8 Q Okay. And that it was more of a drop-off/pick-it-
9 up-here kind of deal?

10 A Yes, ma'am.

11 Q Okay. And you told them you drove your truck --
12 your car to Woodford Street?

13 A That is what -- I -- I'm sorry. I -- I was -- I was
14 about to get back into specifics of words. Yes. That's
15 what I said. That's -- it's -- it's very specific in the
16 ---

17 Q Right.

18 A --- in the ---

19 Q Nothing in there about Nicole telling you to drive
20 over there and park on Woodford Street?

21 A No, nothing.

22 Q Okay. And again, that you walked through the cut.
23 That's in here?

24 A Yes, ma'am.

25 Q And that's what you told them?

1 A Yes, ma'am.

2 Q And you told them -- I assume this is what you're
3 going to say that they -- you didn't tell them, is you
4 were standing in front of the driver's window of the van
5 and Scott was laying down across the front seats. You
6 didn't tell them that?

7 A I never said anything about Scott laying down across
8 the ---

9 Q Okay.

10 A --- front seats. No.

11 Q And I'm going to assume you didn't say: "I think I
12 fired the gun six times"?

13 A I definitely never used the words "I fired the gun"
14 at all in any time sitting in front of law enforcement
15 that day.

16 Q All right. And: "I blacked out, but I remember
17 jumping over the tree and through the cut, headed back to
18 my car." You tell them that?

19 A Blacked out -- remember -- I can remember saying
20 something along those lines. Yes.

21 Q Okay. "I had pissed my pants." Did you tell them
22 that?

23 A It's been brought up so many times, I guess. But I
24 do not recall that. No.

25 Q But you're not denying that ---

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 999

1 A I ---

2 Q --- you might've ---

3 A --- I'm ---

4 Q --- said it?

5 A --- not denying that the -- it -- I guess it
6 might've been a part of something I ---

7 Q Okay. "I saw a deputy coming towards me and flagged
8 him down." You told them that?

9 A I believe I did say that. Yes.

10 Q And you told them that -- you told the deputy shots
11 came from 7200 area of Patricia Drive?

12 A Yes, ma'am.

13 Q All right. And you told them you drove your car
14 towards Garners Ferry near Watermelon Hill, the direction
15 you went, all of that. Did you tell them that?

16 A Yes, ma'am.

17 Q And that when you got to the wooded area, you got
18 out of the car, ran left in the woods as far as you
19 could, and took the gun apart and threw it away. You
20 tell them that?

21 A Yes, ma'am. I said that.

22 Q That was a lie, correct?

23 A Yes, ma'am, it was.

24 Q All right. And you were talking to Nicole and
25 Crystal the whole time. You told them that?

CROSS-EXAMINATION BY MS. SAMPSON - BRIAN WHITE 1000

1 A Yeah. I -- I believe I remember saying something
2 along that ---

3 Q But ---

4 A --- lines. Yes.

5 Q --- today you said you actually couldn't get ahold
6 of Nicole till before you got to the Rabons' house,
7 correct? You kept trying to get in touch with them, but
8 you couldn't. That's what you said today?

9 A Yes, ma'am. That is what I said.

10 Q All right. So in looking at all this -- they ask
11 you about your clothes -- where are the clothes you were
12 wearing during the shooting, and you tell them the trunk
13 of your car.

14 A That is not the question that was asked to me.

15 Q So the question: "Where are the clothes you were
16 wearing during the shooting?" was not asked to you?

17 A No, ma'am. The -- the question was: "Where are the
18 clothes you were wearing this morning?"

19 Q Oh, okay. And you told them in the trunk ---

20 A I told ---

21 Q --- of the car.

22 A --- them that all ---

23 Q All right.

24 A --- my clothes was in my trunk.

25 Q And: "Do you know how many times Scott was struck