

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Honorable David P Caraker, Jr, Circuit Court Judge

JOSHUA THOMAS BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002338

APPENDIX

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INDEX

INDEX i

TRIAL TRANSCRIPT DATED JUNE 18 – 22, 2018 1

GUILTY PLEA TRANSCRIPT DATED JUNE 22, 2018.....742

INDICTMENT AND SENTENCING SHEET771

PRO SE POST-CONVICTION RELIEF APPLICATION FILED JUNE 4, 2019774

RETURN AND MOTION FOR A MORE DEFINITIVE STATEMENT.....779

AMENDED POST-CONVICTION RELIEF APPLICATION.....793

POST CONVICTION RELIEF HEARING TRANSCRIPT DATED AUGUST 26, 2024.....804

ORDER OF DISMISSAL FILED NOVEMBER 10, 2025868

State of South Carolina
County of Lexington

Court of General Sessions

State)
)
)
 v.)
)
 Joshua Thomas Brown)
)
 Defendant.)

Transcript of Record
2016-GS-32-00873

June 18 - 22, 2018
Lexington, South Carolina

B E F O R E:

The Honorable R. Knox McMahon, Judge; and a jury.

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	I N D E X	
	<u>WITNESS</u>	<u>PAGE</u>
1		
2		
3	<u>CALEB THOMAS</u>	64
4	DIRECT EXAMINATION	64
5	BY MS. USRY	
6	CROSS-EXAMINATION	81
7	BY MR. STORY	
8	<u>NIKKI RODGERS</u>	178
9	DIRECT EXAMINATION	178
10	BY MS. MAYES	
11	CROSS-EXAMINATION	182
12	BY MR. TURNBLAD	
13	<u>EDWARD PEREIRA</u>	<u>183</u>
14	DIRECT EXAMINATION	184
15	BY MS. MAYES	
16	CROSS-EXAMINATION	201
17	BY MR. STORY	
18	REDIRECT EXAMINATION	204
19	BY MS. MAYES	
20	<u>ROBERT BAKER</u>	205
21	DIRECT EXAMINATION	205
22	BY MS. USRY	
23	CROSS-EXAMINATION	213
24	BY MR. STORY	
25	<u>ANN JAMES</u>	214

1	DIRECT EXAMINATION	214
2	BY MS. MAYES	
3	IN-CAMERA EXAMINATION	279
4	BY MR. STORY	
5	CROSS-EXAMINATION	285
6	BY MR. STORY	
7	REDIRECT EXAMINATION	304
8	BY MS. MAYES	
9	RE-CROSS-EXAMINATION	309
10	BY MR. STORY	
11	<u>DANA WHETSTONE</u>	311
12	DIRECT EXAMINATION	311
13	BY MS. USRY	
14	CROSS-EXAMINATION	337
15	BY MR. STORY	
16	<u>RICHARD STEVENS</u>	342
17	DIRECT EXAMINATION	342
18	BY MS. USRY	
19	CROSS-EXAMINATION	355
20	BY MS. GILREATH	
21	REDIRECT EXAMINATION	364
22	BY MS. USRY	
23	RE-CROSS-EXAMINATION	366
24	BY MS. GILREATH	
25	<u>KATHY RHODEN</u>	369

1	DIRECT EXAMINATION	369
2	BY MS. USRY	
3	<u>LORETTA MITCHELL</u>	373
4	DIRECT EXAMINATION	373
5	BY MS. MAYES	
6	CROSS-EXAMINATION	380
7	BY MR. STORY	
8	<u>DARWIN WEAVER</u>	381
9	DIRECT EXAMINATION	381
10	BY MS. MAYES	
11	CROSS-EXAMINATION	402
12	BY MS. GILREATH	
13	REDIRECT EXAMINATION	419
14	BY MS. MAYES	
15	RECROSS-EXAMINATION	422
16	BY MS. GILREATH	
17	<u>ANGELA CORBETT</u>	425
18	DIRECT EXAMINATION	425
19	BY MS. USRY	
20	CROSS-EXAMINATION	429
21	BY MS. GILREATH	
22	<u>JASON MERRILL</u>	434
23	DIRECT EXAMINATION	434
24	BY MS. MAYES	
25	CROSS-EXAMINATION	460

1	BY MS. GILREATH	
2	<u>JOSHUA BROWN</u>	472
3	<u>CHRISTOPHER WATSON, M.D.</u>	484
4	DIRECT EXAMINATION	484
5	BY MS. MAYES	
6	CROSS-EXAMINATION	499
7	BY MS. GILREATH	
8	REDIRECT EXAMINATION	523
9	BY MS. MAYES	
10	RE-CROSS-EXAMINATION	528
11	BY MS. GILREATH	
12	IN-CAMERA EXAMINATION	534
13	BY MS. GILREATH	
14	IN-CAMERA EXAMINATION	536
15	BY MS. MAYES	
16	IN-CAMERA EXAMINATION	536
17	BY MS. GILREATH	
18	<u>JAMES PATRICK SULLIVAN</u>	539
19	IN-CAMERA EXAMINATION	539
20	BY MS. MAYES	
21	<u>APRIL CARTER</u>	547
22	DIRECT EXAMINATION	548
23	BY MS. USRY	
24	CROSS-EXAMINATION	554
25	BY MR. STORY	

1	<u>CATHERINE LEISY</u>	556
2	DIRECT EXAMINATION	556
3	BY MS. MAYES	
4	CROSS-EXAMINATION	569
5	BY MS. GILREATH	
6	REDIRECT EXAMINATION	575
7	BY MS. MAYES	
8	RECROSS-EXAMINATION	575
9	BY MS. GILREATH	
10	<u>JOHN VANHOUTEN</u>	577
11	DIRECT EXAMINATION	578
12	BY MS. MAYES	
13	CROSS-EXAMINATION	616
14	BY MS. GILREATH	
15	REDIRECT EXAMINATION	634
16	BY MS. MAYES	
17	RECROSS-EXAMINATION	639
18	BY MS. GILREATH	
19	<u>CAL THOMAS</u>	642
20	DIRECT EXAMINATION	642
21	BY MS. USRY	
22	CROSS-EXAMINATION	666
23	BY MR. STORY	
24	REDIRECT EXAMINATION	668
25	BY MS. USRY	

1	JOSHUA BROWN	670
2	<u>CLARENCE SMITH</u>	673
3	DIRECT EXAMINATION	674
4	BY MR. STORY	
5	<u>JOSHUA BROWN</u>	690
6	<u>LISA WILLIAMS</u>	696
7	IN-CAMERA EXAMINATION	696
8	BY MR. TURNBLAD	
9	IN-CAMERA EXAMINATION	698
10	BY MS. USRY	
11	<u>JESSICA HUNT</u>	699
12	<u>JOSHUA BROWN</u>	703
13	Certificate of Reporter	732
14		
15	Opening Statement by Ms. Usry.....	175
16	Opening Statement by Mr. Story.....	180
17	Guilty Plea.....	712
18	Sentence.....	736
19		
20		
21		
22		
23		
24		
25		

E X H I B I T S				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	<u>STATE'S</u>			
4	1	Photo		197
5	2	Dash-cam Video	200	342
6	3	Aerial Photo		203
7	4	Clothing	219	258
8	5	Photo		203
9	6	Photo		203
10	7	Photo		203
11	8	Text Messages	235	
12	9	Braids		260
13	10	Sandals		260
14	11	Pants		260
15	12	DNA Swabs		458
16	13	Photo	246	248
17	14	Photo	246	248
18	15	Photo	246	248
19	16	Photo	246	248
20	17	Photo	246	248
21	18	Photo	246	248
22	19	Photo	246	248
23	20	Photo	246	248
24	21	Photo	246	248
25	22	Photo	246	248

1	23	Photo	246	248
2	24	Photo	246	248
3	25	Photo	246	248
4	26	Photo	246	248
5	27	Photo	246	248
6	28	Photo	246	248
7	29	Photo	246	248
8	30	Photo	246	248
9	31	Photo	246	248
10	32	Photo	246	248
11	33	Photo	246	248
12	34	Photo	246	248
13	35	Photo	246	248
14	36	Photo	246	248
15	37	Photo	246	248
16	38	Photo	246	248
17	39	Photo	246	248
18	40	Photo	246	248
19	41	NO EXHIBIT		
20	42	Photo	246	248
21	43	Time Clock Rpt	232	381
22	44	Time Clock Rpt		386
23	45	Photo		398
24	46	Photo		398
25	47	Photo		398

1	48	Photo	405
2	49	DNA Swabs	410
3	50	DNA Swabs	410
4	51	Photo	449
5	52	Photo	449
6	53	Photo	461
7	54	Photo	461
8	55	Photo	461
9	56	Consent to Search	465
10	57	Cell Phone	466
11	58	Anatomy Chart	503
12	59	Phone Extraction	596
13	60	Search History	598
14	61	Search History	598
15	62	Disc	656
16	63	Disc	639
17	64	Bulletin	662
18	65	Photo	665
19	66	Photo	665
20	67	Photo	666
21	68	Photo	666
22	<u>COURT'S</u>		
23	1	Expungement Order	15
24	2	Expungement Order	15
25	3	Report	23

1	4	Court File	49
2	5	Order	157
3	6	Memo of Law	697
4	7	Memo of Law	697
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

* * *

(The following proceedings were held June 18,
2018.)

MS. MAYES: Yes, sir, Your Honor. This is
State vs. Joshua Brown. He is charged with
attempted murder. We will pass up the file and the
indictment. He is present in the courtroom and
represented by counsel.

Your Honor, the State would, potentially, at
some point, have a Jackson v. Denno motion hearing
regarding statements that were made to law
enforcement; both spontaneous statements that were
made pursuant to phone calls, and then a later
audio-recorded statement made while in custody.

But I know, from my previous conversation, the
Defense does also have a motion for continuance in
this case.

THE COURT: Thank you.

All right. Mr. Story?

MR. STORY: May it please the Court?

THE COURT: Yes, sir.

MR. STORY: We received notice of trial in this
case. And I believe it was June 6th, which was a
week from the last Wednesday, Your Honor.

1 THE COURT: Would you come around to the
2 podium, please?

3 MR. STORY: Yes, Your Honor.

4 May it please the Court, Your Honor?

5 THE COURT: Thank you.

6 MR. STORY: We received notice of trial -- this
7 was June 6th -- Wednesday, June 6th, for this case.
8 Since that time, there is, we believe, an
9 outstanding Brady vs. Maryland violation in this
10 case, Your Honor.

11 The defendant in this case gave a statement to
12 law enforcement that was, essentially, he was
13 defending himself. And he had suffered incidents of
14 violence -- he had suffered incidents of violence by
15 the accuser in this case, Ms. Ann Brown, on a number
16 of occasions, and that law enforcement had been
17 called in these cases.

18 So, specifically, there were two instances: A
19 domestic violence in the third degree, which
20 multiple witnesses in this case talk about --

21 THE COURT: About Ms. Brown?

22 MR. STORY: That's Ms. Brown --

23 THE COURT: Right.

24 MR. STORY: -- the alleged victim in this case,
25 Your Honor.

1 THE COURT: That she was the alleged
2 perpetrator?

3 MR. STORY: The alleged perpetrator of two
4 incidents that we believe occurred. One is, very
5 recently before this incident for which Mr. Brown is
6 on trial, that was July 21st, 2015, the Sheriff's
7 Department was called out.

8 We did receive -- we subpoenaed the Sheriff's
9 Department and received a police report dealing with
10 that incident; however, it also says that pictures
11 were taken and things of that nature that have not
12 been turned over to us.

13 We believe that's exculpatory, Your Honor. And
14 under Brady vs. Maryland and Kyles vs. Whitely, if
15 it's in the possession of a State agency, they have
16 a duty to turn that information over to us. In
17 addition to that, there was also --

18 THE COURT: And it never was turned over?

19 MR. STORY: No, Your Honor, it never was turned
20 over; not at any point, Your Honor.

21 The other incident, which is a little more
22 puzzling, is a 2014 domestic violence of a high and
23 aggravated nature. That incident, there's no arrest
24 on Ms. Brown's NCIC; however -- and we received no
25 information about that from FOIA requests, Your

1 Honor, subpoenas, anything like that. However, we
2 did get -- going back through our records,
3 basically, a notice from the clerk that an Ann
4 Brown, Ann Morrissa Brown, which is the name of the
5 alleged victim in this case, did -- basically did
6 have a bond and had a bond appearance on September
7 the 11th, 2014, at 9:00 a.m., for criminal domestic
8 violence of a high and aggravated nature. And I
9 would show this to the Prosecution at this time, and
10 I would like to make both the report and the bond
11 form Court's Exhibits, Your Honor.

12 THE COURT: All right. Yes, sir. You may do
13 so.

14 (Court's Exhibit Nos. 1 and 2 marked for
15 identification.)

16 MR. STORY: So, furthermore, Your Honor, we
17 don't know why there's no further information that
18 we've received from the criminal -- specifically,
19 the criminal domestic violence in 2014. I don't
20 know if she did PTI; if it was expunged from some
21 other means.

22 However, if there are witnesses to that
23 incident and there is any evidence of that incident
24 that Mr. Brown was the victim of a criminal domestic
25 violence of a high and aggravated nature during that

1 time that was perpetrated by Ms. Brown, we believe
2 that is exculpatory under Brady vs. Maryland, as
3 well as if it's likely in the -- it's in the records
4 of a State agency, most likely SLED, we believe the
5 State has a duty to turn that over to us, Your
6 Honor. That is my first grounds for a continuance,
7 and I have a couple more. And I will argue however
8 Your Honor wants to handle --

9 THE COURT: What are you asking me to do as far
10 as these allegations?

11 MR. STORY: Well, Your Honor, what I'm asking
12 you to do, as far as those go, is to grant a
13 continuance and order the State to turn over any
14 information they have about these incidents that has
15 not already been turned over.

16 And, of course, if Your Honor is not inclined
17 to grant a continuance on that basis, we would ask
18 for a jury instruction in this case that the State
19 has withheld exculpatory evidence and that the jury
20 may consider that in their deliberations.

21 THE COURT: May I see those Court's exhibits,
22 please?

23 MR. STORY: May I approach, Judge?

24 THE COURT: Yes, sir.

25 MR. STORY: Thank you.

1 THE COURT: And this, looking at the 21 July,
2 2015 incident, this is all you have, these two
3 Court's exhibits; is that right?

4 MR. STORY: I believe -- I have another part of
5 the paperwork from that. I do not have any
6 paragraphs that it references --

7 THE COURT: So you don't have photographs of
8 either Joshua Brown or Ann Brown?

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

10 THE COURT: And what about -- it indicates that
11 Ms. Brown provided a written statement to LCDC prior
12 to being turned over to LCDC staff. Do you have
13 that?

14 MR. STORY: I do have that, Your Honor.

15 THE COURT: So you've got these two documents
16 and Ms. Brown's written statement?

17 MR. STORY: That's correct.

18 THE COURT: And you got these through
19 subpoenaing the Lexington County Sheriff's
20 Department records; is that right?

21 MR. STORY: That's correct, Your Honor.

22 THE COURT: All right. And then on the -- and
23 what has been the resolution of these, of these
24 that -- the July 15 --

25 MR. STORY: I believe it was nol-prossed.

1 THE COURT: And those records -- when you say
2 you believe it was nol-prossed, those records would
3 be in the clerk's file?

4 MR. STORY: Yes, Your Honor.

5 THE COURT: The CDV high and aggravated nature,
6 it would have come to General Sessions. So there's
7 a clerk's file on this incident versus Ann Brown?

8 MR. STORY: I'm not sure, Your Honor.

9 THE COURT: Will you find that out for me,
10 Madam Clerk --

11 THE CLERK: Yes, sir.

12 THE COURT: -- if there's a clerk's file on
13 this charge?

14 And then the DV third, what about that?

15 MR. STORY: Oh --

16 THE COURT: The DV third.

17 MR. STORY: -- Your Honor, as far as the
18 domestic violence, high and aggravated from 2014, we
19 don't know what the resolution of that case was.

20 THE COURT: I'm sorry?

21 MR. STORY: The 2014 General Sessions, we don't
22 know what the resolution of that case is. We have
23 no information except that she had a bond and
24 intended to hire an attorney.

25 THE COURT: Was there a clerk's file on that,

1 Madam Clerk?

2 THE CLERK: Is it Annette Brown? What's her
3 full name?

4 THE COURT: Ann, A-N-N, Morrissa, M-O-R-R-I-S-A,
5 Brown, B-R-O-W-N. The warrant case number appears
6 to be a warrant number: 2014-A-32-10201433.

7 And you don't -- do you have any file on the DV
8 third, the 2000- -- wasn't that -- I'm not tracking
9 right. Criminal domestic violence statement is
10 dated -- or the report is dated 2015.

11 MR. STORY: That's correct.

12 THE COURT: So the DV third is 2014?

13 MR. STORY: No, Your Honor. It was a -- 2014
14 is the first one, and that was the domestic violence
15 of a high and aggravated nature.

16 THE COURT: So the DV third, that's the 2014?

17 MR. STORY: No, Your Honor. Domestic violence
18 of a high and aggravated nature was --

19 THE COURT: This was dated 2015, this report.

20 MR. STORY: Yes, Your Honor. That's the
21 domestic violence third degree.

22 THE COURT: Well, this bond is -- these are two
23 separate incidences, that's what you're telling me?

24 MR. STORY: Correct.

25 THE COURT: Now I'm tracking. The bond is

1 for -- I'm tracking now. This is DV third?

2 MR. STORY: Yes, Your Honor.

3 THE COURT: You have this and a statement --

4 MR. STORY: Yes.

5 THE COURT: -- no photographs?

6 MR. STORY: No photographs or any other
7 evidence.

8 THE COURT: The high and aggravated nature is
9 '14.

10 MR. STORY: Yes, Your Honor.

11 THE COURT: And this is all you have?

12 MR. STORY: Yes, Your Honor.

13 THE COURT: I'm tracking now. I thought -- I
14 wasn't tracking right. And you don't have anything
15 more than the bond --

16 MR. STORY: No information whatsoever.

17 THE COURT: -- for '14?

18 MR. STORY: That's correct, Your Honor.

19 THE COURT: Okay. I'm tracking now. Thank
20 you.

21 All right. Solicitor, let me hear from you on
22 this now.

23 MS. MAYES: Yes, sir, Your Honor. Our
24 understanding is that both of those charges have
25 been expunged. That has been confirmed by the

1 expungement director in our office, Ms. Keenan.

2 Beyond that, it looks like, when we turned over
3 in January of 2016, the incident report that goes
4 with the 2015 arrest, that may have been an
5 erroneous disclosure on our part.

6 THE COURT: May have been what, Solicitor?

7 MS. MAYES: May have been an erroneous
8 disclosure on our part, if that expungement order
9 was already in place. If it was, we probably, under
10 the law, should not have provided that. But it was
11 included in that original discovery that was sent to
12 them January 15th, 2016. So that's where we are,
13 Your Honor.

14 We know that an expungement order was issued as
15 to both charges. Ms. Brown was represented by
16 counsel, Stanley Meyers, who, apparently, got the
17 expungement orders.

18 Beyond that, Judge, I believe, according to
19 Ms. Keenan, they are required to destroy almost all
20 of the documents except a fingerprint card and the
21 arrest documents such as the warrant itself. And
22 then those remain under seal. So it may be a
23 situation that Your Honor can review those items
24 that are under seal in-camera. But, by statute,
25 we're prohibited from accessing them or distributing

1 them.

2 THE COURT: And what about the -- and that was
3 for the 2015 --

4 MS. MAYES: That would be the 2014 and 2015
5 charges, Your Honor. Our understanding is that
6 there is an expungement order for both.

7 As to the 2014, I don't believe that we have
8 anything. I don't believe that our discovery
9 included anything on that charge. I believe that
10 that had already been expunged, even before the
11 defendant's arrest in this case. The defendant was
12 arrested in this case on August 11th, 2015.

13 And then the next report, from the 2015
14 incident, we did include in discovery, although that
15 may have been erroneous. It looks like we did turn
16 over that incident report. But if there was an
17 expungement order, I don't believe that that should
18 have been included in discovery.

19 THE COURT: So Court's Exhibit No. 2, if I'm
20 tracking, you're saying that was turned over?

21 MS. MAYES: I'll have to take a look at it.

22 Yes, sir, Your Honor, although it was actually
23 a -- there are actually eight pages associated with
24 this report. That was turned over as discovery on
25 January 15th, 2016; although, in retrospect, Your

1 Honor, it may have already been expunged at that
2 point.

3 THE COURT: Is that correct, Mr. Story?

4 MR. STORY: As far as them turning it over, as
5 far as discovery, I'm not sure. I know we issued
6 several subpoenas. I will tell you, Your Honor,
7 that I inherited this case. This predates my tenure
8 at the Public Defender's Office. And there was a
9 file with all sorts of information; some of it was
10 from subpoena, FOIA requests, and some of it was in
11 the initial Rule 5 discovery, Your Honor. So what
12 the solicitor is telling you very well could be
13 correct.

14 MS. MAYES: I'm going to go ahead and make it a
15 Court's Exhibit, Your Honor. It is correct. This
16 report is dated 7/21/2015. It's eight pages. At
17 the top is our discovery stamp, January 15th, 2016.
18 And it's page 122 of 201. And, as I mentioned,
19 that's an eight-page report. We'll mark that as a
20 Court's Exhibit.

21 (Court's Exhibit No. 3 marked for
22 identification.)

23 THE COURT: I guess, Mr. Story, first question
24 is, did -- through discovery or in your file, do you
25 have this eight pages that indicates, if I

1 understand this stamp, that the State is saying was
2 turned over?

3 MR. STORY: Yes, Your Honor. That's correct.

4 THE COURT: So you have that?

5 MR. STORY: And that's what I handed -- part of
6 that --

7 THE COURT: Exactly.

8 MR. STORY: -- is what I handed up as a Court's
9 exhibit at the beginning of this motion.

10 THE COURT: So that would -- that would not --
11 that part of it would not be a Brady violation.
12 Perhaps photographs, perhaps the statement would be.
13 And you don't have that?

14 MR. STORY: We do have a written statement. We
15 do not have photographs. And that report indicates
16 that photographs were taken.

17 THE COURT: And where is a copy of the
18 expungement order?

19 MS. MAYES: Your Honor, our office can obtain
20 that. We did confirm from Ms. Keenan that both were
21 expunged. Ms. Keenan is out today.

22 With that stated, where Brady is concerned,
23 we're prohibited, by statute, from releasing
24 anything. We don't have it. It's not that we have
25 it and we didn't release it because we knew there

1 was an expungement. We don't have it.

2 Now, that's not to say that it's not part of
3 this sealed file that, apparently, is part of the
4 expungement process where files can remain sealed
5 for up to three years. But our understanding is
6 that the contents of that usually don't include the
7 specifics. It's usually limited to a fingerprint
8 card and an arrest warrant.

9 But we can potentially locate the sealed files
10 and have the Court conduct an in-camera review. We
11 certainly have no opposition of that.

12 THE COURT: Well, where is the file then?
13 Let's see if I --

14 MS. MAYES: Again, Your Honor, we were advised
15 that the Defense was having or going to seek a
16 motion for continuance, but not the grounds. And,
17 until this morning, there's not been a specific
18 request for this information.

19 Mr. Story indicated he's new in the case. I
20 think he got involved in 2017. Ms. Usry and I have
21 been on the case for two weeks. It was previously a
22 case that Ms. Rankin had. But in us looking through
23 the file, we have not seen a request for any of this
24 information or the expungement records or -- we
25 haven't seen any specific request beyond what we're

1 hearing this morning. So we certainly can produce
2 that, but it's not something that we have received a
3 request for. We didn't have any information on the
4 grounds -- the specific grounds for their motion.

5 THE COURT: Well, I guess I'll need to look at
6 the sealed file.

7 MS. MAYES: Ms. Lewis is going to obtain that,
8 Your Honor, and we'll certainly have that available.

9 THE COURT: And is that the same -- can she
10 also get the 2014 file?

11 MS. MAYES: So our office would have handled
12 the expungement on the 2014 DV high and aggravated
13 nature, since that would have been a General
14 Sessions charge. Our understanding is that the DV
15 third would have been an expungement handled through
16 Magistrate's court.

17 So if the Public Defender's Office has made a
18 specific request to them for that file, then they
19 may have more information on that than we would. We
20 certainly can make some calls to locate it, Your
21 Honor, but that's not something we have in our
22 possession.

23 THE COURT: Thank you.

24 Mr. Story, anything further on this issue?

25 MR. STORY: On this issue, all I'd say is I

1 believe Ms. Sally Henry did make a formal motion
2 under Brady vs. Maryland, although we're not
3 necessarily required to. That's a constitutional
4 protection, Your Honor.

5 And I would just further argue that the
6 defendant's right to a fair trial, present a
7 complete defense, would outweigh any policy
8 concerns. Because those are constitutional
9 protections, they would outweigh any policy concerns
10 that the State may have in expungement order or the
11 expungement process, Your Honor.

12 THE COURT: All right. Anything else right now
13 on the Brady until I look at that file or files?

14 MR. STORY: Not specifically on Brady, but it
15 does relate to information that we would get, if
16 Your Honor determines that we're entitled to that
17 information, if that makes sense.

18 THE COURT: There is another name in this
19 record, in this file. The lady that -- yes, there's
20 another name. It may actually be in Court's
21 Exhibit -- yes, it's on the Court's Exhibit. It
22 doesn't necessarily say she's the witness, but
23 there's a name on Court's Exhibit 1 -- well, let me
24 look at that file.

25 MR. STORY: And, Your Honor, there is one other

1 grounds under Brady, Your Honor.

2 THE COURT: Sure.

3 MR. STORY: We've continued to receive
4 discovery in this case -- reported witness
5 statements, written discovery, things like that --
6 up until last Friday for the trial.

7 One thing we asked -- I believe it was
8 Thursday. We requested our investigator -- we have
9 a cell phone investigator -- go look at -- actually
10 do an extraction of the defendant's cell phone,
11 which was in the possession of Cayce Department of
12 Public Safety. That did reveal some exculpatory
13 information we feel may be exculpatory in addition
14 to what was turned over with Rule 5.

15 We would also request that we have time for him
16 to do an extraction on the victim's phone to see if
17 there's any exculpatory information in that.

18 THE COURT: All right.

19 Solicitor?

20 MS. MAYES: Your Honor, the phone has been in
21 evidence for three years. The victim's phone also
22 would have been in evidence for three years, or at
23 least the hard drive on that. I beg the Court's
24 indulgence.

25 The raw data associated with both of those

1 phones has been available for three years or
2 approaching three years. Your Honor, one reason
3 that Ms. Usry and I proceeded on this case when we
4 picked it up from Ms. Rankin -- Ms. Rankin has been
5 reassigned to work on federal matters -- and we saw
6 that there was a speedy trial motion in the file.
7 So, being aware that he's been in jail for what's
8 approaching three years and a speedy trial motion in
9 the file, we began taking action to get the trial
10 date set and get it moving.

11 We met with law enforcement and did find some
12 additional materials, which are the statements that
13 Mr. Story mentioned. We've turned those over. But
14 the phone itself, they were originally extracted by
15 the Secret Service back in, I believe, 2016. So
16 they've always had the extraction CDs related to
17 those phones.

18 Now, if they have hired an independent
19 expert -- and we've made the phone available for his
20 review on Thursday of last week -- that would be a
21 delay that they have created, just because these
22 materials and the raw data has been available for
23 some length of time.

24 Also, on the expungements, Your Honor, we will
25 follow through with that; but, again, in terms of a

1 continuance, I don't believe a continuance would be
2 the remedy when there's been no specific request or
3 a motion to compel any of these items through our
4 chief administrative judge or any previous term of
5 court that we've been made aware of until this
6 morning.

7 THE COURT: Mr. Story?

8 MR. STORY: Well, two things on that, Your
9 Honor: We are not required to make any formal
10 request under Brady vs. Maryland, Kyles v. Whitley.
11 If there's any exculpatory information, the State
12 has a duty to turn that over to us.

13 Furthermore -- furthermore, Your Honor, as far
14 as the speedy trial motion, that predates my
15 representation of Mr. Brown, is all I'll say about
16 that, Your Honor. I did not make that motion.

17 THE COURT: Well -- and I've got Brady vs.
18 Maryland pulled up right here. The State, of
19 course, responds to -- if the State responds to a
20 Rule 5 request and to Brady and turns -- maybe I'm
21 not tracking. Sounds like they turned the items
22 over, the extraction. Did I miss that?

23 MR. STORY: They did on the defendant's phone,
24 Your Honor. And so part of our continuance motion
25 is that there may be exculpatory information on the

1 victim's phone as well.

2 MS. MAYES: We turned over extraction CDs on --

3 THE COURT: Say again, Solicitor.

4 MS. MAYES: I beg the Court's indulgence.

5 We'll double-check that, Your Honor. My
6 understanding is that extractions were done on both
7 phones. We've certainly done an extraction on the
8 defendant's phone and turned that over, as well as
9 phone records associated with the victim. But we
10 will double-check on the extraction.

11 MR. STORY: And, Your Honor, my recollection,
12 as far as the -- what was extracted -- what was
13 turned over to us --

14 THE COURT: Are you talking Mr. Brown's phone
15 or --

16 MR. STORY: Mr. Brown's phone.

17 THE COURT: Mr. Brown.

18 MR. STORY: Well, both phones, Your Honor.

19 THE COURT: Okay.

20 MR. STORY: Extraction was turned over, but the
21 date range that our investigator did was larger than
22 what was turned over by the State. So we've done it
23 on the defendant's phone; we'd like to do it on the
24 alleged victim's phones.

25 THE COURT: Well, if I'm understanding that,

1 that means the State -- maybe that's what it means.

2 Did you turn over the extraction you had done,
3 Solicitor?

4 MS. MAYES: Yes, sir, Your Honor. And we have
5 confirmed it was the defendant's phone and the
6 victim's phone. They make a forensic hard copy of
7 the raw data from the phone. Ultimately, now, the
8 victim's phone itself, the physical phone, was
9 returned after the extraction was done. But they
10 maintain that forensic hard copy. Those were turned
11 over.

12 THE COURT: So an extraction was done while
13 both Mr. Brown's and Ms. Brown's phones were in the
14 custody of law enforcement?

15 MS. MAYES: Yes, sir.

16 THE COURT: And that was turned over?

17 MS. MAYES: Yes, sir, Your Honor. And the date
18 on that would have been 2016.

19 THE COURT: And, Mr. Story, you're saying
20 you -- your investigator did an expanded or enlarged
21 the extraction, both as to Mr. Brown and Ms. Brown's
22 phone?

23 MR. STORY: Only Mr. Brown's.

24 THE COURT: All right. So that meant that your
25 expert had access to -- I don't know these

1 terminology -- the hard drive or whatever, there was
2 a full and complete extraction? That's what I'm not
3 tracking now.

4 MR. STORY: On Mr. Brown's phone.

5 THE COURT: There was a full and complete
6 extraction --

7 MR. STORY: Well --

8 THE COURT: -- either by law enforcement or by
9 your expert?

10 MR. STORY: For the purposes of this motion,
11 yes, Your Honor, essentially.

12 THE COURT: And Ms. Brown, you're saying -- so
13 no issue as to Mr. Brown's phone?

14 MR. STORY: Correct.

15 THE COURT: So you're saying, well, they turned
16 over what they had and we want to do a greater
17 extraction? And I guess it was correct for the
18 State to turn over what they had -- well, I guess
19 the bottom line is, you're kind of saying, well,
20 they didn't do what they should have done. Is that
21 what you're saying? And I don't want to put words
22 in your mouth. I'm trying to get it in my mind --

23 MR. STORY: Right. Yes, Your Honor. I --
24 essentially, that's correct; there should have been
25 a greater extraction. We found more information on

1 the defendant's phone than the -- the date range was
2 larger, we believe. And, I regret, my investigator
3 is not here to clarify a little bit. But --

4 THE COURT: But y'all hadn't done that because
5 you hadn't had the phone, is what you're saying?
6 The State turned over what they had -- or, we'll
7 assume, they turned over what they had. They turned
8 over the full and complete extraction on Ms. Brown's
9 phone that they say was conducted by law
10 enforcement; correct?

11 MR. STORY: I believe so. Yes, Your Honor.

12 THE COURT: So the enlarged extraction, you
13 don't know if there's anything exculpatory in it or
14 not because hadn't done it, nor has the State?

15 MR. STORY: Exactly, Your Honor.

16 THE COURT: How long does it take to do that?
17 I don't know. I don't know.

18 MS. MAYES: Your Honor, we received the request
19 on the defendant's phone on Thursday and made that
20 available on --

21 THE COURT: Well, wait a minute. Wait a
22 minute. I thought he just said he got the
23 defendant's phone, everything's been done.

24 MS. MAYES: Well, in response to the timeframe,
25 I believe that was done -- I think they started at

1 3:30 and finished late that afternoon, less than
2 five hours. That's my understanding.

3 THE COURT: But Mr. Story wants his expert to
4 do Ms. Brown's phone.

5 Correct?

6 MR. STORY: Correct, Your Honor.

7 THE COURT: And enlarge the timing?

8 MR. STORY: That's correct.

9 THE COURT: Does that exist?

10 MS. MAYES: So that would be the same one that
11 they did Thursday. And I believe that it was
12 completed late that afternoon. They did not request
13 her phone, but that's something that could be done
14 this afternoon.

15 THE COURT: Well, then do it. I mean, how can
16 I rule something's exculpatory that ain't been done?
17 It may be. I don't know.

18 MR. STORY: Right, Your Honor.

19 THE COURT: It may not be.

20 MR. STORY: Right. Correct.

21 THE COURT: I don't know.

22 MS. MAYES: Just to clarify --

23 THE COURT: But then there still should be
24 limitations of relevancy.

25 MS. MAYES: Just to clarify, Your Honor, that

1 would be the forensic hard copy of the phone, not
2 the actual physical phone.

3 THE COURT: Can it be done from that?

4 MR. STORY: I believe so.

5 THE COURT: That's correct?

6 MR. STORY: I believe so.

7 THE COURT: Why hadn't that been turned over
8 before?

9 MS. MAYES: It's been available in evidence,
10 Your Honor.

11 THE COURT: But you have a copy of it now, some
12 hard copy you can turn over?

13 MS. MAYES: So the raw data on the forensic
14 hard drive is maintained in law enforcement as an
15 item of evidence. The extraction from her phone was
16 turned over.

17 They're requesting that their expert now
18 conduct a second extraction on the raw data that's
19 been in evidence for three years. We made that
20 available to them on Thursday for the defendant's
21 phone. We can do the same for the victim's phone,
22 but there's not been a request for that until now.

23 THE COURT: But that's what you're asking for?

24 MR. STORY: That's correct.

25 THE COURT: And that's what you say can be

1 available for them to do, Solicitor?

2 MS. MAYES: Yes, sir, Your Honor.

3 THE COURT: And that doesn't compromise the
4 item of evidence?

5 MS. MAYES: It does not, Your Honor.

6 THE COURT: Well, then do it; make it available
7 and do it. I don't know -- without it being done, I
8 don't know how I can rule whether there's any
9 information and, if so, whether or not it is or is
10 not exculpatory. But it's still been available?

11 MS. MAYES: Yes, sir, Your Honor, under Brady
12 for inspection, copy, examination, all of those
13 factors. It's certainly been there. We just didn't
14 receive a request until last week for their expert
15 to look at anything. It's 12:15. Two o'clock -- we
16 can have it available by 2:00.

17 THE COURT: And Brady says you got to turn it
18 over; it doesn't say you got to use a yellow
19 highlighter on it, I don't think. Got to be turned
20 over, not highlighted. So turn it over. Make it
21 available to their expert.

22 MS. MAYES: Yes, sir, Your Honor. That's the
23 process: They come to law enforcement and he
24 actually does the second extraction there, like they
25 did last week.

1 Now, again, for the record, both of the
2 extractions done by Secret Service were turned over
3 in 2016.

4 THE COURT: Well, I guess I'll just, I guess,
5 take whatever I've listened to under advisement.
6 I'll probably have to listen to some more, once the
7 enlarged extraction is completed. You agree,
8 Mr. Story?

9 MR. STORY: Yes, Your Honor.

10 THE COURT: Okay. You got other -- this went
11 into a Brady violation and a motion for continuance.
12 So you have other grounds?

13 MR. STORY: Yes, Your Honor; one other related
14 ground.

15 THE COURT: Sure.

16 MR. STORY: Based on -- we would like -- part
17 of the reason we'd like to get the information from
18 the two arrests for domestic violence --

19 THE COURT: Yes, sir.

20 MR. STORY: -- is we have explored the
21 possibility of hiring an expert in something -- a
22 psychologist in something like battered spouse
23 syndrome or a fight-or-flight response, that sort of
24 thing. We think that information would be very
25 helpful to a psychologist, if that were made

1 available. And, also, we haven't had a psychologist
2 examine the defendant to see if that is a
3 possibility, that they may render an expert opinion
4 on that.

5 I have had contact -- well, I've tried to have
6 contact with four different psychologists. One
7 hasn't gotten back to me, Dr. Amanda Salas; one, a
8 Dr. Vicki Bolus, I believe, does not do that type of
9 work anymore, she's no longer an expert witness.
10 But there's two, a Dr. Lois Veronen and a --

11 THE COURT: That's the doctor from York County,
12 Winthrop?

13 MR. STORY: That's correct, from Winthrop.
14 She -- I emailed her and she sent me an email back
15 that said she was on vacation in Alaska and wouldn't
16 be back until the 18th, today. And then there was
17 one more, Donna Maddox, Your Honor, and she's also
18 unavailable; she's in trial this week and was on
19 vacation when I emailed her.

20 So we'd like that information that's under
21 seal, Your Honor. We'd like to be able to see that
22 and possibly consult an expert with that
23 information.

24 THE COURT: Solicitor?

25 MS. MAYES: Again, Your Honor, that would be a

1 matter in the Court's discretion.

2 THE COURT: Where is Dr. Maddox in court at?

3 MR. STORY: Winnsboro, Judge.

4 THE COURT: Winnsboro. And Dr. Veronen gets
5 back from Alaska today?

6 MR. STORY: That's what she indicated in her
7 email. I'm not sure if she has time, just getting
8 back to -- I don't know her schedule would be. And,
9 of course, I will try to find other experts.

10 I've been given another name, Dr. Catherine
11 Ross. Part of my issue with that, Your Honor, is
12 she does work at SisterCare and counsels people at
13 SisterCare. If the alleged victim in this case, Ms.
14 Ann Brown, did any sort of classes at SisterCare,
15 that sort of thing, it may be a conflict. Of
16 course, that's something we'd ask her about.

17 THE COURT: So the two grounds for continuance
18 are you want the information and you want to make it
19 available to an expert. And, I guess,
20 commonsensically, if it's, by someone's opinion, of
21 assistance to the -- to Mr. Jones -- excuse me, to
22 Mr. Brown, you'd want to use it at trial?

23 MR. STORY: That's correct, Your Honor.

24 THE COURT: Well, give me a report back on your
25 experts. Not a substantive report, but a report on

1 the time frame, if you can pin down an expert, so to
2 speak.

3 MR. STORY: Okay.

4 THE COURT: But, at the same time, you still
5 got to get more information on the Brady issue.
6 Okay?

7 MR. STORY: Okay.

8 THE COURT: Okay. So anything further right
9 now?

10 MR. STORY: The only thing I'd like to add, we
11 did receive a lot other information on the week
12 before trial: A few hours of recorded interviews
13 that we haven't heard with the victim with another
14 witness that was exculpatory -- that we believe is
15 exculpatory, and then some interviews that were
16 inculpatory that we would like to have our expert
17 follow up on. So we ask for a continuance to have
18 time to address all these issues that I've brought
19 up, Your Honor.

20 THE COURT: Thank you very much, Mr. Story.
21 Anything further, Solicitor.

22 MS. MAYES: Only that if the Defense wants a
23 continuance, we have the July 23rd term which is
24 over a month away. It does seem that all of these
25 matters could be resolved by then. We want to take

1 sure the State is protected in terms of that speedy
2 trial motion. It certainly appears that that is
3 being withdrawn and is not being pursued.

4 As for the additional grounds of the argument
5 on the Brady violation, Your Honor, again, the
6 statute that covers expungements prohibits us from
7 disclosing something that has been expunged. We
8 don't have it to disclose it. So that certainly
9 would not be a Brady violation on the part of the
10 State.

11 As for the other items that Mr. Story has
12 mentioned from Ms. Usry and I from the moment we got
13 involved, we did meet with law enforcement, obtained
14 those records, turned those items over. So they
15 have now, what we believe to be, all items in the
16 possession of law enforcement. And where the phones
17 are concerned, again, Your Honor, those phones have
18 been -- or the extractions from those phones were
19 turned over; the hard copies of the raw data have
20 been in the possession of law enforcement for three
21 years and certainly would have been available to
22 extract before now.

23 We're going to make that available, Your Honor.
24 But, in reality, it's going to be well over a
25 thousand pages of materials, would be my estimation,

1 based on the other extractions that we've seen from
2 these phones. Whether any of that is additional
3 information or not, I don't know. But that's
4 something that is going to be quite voluminous if it
5 is turned over late this afternoon at the end of
6 that extraction.

7 THE COURT: All right. As far as this, I'll
8 take it up at 2:30. Thank you very much.

9 MR. STORY: Thank you, Judge.

10 MS. MAYES: And, Your Honor, if the Defense
11 expert can be available to go ahead and start
12 processing that phone at 2:00 p.m. at Cayce
13 Department of Public Safety, they will have that
14 available.

15 THE COURT: Thank you, Solicitor. Thank you,
16 Mr. Story.

17 (Trial in recess 12:35 PM - 2:38 PM.)

18 THE COURT: All right. Solicitor, where are we
19 at with discovery?

20 MS. MAYES: Your Honor, we did provide, during
21 the break, the sealed, I guess would be the
22 classification of those folders -- sealed folders
23 that were brought up by the division in our office
24 that handles expungements. And they would have been
25 maintained pursuant to the expungement statute,

1 specifically the provision under 17-1-40(b)(2)(a)
2 that allows for those items to remain sealed for
3 three years and 120 days and that they are not to be
4 released or disclosed except by court order. So we
5 did have those delivered to Your Honor. I believe
6 that relates only to the DV high and aggravated
7 nature arrest from 2014.

8 The 2015 file is not in possession of our
9 expungement office. That would be under the control
10 of the Magistrate's Office. And I'm going to let
11 Ms. Usry handle that because she did communicate
12 with their office about the possible status of that
13 file.

14 THE COURT: Thank you, Solicitor.

15 MS. USRY: Your Honor, I spoke with Carly Wood
16 over at the magistrate office across the street on
17 the phone. She indicated to me -- I gave her the
18 victim's name and the time of arrest that we have,
19 because that's all the information we have from that
20 report that was provided as discovery. She hasn't
21 been able to locate anything at all on that file.

22 However, we don't have a warrant number
23 associated with that case, so that was making her
24 search a little more difficult. I didn't know if
25 that paper that Defense held up might have a warrant

1 number. I can update her with that information.

2 What she told me, regardless, is her
3 understanding in all cases is she's going to have an
4 expungement order because her practice is to shred
5 everything related to the file with the exception of
6 the expungement order. However, she might be able
7 to find out when the case itself was dismissed prior
8 to the expungement order in the case, if it was part
9 of the disposition.

10 THE COURT: Thank you, Solicitor.

11 Mr. Story?

12 MR. STORY: Thank you, Your Honor. I guess the
13 only other thing I'd like to put on the record is,
14 you know, we believe these documents would be
15 relevant to our defense and that we have a right to
16 see them and see if they are exculpatory -- I mean,
17 we believe they are exculpatory. They are relevant.
18 And then, of course, we would try to use them, and
19 it would be up to the Court to make a determination
20 if they're admissible or not.

21 So we're asking for the opportunity for Your
22 Honor to unseal those records and allow us to see
23 the information associated with both these arrests.

24 THE COURT: Let me make sure I'm tracking it
25 evidentiary-wise. I reviewed the file in-camera.

1 The offense -- General Sessions offense was
2 expunged. All the documents in that are basically
3 procedurally -- procedural tracking documents; the
4 expungement order itself, for example, signed by a
5 circuit court judge, just tracking documents.

6 There's nothing of any substance whatsoever in
7 there that is exculpatory. And this Court fails to
8 see how another case of Mr. Jones and Ms. Jones that
9 Jones, A, charged, and, B, that she was found not
10 guilty or nol-prossed or what have you, and then her
11 record is expunged. I fail to see how that would be
12 exculpatory information for either trial or sentence
13 if Mr. Jones were to be found guilty.

14 MR. STORY: If I may address that, Your Honor?

15 THE COURT: Yes, sir.

16 MR. STORY: So, like I said earlier, this is a
17 self-defense case.

18 THE COURT: This is what?

19 MR. STORY: Your Honor, our client, in
20 statements to police, claimed self-defense.

21 THE COURT: I understand.

22 MR. STORY: So if there was -- and we believe
23 he was the victim -- the alleged victim in the 2014.
24 We know he was the victim in the 2015 domestic
25 violence.

1 THE COURT: Yes, sir.

2 MR. STORY: We believe that he was the victim
3 in the 2014 incident as well. So those facts, of
4 course, would be relevant to his apprehension of
5 bodily harm.

6 THE COURT: He can testify. He can testify.
7 But the fact that Ms. Jones was charged and her
8 charges expunged is not exculpatory. That can be
9 testified to that she was charged, perhaps. He can
10 testify to that. I'm not foreclosing him from
11 testifying.

12 MR. STORY: Absolutely not. But, of course,
13 there would be witnesses associated with that case
14 that would be exculpatory --

15 THE COURT: I don't -- well, according to the
16 file I saw, it's all procedural. That's what I just
17 said: There's nothing substantive in that file.
18 There's nothing substantive in that file except a
19 document of expungement, the tracking of the
20 document. There's nothing else whatsoever in that
21 file of substance compared to procedure. That's all
22 that's in the file is procedure.

23 MR. STORY: Yes, Your Honor. If I may, that's
24 in the file that you reviewed.

25 THE COURT: That's the only one I can look at.

1 I mean, I'm not --

2 MR. STORY: That's correct.

3 THE COURT: And I can't predict what's in an
4 unknown file that is not available to look at. I'm
5 just talking about what I looked --

6 MR. STORY: Correct, Your Honor.

7 THE COURT: If they give me another file to
8 look at, I'll look at it. But I can't -- I can't
9 look at anything that -- appears the solicitor is
10 attempting to locate that other document. And I'll
11 be delighted to look at it, if it's produced. But
12 the State's saying that Magistrate's Court can't
13 produce it. I can't assume that, A, that the file
14 even exists anymore, or, B, if it does exist,
15 there's something exculpatory in it. I don't know.

16 MR. STORY: And, Your Honor, obviously, I don't
17 know what you saw.

18 THE COURT: I told you what I've seen. I've
19 seen bureaucratic documents expunging a charge.

20 MR. STORY: So, Your Honor, it's our belief
21 that a State agency, mostly likely SLED, would keep
22 a warrant, incident report, any report --

23 THE COURT: Well, you have the power to
24 subpoena people; you've got the power to put up
25 people on the witness stand; you got the power of

1 the Court to do subpoenas and such. You know, to
2 quote Justice Sotomayor -- most people, you know,
3 go, good grief, that judge is quoting Sotomayor.
4 Lawyers make the record; judges rule on the record.
5 I can't assume something if I haven't heard it in
6 the record. That's not by way of complaint, but I
7 can't assume the State's got anything. Maybe they
8 have everything. I don't know. I don't know.

9 I can only rule on the record that's been
10 presented before me by the lawyers. And, like I
11 say, in five minutes from now or 10 minutes or 20
12 minutes or whatever, they present me a file, I'll
13 look at it. All this in this file. None of it's
14 exculpatory. And I will, of course, seal that file
15 and mark it as a Court's Exhibit. It's sealed
16 documents, whenever the case may end up going.
17 Maybe it will never be an issue. I don't know.

18 (Court's Exhibit No. 4 marked for
19 identification.)

20 MR. STORY: And, Your Honor, I'd just like to
21 be clear on what we're asking for. We're asking for
22 a continuance and an order for SLED to turn over any
23 sealed documents relating to that arrest.

24 THE COURT: Well, if you're asking me to order
25 SLED to do something, you've got to subpoena SLED

1 and give them a right to respond.

2 MR. STORY: And, Your Honor --

3 THE COURT: Well, I guess you could serve the
4 subpoena and then they could decide whether they
5 want to respond or not. But I'm not going to issue
6 an ex parte order against a person -- an entity
7 that's not a party to the case without giving them
8 substantive due process, procedural due process.

9 MR. STORY: And, Your Honor --

10 THE COURT: I don't mind hearing it at all.

11 MR. STORY: Under Brady and its progeny,
12 anything that is in the State's possession that may
13 be exculpatory, the Defense is entitled to it
14 without -- Your Honor, without a request.

15 THE COURT: The State is telling this Court
16 that they don't have it, that they're looking for
17 it. That's the other one. They have marked as an
18 exhibit, Court's 3, of what they say they have in
19 regards to the 2015. All I have seen is what you've
20 marked as Court's Exhibit 1 as the 2014. And I
21 thought what they told me is they don't have
22 anything on the 2014.

23 Is that right, Solicitor?

24 MS. MAYES: Yes, Your Honor. That's the
25 Magistrate's Court case. It's the eight-page

1 report -- I'm sorry, the 2015 case.

2 THE COURT: No. The Court's 2, which the
3 defendant marked, is the 2015 case that allegedly
4 happened on Princeton Road. And then Court's 3 is
5 what the State had marked, and it's entitled
6 assault/CDV.

7 MS. MAYES: Yes, sir, that's the eight-page
8 report associated with that arrest.

9 THE COURT: The other one is a Court's 1, which
10 Mr. Story placed in evidence and had marked as
11 Court's 1, is a notice of date and time of initial
12 appearance for Defendant. And it's got a case
13 number associated with it, appears to be a warrant
14 number. And that is criminal domestic violence of a
15 high and aggravated nature.

16 I mean, I haven't been presented with anything
17 else. I don't know how to make the State produce
18 something that the State's telling me and you
19 doesn't exist on the record I have before me. I
20 mean, I'll allow you to build whatever record you
21 want.

22 MR. STORY: Okay. Well, I understand what
23 you're saying, Your Honor. Just so it's clear, I
24 mean, we believe, based on that clerk's document,
25 that there is a Brady violation. There is

1 exculpatory information in the possession of a State
2 agency which, of course, imputed to the solicitors
3 to turn over any exculpatory information. So we
4 would ask for a continuance and allow time to
5 present that information.

6 In the alternative, we would ask for a jury
7 charge that the State has failed to produce
8 exculpatory information, that the jury may consider
9 that in their deliberation.

10 THE COURT: Well, I would decline to give a
11 charge to a jury if I ever were asked to charge a
12 jury in this case based on State vs. Dominique and
13 Hartless, which was kind of a cousin to that charge.
14 It wasn't that precise charge in that regard, but I
15 think those two cases would come to this Court's
16 mind.

17 Ms. Solicitor, has Mr. Story been provided with
18 Ms. Brown's criminal history, if any?

19 MS. MAYES: Yes, sir. The rap sheet would have
20 been run and provided.

21 THE COURT: I am going to provide this case
22 number -- or warrant number, Solicitor. I would
23 like you to research it. 2015A32110000. I'll read
24 that again, 2015A110000. Four zeros, Solicitor.
25 Research that.

1 There's nothing -- there's like six copies of
2 expungement order on 1433, the last four numbers, I
3 assume. It's five signed and one file copy unsigned
4 criminal history, which I understand has been
5 provided; I'm assuming that would be an updated
6 criminal history, three pages; some kind of what
7 appears to be a tracking document that has no form
8 number; the standard form cover letter sent
9 concerning the expungement order; an unsigned copy
10 of an order; the document you can get offline
11 concerning the expungement process; disposition
12 sheet and an envelope to parties that manage the
13 expungement, and a checklist for expungement.
14 There's nothing whatsoever exculpatory as to -- in
15 this file as to 2014A3210201433. And I will seal
16 that and have it marked as Court's Exhibit No. 4.

17 And I also have a copy of the 17-1-40 for
18 review of expungement and retention of certain
19 documents by law enforcement from the prosecution
20 agencies. It's obvious that on the '15 charge, the
21 solicitor would not have any documents related to
22 that charge and is attempting to locate any
23 documents that may exist as to that charge through
24 the Magistrate's Office.

25 Is that correct, Solicitor?

1 MS. USRY: Yes, sir, Your Honor.

2 THE COURT: So, as to 2014A3210201433, in
3 listening to all the parties, the State, and
4 Mr. Story, the Defense, reviewing Court's Exhibit 1,
5 reviewing all these other documents, I find there is
6 no violation of discovery nor Brady as to that 2014
7 charge. I'll give you an opportunity, Solicitor,
8 Mr. Story, to see if you can locate something
9 additional on the 2015 charge.

10 All right. Anything further than that at this
11 time, Mr. Story?

12 MR. STORY: Yes, Your Honor. Of course, I just
13 want to remind the Court we also had the grounds for
14 an expert witness to examine Mr. Brown --

15 THE COURT: What? I'm sorry.

16 MR. STORY: We also had the grounds that we
17 would like an expert witness to examine Mr. Brown.

18 THE COURT: Yes, sir. You're talking about
19 Dr. Maddox and Veronen and such?

20 MR. STORY: Dr. Maddox emailed me back. She
21 said she would be available to examine the defendant
22 next week; however, I know we had talked about
23 continuing this until the second term of July. She
24 wouldn't be available to testify then because she's
25 going to be out of the country, I believe, those

1 last two weeks. I have not been able to make
2 contact with any other potential experts.

3 The other issue is, obviously, you know,
4 discovery was quite voluminous. Our investigator is
5 looking at the extraction from Ann Brown's phone in
6 this case. And I'm going to turn it over to
7 Ms. Gilreath because she just got some new
8 information from the investigator in that case, if
9 the Court will allow it.

10 THE COURT: All right. Yes, ma'am?

11 MS. GILREATH: Thank you, Your Honor. So we
12 have our -- as to the phone issue, we were able to,
13 over lunch, connect our expert with the State's
14 expert who had the extraction or the forensic image
15 of the phone that was at issue that we were
16 discussing earlier that we wanted our expert to
17 review. They were put into contact over lunch.
18 They're making arrangements to get that into his
19 hands.

20 But our expert notified me that while he was
21 discussing the issue with the State's expert,
22 Mr. Vanhouten, he explained to him that, actually,
23 as it relates to the defendant's phone, there were a
24 lot things that both sides agree did not appear that
25 could be taken off the phone. There was some other

1 evidence at issue that multiple people had given
2 information to the police that there would be videos
3 and exculpatory evidence on the phone.

4 Those things weren't recovered, and so it
5 appeared they weren't there. Well, Mr. Vanhouten is
6 telling our expert today that he actually -- they
7 have new software that is able to recover what he
8 believes -- more information that was on the phone
9 that information was given by. He told our expert
10 that he had reported this to the Solicitor's Office
11 two weeks ago and said that he would be able to do a
12 new extraction and obtain additional --

13 THE COURT: Get me y'all's expert up here. Get
14 me Mr. Vanhouten up here. I want to take testimony
15 on that if that's -- if somebody -- I take that very
16 seriously, if I'm being told the wrong thing by the
17 right people or the wrong people. I'm not -- I
18 understand you as an officer of the court. I want
19 that on the record.

20 MS. GILREATH: Yes, Your Honor. We just got --

21 THE COURT: Thank you very much.

22 Get him up here this afternoon, Solicitor. Get
23 your expert up here this afternoon.

24 Ms. Henry, you have a matter? I don't want to
25 hear no more of that. I want to hear these experts.

1 If they're competing and they're saying you had
2 information two weeks ago and it was not turned
3 over, I want them up here. Y'all don't understand
4 that? I want the witnesses up here --

5 MR. STORY: As soon as possible --

6 THE COURT: Period.

7 (Trial in recess 3:05 PM - 3:50 PM.)

8 THE COURT: Solicitor? Mr. Story? Where are
9 we at? Ms. Gilreath, where are we at?

10 MS. GILREATH: Your Honor, I believe both
11 experts are here to testify.

12 THE COURT: Y'all give me some clarity on where
13 we're at with these issues.

14 MS. MAYES: Yes, sir, Your Honor. I can, from
15 the State's position. A factor in every case -- not
16 just this case, but a factor in every single case is
17 the continually updated software that these forensic
18 analysts use. So extractions that are done in 2015,
19 2016, 2017, or even, potentially, this year, there
20 is always the possibility that a later extraction
21 may reveal more information if it had been deleted
22 from the phone. But there's no guarantee of that.

23 And in this particular case, the original
24 extraction was done in 2016, I believe, early 2016.
25 It was discussed with the analyst that if he's

1 questioned about the fact that more information can
2 be obtained if he used a different method, that he
3 would acknowledge that, yes, that's the case.
4 That's in our discussion about his potential
5 testimony during cross-examination about the quality
6 of his examination.

7 And it's certainly true: In six months from
8 now, even after, potentially, this case is tried or
9 a year down the road, there will be even more
10 software available that could potentially obtain
11 information off the phone.

12 But what we know, Your Honor, is that anything
13 deleted from the defendant's phone potentially would
14 have been information that the defendant would have
15 knowledge of and that the defendant would already be
16 on notice of. We don't know what he may have
17 deleted from the phone and we don't know for sure
18 that an additional extraction would give us that.
19 But it's always possible.

20 But, in this case, we did not do an additional
21 extraction. That was the State's decision when he
22 discussed it with me because we had no reason to
23 believe that anything exculpatory would have been on
24 that phone of his that he then deleted. So we have
25 communications between the parties, the text

1 messages; we have call logs that show when calls and
2 when texts were sent. But, beyond that, if he's
3 deleted something from the phone, Your Honor, we
4 have no reason to believe that it's connected to
5 this crime.

6 This crime occurred at the Riverwalk. The
7 victim was stabbed 20 times. The majority of those
8 stab wounds were to the back. She did not have her
9 phone with her. Her phone was in her vehicle.
10 That's been confirmed by law enforcement. He did
11 not, to our knowledge, have his phone with him or on
12 his person at the time.

13 He had been using his phone just prior to that
14 and he also continued to use his phone after he left
15 the scene up until the date of his arrest on August
16 12th. All of that was determined in the extraction
17 where we recovered phone calls and text messages,
18 and they have that.

19 Now, whatever he's deleted from his phone,
20 which we believe that he had from June 15 to August
21 15, so about a two-month period that he had this
22 phone and had been using this phone, whatever he may
23 have had on that phone and deleted, Your Honor, the
24 State's position is it would be a fishing expedition
25 to continually attempt to extract deleted

1 information from that phone, unless we have specific
2 knowledge that it's related to this event.

3 THE COURT: Thank you, Solicitor.

4 Ms. Gilreath? Mr. Story?

5 MS. GILREATH: Well, Your Honor, I think our
6 position would be that law enforcement and the State
7 and, of course, the Solicitor's Office did have
8 specific information from multiple witnesses, not
9 just from Mr. Brown himself, but from multiple other
10 witnesses, that there have been, that they have seen
11 with their own eyes, at the very least, videos and
12 things like that that were exculpatory in nature.
13 There were a lot of communications between them that
14 did come -- that were on the phone and --

15 THE COURT: Why would he delete something that
16 was exculpatory? If I had a video that showed
17 that -- if I had been charged with something and it
18 was exculpatory, the last thing I would delete was
19 exculpatory information.

20 MS. GILREATH: And, Judge, I don't know
21 that it's --

22 THE COURT: That's not tracking to me.

23 MS. GILREATH: I think part of the issue is
24 that it's not necessarily that he would have
25 personally deleted it, whether intentionally,

1 inadvertently, or anything along those lines. But
2 cell phones are sort of a rolling amount of data.
3 And so it's not just the videos and things like
4 that. There were other -- my understanding is that
5 with the new software, they're able to also
6 get information from other applications --

7 THE COURT: Well, does your expert got new
8 software?

9 MS. GILREATH: Our expert, Your Honor?

10 THE COURT: Yes, ma'am.

11 MS. USRY: Our expert doesn't have access to
12 the software that the State has --

13 THE COURT: I didn't ask you that. He's the
14 expert. I don't have to -- are you asking me to
15 require the State to turn over their software for
16 y'all's expert to use?

17 MS. GILREATH: No, Your Honor. Our expert has
18 his own software. But there are different kinds of
19 software. And our understanding is that the reason
20 that -- what Mr. Vanhouten had told the Solicitor's
21 Office was that they have a new version of software
22 that is not accessible to our expert. I don't know
23 whether it would be accessible to other lay
24 experts -- or not lay experts, but nongovernment
25 experts, non-law-enforcement experts, but had

1 indicated to them that it would be able to pull more
2 deleted information off of the phone and that that
3 was what was turned down.

4 So our position was that the State had
5 information that there had been other exculpatory
6 information that people had said they had seen on
7 that phone. And so our position -- we had no idea
8 that they had the capability of accessing the phone
9 and doing a new extraction until today when we found
10 that out from Mr. Vanhouten.

11 But our position would be that because they
12 knew that there -- or there had been evidence that
13 there was possibly exculpatory information on the
14 phone and they knew that that may be there and they
15 knew they had the ability to get it and that, most
16 likely, it's not something we would be able to get,
17 that that's where the difference would be between
18 them going on a fishing expedition versus looking to
19 see what else might be obtainable on this phone.

20 MS. MAYES: The State has no objection to
21 making any software that Secret Service has
22 available to either side. We have no objection on
23 that, Your Honor.

24 But I do want to state, what they're referring
25 to was some type of recording that a defense witness

1 mentioned. That would have been -- our
2 understanding of that is that is outside the time
3 frame of this phone. This phone, when checked by
4 Secret Service, was active from June of 2015 until
5 August of 2015. Our understanding is that that
6 would have been outside the time frame.

7 I believe the witness that they're referring
8 to, Ms. Usry and I listened to that recording on
9 Thursday, which is after we first met with the
10 Secret Service agent. But that indicated to us that
11 that would have been from the 2014 incident, if it
12 existed at all.

13 THE COURT: Yes, ma'am?

14 MS. GILREATH: And, Judge, I think the other
15 issue besides the videos that, of course, we don't
16 know exactly which phone it was on, whether it would
17 have been transferred from one phone to another,
18 because, obviously, when you get a new phone, you
19 can transfer things. We don't know whether that
20 would or wouldn't have happened for certain or which
21 phone. But it was said by multiple witnesses.

22 But, in addition to that, our understanding
23 from -- based on the discovery, is that some of the
24 things that would be at issue here would be the
25 events leading up to the point of which they are

1 there at the Riverwalk. So there are communications
2 on the phone between them.

3 But there's also evidence that they were using
4 additional applications to communicate. And that
5 data was not able -- you couldn't extract that with
6 the old software, is our understanding; but with the
7 new software, that may be recoverable.

8 MS. MAYES: If that's the case, then we would
9 ask for what those applications are so that he can
10 do a specific search for those applications. That's
11 part of the problem, is he would be, at this point,
12 doing some type of extraction, looking for a needle
13 in a haystack.

14 If there was a specific app that was being
15 used, he may have the ability to search just that
16 app or new software specific to that app. The same
17 with this alleged recording. If there is a
18 recording, if counsel can tell us in good faith that
19 it would have been transferred to this phone at some
20 point in time and the method used to transfer it,
21 that would certainly aid in any potential search for
22 that item.

23 But, at this point, we just don't have that
24 information and wouldn't know where to look beyond
25 having him to do a completely new extraction, which

1 still may not reveal it if it's been deleted.

2 MS. GILREATH: And, Judge, what I would say is
3 that, as they mentioned, if the -- if their evidence
4 shows that what is on this phone would be in a
5 shorter time period, not going back years, this
6 wouldn't be as large of a quantity of data as
7 someone who had their phone for years. And there
8 are relevant things but -- for example, the pending
9 domestic violence charge that we were seeking
10 information about, that, I believe, happened in July
11 of 2015. So that's where we were thinking some of
12 that information may have been.

13 And then, additionally, in that time period,
14 leading up to this incident, would have been a
15 pretty narrow time frame there. And so if they're
16 saying that the only data that's on the phone was
17 only about two months' worth, by comparison to most
18 phones, that would not be a humongous amount of
19 data.

20 THE COURT: Thank you.

21 Anything further, Solicitor?

22 Ms. Gilreath, anything further?

23 MS. MAYES: No, sir, Your Honor.

24 MS. GILREATH: Nothing, Your Honor.

25 THE COURT: I don't think it's the Court's job,

1 nor should it be, to tell a law enforcement agency
2 nor the prosecution agency how to conduct their
3 investigation. I think that's a separation of
4 powers. That goes to the quality or, potentially,
5 the lack of quality as to the investigation.

6 If the discovery that is in the possession of
7 the State has been turned over, it's been turned
8 over. If there's exculpatory information in there
9 that the law enforcement has failed to identify that
10 is in there, that doesn't mean it hadn't been turned
11 over; it's in the possession of the Defense.

12 Now, if the Defense wants to take Officer
13 Vanhouten's offer up to assist with whatever
14 abilities or programs he has now, I think that would
15 be commendable. The State's duty is to turn it
16 over, not to highlight it, not to identify it. They
17 could give you a truckload of phone records. It's
18 not up to the State to say, item by item, this is
19 exculpatory, this is exculpatory, because what's
20 going to be exculpatory is whatever is presented and
21 whatever the Court determines is or is not
22 exculpatory.

23 If y'all have got any items of evidence, y'all
24 can review them with y'all's expert however you
25 choose. And, as I say, as I understood the

1 Solicitor, she offered -- is that right,
2 Solicitor -- -- to have Agent Vanhouten --

3 MS. MAYES: Yes, sir. The --

4 THE COURT: Not Outten. That's a different
5 era. But that -- that's fine.

6 MS. MAYES: Yes, sir, Your Honor. The ordinary
7 procedure would be for him to do a new search
8 warrant. But, if it's at the request of the
9 Defense, we'd consider this consent. But --

10 THE COURT: I thought that about that, too.

11 It's not an issue when you're requesting it,
12 Ms. Gilreath or Mr. Story, as to search, as to the
13 search warrant.

14 MR. STORY: Your Honor, my understanding is
15 you're saying the State consents to allow Mr.
16 Vanhouten to use this new software to extract --

17 THE COURT: I thought that's what the solicitor
18 said.

19 MR. STORY: Okay. Yes, Your Honor. That's
20 what the solicitor said. So yes --

21 THE COURT: I'm not ordering that, but I think
22 that's what she said.

23 MR. STORY: Okay.

24 MS. USRY: And with it being the defendant's
25 phone, we would take this also as consent by the

1 defendant without requiring a new search warrant.

2 MR. STORY: That's correct, Your Honor.

3 THE COURT: Then y'all can do that examination.

4 MS. MAYES: Yes, sir, Your Honor.

5 THE COURT: And unless something is brought
6 before me to show there's anything exculpatory, I
7 fail to find any Brady violation, based on the
8 record that's before me now, based on the record
9 that's before me now.

10 Where are you at with your expert, Ms. Veronen
11 or --

12 MR. STORY: Your Honor, Dr. Maddox?

13 THE COURT: Or Ms. Veronen.

14 MR. STORY: Whoever --

15 THE COURT: I'm not sure where we're at now.

16 MR. STORY: Dr. Maddox, as I said before, said
17 she could examine the defendant next week, but she
18 has obligations the last two weeks in July. So --

19 THE COURT: And how long have y'all had this
20 case?

21 MR. STORY: I've had this case since February
22 of 2017.

23 THE COURT: How long has the Public Defender's
24 Office had this case?

25 MR. STORY: I'm not sure.

1 THE COURT: When was he arrested?

2 MR. STORY: I believe that was August of 2015.

3 THE COURT: August of 2015. So it's right at
4 three years old; correct?

5 MR. STORY: Getting close to it, Your Honor.

6 THE COURT: Well, another 45 days plus 13, 58
7 days from being three years old. And you were
8 noticed for trial 6 June?

9 MR. STORY: That's correct.

10 THE COURT: And tell me again, Mr. Story, when
11 you started contacting -- or attempted to contact, I
12 guess I should say, battered-person experts.

13 MR. STORY: Your Honor, I believe that would be
14 the 7th of June. I tried to contact Dr. Veronen on
15 June the 9th; Dr. Maddox -- yes, Your Honor.
16 Dr. Vicki -- I beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 MR. STORY: Your Honor, I believe Dr. Boulware
19 I tried to contact, that would have been the
20 Thursday after I received the noticed for trial, so
21 June 7th, I believe. And then the day after that, I
22 called Dr. Salas. And, I apologize, I actually
23 received my response from Dr. Veronen on June 9th; I
24 emailed her June 8th.

25 And I believe I tried to contact Dr. Salas that

1 same day -- or, excuse me, the day before, the 7th,
2 and Vicki Boulware on the 7th. And I spoke to her
3 by phone. That's when I tried to contact the
4 experts, Your Honor.

5 THE COURT: Thank you.

6 Citing State vs. Colden, the trial -- there's
7 an allegation that the trial court abused its
8 discretion by rejecting a motion for continuance on
9 several grounds. The granting or denial of the
10 motion for a continuance is within the sound
11 discretion of the trial judge, citing a number of
12 cases, State vs. Babb, 299 S.C. 451, (1989), which
13 cites State vs. Dingle, 279 S.C. 278, (1983); also
14 citing State vs. Nicholson, 368 S.C. 568: No abuse
15 of discretion in denial of alternate motion for
16 continuance to obtain new expert witness in the
17 characteristics of sexual abuse victim after the
18 State, shortly before the trial, gave notice to the
19 Defense, quote, as a professional courtesy, end
20 quote, where it was not required to provide the
21 information either under Brady or Rule 5.

22 In Colden, Colden was charged and convicted
23 with kidnapping, armed robbery, and murder.
24 Colden's trial was initially scheduled for Aiken
25 County September 7th and 14th term in 2004. Just

1 before the trial was set to begin in late August of
2 that year -- that's the same year -- 2004, Colden
3 changed lawyers. He released his public defender
4 and hired private counsel, who he believed, quote,
5 would have the time to put into the case and focus
6 on it and not be overloaded, end quote.

7 On September 7th, the day the case was
8 scheduled to be called, Colden's recently retained
9 attorneys moved for a continuance, relying primarily
10 on the fact that they had become involved in the
11 case only ten days earlier.

12 It appears to me, in this case, being almost
13 three years old, and as I understand the public
14 defender being involved in the case since its
15 inception, being transferred from one assistant
16 public defender to another, I see no discovery
17 that's really been presented to me by way of Court's
18 exhibit or otherwise that the State has not turned
19 over both primarily Court's Exhibit No. 3, which I
20 think refers back to Court's Exhibit No. 2, although
21 there is also Court's Exhibit No. 1, which is the
22 notice of the date and time of initial appearance
23 for Defendant on the -- for Defendant in that case
24 being Ann Brown on the 2014 case.

25 I don't think that an attorney can have a case

1 for a reasonable amount of time when a defendant is
2 charged with attempted murder, murder, any type of
3 assault in a situation where they are cohabitating
4 parties or at least parties that have a relationship
5 as is described, in Court's Exhibit No. 2 and 3, as
6 an intimate relationship, that the attorney would
7 not consider either, A, self-defense, or, B,
8 battered spouse or battered person syndrome.

9 To wait three years till the eve of trial to
10 make such a motion, I think, is no more than
11 gamesmanship. I think they've had the discovery
12 that's in question before me; they've had not only
13 access to the owner, expert, for the electronic
14 examinations, they also have the offer by the
15 solicitor for the State's expert to provide
16 updated -- updated apps to assist in that and that
17 has been offered and I think they accept it.

18 So based on the record before me, the motion
19 for continuance is denied.

20 Do we have other motions?

21 MS. USRY: The State has a Jackson V. Denno
22 motion, Your Honor.

23 THE COURT: How long would that take, Jackson
24 vs. Denno? How many witnesses?

25 MS. USRY: Your Honor, I believe we have one

DIRECT EXAMINATION OF CALEB THOMAS BY MS. USRY

73

1 witness. There's a number of statements by the
2 defendant. I would think like 45 minutes total. We
3 have to play a couple audio clips.

4 THE COURT: Anything further before we go into
5 Jackson vs. Denno?

6 MR. STORY: No, Your Honor.

7 THE COURT: Thank you.

8 You may call your witness.

9 MS. USRY: Thank you, Your Honor. The State
10 calls Caleb Thomas to the stand.

11 THE CLERK: Raise your right hand, please.

12 CALEB THOMAS,

13 After being duly sworn, testified as follows:

14 THE CLERK: If you will state your name,
15 please, and spell your last name for the record.

16 THE WITNESS: My name is Caleb Thomas,
17 T-H-O-M-A-S, Cayce Department of Public Safety.

18 DIRECT EXAMINATION

19 BY MS. USRY:

20 Q. Thank you, Detective Thomas. What is your
21 title at Casey --

22 A. I'm an investigator.

23 Q. Thank you. And you were involved in the case
24 involving attempted murder with the defendant that
25 is currently seated across the courtroom from you?

1 A. Yes.

2 Q. You were involved in that investigation? And
3 how did you become involved in this incident that
4 occurred August 11th of 2015?

5 A. On August 11th when the call went out for an
6 assault victim that had been located at the Casey
7 Riverwalk, I was listening to the radio. And based
8 on information that was obtained from the victim, we
9 were able to determine an address where the victim
10 lived. There were also reportedly minor children at
11 that address and there was a potential that the
12 suspect may have been located at that address, so I
13 responded to Princeton Road to check on the status
14 of the children and also to look for the suspect.

15 Q. Did you locate the suspect at that location on
16 August 11th?

17 A. No, ma'am.

18 Q. And just for clarification, were you an
19 investigator in this case during that time period?

20 A. Yes, ma'am. I was working in investigations.
21 And after the incident occurred, I was assigned as
22 the lead investigator.

23 Q. And during the course of your investigation,
24 did you ever speak with a suspect in this case?

25 A. Yes, ma'am.

DIRECT EXAMINATION OF CALEB THOMAS BY MS. USRY

75

1 Q. What was his name?

2 A. Joshua Brown.

3 Q. How did you come to speak with him the first
4 time?

5 A. After I responded to Princeton Road and made
6 sure that the children were okay and the suspect was
7 not located, that address was actually turned over
8 to Lexington County deputies and I responded back to
9 our headquarters. Shortly after I responded back to
10 our headquarters, I received a phone call that was
11 transferred from our dispatch that was -- the person
12 on the other end of the phone identified themselves as
13 Mr. Brown. And I began speaking with him on the
14 phone and also started recording that conversation.

15 Q. How were you able to record that conversation?

16 A. When I realized who was calling me and dispatch
17 informed me that Mr. Brown was calling and asking
18 why the police were looking for him, I was able to
19 hit a button on my phone which started the
20 recording.

21 Q. And you indicated it was Joshua Brown, how were
22 you advised that that was Joshua Brown on the phone
23 with you?

24 A. They told me in dispatch that it was the
25 suspect that was calling wanting to know why the

1 police was looking for him. And he identified
2 himself as Joshua Brown.

3 Q. And what time did you speak with him
4 approximately?

5 A. It was approximately 2:30.

6 Q. 2:30 on the 11th?

7 A. Yes, ma'am.

8 Q. And at that point, was he in custody?

9 A. He was not.

10 Q. And at that point, did you have a warrant for
11 his arrest?

12 A. I believe I may have started working on
13 preparing a warrant, but it had not been signed by a
14 judge or issued.

15 Q. Investigator Thomas, I'm going to show you
16 what's been marked as State's 1. Do you recognize
17 that item?

18 A. Yes, ma'am.

19 Q. And what do you recognize that item to be?

20 A. It's a recording of the first phone
21 conversation, which I just described, in which Mr.
22 Brown contacted me via our dispatch.

23 Q. How do you recognize that item?

24 A. I reviewed it earlier and initialed the top
25 right-hand corner.

1 Q. Has that recording been changed in any way
2 since August 11th of 2015 when it took place?

3 A. No, ma'am.

4 Q. When you listened to it, did you notice -- or
5 did it remain -- excuse me, when you listened to it,
6 did it appear to reflect the accurate conversation
7 that occurred between you and the suspect at that
8 time?

9 A. Yes, ma'am.

10 Q. And then just continue on before we publish
11 that item, did you thereafter meet with the
12 defendant? What happened next?

13 A. The next thing that happened during this phone
14 conversation, I indicated to Mr. Brown that we were
15 looking to talk to him about the incident that
16 occurred at the Riverwalk. During that phone
17 conversation, he indicated that he would come in and
18 speak with the investigators. He advised me that he
19 had some things he had to finish doing. He also
20 indicated he might need to get a ride. But I
21 advised him -- I asked him how long it would be
22 before he could get to headquarters and he said
23 about 30 minutes. I gave him an hour. And about
24 3:30, I made a call to the same number that he had
25 contacted me at and spoke with Mr. Brown again.

1 Q. So between those two times, he did not come to
2 your office?

3 A. No, ma'am, he did not.

4 Q. And as a result of that, you called him again
5 at the same number?

6 A. I did.

7 Q. Do you recall what number that was?

8 A. I don't recall the number, but I got the phone
9 number from our dispatch that he had contacted them
10 at.

11 Q. Is there anything that would refresh your
12 memory on that number?

13 A. Yes. It was also the number that was provided
14 to Officer Whetstone by the victim, and I did a
15 supplemental report indicating that phone number.

16 Q. Would that supplemental report update your
17 memory on that number exactly?

18 A. Yes, ma'am.

19 Q. Is your supplemental -- well, is this your
20 file?

21 A. Yes, ma'am.

22 Q. Please refresh your memory on that number.

23 A. In the investigative notes, I indicated that
24 the number given to us by the victim was
25 (803) 210-5208. That would have also been the

1 number that was used to contact Joshua Brown.

2 Q. How were you able to confirm that that was the
3 number that was used?

4 A. When I received the first call from him, I went
5 to dispatch and asked them for the number that had
6 contacted dispatch and had been transferred to my
7 phone. They indicated that it was that phone
8 number. And also when I contacted him again, he
9 answered that phone.

10 Q. So when you called him back, remind me again,
11 you said it on the record, but what time did you
12 call him back?

13 A. Approximately 3:30.

14 Q. And did you record that phone call as well?

15 A. I did.

16 Q. Did you record that the same means you recorded
17 the first phone call?

18 A. Yes, ma'am.

19 Q. I'll show you what's been marked as State's
20 Exhibit 2. Do you recognize that?

21 A. Yes, ma'am. This is the recording of the
22 second phone call between myself and Joshua Brown.

23 Q. And how do you recognize that?

24 A. Again, I reviewed it earlier and my initials
25 appear at the top right-hand corner.

1 Q. And had that recording changed in any way since
2 it occurred on August 11th of 2015?

3 A. No, ma'am.

4 Q. And are you aware whether the recording device
5 you used at your desk that time was working
6 properly?

7 A. It was.

8 Q. And at this time when you talked to him on the
9 phone, was the defendant in custody?

10 A. No, he was not.

11 MS. USRY: Your Honor, at this time -- I beg
12 the Court's brief indulgence.

13 (Pause.)

14 Q. That phone call that you had with Defendant
15 Brown on August 11th of 2015, can you describe to
16 me, the second one, the contents of that call?

17 A. The second phone call was made asking Mr. Brown
18 if he was still planning on coming to speak with the
19 investigators. He again tried to explain that he
20 was coming. I asked him again if he needed
21 assistance with a ride or if he needed us to come
22 meet him somewhere to discuss the incident. He
23 wouldn't offer any assistance where his location
24 was. And, again, indicated he was going to come
25 talk with investigators, indicated that that was a

DIRECT EXAMINATION OF CALEB THOMAS BY MS. USRY

81

1 good phone to contact him at and that he would be in
2 soon, but he never did show up.

3 Q. Did the defendant come in to see you that day?

4 A. No, he did not.

5 Q. Did you ever see him on August 11th of 2015?

6 A. No, I did not.

7 Q. Did you obtain an arrest warrant for him?

8 A. Yes, we did.

9 Q. What date did you do that on?

10 A. That would have been on the 11th.

11 Q. On the 11th?

12 A. Yes, ma'am.

13 Q. Sometime during that afternoon on the 11th?

14 A. Yes, ma'am.

15 Q. Did you ever make contact with the defendant?

16 A. Not on the 11th. It was the next morning when
17 he was arrested.

18 Q. Tell me about that contact.

19 A. The fugitive task force was contacted for
20 assistance in locating Mr. Brown. They contacted us
21 the following morning, on August 12th, and indicated
22 that they believed he may be at 525 Alcott Drive at
23 the residence of April Carter. Myself and a couple
24 other officers from the Casey Police Department met
25 with the fugitive task force out there. I would

1 have been in the parking lot. And they responded to
2 Ms. Carter's apartment, located her as well as Mr.
3 Brown. And he was placed in handcuffs and brought
4 out to me where I advised him that he was under
5 arrest for the attempted murder charge.

6 Q. And tell me, at that time, did you Mirandize
7 Defendant Brown?

8 A. I did verbally give Mr. Brown his Miranda
9 warnings.

10 Q. Prior to giving his Miranda warnings, did he
11 give any statements to you?

12 A. He began talking about the fact that he was
13 going to turn himself in. He indicated that he was
14 going to at some point. And I told him at that time
15 that we had the arrest warrant and that he was under
16 arrest at that time.

17 Q. And describe for me at that time how you
18 Mirandized him.

19 A. It was a form that we used for actual written
20 advice of Miranda and the waiver at the bottom. I
21 would have used a blank form just to advise him
22 verbally. He was under arrest with handcuffs on.
23 He also had an injury to his hand, so I didn't do a
24 written, but I did advise him verbally of the
25 warnings. I also explained to him that I was not

DIRECT EXAMINATION OF CALEB THOMAS BY MS. USRY

83

1 going to ask him any questions at the scene, that I
2 was going to transfer him to the Casey Police
3 Department headquarters for an interview. But I did
4 advise him of the warnings, but did not explain the
5 waiver to him.

6 Q. So at that time while on scene, at arrest, you
7 verbally advised him of his Miranda warnings. Did
8 he ever actually go through the full advice of
9 rights form?

10 A. He did that once we returned to the Casey
11 Police Department.

12 Q. When you at the scene of arrest advised him of
13 his rights, did you use the same form that you would
14 have used later for advice of rights?

15 A. Yes, ma'am.

16 Q. It would have just been blank at that point?

17 A. Yes, ma'am.

18 Q. Did he verbally agree -- or did he appear to
19 understand what you were saying when you verbally
20 advised him?

21 A. He did.

22 Q. I'm showing you what's been marked as State's
23 Exhibit 3. Is that the form used by your
24 department?

25 A. Yes, ma'am.

1 Q. And just -- I'm sticking with at the arrest and
2 when you verbally read it. I believe that State's 3
3 is the form he later fills out at the scene -- or at
4 Casey Police Department. But sticking with where we
5 are right now, would those be the rights that you
6 would have read to him verbally?

7 A. Yes, ma'am.

8 Q. That's one through six on State's 3?

9 A. Yes, ma'am.

10 Q. Will you read those rights for me as you read
11 them to him?

12 A. Sure. It says: I have the right to remain
13 silent, that means I do not have to say anything or
14 answer any questions. Anything I say can be used
15 against me in a court of law. I have the right to
16 talk to a lawyer and have a lawyer with me now and
17 to advise me before and during questioning. If I
18 want to have a lawyer with me before and during
19 questioning but cannot afford to pay a lawyer, one
20 will be provided to me at no cost before and while I
21 am being questioned. If I decide to answer
22 questions now without a lawyer here, I still have
23 the right to stop answering questions whenever I
24 want to. I also have the right to stop answering
25 questions until I have talked to a lawyer.

1 Q. And when you read these rights to the
2 defendant, did he appear to be under the influence?

3 A. He did not.

4 Q. And did you intend to question him at that
5 time?

6 A. I did not. I even advised him that I was not
7 going to ask him any questions or discuss anything
8 about the incident.

9 Q. And tell me, did he ever make any statements to
10 you after you read these verbal warnings to him?

11 A. Like I said, while we were on the scene and
12 about to transport him back to the Casey Police
13 Department, he again indicated that he was planning
14 on turning himself in at some point. He indicated
15 that he knew the police were looking for him because
16 they had contacted some of his family members. And
17 then the only other thing he said on the way back as
18 I was driving back to police headquarters was he
19 asked about the attempted murder charge. And he
20 said the person that was the victim in the case, he
21 inquired as to whether or not if they were going to
22 be okay or if they were going to live.

23 Q. Were any of those statements in response to
24 questions that you asked?

25 A. No.

1 Q. During the drive, did you ask him any
2 questions?

3 A. The only questions I may have asked him would
4 have been where he was originally from and where he
5 went to high school.

6 Q. What was the purpose of those questions?

7 A. Just general conversation?

8 Q. You didn't ask him questions about this case --

9 A. No.

10 Q. -- during the transport?

11 A. Again, I advised him on the scene that I was
12 not going to talk with him about the incident until
13 we got back to police headquarters.

14 Q. Well, then, tell me what happens when you get
15 back to police headquarters?

16 A. I was actually met by Jason Merrill, who was an
17 investigator at the time, and he and I sat down with
18 Mr. Brown, and Mr. Brown then was asked to complete
19 this written advice of rights. I filled out the top
20 section and explained it to him. We again went over
21 his rights and he initialed them. We, also, at that
22 time, went over the waiver of rights and he
23 immediately signed them.

24 Q. And when you say this form, you're referring to
25 State's 3?

DIRECT EXAMINATION OF CALEB THOMAS BY MS. USRY

87

1 A. Yes, ma'am.

2 Q. So it indicates on here that the defendant --
3 or was he advised at that time of what he was
4 charged with?

5 A. Yes, he was.

6 Q. Is it written on the advice of rights form?

7 A. Yes. On the top section underneath his
8 personal information and my name, it also advises
9 him that we would like to question him concerning
10 the crime of attempted murder.

11 Q. Would you have filled out the top section of
12 this warrant prior to reading the form to him?

13 A. Yes, ma'am.

14 Q. And describe to me how you go through the form
15 with him exactly.

16 A. I would have him where he can actually see the
17 form and go over it line by line, and then have him
18 initial each one of the advice of rights. And then
19 once he initials those, we would go over the waiver
20 of rights and ask him if he would like to speak to
21 investigators. And then if he did, he would need to
22 sign the waiver of rights. And, again, he affixed
23 his signature on it.

24 Q. Who else is present at the reading of Miranda?

25 A. Sergeant Merrill would have been present during

1 this written advice of rights.

2 Q. And I know you've already published one through
3 six for us on the record from this form, are these
4 the same one through six that you would have read to
5 him at the time of signing Miranda?

6 A. Yes, ma'am.

7 Q. And the signatures to the left of one through
8 six, are those Defendant Brown's initials?

9 A. The initials, yes, ma'am.

10 Q. And does he initial each right as you go
11 through it?

12 A. He may have initialed them as we went through
13 them or he may have initialed them all once we went
14 through all six.

15 Q. Did his responses to you when you're going
16 through his rights seem rational and appropriately
17 responsive?

18 A. Yes, it was.

19 Q. And did you ever threaten or coerce him into
20 speaking with you?

21 A. No, ma'am.

22 Q. When you asked him whether or not he wanted an
23 attorney, did he ever ask for an attorney?

24 A. No, he did not.

25 Q. Did he ultimately agree to speak with you

DIRECT EXAMINATION OF CALEB THOMAS BY MS. USRY

89

1 without an attorney being present?

2 A. Yes, ma'am.

3 Q. And during the course of questioning, did he
4 ever change his mind about wanting to speak with
5 you?

6 A. No, ma'am.

7 Q. And was this statement recorded?

8 A. It was.

9 Q. I'm showing you State's Exhibit 4. Do you
10 recognize that item?

11 A. I do. It's the recording of the interview of
12 Mr. Brown with myself and Jason Merrill present.

13 Q. Does that recording also contain the advice of
14 rights and the ultimate waiver of rights on it?

15 A. It does.

16 Q. During the course of your conversation with the
17 defendant, did you ever learn whether or not he
18 consumed any alcohol?

19 A. I believe he did indicate he had had some
20 alcohol and we asked him if that was -- if he was
21 currently under the influence of that alcohol and if
22 it affected his judgment. And in our opinion, he
23 was not under the influence to the point that he was
24 not aware of what he was doing.

25 Q. Did he appear to understand the questions you

1 asked him?

2 A. He did.

3 Q. Did he appear to appropriately respond to all
4 questions that you asked him?

5 A. Yes, ma'am.

6 MS. USRY: Your Honor, the State is done with
7 this witness. We do have the exhibits that we can
8 publish if Your Honor finds it necessary as part of
9 this hearing.

10 THE COURT: Thank you, Solicitor.

11 Mr. Story?

12 MR. STORY: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. STORY:

15 Q. Investigator Thomas, you said you Mirandized
16 him verbally in the car, right?

17 A. I'm sorry?

18 Q. You just testified that you repeated his
19 Miranda rights in the car?

20 A. That's correct.

21 Q. Okay. Did he tell you what level of education
22 he had or did you have any indication of that?

23 A. Again, I don't believe I asked him that on the
24 scene. Like I said, I did discuss with him what
25 school he went to.

1 Q. You did, and did he respond to that?

2 A. I don't recall what his response to that was.

3 Q. Did you have any knowledge of his level of
4 education?

5 A. Not on the scene, no, I didn't.

6 Q. You indicated that he told you he had consumed
7 some alcohol that night, but you didn't smell any
8 alcohol or see any indications of being intoxicated?

9 A. No, sir.

10 Q. About how much alcohol did he indicate, if you
11 recall, that he consumed?

12 A. I don't recall. Like I said, he indicated that
13 that was the previous night. This would have been
14 the morning that he was arrested.

15 Q. You don't recall him saying he had about half a
16 bottle of vodka or Red's Apple ale, things like
17 that?

18 A. I don't recall that, no, sir.

19 MR. STORY: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 BY MR. STORY:

22 Q. You don't recall telling him that you could
23 tell he had had something to drink?

24 A. Again, the only discussion I recall with him
25 about alcohol was the alcohol he had consumed the

1 previous night.

2 Q. Right, but you testified you didn't see any
3 indication that he was intoxicated?

4 A. No, I didn't.

5 Q. And you don't recall telling him that you could
6 tell he had been drinking or anything to that
7 effect?

8 A. The previous night. I may have, I don't
9 know --

10 Q. I'm sorry, when you say the previous night, you
11 say it seemed like he had been drinking the previous
12 night?

13 A. He indicated that he had been drinking the
14 previous night.

15 Q. But you couldn't tell signs of him being
16 intoxicated?

17 A. Not intoxicated.

18 Q. About what time was the actual interview, did
19 that take place?

20 A. The written waiver of rights was at 11:32 in
21 the morning.

22 Q. And the recording takes place after that,
23 correct?

24 A. The advice of rights is on the recording.

25 Q. Okay. And he only indicated to you that he'd

CROSS-EXAMINATION OF CALEB THOMAS BY MR. STORY

93

1 been drinking the previous night?

2 A. Yes, sir.

3 MR. STORY: That's all the questions we have.

4 THE COURT: Redirect, Solicitor?

5 MS. USRY: No, Your Honor.

6 THE COURT: Thank you very much, Detective
7 Thomas.

8 All right. Next witness, Solicitor.

9 MS. USRY: No further witnesses on this issue,
10 Your Honor.

11 THE COURT: Thank you, Solicitor.

12 Mr. Story, does the defense intend to present
13 any evidence or testimony?

14 MR. STORY: We do not.

15 THE COURT: Thank you. Thank you very much.

16 I'll be glad to hear from you, Solicitor?

17 MS. USRY: Thank you, Your Honor. The first
18 two statements in this case that were made on August
19 the 11th that were both recorded by Detective Thomas
20 with the defendant, State's 1 and 2, I believe, the
21 defendant is clearly not in custody. We do not
22 believe those are custodial statements in any nature
23 or manner, so they would be voluntary.

24 The statement made the following day on the
25 12th when he was first arrested and they were on

1 scene at Alcott Drive, the defendant's statements to
2 Investigator Thomas at that time were unresponsive
3 to questions per Detective Thomas' statement on the
4 stand just now, Your Honor, that very brief
5 conversation he had with him. Regardless, they were
6 after Miranda warnings were given to Detective
7 Thomas.

8 And the final set of statements that occurred
9 at the Casey Police Department, the headquarters
10 there, they were done after a full advisement of
11 Miranda warning form was signed by the defendant at
12 11:32 that morning in the presence of two Casey
13 Police Department officers. That interview
14 thereafter took place with the defendant after he
15 was fully advised of his Miranda warnings. He,
16 according to Detective Thomas, was responsive
17 appropriate to all questions. While he may have
18 consumed alcohol, he did not appear to be under the
19 influence. He was not coerced in any manner to make
20 these statements. And the, I believe it's State's 4
21 that is up there is a full recording of that
22 interview and is clear from that recording itself
23 that these statements were voluntary.

24 THE COURT: Thank you, Solicitor.

25 Mr. Story?

1 MR. STORY: Briefly, Your Honor. There was
2 some indication that the defendant had been drinking
3 and we would argue that renders these statements
4 involuntary.

5 THE COURT: Thank you, Mr. Story.

6 Based on the record before me, I would find
7 that State's for identification 1 and 2, is that
8 correct --

9 MS. USRY: Yes, sir, Your Honor, 1 and 2.

10 THE COURT: Would not be custodial
11 interrogations. As I understand it, those phone
12 calls would not be subject to Miranda analysis. As
13 to State's 3, 4 and 5, all of those were given
14 post-Miranda. I take into account all the totality
15 of the facts and circumstances, including if there
16 is some testimony that he may have been drinking the
17 night before his statements were taken at the Casey
18 Police Department at the beginning time of
19 11:30 a.m. The night before would be a minimum of
20 12 hours. The officer has testified it was done and
21 corroborated there was no evidence he was
22 intoxicated. He appears to have understood and
23 responded in a rational manner. There's no evidence
24 of any coercion, threats, or anything of that type.
25 Therefore, I would find that the statements are

1 admissible based on the preponderance of the
2 evidence. That they were freely, voluntarily,
3 knowingly and intelligently made.

4 All right. Any other motions?

5 MR. STORY: Your Honor, at the beginning of
6 trial, we would ask to sequester all the witnesses
7 except for, of course, the investigation and victim.

8 THE COURT: I follow State vs. Carmack. If a
9 witness has been interviewed and there is a sworn
10 statement given, I do not require sequestration. I
11 do not require sequestration of expert witnesses.
12 I, of course, do not require sequestration of the
13 victim. I do not require sequestration of the chief
14 investigating officer or the evidence custodian.

15 All right. Any other motions?

16 MS. MAYES: Your Honor, regarding the
17 defendant's phone, I believe there's been a motion
18 by the defense that he originally signed a consent
19 to search form for that original extraction. That
20 was on August 12th, 2015, and that was at the
21 request of Investigator Merrill. So we just wanted
22 to make sure there aren't any issues for that phone.

23 THE COURT: Any issue as to defendant's consent
24 as to the phone, Mr. Story?

25 MR. STORY: No, Your Honor. We just consented

1 to a further extraction of the phone. We have no
2 issue with the original consent.

3 THE COURT: Thank you, Mr. Story.

4 Anything further, Solicitor?

5 MS. MAYES: We foresee, Your Honor, that in the
6 morning one of our initial witnesses would be the
7 responding officer. She is Officer Whetstone. She
8 responded at the scene. She has a dash cam video,
9 which is somewhat new technology. We haven't used
10 that a lot in cases, but it certainly captures the
11 statements of the victim, which the State would
12 offer pursuant to excited utterance, presence of
13 expression, things of that nature. That video has
14 been turned over to the defense, I believe, back in
15 2016. The State has redacted the initial portion of
16 that dash cam video where the radio traffic is
17 relating to the officer what may have occurred at
18 the scene, but the State does intend to offer that
19 dash cam video tape during the testimony of Officer
20 Whetstone.

21 THE COURT: All right. Mr. Story?

22 MR. STORY: No, Your Honor. No objection.

23 THE COURT: All right. Thank you, Solicitor.

24 MS. MAYES: That's fine. We just wanted to
25 cover that in advance. We do expect that testimony

1 some time prior to lunch.

2 And then, finally, Your Honor, you have heard
3 that there were two charges, one being a CDV high
4 and aggravated nature and one being a CDV third
5 degree, which were expunged. It appears that case
6 law dating back to Clinkscales would limit that type
7 of testimony as to any specifics or details, so we
8 just will need a determination at some point
9 tomorrow as to the extent that that may be explored.

10 THE COURT: Thank you, Solicitor.

11 Anything further?

12 MS. MAYES: No, sir, Your Honor. Other than
13 that the State would certainly make a motion in
14 limine for anyone that goes beyond the existing case
15 law, such as Clinkscales in that regard.

16 THE COURT: All right. Court will be in recess
17 until 10:00 in the morning. Thank you very much.

18 (The following proceedings were held June 19,
19 2018.)

20 THE COURT: All right. Madam Clerk, is the
21 full panel here?

22 THE CLERK: No, sir, Your Honor. We're missing
23 two jurors, Number 107 and Number 123. All others
24 are present.

25 THE COURT: 107 and 1- --

1 THE CLERK: -23. Yes, sir.

2 THE COURT: And neither one of those were
3 excused for the day or the week or transferred or
4 anything of that nature?

5 THE CLERK: No, sir.

6 THE COURT: Would you have someone from your
7 office check on them, please? Could be the sheriff,
8 if you want to put it on the sheriff.

9 THE CLERK: Yes, sir.

10 THE COURT: I just want to make sure they're
11 all right. And if they're available, please have
12 them report, and we'll press on.

13 THE CLERK: Yes, sir.

14 THE COURT: Solicitor, if you would call your
15 first case for trial, please.

16 MS. MAYES: May it please the Court?

17 Your Honor, before you is Indictment
18 No. 2016-GS-32-00873, the State of South Carolina
19 vs. Joshua Thomas Brown. This indictment is for
20 attempted murder. The defendant is present in the
21 courtroom and represented by counsel.

22 THE COURT: Thank you, Solicitor.

23 Mr. Story, do you represent Joshua T. Brown?

24 MR. STORY: Yes, Your Honor.

25 THE COURT: Is Mr. Brown present in the

1 courtroom?

2 MR. STORY: He is.

3 THE COURT: Is the Defense ready for trial?

4 MR. STORY: We are, Your Honor.

5 THE COURT: Thank you, Mr. Story.

6 Do you have the proposed voir dire, Mr. Story?

7 Perhaps it's up here.

8 MR. STORY: We have not submitted written voir
9 dire, Your Honor.

10 THE COURT: All right. Any other requests you
11 would like me to ask the jury during my
12 qualifications?

13 MR. STORY: Yes, Your Honor. We would ask if
14 any member of the jury panel has been, themselves or
15 a close family member, victim of domestic violence
16 or violent crime, Your Honor. Also, any member of
17 the jury panel is a member of an organization of --

18 THE COURT: I typically cover that. And if at
19 the end of my voir dire I have not covered it, I'll
20 ask y'all to step up here, and I'll certainly
21 consider it.

22 MR. STORY: Thank you, Your Honor.

23 THE COURT: Thank you, Mr. Story.

24 Ladies and gentlemen of the jury panel, if you
25 would please give me your complete and undivided

1 attention.

2 As you recall yesterday, we -- you were
3 qualified to serve as members of a jury panel in
4 this court. Now we're going to go through a
5 procedure whereby we select a trial jury for the
6 trial of this specific case that has been called for
7 trial by the State, the State vs. Joshua Thomas
8 Brown.

9 I would ask you, having been placed under oath
10 yesterday, to please consider yourselves still under
11 oath. In going through this procedure, I will ask
12 you certain questions to determine your
13 qualifications, as I say, as to this particular
14 trial. Please remember that I would expect your
15 responses to be full, complete, and accurate.

16 In a moment, I'm going to read or publish to
17 you the indictment. The indictment is not evidence.
18 The indictment is a formal charging document by
19 which an individual is placed on notice of the
20 charges that have been brought against him or her.
21 It contains mere allegations and in no sense is it
22 evidence of the allegations contained therein. I
23 read the indictment to you because of questions that
24 I will have to ask you determining your
25 qualifications.

1 Indictment 2016-GS-32-00873, the State vs.
2 Joshua Thomas Brown, the indictment reads that
3 Joshua Thomas Brown, in Lexington County, South
4 Carolina, on or about August the 11th, 2015, did,
5 with the intent to kill, attempt to kill another
6 person with malice aforethought, either expressed or
7 implied, to-wit: The defendant, Joshua Thomas
8 Brown, did stab and/or cut the victim multiple times
9 about the body with a knife or knife-like object in
10 violation of 16-3-0029 of the South Carolina Code of
11 Laws, 1976, as amended. That is an indictment for
12 attempted murder.

13 The State, the party to my front right, is
14 represented by assistant Solicitors Mayes and Usry.
15 If you'll please stand and introduce yourself to the
16 jury panel and any other member of the solicitor's
17 office that may be with you in the presentation of
18 this case.

19 MS. MAYES: My name is Suzanne Mayes. I'm
20 deputy solicitor here in the 11th Judicial Circuit.
21 That includes Lexington County, Saluda County,
22 Edgefield County, and McCormick County.

23 MS. USRY: I'm Kate Usry. I'm assistant
24 solicitor here as well.

25 MS. MAYES: Also present and part of the

1 prosecution staff is Investigator James Sullivan of
2 the Solicitor's Office; paralegal Madison Lundy of
3 the Solicitor's Office; and victim advocate Heather
4 Clamp, also with the Solicitor's Office.

5 THE COURT: Thank you. Thank you very much,
6 Solicitors.

7 The defendant, Mr. Brown, is represented by
8 Mr. Story, Ms. Gilreath, perhaps others.

9 Mr. Story, would you please stand and introduce
10 yourself and any other attorneys that may assist you
11 in the preparation of the trial of this case and
12 your client.

13 MR. STORY: Yes, Your Honor. Thank you. My
14 name is Steven Russell Story. I have the pleasure
15 of representing Mr. Joshua Thomas Brown. I'm also
16 here with Ms. Jael Gilreath and Mr. Jason Turnblad
17 as well, they're both attorneys in our office, and
18 Ms. Lisa Williams, our investigator/paralegal.

19 THE COURT: Thank you, Mr. Story, Ms. Gilreath
20 and Mr. Turnblad.

21 Beginning with the attorneys, ladies and
22 gentlemen, is any member of the jury panel related
23 by blood or marriage or personal friends, have any
24 social, business, or professional relationship with
25 any of the attorneys involved in either the

1 prosecution or the defense of this case? If so,
2 please stand.

3 Is any member of the jury panel related by
4 blood or marriage, personal friends, have any
5 social, business, or professional relationship with
6 any of the employees of the Lexington County or the
7 11th Circuit Solicitor's Office? If so, please
8 stand.

9 Your number, please?

10 POTENTIAL JUROR: Juror 120.

11 THE COURT: Personal friend? Social?
12 Business?

13 POTENTIAL JUROR: I work with the wife of one
14 of the solicitors --

15 THE COURT: Worked with who? I'm sorry. My
16 speakers aren't working. I'm not going to blame it
17 on my ears, but sometimes they don't work either.
18 But tell me again.

19 POTENTIAL JUROR: I work with the wife of a
20 solicitor's employee and we occasionally go out
21 outside of the office. So casual friends.

22 THE COURT: Given those facts, can you be a
23 fair and impartial juror in the trial of this case
24 for both Mr. Brown and the State?

25 POTENTIAL JUROR: Yes, sir.

1 THE COURT: And tell me your number.

2 POTENTIAL JUROR: 120.

3 THE COURT: Thank you very much. You may be
4 seated.

5 Any others?

6 Number, please?

7 POTENTIAL JUROR: 159.

8 THE COURT: Your response?

9 POTENTIAL JUROR: I'm very good friends with a
10 lady that works at the Solicitor's Office.

11 THE COURT: Who would that be?

12 POTENTIAL JUROR: Rhonda Robinson.

13 THE COURT: Given that fact, can you be a fair
14 and impartial juror in the trial of this case for
15 both Mr. Brown and the State?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: Thank you. You may stay with us.

18 Any others?

19 Is any member of the jury panel ever been a
20 party to a case, plaintiff, defendant, victim, or
21 otherwise, in which any of the attorneys were
22 representing you or the opposing party? If so,
23 please stand.

24 Has any member of the jury panel ever been a
25 witness in the trial of a case when any of the

1 attorneys were representing one of the parties in
2 the case? If so, please stand.

3 Is any member of the jury panel related by
4 blood or marriage, have any personal, social,
5 business, or professional with Mr. Joshua T. Brown,
6 who was previously introduced to you? If so, please
7 stand.

8 The indictment alleges an incident of attempted
9 murder which occurred on or about the 11th of August
10 2015 in Lexington County, wherein the victim
11 allegedly was stabbed a number of times with a knife
12 or a knife-like object.

13 Does any member of the jury panel have any
14 knowledge of the facts of the case from any source
15 whatsoever; heard talk about it, hearsay, radio,
16 television, internet? If so, please stand.

17 Has any member of the jury panel formed or
18 expressed any opinion whatsoever about the guilt or
19 the innocence of Mr. Brown? If so, please stand.

20 Considering the allegations of the indictment,
21 does any member of the jury panel have any concerns
22 about being a member of the trial jury in this case
23 based on those allegations? If so, please stand.

24 Any member of the jury panel or any member of
25 your immediate family ever been a victim of or

1 accused of or investigated for any act of violence
2 or crime of violence; for example, an assault, a
3 domestic violence, or crimes of that nature? If so,
4 please stand.

5 All right. If y'all would please line up in
6 the center aisle for me.

7 THE BAILIFF: Juror No. 70, Your Honor.

8 THE COURT: Good morning, sir. Tell me your
9 response.

10 POTENTIAL JUROR: Yes, sir. My uncle was
11 murdered in October of 2015. He was stabbed to
12 death.

13 THE COURT: Where at?

14 POTENTIAL JUROR: Lordstown, Ohio.

15 THE COURT: Given that fact, can you be a fair
16 and impartial juror in the trial of this case for
17 both Mr. Brown and the State?

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Any doubt in your mind about that?

20 POTENTIAL JUROR: No, sir.

21 THE COURT: Thank you. I believe you can stay
22 with us.

23 POTENTIAL JUROR: Thank you.

24 THE COURT: Thank you very much.

25 Yes?

1 THE BAILIFF: Juror No. 79, Your Honor.

2 THE COURT: Good morning. Yes, sir, your
3 response?

4 POTENTIAL JUROR: Both my mother-in-law and
5 grandmother were victims of domestic violence and I
6 was a witness to both.

7 THE COURT: Can you give me a time frame?

8 POTENTIAL JUROR: My mother-in-law has lived
9 with me for about the past five years after it
10 happened. And when I was a child, I was witness to
11 my grandfather.

12 THE COURT: Given those facts, can you be a
13 fair and impartial juror in the trial of this case
14 for both Mr. Brown and the State?

15 POTENTIAL JUROR: Probably not.

16 THE COURT: I'll set you aside for the trial of
17 this case. Please do not say anything to your
18 fellow jurors. Thank you. You may return to your
19 seat.

20 POTENTIAL JUROR: Thank you.

21 THE COURT: Yes?

22 THE BAILIFF: Juror 185, Your Honor.

23 THE COURT: Good morning. And your response
24 for that question, please?

25 POTENTIAL JUROR: My brother was murdered in

1 '95 helping a female that was being aggressively
2 attacked by a gentleman.

3 THE COURT: Where did this happen?

4 POTENTIAL JUROR: In Baltimore, Maryland.

5 THE COURT: Given that fact, can you be a fair
6 and impartial juror in this case for both Mr. Brown
7 and the State?

8 POTENTIAL JUROR: I don't see why not.

9 THE COURT: Any doubt in your mind about that?

10 POTENTIAL JUROR: No, sir.

11 THE COURT: Yes, sir.

12 THE BAILIFF: Juror No. 189, Your Honor.

13 THE COURT: Good morning. Can you tell me your
14 response to that question?

15 POTENTIAL JUROR: Yes. My sister, her
16 ex-husband used to beat her up, hold a gun to her
17 head. They had a child. She'd be holding the child
18 and he'd still hold a gun to her head. And the
19 child grew up to be abused also.

20 THE COURT: Given those facts, can you be a
21 fair and impartial juror in the trial of this case
22 for both Mr. Brown and the State?

23 POTENTIAL JUROR: I don't think so.

24 THE COURT: All right. Juror 189 is set aside
25 for this trial.

1 Please do not say anything to your fellow
2 jurors.

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: Thank you.

5 Yes?

6 THE BAILIFF: Juror No. 159, Your Honor.

7 THE COURT: Good morning.

8 POTENTIAL JUROR: Good morning.

9 THE COURT: Tell me your response to that.

10 POTENTIAL JUROR: I have an uncle that's
11 currently incarcerated in Allendale Correctional
12 facility for sex offender.

13 THE COURT: And, given that fact, can you be a
14 fair and impartial juror in the trial of this case
15 for Mr. Brown and the State?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: Thank you. I believe you can stay
18 with us.

19 Yes, sir?

20 THE BAILIFF: Juror No. 109, Your Honor.

21 THE COURT: Good morning. Tell me your
22 response to that.

23 POTENTIAL JUROR: I'm actually a defendant in a
24 case that's coming up next month for domestic, being
25 accused, actually.

1 THE COURT: Where is it at?

2 POTENTIAL JUROR: Here.

3 THE COURT: In Lexington County? And it's
4 being prosecuted by the 11th Circuit Solicitor's
5 Office?

6 POTENTIAL JUROR: I believe so.

7 THE COURT: Do you know who the prosecutor is?
8 If you don't, that's fine.

9 POTENTIAL JUROR: I don't.

10 THE COURT: Given the fact that you have a
11 pending charge being prosecuted by the Solicitor's
12 Office, can you be a fair and impartial juror in the
13 trial of this case for the State --

14 POTENTIAL JUROR: I don't know that I can.
15 Honestly, I --

16 THE COURT: Just tell me your response.

17 POTENTIAL JUROR: I mean, I guess I can. I'm
18 not sure.

19 THE COURT: Tell me your uncertainty. Can you
20 put it in words for me? Enlighten me a little bit
21 on it. I don't want to put words in your mouth.
22 You understand what I'm saying?

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: My goal is to select a fair and
25 impartial jury in the trial of this case for both

1 Mr. Brown and the State.

2 POTENTIAL JUROR: I guess I can.

3 THE COURT: Okay. When you say guess --

4 POTENTIAL JUROR: Yes. Yes.

5 THE COURT: -- give me a little bit more.

6 POTENTIAL JUROR: Yes, I can.

7 THE COURT: Any doubt in your mind about that?

8 POTENTIAL JUROR: No.

9 THE COURT: Why the hesitancy? There's no
10 wrong answer. Whatever answer you give me is the
11 right answer.

12 POTENTIAL JUROR: I guess I can.

13 THE COURT: You can stay with us.

14 Yes?

15 THE BAILIFF: Juror No. 53, Your Honor.

16 THE COURT: Morning. Tell me your response.

17 POTENTIAL JUROR: My aunt and uncle were having
18 problems. My parents lived next door. As soon as
19 my parents went out of town, my uncle jumped on my
20 aunt and pommeled her. I was the only one
21 responsible and he threatened to kill me, which I
22 thought was behind me. But when it was mentioned,
23 I'm like --

24 THE COURT: How many years ago did that happen?

25 POTENTIAL JUROR: That's a long time ago. I

1 was in high school. This was 30 years ago. That's
2 why I thought it would be okay.

3 THE COURT: Given the fact that this happened
4 in your life, can you set that aside and be a fair
5 and impartial juror in the trial of this case, both
6 for Mr. Brown and the State?

7 POTENTIAL JUROR: I feel like after those many
8 years, I should be able to.

9 THE COURT: Well, you understand if you're
10 selected as a member of the trial jury, you and
11 other members of the jury will be tasked with
12 reaching a verdict, holding the State to its burden
13 of proof beyond a reasonable doubt based on the
14 evidence and testimony that you hear in this
15 courtroom in this trial, setting side what may have
16 happened in your life personally? You can't leave
17 your common sense and good judgement out there in
18 the parking lot. Some people can. I'm not talking
19 or being disrespectful to the jury.

20 Being a juror in the trial of the case, you
21 base your decision on what happens in this
22 courtroom; in the backdrop is your good judgment and
23 common sense. You can't say he's guilty because
24 so-and-so. He's presumed innocent as he sits right
25 now. As Mr. Brown sits here right now, he's

1 presumed innocent in the case completely. It's a
2 constitutional right for all of us. It's not making
3 a decision based on -- there's no wrong or right
4 answer. Your answer is the right answer, whatever
5 it is.

6 POTENTIAL JUROR: Yes, sir. I guess I'd have
7 to try.

8 THE COURT: And if -- we may be discussing
9 semantics. When you say, I have to try, you've been
10 in this position before. Am I detecting a little
11 bit of hesitancy or --

12 POTENTIAL JUROR: I'm Canadian. So when I came
13 to America, this was one of the responsibilities to
14 be an American. That's an important part to me.

15 THE COURT: We're glad to have you. You feel
16 like you could fulfill that responsibility?

17 POTENTIAL JUROR: I'll be honest. If it was
18 not this type of case, I'd be a whole much happier.
19 But you don't get choices; you just got to do what
20 you got to do. I'll try.

21 THE COURT: If it's your opinion you couldn't
22 be fair and impartial, you can tell me that.

23 POTENTIAL JUROR: I would definitely tell you
24 if I couldn't. My fear is I'm not in the middle of
25 it yet. I don't know what's going to bubble up.

1 THE COURT: Well, no man steps in the same
2 river twice.

3 POTENTIAL JUROR: True. True.

4 THE COURT: Thank you. I believe you can stay
5 with us.

6 Yes, sir?

7 THE BAILIFF: Juror No. 136, Your Honor.

8 THE COURT: Good morning. Tell me your
9 response to that question.

10 POTENTIAL JUROR: I was a victim of domestic
11 abuse for ten years by my spouse.

12 THE COURT: Given those facts, that experience,
13 can you be a fair and impartial juror in the trial
14 of this case for Mr. Brown and the State?

15 POTENTIAL JUROR: Actually, I thought I could
16 until I -- what the indictment reads several times.
17 I don't believe that's an accident, so, no.

18 THE COURT: You don't believe you could?

19 POTENTIAL JUROR: (Shakes head.)

20 THE COURT: Thank you. You may return to your
21 seat.

22 Juror No. 136 is excused.

23 Yes?

24 THE BAILIFF: Juror No. 160, Your Honor.

25 POTENTIAL JUROR: My mother was a victim of

1 domestic abuse. She had a boyfriend for years and
2 years, and he was abusive. She attempted to escape
3 the abuse by throwing herself down the stairs. She
4 fell to the bottom of the stairs and when he found
5 her, he beat her head into the wall several times.
6 She never pressed charges.

7 But I spent the entire evening and next morning
8 in the emergency room with her and then had to go
9 and teach later that morning. My sister was a
10 victim of domestic abuse and, fortunately, for her,
11 they divorced before things got worse. My father,
12 my stepfather was a victim of domestic abuse, which
13 led him to shoot himself in the face in a
14 drug-induced rage over problems with his wife.

15 THE COURT: Given those facts, can you be a
16 fair and impartial juror in the trial of this case
17 for Mr. Brown and the State?

18 POTENTIAL JUROR: I'd like to say so, but I
19 doubt it.

20 THE COURT: I'm going to set you aside from the
21 trial of this case. Do not say anything to your
22 fellow jurors.

23 POTENTIAL JUROR: Yes, sir.

24 THE BAILIFF: Juror No. 210, Your Honor.

25 THE COURT: Yes, ma'am? Tell me your response

1 to the question.

2 POTENTIAL JUROR: Due to my parents' drinking,
3 my father was charged with domestic violence against
4 my mom.

5 THE COURT: Given that experience, can you be a
6 fair and impartial juror in the trial of this case
7 for Mr. Brown and the State?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Thank you. I believe you can stay
10 with us, Juror No. 210.

11 THE BAILIFF: Juror No. 129, Your Honor.

12 THE COURT: Good morning. Tell me your
13 response to that question.

14 POTENTIAL JUROR: My mom filed an abuse report
15 on my dad, and then later, the charges were dropped.

16 THE COURT: Given those facts, can you be a
17 fair and impartial juror in the trial of this case
18 for both Mr. Brown and the State?

19 POTENTIAL JUROR: Yes.

20 THE COURT: You can stay with us.
21 Yes?

22 THE BAILIFF: Juror No. 142, Your Honor.

23 THE COURT: Good morning.

24 POTENTIAL JUROR: My sister-in-law has been a
25 victim of spousal abuse.

1 THE COURT: Given that fact, can you be a fair
2 and impartial juror in the trial of this case for
3 both Mr. Brown and the State?

4 POTENTIAL JUROR: Yes.

5 THE COURT: I believe you can stay with us.
6 Yes?

7 THE BAILIFF: Juror No. 96, Your Honor.

8 THE COURT: Good morning.

9 POTENTIAL JUROR: Hi. My son was a victim of
10 assault third degree by a mob and bit the top of his
11 ear off that wasn't repairable. And my other son
12 right now has solicitation of a minor pending.

13 THE COURT: Given those facts, can you be a
14 fair and impartial juror in the trial of this case
15 for both Mr. Brown and the State?

16 POTENTIAL JUROR: I believe so.

17 THE COURT: A little bit of hesitancy?

18 POTENTIAL JUROR: Yes, because my son was a
19 victim of assault, and it kind of makes you think
20 about it.

21 THE COURT: Can you put that aside, that he was
22 a victim, and base your decision on the evidence and
23 testimony in the courtroom, the law, as I tell you
24 the law is?

25 POTENTIAL JUROR: Yes, sir.

1 THE COURT: And not hold whatever may have
2 happened to your relative for or against the State,
3 for or against Mr. Brown?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: Given that backdrop, can you be a
6 fair and impartial juror in the trial of this case
7 for both Mr. Brown and the State?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Any doubt in your mind about that?

10 POTENTIAL JUROR: No, sir.

11 THE COURT: I believe you can stay with us.
12 Yes, sir?

13 THE BAILIFF: Juror No. 172, Your Honor.

14 THE COURT: Good morning.

15 POTENTIAL JUROR: Good morning.

16 THE COURT: Yes, sir. Tell me your response to
17 that question.

18 POTENTIAL JUROR: My brother, he was not
19 convicted, but he was investigated for soliciting
20 sex with a minor.

21 THE COURT: Given that fact, can you be a fair
22 and impartial juror in the trial of this case for
23 both Mr. Brown and the State?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: Any doubt in your mind about that?

1 POTENTIAL JUROR: No, sir.

2 THE COURT: Thank you. You can stay with us.

3 Yes?

4 THE BAILIFF: Juror No. 176, Your Honor.

5 THE COURT: Good morning. Tell me your
6 response.

7 POTENTIAL JUROR: My mother and her five
8 siblings were victims of domestic abuse and physical
9 and mental abuse. And I am, as well.

10 THE COURT: Given those facts and experiences,
11 can you be a fair and impartial juror in the trial
12 of this case for both Mr. Brown and the State?

13 POTENTIAL JUROR: I think so.

14 THE COURT: Never done it before? Never been
15 on a jury before?

16 POTENTIAL JUROR: Huh-uh.

17 THE COURT: Can you sit as a fair and impartial
18 juror, listen to the evidence and testimony in this
19 case, and the law as I tell you the law is,
20 uninfluenced by what may have happened with your
21 family and yourself and base your verdict only on
22 what you hear in this courtroom and the law as I
23 tell you it is?

24 POTENTIAL JUROR: (Nods head.)

25 THE COURT: That a yes?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: Any doubt in your mind about that?

3 POTENTIAL JUROR: I mean, it's still something
4 I'm working through, so...

5 THE COURT: Explain that to me.

6 POTENTIAL JUROR: I guess it's emotionally
7 affected me. I don't know really how to explain
8 that.

9 THE COURT: I don't want to put words in your
10 mouth. Emotionally affected by the nature of the
11 allegations --

12 POTENTIAL JUROR: Right.

13 THE COURT: By your experiences --

14 POTENTIAL JUROR: And my experiences. And then
15 I found out later in life that my mother and her
16 siblings had a physically and emotionally abusive
17 father, and then found out why some of the things
18 happened in my life because of that situation.

19 THE COURT: But you understand if you're
20 selected as a member of the trial jury, you base
21 your decision based on evidence and testimony you
22 hear in this courtroom from this witness stand,
23 physical items of evidence, things like that, and
24 the law as I tell you the law is, and render a
25 decision based on the facts and circumstances? And

1 events outside of this courtroom --

2 POTENTIAL JUROR: Right.

3 THE COURT: -- you set that aside and follow
4 the law as I give it to you.

5 POTENTIAL JUROR: Yes, sir.

6 THE COURT: Can you do that?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Any doubt in your mind?

9 POTENTIAL JUROR: No, sir, just emotional.

10 THE COURT: But the emotional is not
11 inability --

12 POTENTIAL JUROR: Right.

13 THE COURT: -- to follow the law?

14 POTENTIAL JUROR: Correct.

15 THE COURT: You can stay with us.

16 Yes?

17 THE BAILIFF: Juror No. 68, Your Honor.

18 THE COURT: Good morning.

19 POTENTIAL JUROR: Good morning.

20 THE COURT: Yes, ma'am. Your response?

21 POTENTIAL JUROR: There was no charges or
22 anything, but I thought it was fair to let you know
23 that my father did physically and emotionally abuse
24 my mother, especially, and also my brother and I
25 some.

1 THE COURT: Given those facts, can you be a
2 fair and impartial juror in the trial of this case
3 for both Mr. Brown and the State?

4 POTENTIAL JUROR: I think so.

5 THE COURT: And your response was, I think so.
6 That may be semantics. But any doubt in your mind
7 that you can be fair and impartial in the trial of
8 this case for Mr. Brown and the State?

9 POTENTIAL JUROR: No.

10 THE COURT: Yes, sir.

11 THE BAILIFF: Juror No. 36, Your Honor.

12 THE COURT: Thank you. Good morning.

13 POTENTIAL JUROR: Good morning.

14 THE COURT: Yes, ma'am?

15 POTENTIAL JUROR: My aunt -- I have an aunt
16 that was assaulted and held at gunpoint in her
17 insurance agency. And the gentleman was tried and
18 convicted.

19 THE COURT: Given that fact, can you be a fair
20 and impartial juror in the trial of this case for
21 both the State and the Defense?

22 POTENTIAL JUROR: I believe I can.

23 THE COURT: Thank you. I believe you can stay.

24 Any others?

25 Is any member of the jury panel a member of any

1 organization that may have as a purpose or mission
2 or goal victim's rights, victim's advocacy? For
3 example, MADD, SADD, CADRE, CAVE, I believe it is,
4 or a member of any organization that may have as its
5 mission or goal prisoner rights, Project Innocence,
6 such as that?

7 A member of, contributor to, volunteer at, or
8 volunteer, for example, also, perhaps, at a house
9 that may counsel victims -- alleged victims of
10 domestic violence? If so, please stand.

11 Sometimes I ask questions -- of course, I don't
12 know anything about the case except based on the
13 motions I heard outside of your presence yesterday.
14 But sometimes I will ask questions and not really
15 know the foundation of why I'm asking. But the next
16 question is, has any member of the jury panel been
17 employed or that's been employed now, been would not
18 be there -- if you're now employed or in the past
19 been employed with SCANA in the Cayce area of
20 Lexington County? If so, please stand.

21 All right. Yes, sir? The gentlemen in the
22 black shirt, your number, please?

23 POTENTIAL JUROR: 106.

24 THE COURT: You're now employed? Been employed
25 in the past?

1 POTENTIAL JUROR: Now employed and been
2 employed in the last seven years.

3 THE COURT: What position are you in, sir?

4 POTENTIAL JUROR: I'm on the gas account
5 management side, deal with customers.

6 THE COURT: Now that I have asked this
7 gentleman his employment and that he's been
8 employed, is there any other question that y'all
9 want me to ask about that?

10 Would you please come up here for me,
11 Solicitor?

12 MS. MAYES: Yes, sir, Your Honor.

13 THE COURT: And Mr. Story.

14 (Sidebar conference.)

15 THE COURT: All right. I've gotten some
16 enlightenment now.

17 Is Ms. Brown present in the courtroom? Would
18 you stand for me, Ms. Brown? And this is Ann Brown,
19 correct?

20 MS. BROWN: It's James now.

21 THE COURT: I'm sorry?

22 MS. BROWN: It's James now. It was Brown.

23 THE COURT: All right. That is the alleged
24 victim in the case. She is employed with SCANA. So
25 that's the foundation of the question. So I guess

1 the question is, do you know Ms. Brown -- say again
2 what it is now, ma'am.

3 MS. BROWN: James.

4 THE COURT: Do you know Ms. James?

5 POTENTIAL JUROR: I do not.

6 THE COURT: All right. Thank you. Given the
7 fact that she's employed with SCANA, can you still
8 be a fair and impartial juror in the trial of this
9 case for both Mr. Brown and the State?

10 POTENTIAL JUROR: Yes, sir.

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

12 And your number way in the back?

13 POTENTIAL JUROR: 116.

14 THE COURT: And you're now employed or in the
15 past employed?

16 POTENTIAL JUROR: I am now employed.

17 THE COURT: How long have you been employed?

18 POTENTIAL JUROR: About 20 years.

19 THE COURT: And what position do you hold with
20 that organization?

21 POTENTIAL JUROR: IT management.

22 THE COURT: Do you know Ms. Brown, now
23 Ms. James?

24 POTENTIAL JUROR: No, Your Honor.

25 THE COURT: And given the fact that she is an

1 employee of SCANA and you are, can you be a fair and
2 impartial juror in the trial of this case for both
3 Mr. Brown and the State?

4 POTENTIAL JUROR: Yes, Your Honor.

5 THE COURT: Thank you both, gentlemen, very
6 much.

7 And the McDonald's question, that is in
8 reference to Mr. Brown's employment; is that
9 correct?

10 MR. STORY: That's correct, Your Honor.

11 THE COURT: Is any member of the jury panel now
12 or in the past been employed by the McDonald's at
13 2929 Charleston Highway in the Cayce area of
14 Lexington County? If so, please stand.

15 And, of course, I have previously asked about
16 Mr. Brown. And he has also been introduced to the
17 jury panel by his attorneys.

18 All right. Next, ladies and gentlemen, I'm
19 going to call kind of a lengthy list of names which
20 are potential witnesses in the trial of the case.
21 Of course, the question is, does any member of the
22 jury panel know, friend of, have any social
23 friendship with, or business or professional
24 friendship or relationship with any of these parties
25 whose names I call? If so, please stand. I

1 generally call names in groups of five.

2 I would ask if any of the witnesses are present
3 in the courtroom, when your name is called, if you'd
4 please stand and face the jury panel.

5 I will advise the panel that witnesses are not
6 required to be present during this process;
7 therefore, you may hear names, many names, perhaps,
8 called, and no one stand.

9 Ms. James, would you please stand again for me.

10 This is Ann James, the alleged victim in the
11 case. Thank you, Ms. James.

12 Nikki Rodgers. I don't see Ms. Rodgers. She
13 is the Lexington County communications center
14 director. Janet Konesko, K-O-N-E-S-K-O, with the
15 Cayce Department of Public Safety; James Dunbar;
16 Richard Stevens with Lexington County EMS.

17 Again, recall the question: Any member related
18 by blood or marriage, have any social, business, or
19 professional relationship with any of these
20 individuals whose names I called? If so, please
21 stand.

22 Officer Trevor Hall, Cayce Public Safety;
23 Officer Dana Whetstone, Cayce Public Safety; Officer
24 Steven Wilcox, Cayce Public Safety; Officer R.
25 Baker, Cayce Public Safety; Officer Robert Marzole,

1 Cayce Public Safety.

2 The next five all with Cayce Public Safety:
3 Detective Jason Merrill. This is Detective Merrill
4 to my front right. Detective Darwin Weaver,
5 Detective Ed Pereira. Detective Pereira to my front
6 right. Detective Caleb Thomas, also to my front
7 right. Danielle McCord, Cayce Public Safety.

8 The next five names: Loretta Mitchell, Cindy
9 Taylor Durst, Kathy Rhoden, R-H-O-D-E-N, employed
10 with SCANA, April Carter --

11 All right, let's see. What was your number
12 again?

13 POTENTIAL JUROR: 106.

14 THE COURT: And you know, Ms. Rhoden?

15 POTENTIAL JUROR: I know Ms. Durst.

16 THE COURT: Given the fact that you know
17 Ms. Durst and she is a potential witness in the
18 trial of the case, can you be a fair and impartial
19 juror in the trial of the case for both Mr. Brown
20 and the State?

21 POTENTIAL JUROR: Yes, sir.

22 THE COURT: Thank you. I believe you can stay
23 with us. Thank you very much.

24 Any others?

25 The next five names: April Carter, Zakiya,

1 Z-A-K-I-Y-A, Paige; Charles Darius Major; Doris
2 Yarbrough with SLED; Amy Black, employed with SLED.
3 That, of course, as you know, the State Law
4 Enforcement Division. The next name: Catherine
5 Leisy, also with SLED.

6 The next four names all employed with Palmetto
7 Health Richland: Dr. Christopher Watson; Dr. Jeremy
8 M. Reeves; RN Karen Humble; RN Sarah McQuillan.

9 The next two names employed with Providence
10 Hospital: RN Sally Liles, L-I-L-E-S, and RN Angela
11 M. Corbett.

12 The next five names: Jonathan Vanhouten with
13 the United States Secret Service; Alyssa Major,
14 indicates Lexington, SC; Javon Tony Jones,
15 Orangeburg, South Carolina; Kenya Merrick.

16 The next five names: Kimberly Bell, Lexington,
17 South Carolina; Jared White, Lexington, South
18 Carolina; Heather Clary, Lexington County Sheriff's
19 Department; Rosheka Davis.

20 The next five names: Malcalm McKinney;
21 Shedricka Jefferson; Victoria Gloves; Vanitia Smith;
22 Katina Jones.

23 The next names: Clarence Smith; Deputy V.T.
24 Williams, Lexington County Sheriff's Department;
25 Loretta Mitchell.

1 Did y'all, Solicitor and Mr. Story, follow the
2 list? Have I missed any names?

3 MS. MAYES: May we approach, Your Honor?

4 THE COURT: Yes, ma'am.

5 (Sidebar conference.)

6 THE COURT: Vania Robinson; Jackie Davis,
7 employed with the State Law Enforcement Division.
8 And, again, ladies and gentlemen, y'all recall the
9 question. You can repeat it back to me: Any member
10 of the jury panel related by blood or marriage, your
11 friends, social, business, professional relationship
12 with any of those individuals whose names I called
13 and/or who stood before you? If so, please stand.

14 Any additional requested voir dire from the
15 Defense, Mr. Story?

16 MR. STORY: None, Your Honor.

17 THE COURT: From the State, Solicitor?

18 MS. MAYES: Only as to the name Victoria
19 Glover, Your Honor.

20 THE COURT: Tell me where she was on the list.

21 MS. MAYES: I think it was a typo, Your Honor.
22 You did call her name, but we had a typo.

23 THE COURT: So I was only half in error?

24 MS. MAYES: That was the State's omission.
25 Yes, sir.

1 THE COURT: Another name, Victoria Glover,
2 ladies and gentlemen.

3 All right. Finally, ladies and gentlemen --
4 well, two questions: Does any member of the jury
5 panel have any religious or moral beliefs which
6 would prevent you from passing judgment on another
7 person as a member -- or determining the guilt or
8 innocence of another person as a member of the jury
9 panel? If so, please stand.

10 And then, finally, ladies and gentlemen, I have
11 found people know themselves best. I know you have
12 limited information; I've read the indictment to
13 you; I've asked you a number of questions, which you
14 have all responded to according to your oath; I've
15 interviewed some of you individually and some of you
16 while you were still out there in the jury panel;
17 called the names, familiar with the allegations. As
18 I say, you know yourselves best.

19 Is there any member of the jury panel that
20 knows any reason whatsoever why you feel like you
21 could not be a fair and impartial juror in the trial
22 of this case for both Mr. Brown and the State? If
23 so, please stand.

24 If you have any issue, I want to know it now
25 and address it, not when you're sitting over here in

1 the jury box.

2 All right. No one stands. I find our panel is
3 qualified.

4 What are the strikes, Solicitor?

5 MS. MAYES: Five and ten, Your Honor.

6 THE COURT: Correct, Mr. Story?

7 MR. STORY: Yes, Your Honor.

8 THE COURT: Ten for the Defense, five for the
9 State; is that correct?

10 MR. STORY: We believe so. Yes, sir.

11 THE COURT: All right. Thank you, Mr. Story.
12 Give us the panel, please.

13 MS. USRY: Your Honor, may we approach?

14 (Sidebar conference.)

15 THE COURT: Ladies and gentlemen of the jury
16 panel, I'm going to give you a 20-minute recess. It
17 will be about 11:30 by the clock on the back wall.
18 I'm going to ask you to please leave the courtroom
19 during this recess. I'm going to have the courtroom
20 closed. It will be back open at 11:20. I have a
21 motion I need to hear outside of your presence. Do
22 not discuss this case with each other or with anyone
23 else. Twenty minutes, ladies and gentlemen. Thank
24 you very much.

25 (Jury pool excused.)

1 THE COURT: Solicitor, would you like to put
2 your motion on the record, please?

3 MS. USRY: Yes, sir, Your Honor. Thank you.
4 The State moves to strike for cause Juror No. 109.
5 He is currently being prosecuted by our office for
6 domestic violence second degree. That charge is
7 being handled by Ms. Stringfellow in our office.

8 In fact, his appearances for that charge are in
9 this very courtroom. We do not believe he could be
10 impartial in this case. In fact, when he first
11 approached, he indicated to Your Honor, I don't
12 think I can be impartial, or something along those
13 lines.

14 At some point within the discussions with him,
15 he began saying, I guess I can be impartial. And by
16 the end, he had changed to he could be impartial to
17 the State and the Defense. But, given the fact that
18 he has this pending charge with the office standing
19 right there listening to his statements, I don't
20 know his rehabilitation during your conversation was
21 authentic in nature and not the product of some
22 pressure he felt being in the courtroom where his
23 appearance for this charge takes place. So we move
24 to strike 109.

25 THE COURT: I will deny that.

1 Any others, Solicitor?

2 MS. USRY: Nothing further from the State.

3 THE COURT: Mr. Story.

4 MR. STORY: Thank you, Your Honor. 176, she
5 mentioned that both her mother, her siblings, and
6 herself were victims of domestic violence. At first
7 when you asked her if she could be fair and
8 impartial, she said she didn't think so, or
9 something along those lines.

10 Upon further questioning, she said that she was
11 still working through her emotions, Your Honor. She
12 teared up at one point before she gave her final
13 answer. We'd move to strike her for cause.

14 THE COURT: Thank you. I would deny that
15 motion.

16 Any others?

17 MR. STORY: The only other one was 106. She
18 does know one of the witnesses, Ms. Durst, an
19 employee of SCANA.

20 THE COURT: And she knows who?

21 MR. STORY: Excuse me. It's a he. Ms. Durst
22 is on the witness list and is employed at SCANA.

23 THE COURT: Well -- and he, of course, said he
24 could be fair and impartial. I'm trying to see
25 where she was at. Now, Ms. Durst, she's not

1 employed with SCANA, is she?

2 MS. MAYES: She is, Your Honor. She's a
3 records custodian, as is Ms. Rhoden. We anticipate
4 Ms. Rhoden will be the person testifying. We listed
5 them both, but her involvement in the case is only
6 as a records custodian on the timecard.

7 THE COURT: Well, I guess the point I'm making
8 is Ms. Rhoden has indicated, as being employed with
9 SCANA, who he did not know. Because I made an
10 assumption, which I should not do, that that's why
11 he stood up, because he actually stood up when
12 Ms. Rhoden's name was called. And I said, do you
13 know Ms. Rhoden? And he said, no; I know Ms. Durst.

14 And I didn't even know where she was employed,
15 because it's not listed, nor did I give him that
16 information. And, of course, he said he could be
17 fair and impartial in the trial of the case. Nor
18 did he -- Ms. Durst was not in the courtroom.

19 Ms. James, who is formerly Ms. Brown, was in
20 the courtroom and did stand up and face the jury
21 panel, and 106 still did not know Ms. James. So I
22 will deny the motion. I think he -- many witnesses
23 on there that are potential witnesses in the trial
24 of the case. And, of course, I didn't question him
25 about her being a custodian in the trial of the

1 case. So I will deny that motion.

2 Any other motions regarding the qualifications
3 or disqualifications, Solicitor?

4 MS. MAYES: Not specifically on this issue,
5 Your Honor. It deals with the matter of strikes.
6 And we do not want to get into a debate in front of
7 the jury. It involves the potential penalty. But,
8 by statute, the attempted is not enumerated. So,
9 ordinarily, it would be five and five.

10 THE COURT: Wait a minute. I asked y'all on
11 the record -- I've done this my entire tenure on the
12 bench -- what are the strikes, Solicitor, what are
13 the strikes, Mr. Story? And I get the response ten
14 and five from the State, ten and five from the
15 Defense. Now, y'all want to argue that when it's on
16 the record?

17 Court will be in recess 15 minutes. Keep the
18 jury out. When y'all decide -- don't give me an
19 answer if that's not the final answer. This ain't
20 no game show. That's very frustrating.

21 (Trial in recess 11:15 AM - 11:33 AM.)

22 THE COURT: All right. You have a motion,
23 Solicitor?

24 MS. MAYES: Your Honor, the State's concern was
25 that, ordinarily, the attempted murder carries up to

1 30 years. In this case, life without parole has
2 been served, so it carries a mandatory life
3 sentence. And so that is the -- that would be the
4 issue for the Court's consideration.

5 THE COURT: Consider in what regard?

6 MS. MAYES: It's not enumerated by statute.
7 But the statute does include murder, which carries
8 life. The State's position would be it's a
9 discretionary matter because of that sentence.

10 THE COURT: And that's in the statute as far as
11 jury strikes, I don't know, 14 -- I don't know,
12 number 1100; is that right?

13 MS. MAYES: 14-7-1110.

14 THE COURT: Mr. Story, do you have a position
15 in the matter?

16 MR. STORY: Yes, Your Honor. Because the
17 charge of murder is enumerated five and ten strikes,
18 we believe that it is actually a five-and-ten-strike
19 crime under the statute, especially given that he
20 has been served with a life without parole notice,
21 Your Honor.

22 THE COURT: I'm looking at the March 16th, 1987
23 amendment to 14-7-1110 in the 2007 cumulative
24 supplement because, obviously, that's the last time
25 the supplement has been placed in the code of laws.

1 Of course, this may be one of the last courtrooms
2 that actually has books in it, and it does enumerate
3 certain crimes: Murder, manslaughter, burglary,
4 arson, criminal sexual conduct, armed robbery, grand
5 larceny, and breach of trust.

6 Of course, my computer won't work. Tell me
7 what the most recent version of the statute is,
8 because grand larceny is now an evaluated offense
9 based on the money, is that correct, as opposed to
10 just the term grand larceny?

11 MR. STORY: That's correct, Your Honor.

12 THE COURT: And breach of trust, when it was
13 punishable, grand larceny, burglary, forgery, the
14 defense is entitled to preemptory challenges not
15 exceeding ten. The State, in these cases, is
16 entitled to preemptory challenges not exceeding
17 five.

18 Then it indicates: Any person who is indicted
19 for any crime or offense other than those enumerated
20 above has to the right preemptory challenges not
21 exceeding five. So that would be -- the strict
22 reading of that statute would be five and five.

23 So I will follow the statute in that regard;
24 however, I find it is a due process issue that
25 Mr. Brown, facing the penalty of mandatory life

1 without parole, and a person who was charged with
2 the enumerated offenses under the statute, for
3 example, perjury, grand larceny, would be entitled
4 to ten strikes, Mr. Brown only entitled to five. I
5 find it's a due process issue and it is ten strikes
6 and the State is entitled to five.

7 Anything further before we bring in our jury?

8 MS. MAYES: Nothing from the State, Your Honor.

9 MR. STORY: Nothing from the Defense.

10 THE COURT: Bring the jury in.

11 (Jury pool enters the courtroom at 11:43 AM.)

12 THE COURT: All right. Madam Clerk, will you
13 please instruct our jury and give us a panel?

14 THE CLERK: Yes, sir, Your Honor.

15 Ladies and gentlemen, as I call your name in
16 just a moment, I'll have you come forward. You'll
17 stand just like he is right now in front of the
18 podium and you'll remain there until I give you
19 instructions whether to have a seat in the jury box
20 or to return to your seat in the audience.

21 Please make sure you bring your purses, books,
22 whatever you have with you in case you do go to the
23 jury box and not back to your seat out in the
24 audience.

25 Number 200, Michelle Sturky.

1 (Juror Number 200 comes forward.)
2 THE CLERK: What say you for the State?
3 MS. MAYES: Please present the juror.
4 THE CLERK: What say you for the defense?
5 MR. STORY: Please seat the juror.
6 THE CLERK: Have a seat in the jury box, ma'am.
7 Number 192, Emily Staten.
8 (Juror Number 192 comes forward.)
9 THE COURT: What say you for the State?
10 MS. MAYES: Please present the juror.
11 THE CLERK: What say you for the defense?
12 MR. STORY: Please seat the juror.
13 THE COURT: Have a seat in the jury box, ma'am.
14 117, Elizabeth Kelly.
15 (Juror Number 117 comes forward.)
16 THE CLERK: What say you for the State?
17 MS. MAYES: Please present the juror.
18 THE CLERK: What say for the defense?
19 MR. STORY: Please excuse the juror from the
20 trial of this case.
21 THE COURT: Return to your seat, please, ma'am.
22 125, Carol Lunsford.
23 (Juror Number 125 comes forward.)
24 THE CLERK: What say you for the State?
25 MS. MAYES: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. STORY: Please excuse the juror from the
3 trial of this case.

4 THE CLERK: Return to your seat, please, ma'am.
5 106, Valmen Jarrett.
6 (Juror Number 106 comes forward.)

7 THE CLERK: What say you for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MR. STORY: Please seat the juror.

11 THE CLERK: Have a seat in the jury box, sir.
12 128, Stuart McLain.
13 (Juror Number 128 comes forward.)

14 THE CLERK: What say you for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say you for the defense?

17 MR. STORY: Please seat the juror.

18 THE CLERK: Have a seat in the jury box, sir.
19 102, Jessica Hunt.
20 (Juror Number 102 comes forward.)

21 THE CLERK: What say you for the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say you for the defense?

24 MR. STORY: Please seat the juror.

25 THE CLERK: Have a seat in the jury box, ma'am.

1 Number 70, Jason Geovon.

2 (Juror Number 70 comes forward.)

3 THE CLERK: What say you for the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What say you for the defense?

6 MR. STORY: Please excuse the juror from the

7 trial of this case.

8 THE COURT: Return to your seat, please, sir.

9 48, Catherine Davis.

10 (Juror Number 48 comes forward.)

11 THE CLERK: What say you for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say you for the defense?

14 MR. STORY: Please excuse the juror from the

15 trial of this case.

16 THE CLERK: Return to your seat, please, ma'am.

17 137, Austin Nagle.

18 (Juror Number 127 comes forward.)

19 THE CLERK: What say you for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STORY: Please seat the juror.

23 THE CLERK: Have a seat in the jury box, sir.

24 92, Eliza Helms.

25 (Juror Number 92 comes forward.)

1 THE CLERK: What say you for the State?
2 MS. MAYES: Please present the juror.
3 THE CLERK: What say for the defense?
4 MR. STORY: Please seat the juror.
5 THE CLERK: Have a seat in the jury box, ma'am.
6 Number 120, Kirk Cushenbroad.
7 (Juror Number 120 comes forward.)
8 THE CLERK: What say you for the State?
9 MS. MAYES: Please present the juror.
10 THE CLERK: What say you for the defense?
11 MR. STORY: Please excuse the juror from the
12 trial of this case.
13 THE CLERK: Return to your seat, please, sir.
14 206, Tyler Thigpen.
15 (Juror Number 206 comes forward.)
16 THE CLERK: What say you for the State?
17 MS. MAYES: Please present the juror.
18 THE CLERK: What say you for the defense?
19 MR. STORY: Please seat the juror.
20 THE CLERK: Have a seat in the jury box, sir.
21 Number 216, Cedric Watson.
22 (Juror Number 216 comes forward.)
23 THE CLERK: What say you for the State?
24 MS. MAYES: Please present the juror.
25 THE CLERK: What say you for the defense?

1 MR. STORY: Please seat the juror.

2 THE CLERK: Have a seat in the jury box, sir.

3 Number 16, Cheyenne Belton.

4 (Juror Number 16 comes forward.)

5 THE CLERK: What say you for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say you for the defense?

8 MR. STORY: Please seat the juror.

9 THE CLERK: Have a seat in the jury box, ma'am.
10 198, Morgan Strough.

11 (Juror Number 198 comes forward.)

12 THE CLERK: What say you for the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. STORY: Please seat the juror.

16 THE CLERK: Have a seat in the jury box, ma'am.
17 114, Terry Camera.

18 (Juror Number 114 comes forward.)

19 THE CLERK: What say you for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STORY: Please excuse the juror from the
23 trial of this case.

24 THE CLERK: Return to your seat, please, sir.

25 204, William Taylor.

1 (Juror Number 204 comes forward.)

2 THE CLERK: What say you for the State?

3 MS. MAYES: Please excuse the juror from the
4 trial of this case.

5 THE CLERK: Return to your seat, please, sir.
6 23, Courtney Branham.

7 (Juror Number 23 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. STORY: Please excuse the juror from the
12 trial of this case.

13 THE CLERK: Return to your seat, please, ma'am.
14 55, Jan Dudley.

15 (Juror Number 55 comes forward.)

16 THE CLERK: What say you for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say you for the defense?

19 MR. STORY: Please excuse the juror from the
20 trial of this case.

21 THE CLERK: Return to your seat, please, ma'am.
22 140, Kyle Owens.

23 (Juror Number 140 comes forward.)

24 THE CLERK: What say you for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. STORY: Please seat the juror.

3 THE CLERK: Have a seat in the jury box, sir.
4 Alternates, Your Honor?

5 THE COURT: Two alternates? Strikes are two
6 for the defense and one for the State per alternate,
7 noncumulative.

8 THE CLERK: 185, Angela Smith.

9 (Juror Number 185 comes forward.)

10 THE CLERK: What say you for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STORY: Please excuse the juror from the
14 trial of this case.

15 THE CLERK: 75, Debrah Griffith.

16 (Juror Number 75 comes forward.)

17 THE CLERK: What say you for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say you for the defense?

20 MR. STORY: Please seat the juror.

21 THE CLERK: Have a seat in the jury box, ma'am.
22 That's alternate one, Your Honor.

23 47, Andrew Davis.

24 (Juror Number 47 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. MAYES: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MR. STORY: Please seat the juror.

4 THE CLERK: Have a seat in the jury box, sir.
5 That's alternate two, Your Honor.

6 THE COURT: Thank you.

7 Any motions regarding the jury selection
8 process from the State?

9 MS. MAYES: None from the State, Your Honor.

10 THE COURT: From the defense?

11 MR. STORY: None from the defense.

12 THE COURT: Thank you.

13 Momentarily, ladies and gentlemen of the jury
14 panel that have been selected for the trial jury in
15 this case, I'm going to have you go to your new
16 temporary home in the jury room to be shown to you
17 by your bailiff.

18 During this very brief recess, I would remind
19 you: Do not discuss this case with anyone,
20 including your fellow jurors. You would not be
21 authorized to discuss the case with anyone,
22 including your fellow jurors, until you've heard all
23 of the evidence and testimony in the trial of the
24 case, the closing arguments by the attorneys, the
25 instruction on the law by the Court, and then

1 directed by the Court to begin your deliberations
2 with your fellow jurors in your jury room. I will
3 give you further instructions that would apply
4 throughout the trial of the case.

5 The reason for this brief recess, two reasons:
6 A, I need to address your colleagues in the jury
7 panel and advise them of their duties and
8 responsibilities concerning their jury service for
9 the remainder of the week. I will find out where
10 we're at administratively as far as time and have
11 you back in the courtroom shortly.

12 With that being said, if you'll please go with
13 your bailiff to your jury room.

14 (The jury exits the courtroom at 12:01 PM.)

15 THE COURT: All right. Solicitor, Mr. Story,
16 step up here, please.

17 (Sidebar conference.)

18 THE COURT: Ladies and gentlemen of the jury
19 panel that were not selected for the trial of the
20 case, momentarily I'm going to release you from your
21 jury service for the remainder of the day. I would
22 ask you again if you would please call your jury
23 information number after six o'clock, after 1800
24 hours this evening. Please call that number back.
25 It will prompt you and give you instructions

1 concerning your jury service for the remainder of
2 the week. Thank you very much for being with us
3 this morning.

4 There were two jurors I need to address back on
5 my back right, is that correct?

6 THE CLERK: Yes, sir.

7 THE COURT: And I will do that as soon as the
8 panel is excused.

9 Are there any questions from any member of the
10 jury panel? All right. Thank you very much. It's
11 been my pleasure and privilege to be with y'all
12 today. You're now excused.

13 (Jury panel excused.)

14 THE COURT: Sharon, would you have those two
15 jurors come forward for me, please, ma'am?

16 What are their numbers, Madam Clerk?

17 THE CLERK: 107 and 123, Your Honor.

18 THE COURT: Come right up here.

19 THE CLERK: Come up here to the podium.

20 THE COURT: 107, Mr. Johnson.

21 POTENTIAL JUROR: How are you doing, sir?

22 THE COURT: I'm doing good. How about you?

23 POTENTIAL JUROR: All right.

24 THE COURT: And 123, Mr. Lawrence?

25 POTENTIAL JUROR: Yes, sir.

1 THE COURT: Where you been, Mr. Johnson? We
2 missed you this morning. We had biscuits. They all
3 was gone by the time you got here.

4 POTENTIAL JUROR: I'm sorry, Your Honor. One
5 of my favorite pets is not feeling good. I was
6 going to take it to the vet, but I lost time. And I
7 thought -- yesterday, I thought you said the case
8 was canceled for yesterday and today. I apologize
9 for that, Your Honor.

10 THE COURT: What type of work you do?

11 POTENTIAL JUROR: Forklift for Michelin.

12 THE COURT: At Michelin?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: How long you been there?

15 POTENTIAL JUROR: Where I'm at, contractor
16 right now.

17 THE COURT: You're the contractor?

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: How long you been working at
20 Michelin?

21 POTENTIAL JUROR: A year and five months now.

22 THE COURT: You worked other locations?

23 POTENTIAL JUROR: No, sir; only in Lexington.

24 THE COURT: Tell me about it, Mr. Lawrence. We
25 missed you this morning.

1 POTENTIAL JUROR: I had made a slight mistake
2 when I had set my alarm. I had set it for 8:00 p.m.
3 instead of 8:00 a.m.

4 THE COURT: Did you get up at 8:00 last night?

5 POTENTIAL JUROR: No, sir.

6 THE COURT: Did you go to sleep by 8:00 last
7 night?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: Did your alarm go off at 8:00 last
10 night?

11 POTENTIAL JUROR: No. I set it --

12 THE COURT: So you set it when you went to bed?

13 POTENTIAL JUROR: I had set it, like, around
14 12:00.

15 THE COURT: So if you go home now and you go
16 back to bed, you'll wake up at 8:00 tonight?

17 POTENTIAL JUROR: Yes, sir.

18 THE COURT: What kind of work you do?

19 POTENTIAL JUROR: Bar back at O'Hara's Irish
20 Pub next door.

21 THE COURT: What's the name of it?

22 POTENTIAL JUROR: O'Hara's Irish Pub.

23 THE COURT: What is a pub?

24 THE BAILIFF: Your Honor, it's right here.

25 THE COURT: What is it?

1 THE BAILIFF: The old cafe right here on Main
2 Street.

3 THE COURT: Oh, you work at a bar?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: You get off at midnight?

6 POTENTIAL JUROR: Around that time.

7 THE COURT: You worked last night?

8 POTENTIAL JUROR: No, Your Honor.

9 THE COURT: No? Okay. How long you been
10 working there?

11 POTENTIAL JUROR: I'd say about a month and one
12 week, Your Honor.

13 THE COURT: Well, you know, typically, I give
14 people ten days' public service when they don't show
15 up on time. Can y'all handle that?

16 POTENTIAL JUROR: I would, Your Honor, but I'm
17 on swing shift and --

18 THE COURT: You're what now?

19 POTENTIAL JUROR: I'm on swing shift at
20 Michelin.

21 THE COURT: Well, I can adjust the time. I can
22 swing it when you're not swinging it. You know what
23 I'm saying? I can deal with that. Can you handle
24 that?

25 POTENTIAL JUROR: Yes, sir.

1 THE COURT: I figured you could.

2 How about you, Mr. Lawrence?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: You're kind of second shift over at
5 the bar?

6 POTENTIAL JUROR: No.

7 THE COURT: You work days and nights?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: But you young men, y'all don't have
10 no problem doing that, will you?

11 POTENTIAL JUROR: No, sir.

12 POTENTIAL JUROR: No, sir.

13 THE COURT: Well, since y'all tell me y'all
14 won't have no problem, I won't make you do it.
15 Okay?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: All right.

18 When do you go to work today if you're not
19 feeling good?

20 POTENTIAL JUROR: No. My pet, not me.

21 THE COURT: Well, when you going to work?

22 POTENTIAL JUROR: Go back on nightshift
23 Thursday and Friday.

24 THE COURT: What time is that?

25 POTENTIAL JUROR: 6:00 to 6:00.

1 THE COURT: All right. Y'all call back after
2 6:00 tonight. After 6:00, call back and it will
3 prompt you and give you instructions about your jury
4 service for the remainder of the week.

5 POTENTIAL JUROR: Yes, sir, Your Honor.

6 THE COURT: You good with that?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: You good with that?

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: Thank you, fellows. Y'all have a
11 good afternoon.

12 (Potential jurors exit courtroom.)

13 THE COURT: All right. Administratively,
14 Solicitor and Mr. Story, y'all ready to start?

15 MS. MAYES: Yes, sir, Your Honor.

16 THE COURT: You want to do openings?

17 MS. MAYES: Yes, sir, Your Honor. We have the
18 pretrial issue that we wanted to follow up on
19 regarding a file that was requested by our office.

20 THE COURT: All right. So I thought I resolved
21 that yesterday. The expungement file, the one I
22 examined?

23 MS. MAYES: Yes, sir, Your Honor. That is the
24 expungement file. And then Ms. Keenan was not here
25 yesterday, but is here today, and has found the hard

1 cover that goes with that file, and she has that as
2 well.

3 THE COURT: What are you asking me to do?

4 MS. MAYES: Also, have that, an in-camera
5 review or placed under seal as well.

6 THE COURT: All right. Well, I can in-camera
7 review it if you give it to me.

8 MS. MAYES: Yes, sir, Your Honor. We would
9 prefer to do that just so that we are sure that
10 everything has been examined that's within the hands
11 of the Solicitor's Office.

12 THE COURT: Do you have a file? I can examine
13 it now.

14 MS. MAYES: Also, we did have a representative
15 speak with the State Law Enforcement Division, Your
16 Honor. The only record they indicated they had was
17 the fingerprint card, which is consistent with the
18 statute, and a copy of the expungement order.

19 THE COURT: All right. Thank you, Solicitor.

20 All right. I have examined the file that has
21 been presented to me today by the solicitor. There
22 is no weighted material or anything of any
23 exculpatory nature that would affect either guilt,
24 innocence, or, if found guilty, the sentencing.

25 So, Madam Clerk, if you would please seal this

1 file. Thank you.

2 Anything further in that regard, Solicitor?

3 MS. MAYES: Yes, sir, Your Honor, regarding the
4 magistrate court file.

5 MS. USRY: And, Your Honor, just to clarify,
6 the record on the magistrate file, we did continue
7 to follow up with the magistrate court on the 2015
8 domestic violence incident, and Ms. Woods over there
9 was helping me. She indicated she could not locate
10 anything.

11 However, she went to speak with Judge Adams to
12 see if there was anywhere else she should be
13 looking. And then Judge Adams requested a signed
14 order. We told him that we had an order from the
15 bench, so I drafted a signed order. I don't know if
16 that's going to result in finding anything else, but
17 she indicated that they requested one, so I drafted
18 one.

19 THE COURT: Do you have it?

20 MS. USRY: Yes, sir.

21 THE CLERK: Your Honor, you want this marked as
22 a Court's Exhibit?

23 THE COURT: You can mark it as the next one.
24 What is that, Court's Exhibit 5?

25 (Court's Exhibit No. 5 marked for

1 identification.)

2 THE COURT: All right. Thank you, Solicitor.

3 Anything further?

4 MS. USRY: Nothing further on that issue, Your
5 Honor.

6 THE COURT: Mr. Story, anything in that regard?

7 MR. STORY: I just want to renew my motion,
8 Your Honor. This information has not been presented
9 to the Defense. It is material that would be likely
10 to lead to inculpatory information if given to the
11 Defense, exculpatory witnesses that could be
12 material to guilt or innocence, Your Honor. It's in
13 possession of a State agency, so we would move for a
14 continuance and for the State to turn over that
15 information and, in the alternative, for a jury
16 instruction; instruct them the State has failed to
17 turn over exculpatory material and that the jury may
18 consider that in their deliberations. Thank you.

19 THE COURT: All right. The motion for a
20 continuance is denied. There is no information in
21 the files, either Court's Exhibit 4 or Court's
22 Exhibit 5, that are exculpatory in any manner. That
23 is also against the backdrop that the Defense
24 produced Court's Exhibit 1 and 2, the State produced
25 Court's Exhibit 3, which I think is eight pages of

1 an incident report concerning one of the events so
2 that that material has been turned over in discovery
3 and has information in it that could be investigated
4 and followed up on.

5 As I say, there's nothing exculpatory in either
6 one of those files either as to guilt or innocence
7 or as to sentencing, should the defendant be
8 convicted.

9 As to the magistrate's court, I have signed an
10 order today and, certainly, won't rule on that today
11 until I see whatever materials will be presented to
12 me in that regard. All right. Thank you,
13 Mr. Story.

14 Any other matters, Solicitor?

15 MS. MAYES: Just renewing our position from
16 yesterday, Your Honor, as it pertains to opening
17 arguments. If there's any reference to specifics or
18 details of prior difficulties between the parties,
19 the State would object at that time.

20 THE COURT: Mr. Story?

21 MR. STORY: Your Honor, opening statements
22 refer to what parties believe the evidence will
23 show, Your Honor. I don't recall addressing that
24 yesterday, so I would ask to be able to speak about
25 that, Your Honor.

1 THE COURT: So what are you specifically
2 asking, Solicitor? I mean, going back all the way
3 to State vs. Clinkscales in the '50s, prior
4 difficulties between the parties is generally
5 admissible as to the issue of primary aggressor.

6 MS. MAYES: Yes, sir, Your Honor. It's the
7 specifics and details that would not be admissible,
8 so if there's anything beyond the fact that they had
9 had the prior difficulties. And I believe your
10 ruling yesterday was that, ultimately, there could
11 be testimony that she was arrested but, beyond that,
12 the specifics of the allegation would not be
13 admissible.

14 THE COURT: What about that, Mr. Story? She's
15 not saying -- I don't think she's objecting that
16 there may have been prior difficulties between the
17 parties, Ms. James and Mr. Jones [sic]. But opening
18 statements are not for purposes of evidence, for
19 details, or prior instances of -- I guess I always
20 called it prior difficulties or prior bad blood.
21 But the same with Lyle's testimony, or at least its
22 first cousin to Lyle's testimony. I mean, I don't
23 think she's objecting to them being brought forward,
24 but it's kind of the details of them at that time.

25 What's your position?

1 MR. STORY: Your Honor, I believe the details
2 are relevant.

3 THE COURT: During an opening statement? You
4 tell me, Mr. Story, then what is the purpose of an
5 opening statement? It's not a closing argument. So
6 what is the purposes of an opening statement?

7 MR. STORY: Your Honor, as I stated earlier, I
8 believe an opening statement for the State and the
9 defense is -- I believe we're allowed to give the
10 jury an idea of what we believe the evidence will
11 show in the case, Your Honor. It's not evidence.
12 And anticipating an objection later on, I don't
13 think that's what the solicitor -- she's just saying
14 she'll object to the opening statement.

15 My position on whether the details of these
16 incidents are relevant or not, I believe we're going
17 to disagree about that. But opening statement, I
18 believe that -- we're just saying what the evidence
19 will show and if we believe that it will come out,
20 details and witnesses of prior incidents, I believe,
21 that we're allowed --

22 THE COURT: So not only are you predicting the
23 future, you're predicting how I'm going to rule in
24 the future? I haven't ruled on this. I hadn't
25 heard it. I tell you what: We're going to roll on.

1 If she objects, I'll rule; if you object, I'll rule.

2 Anything further before I bring the jury panel?

3 MS. MAYES: No, sir, Your Honor.

4 THE COURT: Mr. Story, anything further before
5 I bring in the jury panel?

6 MR. STORY: The only thing, Your Honor, in the
7 interest of time, I don't know if the State's
8 planning on introducing the defendant's recorded
9 statement. There are a number of redactions we
10 would ask for. I've spoken a little bit about that
11 with the solicitors. I believe they already have
12 some redactions, but any reference to crimes that
13 Mr. Brown was not convicted of that would be
14 inadmissible under 404(b) and Rule 403, Your Honor.
15 The probative value does not substantially or
16 outweigh --

17 THE COURT: And this is for purposes of opening
18 statements?

19 MR. STORY: No, Your Honor.

20 THE COURT: When do y'all want to take that up?

21 MS. MAYES: We provided written notice, Your
22 Honor, that if there is testimony that gets into the
23 primary aggressor issue under 404(a), that the State
24 has witnesses that can rebut that in terms of prior
25 events where he was the primary aggressor.

1 We would not anticipate that ordinarily
2 anywhere in our case in chief; however, if this is
3 an issue that they're going to raise through the
4 State's witnesses -- that's part of the reason I was
5 inquiring earlier. If that's something that they're
6 going to raise, then we would need to address that
7 at some stage, Your Honor, once that issue is
8 raised.

9 We would plan to rebut. Maybe not traditional
10 rebuttal. If it's brought out in their case in
11 chief, we would go ahead and offer those witnesses
12 during our presentation as well on the issue of
13 prior events where Mr. Brown has been the primary
14 aggressor.

15 Your Honor, what we're aware of in terms of
16 these two parties are the incident report that you
17 have on the expunged matter where he alleged that he
18 was struck by a phone. As to the 2014 event, we do
19 not have any documentation of that. So, certainly,
20 we only to any specifics or details because we don't
21 know what those allegations are. The State has not
22 seen any written documents that even pertain to that
23 charge.

24 In terms of what we would potentially offer
25 that would be prior bad acts for which he has not

1 been convicted, that would be evidence under 404(a)
2 that relate to the victim's reputation for
3 peacefulness and the issue of him being primary
4 aggressor.

5 There is an incident that is not remote in time
6 because it's just several months prior to the
7 stabbing incident where a family member observed
8 Mr. Brown push Ms. James to the ground while she was
9 pregnant with his child. So that's an example of
10 what potentially could come into play if the Defense
11 raises the issue of Ms. James being the primary
12 aggressor.

13 THE COURT: Mr. Story?

14 MR. STORY: Your Honor, what I'd say about
15 that, any past acts, prior bad acts the defendant
16 may have committed or there's evidence the defendant
17 may have committed that are not subject to
18 conviction, that would be inadmissible under 404(b)
19 and 403, Your Honor.

20 The -- any prior acts of aggression on the part
21 of the alleged victim, Ms. Ann Brown, would be
22 admissible under self-defense theory and the
23 reasonable apprehension of harm that the defendant
24 may have had at the time. So that is not character
25 evidence that we would be going into. You know

1 that -- talking about specific instances of
2 aggression is not going into Ms. Brown's character,
3 so we're not opening the door for character.

4 Now, if they have witnesses that could rebut
5 those incidents or if they have witnesses to those
6 incidents -- and these are, of course, going into
7 the files we we're asking for, Your Honor -- we
8 believe these files may show witnesses to these
9 incidents. And Your Honor has, of course, denied
10 that motion. So we would argue that that
11 information, going into those details of those
12 incidents, are admissible, are relevant to
13 self-defense. And that is our position. It's not
14 character evidence, Your Honor.

15 THE COURT: Okay. Thank you.

16 Anything further before I bring in the jury?

17 MS. MAYES: Not at this time, Your Honor.

18 THE COURT: Mr. Story?

19 MR. STORY: No, Your Honor.

20 (The jury enters the courtroom at 12:27 PM.)

21 THE COURT: Welcome back, ladies and gentlemen.

22 Madam Clerk, would you please place our panel
23 under oath.

24 THE CLERK: Please stand and raise your right
25 hand.

1 THE JURY (collectively): I do.

2 (Jury sworn.)

3 THE COURT: Ladies and gentlemen, if you'd
4 please give me your complete and undivided
5 attention. I'm going to give you some opening
6 remarks followed by the opening statements by the
7 attorneys before we take our luncheon recess.

8 As you know, the case we're about to try is the
9 case of State vs. Joshua Thomas Brown, to my front
10 left, the defendant. What I will now say is
11 intended to serve as an introduction to the trial of
12 the case. These remarks are not an instruction on
13 the law in the case. I will instruct you on the law
14 applicable in this case both during the trial and at
15 the end of the trial before you retire to consider
16 your verdict.

17 This is merely an introduction, an explanation
18 of the procedure that we will follow during this
19 trial, so you may better understand what may be
20 happening.

21 As you know, Mr. Brown is charged by the
22 indictment filed with the court of the crime of
23 attempted murder, the elements of which will be
24 explained to you later. Again, ladies and
25 gentlemen, the indictment is simply the formal

1 charging documents by which this case is brought
2 before the Court and it is not, in any sense,
3 evidence of the allegations contained.

4 The defendant has pled not guilty to the
5 indictment. The State, the party to my front right,
6 therefore, has the burden of proving each and every
7 element of the indictment beyond a reasonable doubt.
8 And it will be your duty, ladies and gentlemen, to
9 decide whether or not the State meets its burden.
10 Your purpose as jurors is to find and determine the
11 facts. You, ladies and gentlemen, are the sole
12 judges of the facts in the trial of this case.

13 If at any time I make any findings regarding
14 the facts, you must disregard it. You are to
15 determine the facts from the testimony you hear from
16 the witness testifying from this witness stand under
17 oath and any items of evidence that may be
18 introduced in court. It is also up to you to
19 determine which inferences you feel may properly be
20 drawn from the evidence.

21 It is especially important that you perform
22 your duties of determining the facts diligently and
23 conscientiously because, ordinarily, there's no way
24 to correct an erroneous determination of the facts
25 by a jury.

1 Now, on the other hand and with equal emphasis,
2 the same law that makes you the judges of the facts
3 makes me the judge of the law. The law as given by
4 the Court is the only law you may consider. You
5 must accept it and follow it even though you may
6 disagree with it. I cannot tell you what the facts
7 are and you cannot disagree with me about what the
8 law is or what the law should be.

9 Your job is to take the law as I give it to
10 you, apply it to the facts as you find them from the
11 testimony of the witness and any other evidence that
12 is introduced. After doing that, you will render
13 your verdict, a verdict based on the facts that you
14 have found and the law as I've instructed you on.

15 Ladies and gentlemen, it is important
16 throughout the trial of the case that you keep an
17 open mind and not decide any issue in the case until
18 all of the evidence has been presented, the parties
19 have made their closing arguments to you, and I have
20 instructed you on the law in the case and then
21 directed you to deliberate with your fellow jurors
22 in your jury room.

23 It is your solemn responsibility to determine
24 the guilt or innocence of the defendant realizing
25 the burden of proof is on the State to prove its

1 case beyond a reasonable doubt. That's what your
2 verdict must be based on: Evidence that's presented
3 and the law as I instruct you.

4 Now, in just a moment, the solicitor will make
5 what is called an opening statement in which the
6 solicitor will explain to you the issues in the
7 case, or at least what the solicitor thinks the
8 issues are in the case. Mr. Story, Ms. Gilreath, or
9 other attorneys for the defendant may also make an
10 opening statement; however, the attorneys for the
11 defendant are not required to do so.

12 A criminal defendant in South Carolina is
13 always presumed to be innocent and has no burden of
14 proof whatsoever to prove himself or herself
15 innocent. The burden of proof is on and always
16 remains on the State of South Carolina to prove its
17 case beyond a reasonable doubt.

18 Now, what the attorneys tell you during their
19 opening statements is not evidence in the case. It
20 is only their contention as to what the issues are.
21 Closing arguments, that's not evidence in the case.
22 The questions by the attorneys is not evidence in
23 the case; it's the framework by which the testimony
24 of the witnesses is extracted before the jury to
25 make their determinations of the credibility or the

1 believability of the witnesses in the case.

2 That's the evidence, ladies and gentlemen; not
3 statements by the attorneys or questions by the
4 attorneys. That's how it will be presented, by
5 sworn witnesses testifying before you and by any
6 exhibits that may be introduced in the evidence.

7 From time to time during the trial, you may
8 hear one of the attorneys say something like, Your
9 Honor, I believe we have a question of law or a
10 matter of law to discuss with you or, Your Honor,
11 may we approach the bench? Or sometimes I, myself,
12 might find it necessary to excuse you from the
13 courtroom for a short while so the attorneys and I
14 can discuss a matter of law.

15 Ladies and gentlemen, this is not to hide
16 anything from you. The reason for this is because
17 you are the judges of the facts in this case and
18 sometimes when I am discussing law with the
19 attorneys, it may be necessary for me to make some
20 comment as to the facts in connection with ruling
21 whether or not a particular law applies.

22 I am not supposed to and will not tell you what
23 I think the facts are. I will have no opinion
24 whatsoever as to the facts of this case. So I will
25 excuse you from the courtroom while these

1 discussions take place so that, in no way, anything
2 I might say or do while these discussions take place
3 that you will not be influenced by them.

4 In determining what the true facts are, ladies
5 and gentlemen, against the backdrop of your good
6 judgment individually and collectively and your
7 common sense individually and collectively, you must
8 decide whether or not the testimony of the witnesses
9 is believable. It will be my responsibility to
10 rule, as a matter of law, as to whether certain
11 testimony is admissible or not. But once the
12 testimony is admitted, whether or not you believe it
13 is solely for you to determine.

14 Again, against that backdrop of common sense
15 and good judgment, in deciding to believe a witness,
16 you have the right to consider the interest of any
17 witness, the bias of any witness, the prejudice of
18 any witness, the opportunity for the witness to have
19 seen the matters and things about which the witness
20 may testify, whether or not the witness' statement
21 is consistent, his or her testimony is consistent,
22 whether or not it's corroborated by other witness'
23 testimony, made stronger or made weaker by other
24 witness' testimony. And you may also consider the
25 demeanor, your observations, the way the witness

1 acts on the witness stand.

2 You will have the right and you have the right
3 to consider anything that is in the record that will
4 help you evaluate the testimony of the witnesses.
5 That means it will be your duty to pay close
6 attention to the witnesses, to observe them, look at
7 them, to listen to them, to pay close attention to
8 the attorneys and to the Court.

9 Don't let your thoughts wander, but give strict
10 attention to the testimony in this case so that at
11 the end of all of the testimony, after the closing
12 arguments by the attorneys, instruction on the law
13 by the Court, you will then be in that position to
14 determine what the facts are, apply the law to those
15 facts and, thus, render your verdict, a just verdict
16 under the facts and the law.

17 I will appoint a foreperson after our luncheon
18 recess and upon your return. Just a couple of
19 administrative matters, ladies and gentlemen: I
20 don't know what may be offered and/or introduced
21 into evidence. Testimony of the witnesses, of
22 course, there could be physical items; there could
23 be photographs, there could be diagrams, there could
24 not be. I don't know. But if they are, if they're
25 introduced, many times they would be handed to your

1 foreperson in the courtroom. Or, I think nowadays,
2 they use electronics.

3 Many times they would be presented to your
4 foreperson and passed among the jury panel while
5 you're out here in your jury box. You may look at
6 it all you wish, whether it's a photograph or other
7 item, what have you. Keep in mind, if I allow an
8 item into evidence, you will also have that item
9 with you in your jury room at the time of your
10 deliberations.

11 I tell you that so you know in advance that's
12 not the only opportunity you get to look at that
13 item. But take all the time you need in the
14 courtroom. I'm certainly not rushing you in any
15 manner whatsoever.

16 Another thing, ladies and gentlemen: From time
17 to time, you may see me on my computer. I don't
18 peat, repeat, hashrag, don't know what it is; I'm
19 faceless. I focus on the trial of this case. These
20 are good, experienced trial lawyers. And I may look
21 down that bumpy, dusty legal trail that leads
22 perception in my mind that a legal issue may be
23 right around the corner. That's what I do.

24 I tell you this because a juror said I annoyed
25 her. I probably did and she probably just blamed it

1 on the computer. Be that as it may, if anything I
2 do up here annoys you, distracts you from your duty,
3 your responsibility, you let me know. I think I'm
4 person enough to see the writing on the wall and
5 read it. So if I distract any of you in any manner,
6 please let me know.

7 Also, ladies and gentlemen, if -- I will tell
8 you this: This is a very important case; very
9 important to both Mr. Brown and to the State of
10 South Carolina. And I don't run court like a
11 judicial marathon. I give the parties the time they
12 need to present the witnesses to the jury. So keep
13 that in mind.

14 Sometimes it's very difficult, very hard to sit
15 out here and listen. It takes more effort than I
16 first realized when I first came on the bench. And
17 I tell you this because that's really what I'm in
18 charge of: Taking breaks. And I got a real simple
19 rule about taking breaks. When I want to take a
20 break, y'all take a break. It works out for
21 everybody, right?

22 Well, like I say, it's not a marathon. If you
23 sit out here too long, if you need a break, please
24 raise your hand. I guarantee you're not the only
25 one and I guarantee you're not the only one in the

1 jury box either. Y'all take y'all's break; we take
2 our break. You have to have that focus and
3 attention throughout the trial of the case.

4 All right. Also, cannot see or hear a witness?
5 Please let me know, one of our fine bailiffs and
6 all. I'll certainly try to have them speak up for
7 you.

8 Any objection to anything I've told the jury
9 from the State, Solicitor?

10 MS. MAYES: Not from the State, Your Honor.

11 THE COURT: From the Defense, Mr. Story?

12 MR. STORY: None from the Defense.

13 THE COURT: All right. Ladies and gentlemen,
14 we will now begin the trial of the case by the
15 opening statements by the solicitor. If you will
16 please give the parties your complete and undivided
17 attention. Thank you very much.

18 Solicitor, you may address the jury.

19 MS. USRY: Thank you, Your Honor. May it
20 please the Court?

21 THE COURT: Yes, ma'am.

22 MS. USRY: I'll give you three seconds and then
23 I'm going to kill you. I'll give you three seconds
24 and then I'm going to kill you. Those are the words
25 that Ann Brown heard moments before Joshua Brown

1 pulled a knife on her and proceeded to stab her.
2 And not stabbing her just once, but multiple times
3 about the body, on her hands; he stabbed her on her
4 front torso and he stabbed her multiple times on the
5 back. And after he stabbed her, he drug her body
6 into the woods and attempted to cover her with dirt
7 and leaves and other items. And while she laid
8 there pretending to be dead, he fled the scene.

9 August 11th, 2015, Ann Brown is in
10 communication with Joshua Brown, her husband.
11 They're separated, but share a child in common, and
12 they communicate. She said she wants to meet. He
13 suggests a place, the Cayce Riverwalk. She doesn't
14 know when she goes to that location what's in store.
15 The Cayce Riverwalk where SCANA is located now, they
16 meet at a parking lot near her work, one of the
17 accesses to the Riverwalk right there.

18 When she gets there, his car is already at that
19 location. They get out and they walk down the
20 Riverwalk in the secluded part of the Riverwalk,
21 further away from the Gervais Street Bridge, further
22 down river. And they walk in that direction.

23 And after some time, he -- they have a
24 conversation -- during that conversation comes up
25 the fact that she doesn't realize he's jealous of a

1 new friend she has, a male friend, high school
2 acquaintance that she started going to lunch with.
3 He brings that up and then he utters those words:
4 I'll give you three seconds and then I'm going to
5 kill you. He pulls a knife and begins stabbing her.

6 When he flees the scene, she remains pulled off
7 to the side of the Riverwalk, on the ground. And
8 when she thinks she's safe, she begins making her
9 way to the river. And once she's in the river, she
10 floats downstream until she gets to a dock. And she
11 waits there for two hours in the water until someone
12 who is canoeing on the Congaree River hears her
13 cries for help and calls 911.

14 And the Cayce Department of Public Safety
15 responds and finds her in the river where she's been
16 for two hours with over 20 stab wounds to her
17 person. They pull her out of the river. EMS takes
18 her to Palmetto Health Richland where she remains
19 for some time.

20 Ladies and gentlemen, this isn't a whodunit.
21 This isn't a whodunit. Because when officers got to
22 the Cayce Riverwalk and they pulled Ms. Ann out of
23 the river, she was able to tell them who had stabbed
24 her over 20 times and she gave them the name of
25 Joshua Brown. And this isn't a whodunit because he

1 didn't succeed with his intent to kill her. This is
2 attempted murder; attempted because it wasn't a
3 successful murder, an attempt.

4 What is an attempted murder? It's an attempt
5 to kill another with malice aforethought, malice,
6 hatred, ill-will, jealousy that rises to the level
7 of hatred; a wicked intent, a wicked intent when
8 you're stabbing someone in the back.

9 Expressed or implied. Malice can be expressed
10 or implied. Expressed is the deliberate intention
11 to take the life of another, the deliberate
12 stabbing; malice implied by the actions of someone,
13 reckless disregard for human life. Aforethought.
14 Malice aforethought, the decision -- point and time
15 the decision is made to harm someone else. It could
16 be the moment before a stab happens; it can be some
17 time before. You'll hear the law further at the end
18 of this case.

19 The judge will charge you the law. As he
20 mentioned, he is the judge of the law. The State
21 has the burden of proof, as you've already heard him
22 say, and we welcome that burden. It's beyond a
23 reasonable doubt, and we welcome that. It's not
24 absolute certainty, it's beyond a reasonable doubt.
25 It's when you feel firmly convinced; firmly

1 convinced that the defendant committed attempted
2 murder.

3 How do we plan to meet our burden? Through
4 witnesses on the stand and evidence that comes in
5 through those witnesses. You're going to hear from
6 law enforcement that responded, saw the victim,
7 observed her, went to the hospital, spoke with her,
8 investigating officers who followed up.

9 You're going to hear from EMS who treated the
10 20-plus stab wounds on the victim's body. You're
11 going to hear from the doctors at Palmetto Health
12 Richland. You're going to hear that investigators
13 found the defendant was jealous that the victim had
14 a new friend. You're going to hear that while the
15 victim was in the river for two hours, the defendant
16 went to the hospital and got stitches on his hand
17 and reported that he had been cut while washing
18 dishes.

19 You're going to hear that after he knew law
20 enforcement wanted to talk to him, he did not go
21 talk to them and they ultimately had to seek him
22 out. And you're going to hear from the victim and
23 you're going to hear about those moments from her.
24 I'll give you three seconds and then I'm going to
25 kill you.

1 Ladies and gentlemen, when we conclude this
2 case and you hear the evidence that will come in
3 over the next day or two days, we believe that we'll
4 meet our burden of proof and prove this case beyond
5 a reasonable doubt and that you'll take that
6 information that we provide from the witness stand
7 from the witnesses and find the defendant guilty of
8 attempted murder.

9 THE COURT: Thank you, Solicitor.

10 Mr. Story?

11 MR. STORY: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. STORY: Members of the jury, only two
14 people know what happened during the events leading
15 up to that tragic day. There's nothing to
16 corroborate what the victim told law enforcement,
17 EMS, et cetera about the events leading up to that
18 tragic event that occurred.

19 You're going to hear today that Ms. Ann Brown
20 and Mr. Joshua Brown were married but separated at
21 the time this occurred and that their marriage was
22 full of tragedy and jealousy. But I'm not going to
23 go into too much detail about that because,
24 ultimately, what matters is what you believe
25 happened. And what you believe happened is going to

1 come from the evidence on this witness stand and who
2 you choose to believe, using your common sense, your
3 life experiences.

4 Now, I just want to remind y'all of a few
5 things before we get started: One, Mr. Brown is
6 innocent. He is absolutely innocent. There's not
7 been one shred of evidence presented yet in this
8 case that he committed attempted murder or any other
9 crime. So I would ask you to keep an open mind
10 about this case.

11 I'm going to go ahead and tell you there are
12 going to be some things in this case that are
13 upsetting. There is nothing wrong with being upset
14 about some of the testimony presented, there's
15 nothing wrong with getting angry, but don't let that
16 cloud your judgment. Don't let that substitute your
17 common sense, your life experiences. Evaluate all
18 the evidence and all the testimony in this case,
19 because it's very important. It's not all going to
20 be very exciting; some of it is going to be quite
21 boring, but it's all very important.

22 Ultimately, it doesn't matter what prosecutors
23 or anyone else in this case thinks is important.
24 What matters is what you believe is important. The
25 Judge is going to tell you you can believe or

1 throughout the trial of the case, both in the
2 courtroom, recesses, over evening breaks, you may
3 not discuss this case with others; that includes
4 your fellow jurors, lunch mates, family, friends, or
5 anyone else.

6 You, of course, would not be authorized to
7 discuss the case until you've heard all the
8 evidence, testimony in the trial of the case,
9 closing argument by the attorneys, instruction on
10 the law by the Court, then directed by the Court to
11 begin your deliberations with your fellow jurors in
12 your jury room.

13 You may not read, watch, listen to any news
14 reports about the case, should there be any, radio
15 television, internet, newspaper, or otherwise. You,
16 of course, may not use your computer, cellular
17 phone, or any other electronic device with
18 communication capabilities while in attendance at
19 trial or during deliberations. These devices may be
20 used during lunch breaks and, obviously, over the
21 evening break, but they may not be used to obtain or
22 disclose information which is prohibited.

23 Information which is prohibited includes, but
24 is not limited to the following: Information about
25 a party, a witness, an attorney or a court officer;

1 news accounts about the case, current or past,
2 should there have been any; information collected
3 through juror research on any topics raised or
4 testimony offered by any witness.

5 You can't do independent research on the
6 internet about any topics that may be offered during
7 the trial of the case or information collected
8 through juror research on any other topic the juror
9 might think would be helpful in deciding the case.

10 In other words, if there's some topic you think
11 would be helpful and there's been no testimony
12 offered as to that topic, you cannot do any
13 investigation in that regard. You decide the case
14 based on the testimony presented in this courtroom
15 by way of the witnesses, the items of evidence
16 introduced, and any reasonable inferences you think
17 may properly be drawn from the evidence.

18 And, ma'am, would you tell me your juror
19 number, please?

20 POTENTIAL JUROR: 102.

21 THE COURT: Thank you, ma'am. I've had an
22 election. I've elected you to serve as the
23 foreperson of our jury. There is no recount, there
24 is no recall, there's not a run off. So thank you
25 very much for volunteering for that. And I'm sure

1 any number of y'all, all of y'all, would be an
2 excellent jury foreperson for that, but I'm going to
3 elect Juror 102. Counted the votes, counted them
4 twice.

5 And one final thing before we take our recess
6 for lunch: I have found, having been on the bench
7 for a number of years now, that jurors are very
8 territorial, they like to sit in the same place each
9 and every time in the jury box and see their vision
10 of the courtroom and witness stand all the same way.
11 I understand it. I like it. I understand it.

12 But I will say this: I need to keep up with 14
13 folks. I need our foreperson to always remain in
14 this seat and our two alternates to please remain in
15 y'all's seats. Others of y'all may sit in the same
16 seat. That's fine. You do not have to. If you do
17 sit in the same seat, perhaps by the end of the
18 trial of the case, I will match the numbers up with
19 the individuals. You may not want that to happen,
20 so you can move.

21 You've heard my instructions. Let's take about
22 an hour and 15 minutes. Let's say about 2:20, 1420
23 hours. I'm not sure how the traffic -- I think the
24 pattern is supposed to get better at 0500 hours
25 Saturday morning. Maybe I'll test that out. But

1 there is obviously construction downtown. And even
2 when there's not, the traffic is -- well, y'all will
3 find out. That will be a surprise. We'll say about
4 2:20. I hope y'all have a pleasant lunch. Thank
5 you very much.

6 (The jury exits the courtroom at 1:02 PM.)

7 THE COURT: Anything further before we take our
8 recess, Solicitor?

9 MS. MAYES: No, Your Honor.

10 THE COURT: Mr. Story?

11 MR. STORY: No, sir, Your Honor.

12 THE COURT: Thank you very much. About 2:20.

13 (Luncheon recess 1:03 PM - 2:36 PM.)

14 THE COURT: Anything before we bring in our
15 jury, Solicitor?

16 MS. MAYES: Nothing from the State, Your Honor.

17 THE COURT: Mr. Story?

18 MR. STORY: Nothing from the Defense.

19 (The jury enters the courtroom at 2:37 PM.)

20 THE COURT: All right. Our jury is back and
21 present in the courtroom.

22 Welcome back, ladies and gentlemen. I hope you
23 had a pleasant lunch. We're continuing the trial by
24 the presentation of evidence and testimony by the
25 State in its case in chief. I would ask you to

DIRECT EXAMINATION OF NIKKI RODGERS BY MS. MAYES

187

1 please give the parties your complete and undivided
2 attention. Thank you very much.

3 Solicitor, you may call your first witness.

4 MS. MAYES: The State calls Nikki Rodgers.

5 NIKKI RODGERS

6 being first duly sworn, testified as follows:

7 THE DEFENDANT: I do.

8 THE CLERK: Once you're seated, state your full
9 name, spelling your last.

10 THE WITNESS: Nikki Rodgers, R-O-D-G-E-R-S.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. Good afternoon, Ms. Rodgers. Can you give us
14 some information about yourself? Where are you
15 employed?

16 A. Lexington County 911 Communications.

17 Q. All right. And what do you do there?

18 A. I am the chief communications officer.

19 Q. How long have you been with Lexington County
20 911 Communications?

21 A. 24 years.

22 Q. I want to start by asking you a little about
23 the process in which a call comes into the 911
24 center. How is it documented by your staff?

25 A. Once a call is received in the 911 center, it

1 goes into our computer-aided dispatch system, which
2 is our documentation for who we send, what time the
3 call comes in, all of the caller information. That
4 kind of information is documented in there.

5 Q. And is that information contemporaneous with
6 the actual 911 call?

7 A. Yes, ma'am.

8 Q. Can you tell us whether or not a 911 call came
9 in to the Lexington County Communications Center on
10 or about August 11th, 2015?

11 A. Yes, ma'am, it did.

12 Q. And have you received a subpoena in this
13 particular case for the information associated with
14 that call?

15 A. I did.

16 Q. Can you tell us whether or not you were able to
17 retrieve any information related to this case
18 pursuant to your subpoena?

19 A. Yes, ma'am. We did pull the CAD report.

20 Q. And when you say CAD report, can you tell us,
21 in layperson's terms, what's meant by that?

22 A. It is computer-aided dispatch system. It is
23 the computer system that the dispatchers use in the
24 daily course of their business to be able to send
25 the appropriate response to whatever call is made

DIRECT EXAMINATION OF NIKKI RODGERS BY MS. MAYES

189

1 into the dispatch center.

2 Q. As the director of the 911 Communications
3 Center, who is the custodian of records?

4 A. I am.

5 Q. And that would be all business records
6 affiliated with the 911 center?

7 A. Yes, ma'am.

8 Q. Does that include the CAD sheets, as you termed
9 it, which the dispatcher enters at the time a call
10 is received?

11 A. Correct. It does.

12 Q. And did you have the opportunity to pull those
13 records in accordance with this case?

14 A. I did.

15 Q. What was the time of the call, Ms. Rodgers?

16 A. 1323. And that would be 1:23 in the afternoon.

17 Q. And, again, the date of that call?

18 A. August the 11th, 2015.

19 Q. Now, when a 911 call comes in, do you also have
20 a notation regarding where the call is dispatched
21 to?

22 A. We do.

23 Q. The specific location?

24 A. Yes.

25 Q. And what information do you have in this case

- 1 regarding the specific location?
- 2 A. The location of this call was 197 Granby
3 Landing Road.
- 4 Q. I'm going to ask you to repeat that. 197...
- 5 A. Granby Landing Road.
- 6 Q. And what phone number was that call placed
7 from?
- 8 A. (520) 559-1477.
- 9 Q. 1477?
- 10 A. Correct.
- 11 Q. And what was the nature of that call,
12 Ms. Rodgers?
- 13 A. It was a subject that had been stabbed.
- 14 Q. What's the next step there at the 911 center
15 when a call comes in, specifically to someone who's
16 been stabbed?
- 17 A. They go through a system of questions trying to
18 find out the information of how bad that person is
19 and find out -- get the EMS, fire and law
20 enforcement responses headed that way.
- 21 Q. And in this particular case, was -- EMS or
22 paramedics, were they dispatched to the aid of this
23 person at Granby Landing?
- 24 A. Yes, ma'am.
- 25 Q. And do you have a notation on the CAD as to the

1 time of arrival for EMS there at the scene?

2 A. Hold on one second. Let me read it. I do not
3 have the actual exact time that EMS Unit 7 arrived,
4 but it does say that they were following Cayce PD in
5 at 1328.

6 Q. Okay. Now, do your records reflect whether
7 Cayce PD and EMS ultimately arrived there at the
8 scene?

9 A. Yes.

10 Q. All right. And can you tell us whether or not
11 this would have been an emergency call?

12 A. It was an emergency call.

13 Q. Were there running lights and sirens?

14 A. Yes.

15 MS. MAYES: Thank you. Nothing further.

16 THE COURT: Mr. Lobshire [sic]?

17 CROSS-EXAMINATION

18 BY MR. TURNBLAD:

19 Q. I was looking at this report that y'all had and
20 I see that Lifenet is put on standby. Is that
21 common?

22 A. EMS can put Lifenet on standby any time they
23 want. So, occasionally, they will put Lifenet on
24 standby.

25 Q. And then I see, just briefly after that, maybe

1 three minutes later, it was cancel Lifenet.

2 A. Correct. That is -- the 911 operator and the
3 dispatcher is really just the facilitator of making
4 contact with the resources that are requested by
5 fire, EMS, or law enforcement. So when EMS requests
6 for a helicopter to be put on standby, they're also
7 the ones that tell the dispatchers to call them back
8 and cancel them. So that was a judgment call based
9 on the field unit.

10 Q. Would that typically be because it's just not
11 as serious as they initially thought?

12 A. That would be totally up to them and the
13 individual unit that responded. Their judgment
14 call.

15 THE COURT: Thank you, Mr. Lobshire.

16 Anything on redirect, Solicitor?

17 MS. MAYES: No, sir, Your Honor.

18 THE COURT: Thank you.

19 You may call your next witness.

20 MS. MAYES: The State calls Ed Pereira.

21 THE COURT: Detective Pereira, come around and
22 join us, please.

23 EDWARD PEREIRA,

24 being first duly sworn, testifies as follows:

25 THE CLERK: Once you're seated, state your full

DIRECT EXAMINATION OF EDWARD PEREIRA BY MS. MAYES

193

1 name, spelling your last, please.

2 THE WITNESS: My name is Edward Lewis Pereira,
3 P-E-R-E-I-R-A. I'm a junior.

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Good afternoon, Detective Pereira. Tell us
7 some information about yourself. Where are you
8 currently employed?

9 A. I'm currently employed at the Cayce Department
10 of Public Safety.

11 Q. And how long have you been with Cayce
12 Department of Public Safety?

13 A. Approximately 12 years. I've been in law
14 enforcement 18 years total.

15 Q. And during that period of time, how much of
16 your career has been spent as an investigator or a
17 detective?

18 A. I have approximately eight years of
19 investigative experience during that for being an
20 investigator, being a supervisor over our
21 investigative department, and also part of the crime
22 scene and evidence as well.

23 Q. And you mentioned crime scene and evidence.
24 There at the Cayce Department of Public Safety, do
25 officers play multiple roles?

1 A. We do have certain officers that play multiple
2 roles. My primary job right now is I'm the evidence
3 custodian for the department and I'm also in charge
4 of our crime scene unit. So I'm the actual crime
5 scene technician as well.

6 Q. All right. Take us back, Detective Pereira, if
7 you will, to the date of August 11th, 2015. Were
8 you working on that day?

9 A. I was. Actually, on that date, I was the
10 supervisor that was for our patrol division. At
11 that point in time, I was actually the sergeant on
12 the road at that time.

13 Q. What, if anything, occurred that required your
14 immediate assistance?

15 A. We were called to the Cayce boat landing. It
16 has several names. One is 197 Granby Landing Road.
17 To all of us, the knowledge is, it was always the
18 Cayce boat ramp. That's where we were called to
19 respond for a stabbing -- a victim that had been
20 stabbed and was in the water currently.

21 Q. What occurred when you arrived at the scene?

22 A. Initially, I responded. When I responded, I
23 was, I believe, the third car in line. Most of all
24 of us were kind of one right behind each other. As
25 I responded and arrived on scene, I just noticed an

1 individual who wasn't with law enforcement or
2 anything else pointing and telling us to go down to
3 the dock, that the person was down at the dock.

4 So at that point, we ran down to the dock,
5 which is an L-shaped dock. I don't know if you ever
6 been to a landing before, but the dock itself is an
7 aluminum-style dock. It goes completely down into
8 the water and then it makes a hard right and it runs
9 roughly about the same distance down the right-hand
10 side so the boats can actually have a spot to be
11 able to hook up due to the current.

12 Q. And the person who was flagging you, can you
13 describe, generally, that person?

14 A. I do not recall. I apologize. I just remember
15 somebody yelling they're down there in the water by
16 the dock. So my initial concentration was getting
17 down on the dock and actually to the person in the
18 water.

19 Q. And what occurred when you arrived there?

20 A. As we ran down to the dock, I made a right-hand
21 turn as I'm running down. I actually see the victim
22 laying in the water. She is laying face-up in the
23 water, grabbing ahold of the dock. I remember that
24 as I ran up, she was submerged in the water, pretty
25 much her entire body was submerged in the water, so

1 that really the only portion of her kind of out of
2 the water was her head.

3 I could see her entire body, but the only
4 portion that was really out of the water was her
5 head, which was kind of level with the ramp itself.
6 It was just underneath where you could see -- you'd
7 have to actually come up on her to be able to see
8 her.

9 Q. What did you do next?

10 A. We told her that it was okay, we were there to
11 help. And we asked her if she could stand to get
12 out of the water. We know she was very distraught
13 at that point. She told me, help me, help me. I
14 told her that's what we were there for.

15 I asked if she could stand up to assist us in
16 getting her out of the water. She was able to
17 manage, to some sort, to be able to help me with
18 another officer who was able to lift her up out of
19 the water and set her onto the dock.

20 Q. Once she was placed on the dock, can you tell
21 us who you recall being present there to render aid?

22 A. As other officers, obviously, were right there
23 with us, the emergency medical services was right
24 behind us actually coming in. And I remember them
25 actually being right there with us and coming down

1 on the dock. So she had immediate aid right behind
2 us as soon as we were able to get her onto the dock.

3 Q. I'm going to show you a photograph and ask you
4 whether or not you recognize it.

5 A. I do recognize this photo.

6 Q. Were you present at the scene when that
7 photograph was taken?

8 A. Yes. I was directly behind the person that was
9 taking this photograph.

10 Q. Is that a fair and accurate representation of
11 the scene that you have just described to us of the
12 person on the dock that you rendered aid to?

13 A. It is.

14 MS. MAYES: Your Honor, at this time, the State
15 would offer as Exhibit 1 for evidence.

16 THE COURT: All right. Mr. Story?

17 MR. STORY: No objection.

18 THE COURT: State's 1 in evidence without
19 objection.

20 (State's Exhibit No. 1 admitted into evidence.)

21 BY MS. MAYES:

22 Q. Looking here, Detective Pereira, who is the
23 person who's located on the ground?

24 A. That would be the victim.

25 Q. And what is her name?

- 1 A. Sorry. Ann Brown.
- 2 Q. And did you see anyone else in the water around
3 her at that point in time when you arrived?
- 4 A. When we arrived actually with her in the water,
5 no, I did not.
- 6 Q. Who actually lifted her up onto the dock?
- 7 A. Myself and another officer, Trevor Stone.
- 8 Q. Okay. And do you recognize --
- 9 A. I'm sorry. It was actually Trevor Hall, I
10 apologize.
- 11 Q. Do you recognize the other individuals in this
12 photograph?
- 13 A. Yes. Right in the middle, you'll see an
14 officer actually keying up on her radio at that
15 point. That would have been Officer Whetstone,
16 Officer Danielle Whetstone. She was actually facing
17 back this way. And, as you can see, she's the one
18 with her left hand up on her shoulder.
- 19 Q. She is with your agency as well?
- 20 A. She is, yes.
- 21 Q. And you also mentioned EMS. Are they depicted
22 in the photograph as well?
- 23 A. Yes, they are. They would be in the light blue
24 shirts to the left and to the right.
- 25 Q. Now, Detective Pereira, do you have dash cam

1 video capabilities there at the Cayce Department of
2 Public Safety?

3 A. We do.

4 Q. And do you know whether or not that officer
5 who's depicted in the photograph, Danielle
6 Whetstone, had activated the dash cam video and
7 audio during the arrival there at the scene?

8 A. I do. She did have her dash cam activated.

9 Q. Does that also include the period of time in
10 which you and others rendered aid by pulling her out
11 of the water and onto the dock?

12 A. Yes, ma'am.

13 Q. And anything that would have transpired
14 thereafter prior to her transport by EMS?

15 A. Yes, it would.

16 Q. Have you had an opportunity to review that dash
17 cam video?

18 A. Yes, I have.

19 Q. I'm going to show you an item and ask you
20 whether or not you recognize it and, if so, how.

21 A. I do recognize this because it has my initials
22 where I've initialed it.

23 Q. And can you tell us whether or not the dash cam
24 video is a fair and accurate representation of those
25 events on that day?

1 A. It is.

2 MS. MAYES: This would be State's Exhibit 2 for
3 ID at this time, Your Honor.

4 THE COURT: All right. Thank you.

5 (State's Exhibit No. 2 marked for
6 identification.)

7 BY MS. MAYES:

8 Q. Now, Detective Pereira, what, if anything, did
9 you notice about the victim's physical condition?

10 A. I noticed that when we pulled her out of the
11 water, it appeared that she was bleeding from
12 several locations on her body. Her front and back
13 of her torso is what I immediately noticed right off
14 the bat.

15 Q. And was she actively bleeding still at that
16 time?

17 A. Yes, she was.

18 Q. And what action, if any, did you take to
19 determine where the suspect may be located?

20 A. It was one of our initial first things that we
21 were trying to do, knowing that EMS was directly
22 behind us and was going to give her medical care.
23 We were attempting to locate, at that point, if the
24 person who inflicted those injuries was still in the
25 area, would possibly be a danger to us or anything

1 else, and, obviously, try to apprehend that person
2 before he was able to leave the area.

3 So it would have been the first of several
4 questions that would have been asked to be able to
5 get a description of the person; if he was still in
6 the area or where this would have possibly taken
7 place at so we would know where to get started.

8 Q. And can you tell us whether or not you were
9 able to obtain a name of a suspect?

10 A. We were. She was able to give us a name.

11 Q. And whether or not you were able to obtain a
12 physical description of the suspect?

13 A. We were able to obtain a physical description.

14 Q. And whether or not you were able to obtain
15 vehicle information for the suspect?

16 A. We were.

17 Q. What, if any, action did you take after
18 learning the name, obtaining a physical description,
19 and also a vehicle description of the suspect?

20 A. Several of the questions that was asked was
21 where this took place at. At that point in time,
22 she is on the end of the dock right here. If you
23 imagine the dock facing back the opposite direction,
24 the landing would have been off and up and to the
25 left.

1 At that same area is the end of the Riverwalk.
2 She actually pointed to the Riverwalk, which we
3 determined that was the area she was pointing at,
4 and asked her if that was where the actual assault
5 had occurred. And she said, yes, it was.

6 Trying to get a description of him, what he
7 looked like, and then how they actually got to the
8 location where they got to, which would have been
9 two different vehicles. We were first able to get
10 from her that she had driven her own vehicle there
11 and that he had driven his vehicle or another
12 vehicle to the location. So that's what we were
13 able to obtain at that time and be able to start our
14 search from that point.

15 Q. Was her vehicle located there at the scene?

16 A. It was located at the section of the Riverwalk
17 at the beginning of the Old State area. It was
18 located at that parking lot.

19 Q. All right. I'm going to ask you a few
20 questions about that. I'm going to show you an
21 aerial photograph and ask you whether or not you
22 recognize this area?

23 A. Yes, I do.

24 Q. Now, the Riverwalk, can you tell us whether or
25 not portions of the Riverwalk are within the

1 jurisdiction of Cayce Department of Public Safety?

2 A. It is.

3 Q. And is this an area you officers frequent on a
4 regular basis?

5 A. Yes, it is.

6 Q. For patrolling and things of that nature?

7 A. Yes, we do.

8 Q. Is this a fair and accurate representation of
9 that location?

10 A. It is.

11 MS. MAYES: Your Honor, this would be State's
12 Exhibit 3 for evidence.

13 MR. STORY: No objection.

14 THE COURT: State's 3 is in evidence without
15 objection.

16 (State's Exhibit No. 3 admitted in evidence.)

17 MS. MAYES: Your Honor, we'd ask for permission
18 for the witness to step down from the witness stand.

19 THE COURT: Yes, sir, you may step down. Just
20 keep your voice up, please.

21 BY MS. MAYES:

22 Q. Looking here at State's Exhibit 3, I'm going to
23 have you take us through this location. And if you
24 need to move this around at any point in time,
25 that's fine. But take us through what we're looking

1 at here in this aerial photograph.

2 A. Okay. This is actually the beginning of the
3 Old State Road area that I told you earlier would be
4 the main road that would lead into it. This area
5 would be the parking lot right here. And you can
6 actually see portions of the Riverwalk, the actual
7 walk itself as it comes up through here.

8 This right here is the boat landing that I
9 talked about where we responded to, which would have
10 brought us in this direction in responding up here.
11 The ramps right here would be where we initially
12 responded to. That's where I would have been
13 advised there was a person down on the ramp. You
14 can actually see a portion of the ramp right here.

15 Q. Is that the same ramp we're looking at there in
16 the photograph?

17 A. That's the same ramp. The end of that ramp, as
18 you look at that picture, would be facing this
19 direction; would be facing back this way on that
20 picture.

21 Q. So what are we looking at here?

22 A. That is the actual river itself. This would be
23 our side; that would be the Richland County side.
24 If you're familiar with any of that location, this
25 would be more of the Blossom and Gervais Street

1 heading off that direction, and back this way would
2 be back toward the I-77 bridge.

3 Q. And for persons who are not familiar with the
4 Riverwalk, as I follow this trail here in the
5 photograph, can you tell us whether or not that
6 portion of the Riverwalk between this parking lot
7 and this dock that you identified, is that paved or
8 cement?

9 A. Yeah. It does have cement. It is an actual
10 cement walkway.

11 Q. I'll hand you this and ask you to show us where
12 the area is where the victim's vehicle was located.

13 A. It would have been right here in this area
14 right here. It's kind of hard to see, but there's
15 an actual drive right here. As you go in, as you
16 can see, you can see a portion of the Riverwalk
17 actually curve and go toward that very small parking
18 lot. There's a parking lot right there.

19 Q. And from this parking lot, can one access the
20 cement trail?

21 A. Yes. The cement trail is directly at the end
22 of the parking lot. If you were to turn into the
23 parking lot, it's directly in front of you.

24 Q. There, as we look at the actual cement path of
25 the Riverwalk, what is located on both sides of that

1 path?

2 A. Up on this side of the path would have been a
3 water treatment facility. And on this side of the
4 path would be another waste water treatment
5 facility. This is also where the boat ramp would
6 be. So it would be centered between these two
7 locations right here.

8 Q. Okay. Thank you. You may return. Now, you
9 have testified that you were able to obtain a name
10 and description of the suspect.

11 A. Yes, we were.

12 Q. What action, if any, was taken by yourself or
13 your department following that information?

14 A. Part of what we do initially is we try to
15 control the area. And when I say the area, it would
16 be if we're looking for the suspect, actively
17 looking for a suspect and believing they're still in
18 the area, we'd want to block any avenue of his
19 escape, also immediately try to find the vehicles
20 that they came in, which that would be one of the
21 first places the person would probably go to to try
22 to leave the area.

23 We did send officers immediately down to that
24 location to try to, one, stop any traffic from
25 leaving out of there, and, two, to see if the

1 vehicle was still there. At that point, we would
2 have continued to control the area that the assault
3 actually would have occurred in, like a crime scene.

4 We would control those areas and make sure it's
5 all clear in there so nobody else is able to get in
6 or out and the actual person we're looking for would
7 not be in that area and, also, at that point, obtain
8 any information as to where the person may be going;
9 if he was leaving that area and got out of our
10 perimeter that was set up, where he may be headed
11 to.

12 Q. And what is meant by the term BOLO?

13 A. A BOLO means be on the lookout for. That would
14 be what we would broadcast out to another agency,
15 anybody who's not directly on our channel. There's
16 multiple agencies out there, so we would put that
17 out to other agencies to be on the lookout.

18 Q. Did that occur in this case?

19 A. Yes, it did. We asked for instance from two
20 other agencies. We ask for assistance of Columbia
21 Police Department and Lexington County Sheriff's
22 Department.

23 Q. And then did you request that officers be
24 dispatched to any secondary location?

25 A. Yes. I asked that officers be sent to 3041

1 Princeton Road in Lexington County.

2 Q. And for what purpose?

3 A. That's where the victim's children was at the
4 time. She was upset and worried about that, and we
5 wanted to make sure that he was not on his way to
6 the location where the children were at.

7 Q. And you mentioned before you are the evidence
8 custodian. Can you tell us, in general, the
9 procedures for maintaining evidence at the Cayce
10 Department of Public Safety during your course of
11 career there.

12 A. Yes. Any evidence obtained will start with
13 what we call chain of custody. This will be a sheet
14 that is filled out from the initial person, the
15 first person to take that piece of evidence, all the
16 way until it reaches me back there in the evidence
17 department.

18 We would fill out that chain of custody and it
19 shows that person being in possession of the
20 evidence and not leaving until he's turned it over
21 to the following person using -- most of the times,
22 it's from the initial officer to the evidence
23 department, or if he's going to give it to the
24 actual crime scene unit or investigators responding
25 to the scene, and then it may come to me.

DIRECT EXAMINATION OF EDWARD PEREIRA BY MS. MAYES

209

1 But at the evidence department, it comes to me,
2 it's logged in and kept in a secure facility that
3 I'm -- very limited people has access to, but I'm
4 the one that controls the access into and from that
5 area so nobody can get back to it.

6 Q. Evidence that is collected by the Department of
7 Public Safety, can you tell us whether or not it is
8 routinely sealed when it's maintained as evidence
9 there at your evidence room?

10 A. All evidence that is brought into the
11 department is sealed. It's either sealed by me or
12 the actual initial officer that may be turning in
13 the piece of evidence. It can be sealed by him
14 unless it's an extremely large piece of evidence
15 that you can't get a bag or anything else around,
16 and then it would be tagged and placed in a secure
17 location.

18 Q. What about when items are transported from your
19 department to the State Law Enforcement Division for
20 testing or analysis?

21 A. They would be transported by me, the evidence
22 custodian. I would first log them out of my system.
23 There is a particular way we log them into SLED, or
24 South Carolina Law Enforcement Division, where we
25 actually pre-log it into their system. Then I will

1 take it out of my system, carry it to them, and log
2 it into their system. So there's always a track of
3 it coming from me to them and then back to me.

4 Q. Does that evidence also -- does it continue to
5 be sealed during transport?

6 A. It is. It remains sealed the entire time. So
7 it goes to SLED. And then if they do any testing,
8 they will reseal it and it will come back to me in
9 that fashion.

10 MS. MAYES: Nothing further, Your Honor.

11 THE COURT: Thank you, Solicitor.

12 Mr. Story?

13 MR. STORY: Thank you.

14 CROSS-EXAMINATION

15 BY MR. STORY:

16 Q. Good afternoon, Detective.

17 A. Good afternoon.

18 Q. I want to ask you a few questions. The dock
19 where you located Ms. Brown --

20 A. Yes, sir.

21 Q. -- that's at the bottom of a hill, right?

22 A. It's at the actual bottom of the ramp. It runs
23 parallel to the right of the ramp.

24 Q. Is the ground above the dock -- not the ramp
25 itself, but the ground above that, isn't that

- 1 elevated?
- 2 A. Yes, it is.
- 3 Q. Okay. Thank you. Now, when you -- you spoke
- 4 with Ms. Brown at the scene, correct?
- 5 A. I did.
- 6 Q. So she was able to give you a physical
- 7 description of someone you were looking for? She
- 8 was able to give you a description of what clothes
- 9 they were wearing, correct?
- 10 A. Yes, correct.
- 11 Q. She was able to give you a description of what
- 12 kind of vehicle they were driving?
- 13 A. Correct.
- 14 Q. And she was able to give you information about
- 15 where they may be headed?
- 16 A. That's correct.
- 17 Q. And this is all after you pulled her out of the
- 18 water?
- 19 A. That's correct.
- 20 Q. Now, you attended law enforcement training
- 21 academy at SLED, correct?
- 22 A. At the South Carolina Criminal Justice Academy.
- 23 SLED is the State.
- 24 Q. Sorry. That's how I usually refer to it. The
- 25 South Carolina Criminal Justice Academy?

- 1 A. Correct.
- 2 Q. And there they tell you, whenever you respond
3 to an incident, you write a report, correct?
- 4 A. That's correct.
- 5 Q. Did you do that in this case?
- 6 A. I was the actual supervisor. One of the
7 officers wrote the report and I wrote an
8 investigative report adding my actions.
- 9 Q. Okay. Thank you for clarifying. You did write
10 an investigative report?
- 11 A. I did.
- 12 Q. About the events you saw at that moment or that
13 day?
- 14 A. That's correct.
- 15 Q. Do you recall saying that when you found her,
16 she was actually standing in the water?
- 17 A. No.
- 18 Q. Okay.
- 19 MR. STORY: I beg the Court's indulgence.
- 20 THE COURT: Yes, sir.
- 21 BY MR. STORY:
- 22 Q. Excuse me. Do you recall writing she was lying
23 in waist-deep water?
- 24 A. I don't know if that's exactly how I said it,
25 in waist-deep water. It is correct that she was in

1 very shallow water.

2 Q. So you would describe the water as waist-deep?

3 A. Yes.

4 Q. To you?

5 A. I can't measure it. But, yes, it was shallow
6 to some point.

7 Q. Okay. Thank you.

8 MR. STORY: Beg the Court's indulgence.

9 THE COURT: Yes, sir.

10 MR. STORY: No further questions, Your Honor.

11 THE COURT: Redirect, Solicitor?

12 MS. MAYES: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. Could you clarify exactly what you wrote
16 regarding where she was and what you observed there
17 in the water?

18 A. In that particular paragraph, I did -- the
19 reporting officer, which would have been me, arrived
20 on scene and was flagged by bystanders to the dock
21 area. I was advised on the radio that the victim
22 had been located at the dock. I observed the victim
23 lying in waist-deep water at the end of the dock.
24 The victim appeared to be hiding because she was
25 against the dock and keeping her head down and the

1 majority of her body under the water.

2 Q. So from what you observed, she was lying in the
3 water?

4 A. Yes. That was one of the things I observed.
5 The water was shallow at that point. There really
6 wouldn't have been any other reason in my mind,
7 other than attempting to hide from somebody, would
8 have been the reason why she was down and so close
9 to the side of the dock.

10 MS. MAYES: Nothing further.

11 THE COURT: Recross, Mr. Story?

12 MR. STORY: None, Your Honor.

13 THE COURT: Thank you, Detective.

14 Solicitor, you may call your next witness.

15 MS. USRY: Thank you, Your Honor. The State
16 calls Officer Baker.

17 ROBERT BAKER

18 being first duly sworn, testified as follows:

19 THE WITNESS: Yes.

20 THE CLERK: Once you're seated, state your full
21 name, spelling your last, please.

22 THE WITNESS: Robert B. Baker, B-A-K-E-R.

23 DIRECT EXAMINATION

24 BY MS. USRY:

25 Q. Thank you, Officer Baker. Where are you

DIRECT EXAMINATION OF ROBERT BAKER BY MS. USRY

215

- 1 currently employed?
- 2 A. Cayce Department of Public Safety.
- 3 Q. And how long have you been employed with Cayce
- 4 Public Safety?
- 5 A. About four years.
- 6 Q. In what capacity have you been employed there?
- 7 A. Been a patrol officer, corporal, and now road
- 8 sergeant.
- 9 Q. What's your current --
- 10 A. Sergeant -- patrol sergeant.
- 11 Q. Were you working there on August 11th of 2015?
- 12 A. Yes, ma'am, I was.
- 13 Q. And did you have an opportunity to respond to
- 14 an incident at the Cayce Riverwalk concerning Ann
- 15 Brown?
- 16 A. I did.
- 17 Q. What was your role in responding to that
- 18 incident?
- 19 A. Initially, we received a call, possible
- 20 stabbing in the Riverwalk area. Multiple units
- 21 responded. Got to the area, secured the scene.
- 22 Myself and Detective Wilcox took a golf cart from
- 23 the area of the landing where it happened towards
- 24 the direction of Phase 3 where the possible suspect
- 25 may have been, and we made contact.

1 Q. Did you, at that point, have information where
2 the suspect may be located?

3 A. Yes. Dispatch advised and other officers
4 advised that it was possible he may be at Phase 3
5 and that the victim's vehicle and his vehicle were
6 both parked there.

7 Q. Did you locate anything at that location?

8 A. We did. We located the victim's vehicle, which
9 was a blue Malibu, if I recall correctly.

10 Q. At that location, is there a parking lot there?
11 Can you describe where this is along the Cayce
12 Riverwalk?

13 A. Yes, ma'am. It's a fair distance away. It's a
14 gravel parking lot. It's one of the first entrances
15 you come to on the left before you get to the boat
16 landing.

17 Q. And a good distance away. A good distance from
18 where, exactly?

19 A. From the boat landing itself.

20 Q. Where you initially responded to?

21 A. That is correct.

22 Q. Where you initially responded to, is that where
23 the victim was ultimately located?

24 A. Yes, ma'am.

25 Q. And you indicated you located the victim's

1 vehicle at the gravel parking lot.

2 A. Yes, ma'am.

3 Q. Did you locate the suspect's vehicle at that
4 location?

5 A. No, ma'am. I believe it was given to us as a
6 maroon Fusion. Ford Fusion, I believe. And it was
7 not at the scene. It was supposed to have been
8 parked beside hers.

9 MS. USRY: Your Honor, I want to briefly ask
10 the witness to step down.

11 THE COURT: All right. Yes, sir, you may step
12 down. Please keep your voice up when you're away
13 from the mic.

14 BY MS. USRY:

15 Q. I'm going to ask you to look at State's 3, I
16 believe. Do you recognize this area?

17 A. Yes, ma'am, I do.

18 Q. Tell me the area -- do you see the river in
19 this photo, the Congaree River in this --

20 A. Yes, ma'am.

21 Q. Okay. And do you see where you initially
22 responded to on this map?

23 A. Yes, ma'am. Our initial response was to the
24 boat landing right here in this area.

25 Q. To the right corner?

- 1 A. Yes, ma'am. Right in this area here.
- 2 Q. And when you say you rode a golf cart, where
3 did you ride a golf cart from, exactly?
- 4 A. Once the scene was secured, we rode the golf
5 cart from here all the way down this direction to
6 Phase 3. The suspect was supposed to be located
7 somewhere in this area. And then we got further
8 information that the victim's vehicle and suspect's
9 vehicle would be parked in this parking area here,
10 which you encounter when you come in the first
11 parking area.
- 12 Q. So you rode a golf cart. Did you actually ride
13 the golf cart on the Riverwalk itself?
- 14 A. Yes, ma'am, we did.
- 15 Q. And then you ended up at this parking lot down
16 here?
- 17 A. That is correct, yes, ma'am.
- 18 Q. And that is the parking lot you ultimately
19 located the victim's vehicle?
- 20 A. Yes, ma'am.
- 21 Q. Thank you. You may return to your seat.
- 22 A. Yes, ma'am.
- 23 Q. What did you do after locating the victim's
24 vehicle?
- 25 A. We secured the scene once we located the

1 vehicle. We stayed on scene with the vehicle and
2 held the parking lot until Officer Hall, PSO Hall,
3 he responded to that area to secure the scene.

4 Q. Then what was your next role in responding to
5 this incident?

6 A. I responded back to the initial location of our
7 response where the victim was located. We held the
8 scene there for a little while so nobody would come
9 into the area. Later on, I was asked to collect
10 some evidence from the dock area.

11 Q. What evidence was that?

12 A. It was some undergarments; a bra and a shirt.

13 Q. Did you recover those items?

14 A. Yes, ma'am, I did.

15 (State's Exhibit No. 4 marked for
16 identification.)

17 Q. I'm going to show you what's being marked as
18 State's 4. Do you recognize the interior of this
19 item?

20 MS. USRY: Your Honor, permission to break the
21 seal so the officer can examine it?

22 THE COURT: Yes, ma'am.

23 THE WITNESS: Yes, ma'am. I recognize them
24 both.

25 BY MS. USRY:

- 1 Q. How do you recognize that item?
- 2 A. This is the bra and the shirt I recovered from
3 the dock area where the victim was located
4 initially.
- 5 Q. Do you recognize it by sight?
- 6 A. Yes, ma'am, I do.
- 7 Q. What did you do upon collecting that item?
- 8 A. Once I collected the items, I met with
9 Detective Weaver, who was on the crime scene, and he
10 took possession of the evidence from there.
- 11 Q. Officer Baker, I'm showing you what's been
12 marked as State's 5 through 7. Do you recognize
13 those items?
- 14 A. Yes, ma'am, I do.
- 15 Q. And do they fairly and accurately represent
16 what you observed on the date of this incident?
- 17 A. Yes, ma'am.
- 18 Q. And what can you tell me they represent?
- 19 A. It's the victim's vehicle description we were
20 given, which was verified through South Carolina DMV
21 files belonging to the victim.
- 22 Q. Where are these pictures taken?
- 23 A. They're taken in the Phase 3 entrance, which is
24 the first entrance as you come into the boat landing
25 where the victim was located.

1 Q. Is this where you ultimately located the car in
2 this case?

3 A. Yes, ma'am, first parking lot.

4 MS. USRY: State enters 5, 6, and 7, Your
5 Honor.

6 THE COURT: Mr. Story?

7 MR. STORY: No objection.

8 (State's Exhibit Nos. 5, 6, and 7 admitted into
9 evidence.)

10 BY MS. USRY:

11 Q. State's 5, describe for me what parking lot
12 this is located in.

13 A. That is the first parking lot as you're coming
14 down Old State Road, which is the entrance to Phase
15 3. It's a gravel parking lot.

16 Q. Is this where you located the victim's car on
17 August 11th of 2015?

18 A. Yes, ma'am.

19 Q. And this is the parking lot up river from the
20 dock where the victim was ultimately found?

21 A. That is correct. Yes, ma'am.

22 MS. USRY: No further questions for this
23 witness, Your Honor.

24 THE COURT: Thank you, Solicitor.

25 Mr. Story?

1 MR. STORY: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. STORY:

4 Q. You said you recovered the shirt and bra close
5 to the dock, correct?

6 A. Yes, sir, on the dock.

7 MR. STORY: That's all the questions I have.

8 THE COURT: Redirect?

9 MS. USRY: No, sir, Your Honor.

10 THE COURT: Thank you very much, Officer Baker.
11 Thank you for being with us today. You may step
12 down.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: All right. Solicitor, you may call
15 your next witness.

16 MS. MAYES: Yes, sir, Your Honor. May we
17 approach?

18 (Sidebar conference.)

19 THE COURT: All right. Typically, I take a
20 break about every hour and 15 or hour and a half or
21 something like that. But our next witness may be
22 rather lengthy, so rather than extend this portion,
23 let's take about a 15-minute recess. Please do not
24 discuss the case during this brief recess. Thank
25 you very much. You may go with your bailiff.

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

223

1 (The jury exits the courtroom at 3:24 PM.)

2 THE COURT: All right. We'll take about 15
3 minutes.

4 (Short break.)

5 THE COURT: Anything before we bring in our
6 jury?

7 MS. MAYES: No, Your Honor.

8 THE COURT: Mr. Story?

9 MR. STORY: No, Your Honor.

10 (The jury enters the courtroom at 3:55 PM.)

11 THE COURT: All right. Solicitor, you may call
12 your next witness.

13 MS. MAYES: The State calls Ms. Ann James.

14 THE COURT: Ms. James, if you would come around
15 and be sworn, please.

16

17 ANN JAMES

18 being first duly sworn, testified as follows:

19 THE WITNESS: I do.

20 THE CLERK: Once you're seated, state your full
21 name and spell your last.

22 THE WITNESS: Ann Marisa James, J-A-M-E-S.

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Ms. James, how old are you currently?

1 A. I'm currently 38.

2 Q. And can you tell us a little about yourself?

3 Where are you employed currently?

4 A. I'm currently employed with the South Carolina
5 Army National Guard as a substance abuse prevention
6 coordinator.

7 Q. And prior to that, where were you employed?

8 A. I was employed with SCANA.

9 Q. Can you give us some information concerning
10 yourself? Where did you attend high school?

11 A. I attended high school at Swansea High, which
12 is located in Swansea, South Carolina.

13 Q. Here in Lexington County?

14 A. That's correct.

15 Q. Now, did you grow up in Lexington County?

16 A. Yes, ma'am.

17 Q. And where did you attend school after Swansea
18 High School?

19 A. After Swansea High School, I attended Limestone
20 College for my undergrad. I received a Bachelor's
21 Degree in social work. And I later attended the
22 University of South Carolina where I recently
23 received my Master's Degree in social work as well.

24 Q. Since your obtaining your Master's in social
25 work, what led to your change in jobs from SCANA to

1 another job?

2 A. The events that have taken place in my life,
3 just being an advocate and public servant. I went
4 through an ordeal that, actually, the experience
5 gave me a different insight and outlook on life. I
6 wanted to be more of an advocate for individuals who
7 didn't have a voice for themselves.

8 Q. And, ultimately, what led you to the National
9 Guard?

10 A. National Guard, just being able to work with
11 individuals that are facing challenges in their
12 life. I was actually working on my military
13 certifications, so that was something that I was
14 interested in, just being able to go out there and
15 see individuals that are facing different challenges
16 as far as substance abuse and being able to provide
17 assistance and training for them.

18 Q. How long were you at SCANA?

19 A. I was at SCANA from October of 2013 up until
20 August 28th of 2018.

21 Q. And, Ms. James, how close in distance is SCANA
22 to the location that we've seen and heard about
23 today, being the Cayce Riverwalk?

24 A. It may take me from my job -- I want to say
25 maybe a five-to-ten-minute drive.

- 1 Q. All right. And we'll get to that later, a
2 little bit more of that. I'll ask you some more
3 questions about yourself. Are you a mom?
4 A. I am. I'm a mother of three children, ages 21
5 to three years old.
6 Q. Your 21-year-old, what is his name?
7 A. His name is Charles Darius Major.
8 Q. And your middle child?
9 A. Alyssa Jatela Major.
10 Q. And you mentioned a three-year-old. Who is
11 your three-year-old?
12 A. My three-year-old is T.J. [REDACTED].
13 Q. Ms. James, who is T.J. [REDACTED]'s father?
14 A. Joshua Thomas Brown.
15 Q. That's the defendant in this case?
16 A. Yes, ma'am.
17 Q. What year did you meet Joshua Brown?
18 A. I met Josh in October of 2010.
19 Q. If you can, just briefly describe, how did that
20 evolve into a relationship that led to marriage?
21 A. I met Josh, started out as casual conversation.
22 Later on, three years later, you know, we decided to
23 take it to another level. And it was like, well,
24 we're going to get married. And we've always talked
25 about it. So, December 23rd, 2013, we got married.

1 Q. Where did you reside together upon your
2 marriage?

3 A. It was -- when we got married, we actually
4 resided at my home where I previously stayed. It
5 was 3041 Princeton Road.

6 Q. And during that time together on Princeton
7 Road, can you tell us whether or not you became
8 pregnant?

9 A. I did.

10 Q. That's with T.J. [REDACTED]?

11 A. Yeah, T.J. [REDACTED]. Yes, ma'am.

12 Q. And, ultimately, during the course of that
13 marriage, again, where were you working?

14 A. I was working at SCANA.

15 Q. And I want to take you to around August of
16 2015. Where was Mr. Brown, the defendant, working?

17 A. He was working at McDonald's.

18 Q. And where was that McDonald's located?

19 A. On Charleston Highway. I want to say 2929
20 Charleston Highway. That's in Cayce.

21 Q. So near that location we've seen?

22 A. Yes, ma'am. There were times that he would
23 actually be able to walk from his job to my job. So
24 it was fairly close.

25 Q. And for persons who don't know, the SCANA has

1 relocated to the Cayce area?

2 A. Yes, ma'am. It's on 220 Operation Way in
3 Cayce. So it's right off of Interstate 77.

4 Q. All right. Ultimately, during that time that
5 you were married, Ms. Brown, and residing together
6 on Princeton Road, did you make any decisions about
7 your future together with Mr. Brown?

8 A. Yeah. We decided as far as -- I'm sorry. I
9 don't understand the question.

10 Q. Ultimately, was a decision made about whether
11 or not to stay together?

12 A. Ultimately, as time progressed and the
13 relationship didn't seem to be working, we separated
14 and I filed for divorce.

15 Q. All right. This incident occurred on August
16 11th of 2015. What is the time frame in which
17 Mr. Brown was served with those divorce papers and
18 this incident?

19 A. He was served approximately the last week of
20 July of 2015 with the divorce papers.

21 Q. And having a child together -- what is
22 T.J. [REDACTED]'s date of birth?

23 A. [REDACTED] [REDACTED]

24 Q. Having a child together, what decisions, if
25 any, did you make about how to co-parent?

1 A. Because me and Josh couldn't get along wasn't a
2 reason that we couldn't co-parent. I felt like, as
3 a mother -- I knew the responsibility as a mother.
4 I needed to try to have some type of relationship
5 with him on some type of level where we were able to
6 get along. So, ultimately, I wanted him to make
7 sure he was okay as far as his place to stay and his
8 job.

9 I wanted to make sure that he was fine instead
10 of putting T.J. [REDACTED] in a situation where she
11 didn't -- when she wanted to go visit or if he got
12 visitation rights, she'd be jumping from house to
13 house, if he didn't have any stability.

14 Q. So leading to this incident on August 11th,
15 what action had you taken as recently as the night
16 before in that regard?

17 A. Because I was at work and my shift was from
18 midnight to 10:30 in the morning, normally, if it
19 wasn't busy -- that particular night, I had spoke
20 with Josh and said what I'm doing is actually
21 filling out some applications for you for different
22 jobs; I see some jobs that you can qualify for; give
23 me your e-mail address and I'll have them send the
24 correspondence or whatever to you, but I'll go ahead
25 and just be applying. And I told him that I was on,

1 like, three different sites like Monster, Indeed,
2 you know, looking for jobs for him.

3 Q. Was he open to that?

4 A. Yeah. He was like, thank you, I appreciate it.
5 He sent me the e-mail address and I continued to
6 submit applications for him.

7 Q. And during this time, Ms. Brown, that you were
8 separated, can you tell us whether or not you had a
9 friend that you were spending time with?

10 A. Yeah. I actually had a classmate from back in
11 1997 when we were in high school. It was maybe in
12 June of 2015 that I actually saw him for the first
13 time. We had had correspondence via Facebook
14 starting around March. But the actual time that I
15 first time I saw him since 1997 was June of 2015.

16 Q. And you mentioned Facebook. Did you have a
17 Facebook page?

18 A. Yes, ma'am.

19 Q. And can you tell us the name of your friend?

20 A. My friend's name is Javon Jones.

21 Q. And what, if any, middle name did he have?

22 A. Tony. It's Anthony, but I call him Tony.

23 Q. Did he friend you on Facebook?

24 A. Yes, ma'am, he did.

25 Q. And were there times he'd communicate with you

1 on Facebook?

2 A. Yes, ma'am, it was.

3 Q. Did the defendant, Joshua Brown, become aware
4 of that?

5 A. Yes, ma'am, he did.

6 Q. Now, was Joshua Brown also seeing other people?

7 A. From my knowledge, I found out later on that he
8 actually was seeing three other people, and one
9 which was pregnant --

10 MR. STORY: Objection; hearsay.

11 THE COURT: I'm sorry?

12 MR. STORY: Hearsay.

13 THE COURT: Step up here a moment, please.

14 Thank you.

15 (Sidebar conference.)

16 THE COURT: Thank you, Mr. Story.

17 Thank you, Solicitor. Solicitor, please
18 rephrase your question.

19 BY MS. MAYES:

20 Q. From Joshua Brown himself --

21 A. Yes, ma'am.

22 Q. -- did he acknowledge to you that someone was
23 pregnant?

24 A. Yes, ma'am. He informed me right after I had

25 T.J. [REDACTED] that he had someone else pregnant.

1 Q. All right. Now, during this time that you were
2 separated, what was his reaction to your Facebook
3 friendship with Javon Jones and the time you were
4 spending with Javon Jones?

5 A. He didn't like it. He actually would get mad,
6 come over to the house; he ended up scratching up
7 his car that was in my yard and, later, calling me,
8 telling me that he scratched the car up. So he
9 really wasn't happy with it.

10 Q. Now, what exactly did he say to you about
11 trying to obtain, if any, information on Mr. Jones?

12 A. He told me that he had got his tag number and
13 he was going to run his information; he was going to
14 do some searches on him to find out where he lived.
15 He tried to go through Facebook and find out
16 information.

17 Q. Now, did you give him the name of your friend?

18 A. Yeah. I told him his name was Tony Jones.

19 Q. All right. On the day of August 11th, 2015,
20 did you work that day?

21 A. Yes, ma'am. I went in at midnight and, again,
22 I got off at 10:30 a.m.

23 (State's Exhibit No. 43 marked for
24 identification.)

25 Q. I'm going to show you, for purposes of ID only

- 1 at this time, State's 43 and ask if you recognize
2 that document.
- 3 A. Yes, ma'am. That's my time clock report.
- 4 Q. What type of shift did you normally work at
5 SCANA?
- 6 A. I've always worked the third shift, which was
7 midnight to 10:30 in the morning.
- 8 Q. All right. So that's longer than eight hours?
- 9 A. Yes, ma'am. I worked four tens.
- 10 Q. So for 8/11/15, you indicated that the third
11 shift would be starting at midnight?
- 12 A. Yes, ma'am?
- 13 Q. And when would you clock out?
- 14 A. I would clock out at 10:30 if I wasn't called
15 on a call. But, normally, my time to clock out is
16 10:30.
- 17 Q. On this particular day, August 11th of 2015,
18 what was your clock out time?
- 19 A. 10:30.
- 20 Q. A.m.?
- 21 A. Yes, ma'am, 10:30 a.m.
- 22 Q. Now, during the course of going in at midnight
23 and working that ten-hour shift, did you have the
24 opportunity to communicate with Joshua throughout
25 the day?

- 1 A. Yes, ma'am, I did.
- 2 Q. And, again, were you on speaking terms in
3 regards to your relationship as co-parents?
- 4 A. Yes, ma'am, we were.
- 5 Q. Did you want him to be actively involved in
6 T.J. [REDACTED]'s life?
- 7 A. Yes, ma'am, I wanted him to be actively
8 involved. I didn't want her to be a burden to him.
- 9 Q. And what, if any, decisions were made about the
10 two of you discussing further the divorce as well as
11 your future as co-parents?
- 12 A. Initially, we discussed with the divorce that I
13 paid my own attorney fees --
- 14 Q. I'm sorry. I mean, in reference to that day.
15 In reference to that day, what decision was made
16 about where or how to meet up to discuss your future
17 further?
- 18 A. When I got off, I agreed to meet him. And he
19 suggested the Riverwalk in Cayce. And I said, okay,
20 that's fine.
- 21 Q. Okay. Now, at this point in time, did you have
22 a phone?
- 23 A. Yes, ma'am.
- 24 Q. Did Mr. Brown also have a phone that he was
25 using?

1 A. Yes, ma'am.

2 (State's Exhibit No. 8 marked for
3 identification.)

4 Q. I'm going to show you what is State's Exhibit 8
5 for identification only at this time. Have you had
6 a chance to review this document?

7 A. Yes, ma'am.

8 Q. Does it contain text messages?

9 A. Yes, ma'am, it does.

10 Q. Have you reviewed specifically any text
11 messages in relation to August 11th, 2015, and the
12 decision to meet at the Riverwalk?

13 A. Yes, ma'am.

14 Q. What was your phone number at that point in
15 time, Ms. Brown?

16 A. It was area code (803) 319-2084.

17 Q. What was the telephone number for the
18 defendant, Joshua Brown?

19 A. It was area code -- I want to say area code
20 (803) 319-2087.

21 Q. Now, let me ask you this: Having reviewed the
22 text messages, were you in communication with him
23 that day?

24 A. Yes, ma'am, I was.

25 Q. Via mobile phone?

1 A. Yes, ma'am. That's correct.

2 Q. And the text messages you've reviewed, are they
3 a fair and accurate representation of the
4 conversation that led to meeting up at the
5 Riverwalk?

6 A. Yes, ma'am.

7 Q. You clocked out at 10:30. How long did it take
8 you, approximately, to get from where you clock out
9 at SCANA to the location where your vehicle was
10 parked in the parking lot area?

11 A. At work or at the Riverwalk?

12 Q. Yes. At the Riverwalk.

13 A. From the time I clocked out until I made it to
14 the Riverwalk was approximately maybe eight
15 minutes -- eight to ten minutes.

16 Q. Okay. I'm looking here at State's Exhibit 5
17 already in evidence. And we'll come back to that in
18 a moment.

19 But when you arrived here at this gravel
20 parking lot area near the Riverwalk, was anyone else
21 there?

22 A. Yes, ma'am. Joshua -- Mr. Brown was there
23 already.

24 Q. All right. And what type of vehicle was he in?

25 A. He had a 2013 or 2014 Ford Fusion. It was

1 maroon, burgundy in color.

2 Q. Where was he parked in relation to your car?

3 A. On the right side of me.

4 Q. In this same parking lot?

5 A. Yes, ma'am. That's correct.

6 Q. And what happened next?

7 A. So I pulled in and Josh is sitting in the car.
8 So I get out, he gets out, and we started walking
9 towards the trail. And I stopped him and I asked --
10 I said, let me get a piece of gum, because he was
11 chewing gum. He ran back to the car.

12 I kind of looked over my shoulder and he was
13 sitting there and he was putting something in his
14 pocket. So he got out the car and he came back.
15 And as we was walking towards the entrance of the
16 trail, it was a guy and a lady and a little boy.
17 They were riding their bikes, getting ready to put
18 them on the truck, so I kind of looked at them and
19 watched them. And he was like, come on. So I was
20 like, okay. I got kind of startled by watching
21 them.

22 We started going down the trail and we began to
23 have a conversation. He started talking about how
24 he was tired. And I was like, I'm tired, too; I
25 just got off from work, I'm not going to walk too

1 far.

2 He was like, 'no, just come and walk with me.
3 He was like, I'm just tired of that job; I'm tired
4 of McDonald's; I got into it a little bit with this
5 girl named Vena at work; I'm just tired of those
6 bitches there.

7 And I was like, what you mean? He was like, I
8 quit. I was like, you didn't quit; you going to be
9 right back there; Tina is not going to let you go
10 anywhere because you her prize worker. He was like,
11 no, I quit, Marisa. And I was like, no, you'll be
12 back.

13 So we kept on walking. And he was just like
14 no, I'm tired; I'm tired of everything. And I was
15 like, man, just stop. The Lord -- you know, the
16 Lord will work it out. Let God handle it. He was
17 like, I'm tired of my mama; I'm tired of how she
18 mistreated me; I was her only kid and she couldn't
19 even see about me; and I'm tired of you and how I
20 can't trust you.

21 And I was like, what you mean you can't trust
22 me? And he was like, I know you lying about that
23 nigga you with. I was like, I gave you the dude
24 name, what more do you want? He was like, I looked
25 up that name and that was not his real name. I was

1 like, his name is Tony. And he was like, no, that's
2 not his name; you're lying to me. I was like, I
3 don't know anything else to tell you. And he was
4 like, where he stay? I said, he lives in
5 Orangeburg.

6 He stopped, he turned, and he said, I'm going
7 to give you three seconds to tell me the fucking
8 truth. I said, Three seconds? He was like, yeah,
9 I'm going to give you three seconds to tell me the
10 truth or I'm going to kill you. I was like, man,
11 come on, stop playing, Josh. I was like, come on,
12 let's go.

13 He was like, no, Marisa, I'm serious; I'm going
14 to kill you and then I'm going to kill myself. And
15 I was like, what T.J. going to do without a
16 father? He was like, I don't know what she going to
17 do without a father; she's not going to have a
18 mother either.

19 He started counting to three, and then he
20 started at one. And I was like, no. And he said,
21 two. And I was like, Josh, stop. And when he said
22 three, the only thing I remember or I felt was just
23 something warm running down my arm. And that's when
24 he initially stabbed me here and cut me straight
25 down here.

1 Q. That was on the front side of your body?

2 A. Yes, ma'am.

3 Q. What happened next?

4 A. I just stood there; like, I was in shock. I
5 knew I had went in shock. And he stabbed me in my
6 chest three times; one in my left breast, one in the
7 middle, and one up through my right side breast.
8 And the only thing I could think about was like, oh,
9 God, I got to go home to my kids, I got to go home
10 to my babies, and I fell.

11 And I remember falling on the ground and he
12 stabbed me in the back. And he grabbed me by my
13 hair and he started dragging me to the right of the
14 path up a hill. And every time he would drag me a
15 little bit, he would stop and stab me some more in
16 my back.

17 Eventually, he got me to the top of the hill to
18 where he ended up putting, like, some branches and
19 dirt over me, and I had a log to the left side of my
20 head, and stabbed me a couple more times in my back.

21 Q. What were you doing in response to this?

22 A. I was just laying still, like, I wasn't going
23 to fight back. He bent down to try to listen and I
24 had held my breath. My initial instinct was to play
25 dead, not to fight back, because he was going to

1 kill me. I braced myself like that and that's why
2 the majority of the stab wounds are back here and
3 down my back because I didn't want him to pull my
4 hair and cut my throat. So I was like he already
5 going to kill me, so I laid there and he ended up
6 stopping. So --

7 Q. When you say he ended up stopping, was that
8 after he leaned down to listen to you?

9 A. Yes, ma'am.

10 Q. Were you breathing out loud at that point?

11 A. No, I wasn't.

12 Q. What were you doing physically?

13 A. I was physically holding my breath.

14 Q. Did you show any signs of life?

15 A. No. I didn't grunt; I didn't make any noise
16 when he stabbed me. I just laid there.

17 Q. Did he say any words as he was stabbing you?

18 A. Yeah. He was saying bitch.

19 Q. You mentioned that he put dirt on you. What do
20 you remember being put on your body? At this point,
21 how are you lying?

22 A. I'm lying facedown and my hands are like this
23 and I'm on my stomach. And I remember him putting
24 dirt on me and I could hear him dragging limbs and
25 branches and putting on top of me, because I could

1 just physically feel myself being weighted down.

2 Q. Okay. What happened next?

3 A. He left. He left. And I laid there and I was
4 like, Lord, I just need to rest for a little bit and
5 then I'm going to be able to get up. But the
6 injuries to my left hand was just like -- I tried to
7 move and I couldn't brace or do anything with my
8 hand. So I kind of, like, eventually dug out and
9 got out and tried to stand up, and I kept falling
10 down.

11 I made my way across the path and down the
12 embankment. I kind of slid down the embankment to
13 the river because I knew once I got to the water, he
14 couldn't swim, so I was like, somebody will be out
15 there and they'll see me if he try to get me in the
16 water, like, he wasn't going to be able to swim.

17 Q. Did you make it to the water?

18 A. I did.

19 Q. Did you see any sign of the defendant, Joshua
20 Brown, after he left you laying there on the ground
21 covered in the leaves?

22 A. No, ma'am. I didn't see him.

23 Q. So once you made it to the water, what
24 happened?

25 A. I could see 77, like, to my right. And I was

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

243

1 like, I can make it to 77 and somebody will see me.
2 But it was so far because the cars and stuff was so
3 little. I knew that I wasn't going to be able to
4 make it all the way down there. So I kept going
5 that way.

6 I saw a man and a lady in a boat, but they were
7 going in the opposite direction. And I was like,
8 they going to have to come back sometime today; they
9 going to have come back and somebody's going to see
10 me, if I can make it to the boat dock. And that was
11 my thing, like, once I made it there, I knew I would
12 be found by somebody.

13 Q. How were you able to make it to the boat dock?

14 A. I got in the water and kind of floated and, you
15 know, pedaled down there.

16 Q. To the boat dock area?

17 A. Yes, ma'am.

18 Q. Ultimately, did anyone come to your aid on the
19 water?

20 A. Yes. Once I made it down there, I saw -- it
21 was like a T-shirt floating by one of the beams that
22 was holding the boat dock. So I got that T-shirt
23 and I put it on top of my head and I was kind of,
24 like, holding onto the dock with my arm. And I
25 heard somebody laughing. And I was like, oh, God, I

1 don't know what's going on, because I'm hearing
2 these people laughing.

3 And I look around the boat dock and it's a man
4 and his two sons and daughter, they're kayaking.
5 The son and the dad had got stuck, so he was telling
6 him he couldn't drive and they were laughing about
7 it. And I started screaming for help. I told them
8 to help me.

9 Q. Did they see you at that point?

10 A. They started coming towards where my voice was.
11 And I kind of, like, tried to back away from the
12 dock some, but the water got deeper as you got
13 farther away from the dock. And I was kind of like
14 waving. And they came over where I was at, but they
15 didn't want to touch me or anything.

16 Q. Did they ultimately call 911?

17 A. Yes, ma'am. I told them to call 911, I was
18 stabbed by my husband, Joshua Brown.

19 Q. Okay. And when law enforcement arrived, is
20 that how you got on the dock?

21 A. Yes, ma'am. They pulled me up.

22 Q. Now, going back to the assault on the
23 Riverwalk, was anyone else around at that point in
24 time when he stabbed you?

25 A. No, ma'am.

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

245

1 Q. How secluded was that pathway of the Riverwalk
2 where it actually occurred?

3 A. Like I said, it was just -- when we were
4 walking in, we only passed maybe -- I think maybe
5 one other person. So it was really secluded. No
6 other cars was out there besides the one leaving out
7 the parking lot. So nobody else was out there.

8 Q. Okay. And what, if anything, did he say
9 regarding the children?

10 A. Said he was going to hurt the children.

11 Q. And what was your response to that?

12 A. I told the people when they came -- the police
13 officer, when they came, to go check on my kids
14 because that's where he was going, he was going to
15 kill my kids.

16 Q. And were you also able to give law enforcement
17 a description of the defendant's clothing, his
18 person, and his vehicle?

19 A. Yes, ma'am.

20 Q. And where were you transported for treatment?

21 A. Palmetto Richland.

22 Q. Were you admitted to the trauma unit there?

23 A. Yes, ma'am, I was.

24 Q. How long were you a patient at Palmetto Health
25 Richland for your stab wounds?

1 A. I'm not sure. I want to say maybe a week or
2 two.

3 Q. And during that course of time, did you
4 cooperate with law enforcement?

5 A. Yes, ma'am, I did.

6 Q. Did you provide them information regarding this
7 incident, to the best of your ability?

8 A. Yes, ma'am.

9 (State's Exhibit Nos. 29 - 40 and 42 marked for
10 identification.)

11 Q. I'm going to show you some photographs and ask
12 you whether or not you recognize them. This would
13 be State's, 29, State's 30, 31, 32, 33, 34, 35, 36,
14 37, 38, 39, 40, and 42. Ms. James, do you recognize
15 those photographs?

16 A. Yes, ma'am.

17 Q. Who is the person depicted in those
18 photographs?

19 A. It's me.

20 Q. Is that a fair and accurate representation of
21 the injuries that you sustained during that
22 stabbing?

23 A. Yes, ma'am.

24 (State's Exhibit Nos. 13 - 28 marked for
25 identification.)

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

247

1 Q. I'm going to show you some additional
2 photographs of the area around the Riverwalk
3 beginning with State's 13, 14, 15, 16, 17, 18, 19,
4 20, 21, 22, 23, 24, 25, 26, 27, and 28.

5 Are these photographs a fair and accurate
6 representation of how you recall the area around the
7 Riverwalk that day?

8 A. Yes, it is.

9 Q. And the path that you have told us about down
10 to the river?

11 A. Yes, ma'am.

12 Q. Does it also have that area where you were
13 actually stabbed?

14 A. Yes.

15 MS. MAYES: This would be, Your Honor, State's
16 13 through 28 for evidence, and then 29 through 42
17 for evidence -- 29 through 35 for evidence, skipping
18 36, and then 37 through 40 for evidence, skipping
19 41, and then 42, all for evidence, Your Honor.

20 MR. STORY: May I look at them briefly, Your
21 Honor?

22 THE COURT: Yes, sir, of course.

23 MR. STORY: 34 and 35 are the same area. Those
24 are redundant. I would move to keep one of those
25 out.

1 MS. MAYES: We have no objection, Your Honor.

2 We can withdraw 34.

3 THE COURT: Any other objections, Mr. Story?

4 MR. STORY: No, Your Honor.

5 THE COURT: May I see them, please?

6 MS. MAYES: Yes, sir, Your Honor.

7 THE COURT: All right. Let's make sure the
8 exhibits are correct. The following are in evidence
9 without objection, State's 29, 30, 31, 32, 33, 35,
10 37, 38, 39, 40, 42.

11 Is that correct, Solicitor?

12 MS. MAYES: Yes, sir, Your Honor.

13 THE COURT: Mr. Story?

14 MR. STORY: Yes, sir.

15 THE COURT: Those items are in evidence without
16 objection.

17 Thank you, Solicitor.

18 Thank you, Mr. Story.

19 (State's Exhibit Nos. 29 - 33, 35, 37 - 40, 42
20 admitted into evidence.)

21 BY MS. MAYES:

22 Q. Ms. James, I want to start with the right side
23 of your body. Were the source of the injuries here,
24 here, and here?

25 A. Yes.

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

249

- 1 Q. What was the cause?
- 2 A. The stab by Joshua Thomas Brown.
- 3 Q. And you mentioned an injury to the left area of
- 4 your body. Where on the left side of your body do
- 5 you recall being stabbed?
- 6 A. My left breast and my left shoulder and top
- 7 part of my left arm.
- 8 Q. Looking here, did you have that injury prior to
- 9 that day?
- 10 A. No, ma'am.
- 11 Q. Underneath this bandage, did you have an
- 12 injury?
- 13 A. Yes, ma'am.
- 14 Q. Do you recognize what's depicted here in
- 15 State's 35?
- 16 A. Yes.
- 17 Q. Where was that injury located?
- 18 A. That's my top left part of my arm.
- 19 Q. Now, as you are being stabbed after that
- 20 initial wound, where were you physically on that
- 21 path when that initial wound occurred?
- 22 A. I was on the right side of the path facing
- 23 Josh. So he was actually turned facing me and we
- 24 were, like, on the right side of the path, not too
- 25 far from the light pole.

1 Q. And after that first stab wound occurred, what,
2 if anything, did you do with your arms and hands?

3 A. I threw them up to kind of, like, protect my
4 face because I didn't want him to start stabbing me
5 in my face.

6 Q. Okay. And you said you threw them up. Can you
7 show us how you did that?

8 A. Like this. (Demonstrating)

9 Q. State's Exhibit 37, did you have that injury
10 prior to that date?

11 A. No, ma'am.

12 Q. Here is the wrist in 38.

13 A. No. I didn't have that either.

14 Q. Can you show us what, if anything, you did with
15 your wrist as you were being stabbed?

16 A. I had my arm up and that's where he...

17 Q. Now, after the initial stab wounds on the path,
18 what was he doing to your body?

19 A. He was dragging me by my hair.

20 Q. And as he was dragging you by your hair, where
21 was he taking you?

22 A. Up a hill to the right of me.

23 Q. And once you were up the hill, were you
24 standing up anymore?

25 A. No, ma'am. I was laying down.

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

251

- 1 Q. And laying down in what position?
- 2 A. Face forward, just as if you would grab
3 something by the hair and just drag it. That's
4 how -- my body was just like that.
- 5 Q. Face in the dirt?
- 6 A. Face in the dirt.
- 7 Q. During the course of your marriage, did you
8 have a tattoo on your body?
- 9 A. Yes.
- 10 Q. Whose name did you have tattooed on your body?
- 11 A. Joshua.
- 12 Q. In reference to the defendant, Joshua Brown?
- 13 A. Yes.
- 14 Q. Where was that on your body?
- 15 A. On the back of my neck, on my back.
- 16 Q. Let me show you State's 39. What caused these
17 injuries, Ms. James?
- 18 A. That's where Mr. Brown stabbed me at.
- 19 Q. State's 40. As you are sustaining these
20 injuries to your back and your neck, are you
21 physically responding at all?
- 22 A. No, ma'am. I'm just lying there. I'm not
23 screaming; I'm not fighting. I'm just laying there.
- 24 Q. Were you able to see the type of knife that he
25 had?

- 1 A. Yes, ma'am. I saw it when he pulled it out his
2 pocket.
- 3 Q. What type of knife was it?
- 4 A. It was black, folding -- like, the handle was
5 black. It had a silver button on it, almost like a
6 hunting knife. But it was big enough that he could
7 put it in his pocket.
- 8 Q. We had previously seen the picture, Ms. James,
9 of your vehicle here at the parking lot just prior
10 to the entryway to the Riverwalk. What are we
11 looking at here in State's 13?
- 12 A. That's the actual path that we were walking
13 down.
- 14 Q. Are there trees on both sides of that cement
15 path?
- 16 A. Yes, ma'am. To the right is trees and to the
17 left is trees and there was a river there.
- 18 Q. What, if anything, is significant about State's
19 14?
- 20 A. That's the spot where it happened at. That's
21 where it happened.
- 22 Q. By a light pole --
- 23 A. Yes, ma'am.
- 24 Q. -- as you testified?
- 25 Now, what type of shoes were you wearing that

1 day?

2 A. I was wearing some black sandals, like thong
3 sandals.

4 Q. And you've seen these photos previously with
5 the naked eye as opposed to here on the projector?

6 A. Yes, ma'am.

7 Q. What is depicted here in this photograph?

8 A. That's my shoe that's turned upsidedown.

9 Q. How did that sandal get off your foot?

10 A. When I was being thrown initially, when I fell
11 down and started being drug, that's how my shoes
12 came off.

13 Q. And you were being drug in what direction?

14 A. Up the hill, straight up there.

15 Q. Now, in addition to this shoe, I'm going to ask
16 you, what is depicted in State's Exhibit 16?

17 A. That's my other shoe turned over.

18 Q. The other sandal?

19 A. Yes, ma'am.

20 Q. They both came off when you were being drug?

21 A. Yes, ma'am.

22 Q. Did you have anything with you that day as you
23 walked up the Riverwalk?

24 A. Yes, ma'am. I had my keys in my hand.

25 Q. Did you have your actual mobile phone or cell

- 1 phone with you?
- 2 A. No, ma'am. I left that in the car.
- 3 Q. What about your purse?
- 4 A. It was in the car as well.
- 5 Q. But you did have your keys?
- 6 A. Yes, ma'am.
- 7 Q. What are we looking here at State's Exhibit 17?
- 8 A. Right there is my key chain. And the key chain
- 9 is connected to my keys.
- 10 Q. Better look here in State's 18. You recognize
- 11 that item?
- 12 A. Yes, ma'am.
- 13 Q. Who did that belong to?
- 14 A. Those are my keys.
- 15 Q. You had those with you as you were walking
- 16 along the Riverwalk?
- 17 A. Yes, ma'am.
- 18 Q. What about State's 19? I'm going to show you a
- 19 series of photos, 19, 20, 21. What are we looking
- 20 at in this direction?
- 21 A. That's where he drug me up the hill.
- 22 Q. State's 22 and State's 23, what do you recall
- 23 about that location?
- 24 A. That's the area where he initially had drug me
- 25 at and he had placed the log beside my head.

1 Q. And you mentioned the leaves and the various
2 debris that was placed on you --

3 A. Yes, ma'am.

4 Q. -- and log beside your head. If you were at
5 this location looking back towards the cement
6 Riverwalk, are you easily visible in this location?

7 A. No, ma'am. You wouldn't be able to see me.

8 Q. As you made your way back down, where did you
9 go next?

10 A. Straight across to the river.

11 Q. How long do you think you laid there on the
12 ground facedown?

13 A. Seemed like for hours. But it was minutes, you
14 know, maybe -- I want to say maybe 30 minutes or an
15 hour. I don't know. It just seemed like it was
16 forever.

17 Q. Could you hear what direction he left in?

18 A. No. I could just hear him run off.

19 Q. And your decision to go to the river was based
20 on what?

21 A. I knew Mr. Brown couldn't swim. So I knew if I
22 made it to the water that he couldn't get to me and
23 I knew somebody would be there that would be able to
24 help me. Because it was August and I knew somebody
25 would be either fishing or boating or swimming out

1 there, and I just knew that somebody would find me
2 out there.

3 Q. Were you actively bleeding at this time?

4 A. I was actively bleeding, yes, ma'am.

5 Q. Looking at State's 25 and 26, did you make it
6 into the water there?

7 A. Yes, ma'am, I did.

8 Q. And State's 28.

9 Now, physically, how are you responding
10 physically from this point that you make it into the
11 water and you make it down to the dock and you're
12 waiting to be rescued?

13 A. I can just remember just being, like, extremely
14 tired, like, I wanted to take a nap. Each time I
15 breathed, it seemed like it was getting harder and
16 harder to breathe. So I was like, okay, maybe you
17 just need to try to rest and -- you know. But my
18 breathing was just so erratic. I was just feeling
19 like I was about to pass out. But I was like, if I
20 pass out in this water, I'm dying.

21 Q. And, ultimately, when EMS arrived, did you
22 describe your symptoms to them as far as the
23 difficulty breathing?

24 A. Yes, ma'am, I did.

25 Q. The scars from those stab wounds, are they

1 still physically present on your body?

2 A. Yes, ma'am, they are.

3 Q. And on your breast?

4 A. Yes, ma'am.

5 Q. Where were you stabbed on your right breast?

6 A. Through the bottom of my breast.

7 Q. I'm going to show you some items and ask if you
8 recognize them. They are already marked. State's
9 Exhibit 4 are marked and packaged together.

10 How were you dressed that day?

11 A. I had on a pair of black capris, black sandals,
12 a black tank top with a little beige and colorful
13 shirt with sequins on it that had black in it.

14 Q. Do you recognize this item?

15 A. Yes, ma'am.

16 Q. How so?

17 A. That's my bra.

18 Q. And the cuts and tears on your clothing items,
19 were they there before this day?

20 A. No, ma'am.

21 Q. Where was this worn?

22 A. That was under the brown shirt.

23 Q. Now, who, ultimately, cut this item and this
24 item off of your body?

25 A. I think, EMS.

1 Q. The individual markings and holes in this item,
2 were they present prior to August 11th?

3 A. No, ma'am.

4 Q. And this shirt is worn over that camisole that
5 we just looked at?

6 A. Yes, ma'am.

7 Q. And, again, the marks and tears on this item,
8 were they present prior to August 11th?

9 A. No, ma'am.

10 MS. MAYES: State's Exhibit 4 for evidence.

11 And all of these items are packaged together.

12 THE COURT: All right. Mr. Story?

13 MR. STORY: No objection, Your Honor.

14 THE COURT: The number again, please,
15 Solicitor?

16 MS. MAYES: State's Exhibit 4, Your Honor,
17 which is the overlay shirt, the camisole, and the
18 bra.

19 THE COURT: All right. State's 4 is in
20 evidence without objection.

21 (State's Exhibit No. 4 admitted into evidence.)

22 BY MS. MAYES:

23 Q. What do you remember about the type of pants
24 that you had on?

25 A. Yes, ma'am. They were black capri pants.

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

259

1 Q. Was there any dirt affiliated with these items?

2 A. Yes, ma'am. These would have been filled with
3 dirt.

4 Q. Do you recognize these pants?

5 A. Yes, ma'am. Those were the pants that I had
6 on.

7 Q. Then your undergarment as well?

8 A. Yes, ma'am.

9 MS. MAYES: Your Honor, this is already marked
10 as State's 11. Offered as evidence at this time.

11 THE COURT: Mr. Story?

12 MR. STORY: No objection, Your Honor.

13 THE COURT: State's 11 is in evidence without
14 objection.

15 (State's Exhibit No. 11 admitted into
16 evidence.)

17 BY MS. MAYES:

18 Q. The sandals that were depicted in the
19 photographs that we just looked at, I'm going to
20 show you State's Exhibit 10 and ask you whether or
21 not you recognize what's in this baggie.

22 A. Yes, ma'am. Those are my sandals.

23 MS. MAYES: For evidence, Your Honor.

24 THE COURT: What number?

25 MS. MAYES: The sandals, Your Honor, for

1 evidence, are 10.

2 THE COURT: State's 10?

3 MS. MAYES: Yes, sir.

4 MR. STORY: No objection.

5 THE COURT: Thank you, Mr. Story.

6 State's 10 in evidence without objection.

7 (State's Exhibit No. 10 admitted into
8 evidence.)

9 BY MS. MAYES:

10 Q. What type of hairstyle did you have back then,
11 Ms. James?

12 A. I had microbraids in my hair, which are small
13 braids.

14 Q. Woven into the hair?

15 A. Yes, ma'am.

16 Q. Now, I'm going to show you what is State's
17 Exhibit 9 and ask you whether or not you recognize
18 that.

19 A. Yes, ma'am. That's my braid.

20 MS. MAYES: This will be State's 9 for
21 evidence, Your Honor.

22 THE COURT: State's 9.

23 MR. STORY: No objection, Your Honor.

24 THE COURT: State's 9 is in evidence without
25 objection.

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

261

1 (State's Exhibit No. 9 admitted into evidence.)

2 BY MS. MAYES:

3 Q. Now, with braids of that type that you've
4 described, if they are yanked or pulled, can they
5 come loose?

6 A. Yes, ma'am.

7 Q. And, ultimately, can they fall out as you move
8 around?

9 A. Yes, ma'am.

10 MS. MAYES: I beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 MS. MAYES: If we could have permission to
13 break the seal, Your Honor, this is a forensic
14 evidence item, being buccal swabs.

15 BY MS. MAYES:

16 Q. Were buccal swabs, mouth swabs, taken from you
17 at the hospital?

18 A. Yes, ma'am, they were.

19 Q. Okay. And did you give those voluntarily to
20 law enforcement?

21 A. Yes, ma'am.

22 Q. And that was for the purpose of potential DNA
23 analysis?

24 A. Yes, ma'am. That's correct.

25 Q. To any blood or evidence at the crime scene?

1 A. That's correct. Yes, ma'am.

2 Q. After that day on August 11th, have you had any
3 contact with the defendant, Joshua Brown? Have you
4 sought any contact with him?

5 A. No, ma'am, I haven't.

6 Q. And what vehicle was he in -- again, if you
7 could clarify, what vehicle was he in when you met
8 him at the Riverwalk that day?

9 A. He was in a 2013 or '14 Ford Fusion. It was,
10 like, maroon or burgundy in color.

11 Q. Is that the vehicle you last known him to have
12 been driving?

13 A. Yes, ma'am. That's correct.

14 Q. What type of clothing do you remember him
15 wearing that day?

16 A. He had on a black T-shirt; he had on a pair of
17 black slip-resistant tennis-shoe-type shoes and some
18 black cargo pants.

19 Q. And what was the significance of the clothing
20 he had on?

21 A. Well, that was pretty much his McDonald's
22 uniform, minus the shirt that he would usually wear
23 on top of it.

24 Q. So you had worked midnight to 10:30 in the
25 morning. When had he gone into McDonald's? What

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

263

1 type of shift had he worked at McDonald's that day?

2 A. He was opening. So he would have got there
3 around maybe 4:30, 5:00, around that time.

4 Q. And the cargo pants that you described were the
5 black Dickie-type pants, that ordinary dress for
6 McDonald's?

7 A. Yes, ma'am. That was his normal wear.

8 Q. What did he do at McDonald's?

9 A. He was a stocker/line worker. Mainly, a
10 stocker. He unloaded the trucks.

11 Q. And the boxes on the trucks?

12 A. Yes, ma'am. He unloaded the boxes on the
13 trucks.

14 Q. Approximately how long did it take from when
15 you were in the water to make it down to the dock
16 and then, ultimately, help to arrive?

17 A. Three hours. Approximately from 11:30 when I
18 got in the water till I was found around 1:30, so
19 maybe two hours.

20 Q. And the wounds that we saw in the photographs,
21 I'm going to ask you, regarding what you're wearing
22 today, if you could remove your shirt. Where do
23 scars still exist on your body?

24 A. Here, my wrists, my fingers, here, here, and
25 these on my back. (Indicating)

1 Q. If you could stand up. Are all of those scars
2 from this incident?

3 A. Yes, ma'am. The ones on my chest as well.

4 Q. Okay. You had a chance to look at the text
5 messages. Is there any doubt in your mind that you
6 were communicating with Joshua Brown by text
7 message?

8 A. No, ma'am, there's no doubt.

9 Q. And that's the person you agreed to meet there
10 at the Riverwalk?

11 A. Yes, ma'am. That's correct.

12 Q. The text messages that you sent that night
13 about helping him find a job, were all those sent to
14 the number he had at the time?

15 A. Yes, ma'am. That's correct.

16 Q. Now, was he in your phone as a number or as
17 Joshua Brown?

18 A. As Joshua Brown.

19 Q. So is that a number that you know the actual
20 number off the top of your head?

21 A. No.

22 Q. But you knew you were texting Joshua Brown?

23 A. Right.

24 Q. And on that particular day, when he went into
25 work, were you aware whether or not he was quitting

DIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

265

1 his job at McDonald's?

2 A. I didn't know he was quitting until we got to
3 the Riverwalk in Cayce on the path that we had
4 mentioned.

5 Q. And that's the first time you learned that?

6 A. Yes, ma'am.

7 Q. That he had walked off the job?

8 A. Yes, ma'am.

9 Q. And just prior to stabbing you, what was he
10 questioning you about?

11 A. He was questioning me about the guy, Tony
12 Jones.

13 Q. Javon Jones?

14 A. Javon Jones.

15 MS. MAYES: Your Honor, if we may approach?

16 THE COURT: Yes, ma'am.

17 (Sidebar conference.)

18 THE COURT: All right. You may stay in place
19 right there, Ms. James.

20 Madam Forelady, ladies and gentlemen of the
21 jury, it is not my normal practice to break up
22 direct and cross-examination. That is not to say
23 that has not been the procedure I do take at some
24 time, depending on the time of day and other matters
25 I may have to take up outside of your presence. I

1 do need to take up some matters outside of your
2 presence and do some rulings before we begin the
3 cross-examination -- before the cross-examination of
4 this witness begins.

5 There's no way to estimate what amount of time
6 that would take, so I do not want to send you to
7 your jury room. If I thought it was a brief period
8 of time, perhaps I would do so. But I do not want
9 to send you to your jury room this late in the day
10 and hold you captive and find out I'm either, A, not
11 going to finish this afternoon in my hearing outside
12 of your presence, or it's going to be an extended
13 period of time.

14 I'd rather send you home for the -- or excuse
15 you from your jury service for the remainder of the
16 day or the evening and have you report back in the
17 morning at a certain time.

18 I also have -- I know you're going to say, good
19 grief, that judge can't tell time, he has no respect
20 for our personal and professional lives. I do.
21 It's very valuable to me. Sometimes I'm not a very
22 good manager of it and sometimes there are certain
23 competing interests coming across that, quite
24 frankly, I have to address for other people, not me.

25 Believe me, I don't think my time is more

1 important than y'all's time, nor do I think my time
2 is as near as important as y'all's time. I have a
3 lot of respect for those who have been drafted
4 throughout American history. And the jury is the
5 last great American draftees in America since the
6 Vietnam War. And I have a lot of respect for those
7 members.

8 With that being said, I'm going to release you
9 from your jury service for the remainder of the
10 evening, ask you to please report back at 12:00 noon
11 tomorrow. Do not discuss the case with anyone. Do
12 not read, watch, or listen to any news reports about
13 the case. Do not do any independent research on the
14 internet.

15 I do intend, hopefully, to work late tomorrow
16 evening. What I may call late, y'all may not call
17 late. But y'all can discuss that when you get in
18 tomorrow if you're willing to work till 6:00 or 6:30
19 or even later. I know many of you may have
20 afternoon appointments; many of you may have child
21 care commitments and such like that. I will
22 certainly accommodate you in that regard.

23 Y'all may discuss if you're willing to work
24 late and, perhaps, how late. When you come in, in
25 the morning, y'all can discuss that. Thank you very

1 much. You're excused for the day. We'll see you at
2 high noon tomorrow. Thank you very much.

3 (The jury exits the courtroom at 5:09 PM.)

4 THE COURT: Ma'am, will you spell your last
5 name for me?

6 THE WITNESS: J-A-M-E-S.

7 THE COURT: Okay. I wanted to make sure I was
8 hearing right. Ms. James, you may step down. You
9 may not discuss your testimony with anyone. You're
10 subject to cross-examination, perhaps redirect,
11 perhaps re-cross.

12 So, during this time you're off the stand, you
13 may not discuss this case with anyone, that includes
14 the Solicitor's Office or anyone else. Thank you.
15 You may step down.

16 All right. You have a matter you want me to
17 take up outside the presence of the jury, Mr. Story?

18 MR. STORY: Yes, Your Honor. I thought, for
19 the sake of efficiency, based on some of the State's
20 earlier comments, Your Honor, I believe they're
21 going to object to any testimony, either on
22 cross-examination or in the defense's case,
23 regarding past instances of violence where Ms. Ann
24 James committed a violent act against Mr. Joshua
25 Thomas Brown.

1 We believe that is relevant towards a
2 self-defense argument, because the defendant in --
3 the defendant's apprehension of harm is a factor and
4 the reasonableness is --

5 THE COURT: I don't disagree with you on what
6 the case law is. Let me see if I can go through the
7 cut a little bit.

8 Solicitor, what are you going to object to?
9 I'm trying to rule on something. I really don't
10 know if you're going to object or what you're going
11 to object to.

12 MS. MAYES: Yes, sir, Your Honor. It is a
13 motion in limine at this point. So the self-defense
14 argument, any alleged apprehension that the
15 defendant may have -- propose that he was under,
16 would only come from him. There's no other evidence
17 in that regard. It would have to either come from
18 his testimony in the courtroom or through
19 statements.

20 THE COURT: I don't disagree with that. I've
21 tried murder cases as a prosecutor in which the
22 judge charged murder and voluntary manslaughter on
23 the reasonable belief and the defendant never even
24 took the stand and there wasn't even any third party
25 to testify.

1 There's direct and circumstantial evidence. I
2 don't know of any law that says that that -- and all
3 of which is appropriate. And I don't know of any
4 law that says that it has to come -- reasonable
5 apprehension of fear would have to come from a
6 defendant. Maybe I'm not tracking what you're
7 saying, but y'all got me guessing.

8 Here's what I think Mr. Story wants to ask, I
9 take it, about the cell phone incident -- am I right
10 or wrong? Cell phone in the eye?

11 MR. STORY: You're right, Your Honor.

12 THE COURT: Okay. The cell phone in the eye.
13 And I don't know anything else about the other
14 incident. Factually, I don't know. I mean -- so --

15 MS. MAYES: So our concern there, Your Honor,
16 is the clear and convincing standard, which would
17 ordinarily be the standard for any type of 404
18 evidence --

19 THE COURT: You think this is 404? I think
20 it's State vs. Taylor and State vs. Clinkscales
21 where you've had -- you've had prosecutions where
22 prior difficulties between the parties, those
23 parties being husband and wife, is admissible
24 against a defendant.

25 MS. MAYES: Yes, sir, Your Honor.

1 THE COURT: And homicide cases, the evidence of
2 the accused and deceased had previous difficulties
3 is admissible.

4 MS. MAYES: Prior difficulties, yes, sir, we
5 agree to that. It's the specifics of it that the
6 State -- the State doesn't know the specifics of it.

7 THE COURT: It goes on that the general details
8 of the difficulty, however, are inadmissible. So I
9 don't know what it means, but it says general
10 details inadmissible. I always thought details were
11 specific things, you know, but general details are
12 inadmissible.

13 In that case -- in that case, an appellate's
14 brother testified that the decedent hit the
15 appellate in the head with a bottle on a prior
16 occasion, and the testimony supported appellate's
17 contention the decedent was the aggressor. So it
18 goes to the animus of the parties.

19 So I guess my question is, if he just wants to
20 say, however it's phrased -- I don't know how it's
21 phrased. I'm not trying to state the defense case.
22 If he says was there an incident in which she,
23 Ms. James, struck he, Mr. Brown, in the eye with a
24 cell phone --

25 MS. MAYES: We have no objection to that.

1 Going beyond that, into details, Your Honor, that
2 are contained in that incident report, which would
3 not be relevant. As we know, that's a charge that
4 was ultimately dismissed and expunged, so there's no
5 conviction. And we wouldn't want to infer that
6 there was any type of repercussions for that.

7 THE COURT: All right. Is that where you're
8 headed, Mr. Story?

9 MR. STORY: I believe so, Your Honor. I do
10 want to question her about the cell phone incident.

11 THE COURT: About the cell phone?

12 MR. STORY: As well as the other incident, yes.

13 THE COURT: I don't even know what the other
14 is. So you want me to have the solicitor put her on
15 the stand now and you question her in-camera and --
16 I don't know what you want to ask, so I don't know
17 how to rule. I don't know what I'm ruling on, I
18 guess, is what I'm saying.

19 MR. STORY: Your Honor, it sounds like we're
20 pretty close to an agreement. I just want to ask
21 her about both arrests.

22 THE COURT: If you get into arrest -- in my
23 mind now, if you get into arrest, if I were to allow
24 it, I don't know, the solicitor, if she was so
25 inclined or wanted to, could get into expungement.

1 I mean, then we're going down another rabbit trail
2 that some third party decided, for whatever reason,
3 not to prosecute or wasn't a prosecutable case, to
4 nol-pross the case, been expunged from her record.

5 I don't know if I'd let that in or not. But
6 I'm not going to leave the impression that -- well,
7 first off, an arrest is not admissible, as a general
8 rule. If you had a client that just had a prior
9 arrest and the solicitor was trying to get in, well,
10 he was arrested for whatever, general rule, it's not
11 admissible.

12 I'll have the solicitor put her on the witness
13 stand and go through in-camera. But all that's an
14 ancillary battle, solely on the issue of reasonable
15 fear. Tell me what you want to do. And the other
16 incident, I don't know anything about. All I know
17 is she had a charge and a bond. And that's about
18 what I know.

19 MR. STORY: Correct, Your Honor. I want to ask
20 her about both arrests. And, Your Honor, I guess
21 I'm not sure what -- between general and specifics,
22 I want to ask her about the incident. If she denies
23 that it happened, we'd like to bring extrinsic
24 evidence to show otherwise.

25 THE COURT: Well, let's see, extrinsic

1 evidence. What is that? 608. That's 608. I take
2 it you're referring to the specific incidents of
3 conduct. That's for purposes of attacking or
4 supporting a witness' credibility. If that's the
5 rule you're referring to, that would be for
6 impeachment.

7 And I always thought, under that old State vs.
8 Hale case out of Spartanburg, there were only three
9 ways. Of course, those have been codified somewhat
10 in the rules now. I didn't know you could get into
11 details. That's like impeachment testimony there.

12 But do you want me to have -- I think you can
13 ask if there was an incident where Ms. James hit
14 Mr. Brown with a cell phone. And I don't think you
15 can go any further than those details. Now, that's
16 not to say she can't -- she, the solicitor.

17 And I think that's consistent with the rules of
18 evidence. And I think it's consistent with the case
19 law going back to State vs. Clinkscales and the case
20 I was citing just now in State vs. Taylor -- let me
21 see -- 333 S.C. 159, 1998. And it cites Clinkscales
22 and all.

23 Homicide case: The evidence the accused and
24 deceased had previous difficulties is admissible to
25 show animus of the parties and to aid the jury in

1 deciding who was the probable aggressor. General
2 details -- I don't know exactly that term. General
3 details, of that difficulty, however, are
4 inadmissible.

5 Tell me what you want to do as far as Ms. James
6 is concerned. And I know we know of one other
7 arrest and know nothing further. I don't think
8 that's -- I don't think that's probative without
9 more. I don't even know -- I don't think that the
10 fact she may have had another arrest is probative.

11 MR. STORY: Your Honor, what I want to ask, as
12 far as the cell phone goes, is, simply, was there an
13 incident where you hit Joshua Brown in the eye with
14 a cell phone?

15 THE COURT: Objection to that, Solicitor?

16 MS. MAYES: No, sir. And she would explain --
17 she could explain her answer.

18 THE COURT: He was going further. I was just
19 trying to track a little along.

20 And what next, Mr. Story?

21 MR. STORY: Of course, I would ask about when
22 the event occurred -- allegedly occurred.

23 THE COURT: Sure. I agree with that.

24 Don't you, Solicitor?

25 MS. MAYES: Yes, sir, Your Honor.

1 THE COURT: When the event occurred.

2 MR. STORY: And if Joshua Brown had injuries
3 associated with that incident.

4 THE COURT: Any objection to that, Solicitor?

5 MS. MAYES: No, sir.

6 THE COURT: And that's common sense.
7 Typically, you can't get hit without some type of
8 injury, typically. At least if law enforcement sees
9 it under current DV law, they would have to make an
10 arrest, as I understand the way they have that DV
11 law.

12 All right. The time, the action, she hit him
13 with a cell phone, and that he was injured.

14 MR. STORY: The only other question we'd like
15 to ask is about the bond restrictions that may have
16 been in place at the time of this alleged incident,
17 Your Honor.

18 THE COURT: Bond restrictions in place at the
19 time of this?

20 MR. STORY: As a result of the July incident.
21 Yes, Your Honor.

22 MS. MAYES: We would only --

23 THE COURT: I don't even know what they are.

24 MS. MAYES: Yes, sir, Your Honor. There would
25 have been a bond restriction, but both of these

1 parties mutually agreed and there will be testimony
2 in that regard that he suggested meeting at the
3 Riverwalk. So I can't imagine how it would be
4 relevant that she had a bond restriction to see him
5 when they're both mutually agreeing to meet at that
6 location and he suggests the location and agrees to
7 meet her there.

8 THE COURT: Was there ever any action taken on
9 the bond?

10 MS. MAYES: No, sir, Your Honor. In terms of,
11 like, a violation? Not that we'd be aware of at
12 all, Your Honor. In fact, in his interview with law
13 enforcement, he ultimately says they both were
14 disregarding that instruction.

15 THE COURT: What about the text messages? Is
16 there conversations between them?

17 MS. MAYES: Yes, sir, Your Honor.

18 THE COURT: To meet at the parking lot at Phase
19 3?

20 MS. MAYES: Yes, sir, Your Honor. In fact, it
21 is the defendant who suggests meeting her there
22 after work.

23 THE COURT: I think that's -- I don't think
24 that's probative of any fact that would be an issue
25 that would go to the issue of the guilt or innocence

1 of the defendant. I don't think that's relevant. I
2 don't think that's relevant, so I wouldn't allow it.
3 I wouldn't allow questioning testimony about the
4 bond as to Ms. James.

5 Anything further?

6 MR. STORY: Well, Your Honor, the solicitor
7 mentioned it was by mutual agreement. As the
8 assistant solicitors are apt to remind us, Your
9 Honor, the restriction is, of course, on a defendant
10 when it comes to a domestic violence case or any
11 case where there is a no-contact order in place.

12 Therefore, obviously, Joshua, by having contact
13 or responding to contact from Ms. Brown, if a bond
14 restriction were in place, that would not -- he
15 would not be violating any sort of order.

16 THE COURT: I didn't say he would be violating
17 it; I said I don't think it's probative. I don't
18 think it's relevant. If I look at 401 and the
19 definition of relevant evidence -- I think it's 401.
20 I don't know. Let's see.

21 Relevant evidence means evidence having any
22 tendency to make the existence of any fact that is
23 of consequence to the determination of the action
24 more probable or less probable than it would be
25 without the evidence. I don't think that there was

1 a bond in place -- because, see, that then gets to
2 the fact that you only get a bond if you've had an
3 arrest. And I know she had a bond because she had
4 an arrest, which has since been expunged.

5 And I don't think it makes any -- the existence
6 of any fact that is consequence to the determination
7 of the action more probable or less probable than it
8 would have been without the evidence. So I don't
9 think that's relevant. I don't think that's
10 relevant.

11 MR. STORY: If I may, Your Honor. It would be
12 relevant to her -- in the course of a self-defense
13 case, this would be relevant to her tendency to obey
14 the law --

15 THE COURT: That's not relevant. Never would
16 it be that she had a tendency to violate the law.
17 That's straight character evidence. I don't know of
18 any case or any rule that would allow it. That's
19 saying that -- you know, I don't think that's ever
20 admissible. And if it is relevant, then I think it
21 is a violation of -- and I do not think it is
22 relevant. But if it is, I think it would be
23 excluded by this Judge under 403 for a confusion of
24 the issues misleading the jury or waste of time,
25 quite frankly.

1 I just don't think the fact that she was on a
2 bond and that she met her, I guess you call it,
3 estranged husband at that location, I don't think
4 it's relevant. If I'm wrong on that, I think it's
5 confusion of the issues, misleading of the jury; not
6 intentionally, I don't mean it like that. I just
7 think it would mislead the jury down to a collateral
8 matter that's just not relevant.

9 So anything further? We're straight on the
10 cell phone? When it happened, cell phone, was an
11 injury, we straight on that?

12 MR. STORY: Yes, Your Honor.

13 THE COURT: All right. Anything further,
14 Mr. Story?

15 MR. STORY: No, Your Honor.

16 THE COURT: Now, is there a hanging chad out
17 there somewhere having to do with -- y'all know what
18 a hanging chad is. If you don't, read Gore vs.
19 Bush. It's a great life reading. Is there a
20 hanging chad out there somewhere on the expungement
21 order, magistrate? Is there any follow-up on that?

22 MS. MAYES: No, sir, Your Honor. But in the
23 morning when Madam Court Reporter is away, that
24 would be the ideal time to follow-up with them.
25 It's after 5:00 today. We do know that after your

1 order was signed, it would have been --

2 THE COURT: Okay. I was seeing if it was
3 something we could address.

4 Anything further from the State, Solicitor?

5 MS. MAYES: No, sir, Your Honor. We hope to
6 have an answer to that when we resume tomorrow.

7 THE COURT: And nothing further, correct,
8 Mr. Story?

9 MR. STORY: Correct, Your Honor.

10 THE COURT: Thank you very much. I hope y'all
11 have a pleasant evening. See you at 12:00.

12 (The following proceedings were held June 20,
13 2018.)

14 THE COURT: I think we're still waiting on a
15 few jurors. I'm not sure how many.

16 Are there any matters to take up before our
17 jury arrives, Solicitor?

18 MS. MAYES: Not at this time, Your Honor.

19 THE COURT: Mr. Story?

20 MR. STORY: Yes, Your Honor. We'd just like to
21 renew our motion. We would like to talk about the
22 pending arrest and bond situation, because we
23 believe that goes to show bias. And not to allow us
24 to cross-examine her on that matter because it was
25 pending litigation at the time would be a violation

1 of the Sixth Amendment right to confrontation. And,
2 furthermore, we would also like to ask about the
3 pending divorce that was going on during this
4 incident, Your Honor.

5 THE COURT: Pending divorce? Now, I -- I never
6 addressed that, correct?

7 MR. STORY: No, Your Honor, you did not.

8 THE COURT: All right. What is your motion in
9 regards to the pending divorce when you say you
10 would like to ask?

11 MR. STORY: Well, Your Honor, like the criminal
12 litigation that was going on during the time of this
13 incident, there was also a divorce that was pending.
14 And I believe the State has already brought that
15 out. I think they've asked her about the divorce.
16 So we believe it's in controversy anyway.

17 THE COURT: Yes, sir. I believe it was
18 testified to.

19 Solicitor?

20 MS. MAYES: Yes, sir, Your Honor. The victim
21 has acknowledged that there was a pending divorce
22 action. I believe when his car was searched by law
23 enforcement, the divorce papers were found in his
24 vehicle, so we know that he had been served. It was
25 a pending action at the time.

1 Again, though, any details beyond that
2 regarding grounds for divorce or anything of that
3 nature, I don't know those details and I do not have
4 those records. But I guess our inquiry at this
5 point is to what extent would they want to get into
6 the divorce? It was a pending action. They were
7 separated at the time.

8 THE COURT: Well, I mean, you can't pick and
9 choose. If it's in evidence, why wouldn't the
10 Defense have the right to cross-examine Ms. James as
11 to that? It's offered into evidence; it wasn't
12 objected to. Is the door not -- if it's not wide
13 open, is it cracked open?

14 MS. MAYES: I'm not opposing any questioning,
15 Your Honor, about the fact that there was a pending
16 divorce. We're getting to, like, allegations of
17 whatever they may be. I don't know what they may
18 be. So if we're getting into something that would
19 potentially be improper character evidence, that
20 would be our inquiry, because I don't know what the
21 proffered question would be.

22 It will come out, Your Honor, and it has come
23 out, I believe, already, through testimony that both
24 parties were involved with other individuals.
25 That's not in dispute. So to get into any detail

1 beyond that, that's our inquiry. We don't know to
2 what extent that's going to be explored, if at all.

3 THE COURT: I think you can ask -- if the
4 question is asked the solicitor wants to object to,
5 I'll rule on it. I, obviously, don't know either.

6 MR. STORY: And, Your Honor, going back, the
7 grounds we didn't put on the record yesterday. Of
8 course, we believe questions about her arrest and
9 being on bond because Mr. Brown was the alleged
10 victim in that domestic violence, that that means
11 there was -- that was also pending litigation
12 between the parties. It would go to the bias of the
13 witness at the time because she gave statements at
14 the time.

15 THE COURT: Track me on that again, Mr. Story.
16 I apologize. I was looking up the case. I was
17 trying to look up Chief Toal and I couldn't quite --
18 but, anyway, go back to what you were saying. Tell
19 me what you were saying.

20 MR. STORY: Yes, Your Honor. There -- the
21 pending domestic violence that was pending at the
22 time, we believe, and the bond, the arrest, no
23 contact order, that, for the purposes of bias of the
24 witness, was a pending litigation at the time.
25 Questions about that would go towards bias. And I

1 have a couple of cases here -- we have three cases,
2 if the Court would like to see them.

3 THE COURT: Yes, sir. I'll be delighted.

4 MR. STORY: And Ms. Gilreath is going to give
5 the solicitors copies of these cases as well. If I
6 may approach?

7 THE COURT: Yes, sir.

8 MR. STORY: And, Your Honor -- sorry to
9 interrupt.

10 THE COURT: Yes, sir.

11 MR. STORY: There's also a U.S. Supreme Court
12 case, Davis vs. Alaska, and we are --

13 THE COURT: I thought Davis vs. Alaska had to
14 do with -- is that a death penalty case that had to
15 do with marijuana or something? Something like
16 that?

17 MR. STORY: I believe it was a burglary, Your
18 Honor.

19 THE COURT: All right. Go right ahead,
20 Mr. Story.

21 MR. STORY: Your Honor, just to make my
22 argument for the record, Davis vs. Alaska dealt with
23 a pending probation of a juvenile case, which is
24 analogous to our case because, of course, there was
25 an expungement in our case. So the juvenile record,

1 I believe, in Davis, was sealed under state law;
2 however, the Supreme Court said that the defendant's
3 right to confrontation outweighed the State's
4 interest in keeping that private.

5 Similarly, I would argue that the
6 State's interest in expungement --

7 THE COURT: What was the juvenile charge?

8 MR. STORY: Oh, Your Honor, the witness in that
9 case was on probation for burglary. And, Your
10 Honor, I have that case, if you would like me to
11 approach with a copy.

12 THE COURT: Yes, sir. Thank you.

13 MR. STORY: And we've handed the solicitor a
14 copy as well.

15 THE COURT: Have I seen a copy of the bond?

16 My issue with the domestic violence, I have
17 only limited that testimony as it goes to, perhaps,
18 one of the elements of self-defense. It is not a
19 conviction. There was never a conviction. So the
20 same rules would not apply because no one could be
21 cross-examined under Rule 609, at least for a prior
22 bad act, not subject to conviction.

23 Under 404(b), if it's not subject to
24 conviction, it would have to meet a standard of
25 clear and convincing evidence, which it would not do

1 because it was dismissed and expunged. So I'm only
2 allowing it for that limited purpose.

3 I've looked at these other cases that you've
4 handed up, State cases, Graham, Graceley and
5 Pradubsri, P-R-A-D-U-B-S-R-I. They appear to be
6 individuals that were testifying on behalf of the
7 State against a defendant and had plea bargains.
8 And two of them appear to be whether or not you
9 could go into minimum mandatory sentences and such
10 like that. So I don't think they're on point.

11 Therefore, I'm going to reaffirm my previous
12 ruling that it's very limited under State vs. Taylor
13 that I cited yesterday and that the fact that there
14 was a bond, which is only issued if a person had an
15 arrest, would not come under the terms of that
16 cross-examination because the arrest would not be
17 admissible and, my thinking, my reasoning, is nor
18 would the underlying bond. And there was no action
19 taken on the bond, so that's additional grounds for
20 me to deny. And I would reaffirm my ruling from
21 yesterday concerning the cell phone event, the date
22 and that there was an injury.

23 All right. Anything further, Mr. Story?

24 MR. STORY: I would just like to highlight to
25 the Court we believe that dismissal for the domestic

1 violence third degree was sometime in October,
2 which -- so if she was arrested in July and it was
3 expunged in October, we believe that there would be
4 a bond pending at the time of the incident --

5 THE COURT: I'm not disputing that there may
6 have been a bond. But it's not relevant for any
7 purposes and it is not admissible.

8 MR. STORY: Your Honor, we would request a
9 proffer before the jury comes in.

10 THE COURT: I'll allow you to have a proffer.
11 I'm curious about why no one took me up on that
12 offer when I made that offer, at least three,
13 perhaps four times yesterday. But I will certainly
14 allow you to place on the record the proffer.

15 Call your witness.

16 MR. STORY: Thank you, Your Honor. We'd call
17 Ann James.

18 THE COURT: Ms. James, come around. You're
19 still under oath.

20 IN-CAMERA EXAMINATION

21 BY MR. STORY:

22 Q. Good afternoon, Ms. James.

23 A. Good afternoon.

24 Q. Do you recall an incident involving Mr. Joshua
25 Brown on July 21st, 2015?

1 A. Yes.

2 Q. Do you recall law enforcement being called to
3 y'all's residence?

4 A. Yes.

5 Q. And were you arrested and charged with criminal
6 domestic violence third degree at that time?

7 A. I was arrested. I don't know what the charge
8 was.

9 Q. Was the allegation that you hit Joshua below
10 his eye with a cell phone?

11 A. That was the allegation.

12 Q. And did you go to bond court after your arrest?

13 A. Bond court? Yes.

14 Q. And do you remember giving -- being given a
15 personal recognizance bond?

16 THE COURT: Let me ask you something. I asked
17 you before you started this if I had seen the bond.
18 Have I seen the bond? Do you have a copy of the
19 bond?

20 MR. STORY: We do not have a copy of the bond,
21 Your Honor, but every arrest involves a bond.

22 THE COURT: Continue. Not every arrest
23 involves a bond. You can get a ticket. And after
24 45 years, I think I'm fairly well-versed in the fact
25 that you get a bond if you've been arrested. Ask

1 your next question.

2 MR. STORY: Thank you, Your Honor.

3 BY MR. STORY:

4 Q. Were you ordered by the bond judge to have no
5 contact with Joshua Thomas Brown?

6 A. I'm not sure.

7 MR. STORY: Okay. Thank you. No further
8 questions.

9 THE COURT: Anything, Solicitor?

10 MS. MAYES: No, sir, Your Honor. I do want to
11 update the Court that we received -- while we were
12 in court yesterday, we received an e-mail from the
13 Magistrate's Office. They were unable to locate any
14 further records pursuant to the order that you
15 signed.

16 THE COURT: All right. Thank you.

17 Thank you, Ms. James. You may step down.

18 Mr. Story, anything further?

19 MR. STORY: Your Honor, I would just again
20 renew the motion that this goes to bias of the
21 witness and not to allow us to cross-examine her in
22 front of the jury would be a violation of
23 Mr. Brown's Sixth Amendment right to confrontation.

24 THE COURT: I haven't limited you from
25 cross-examining her about that same event. I don't

1 know. I thought you were going to ask her about the
2 date, the cell phone, and the injury. I don't know
3 any law that would say if you ask her, the arrest
4 would not be admissible.

5 She -- her testimony was, as far as the charge,
6 it was not known to her. So, I mean, it goes to --
7 she says, yes, she went to bond court. I ruled
8 that's not admissible. And she has no knowledge of
9 whether or not there was a no-contact order. So you
10 may ask the date, the telephone, and injuries.

11 Anything further, Mr. Story?

12 MR. STORY: I believe your ruling is clear that
13 we cannot ask her about the arrest and bond. So we
14 have nothing further, Your Honor.

15 THE COURT: Thank you. Thank you very much.

16 Anything further, Solicitor?

17 MS. MAYES: No, sir, Your Honor.

18 THE COURT: I have two notes from the jury.

19 Juror No. 128: I have had plans to go out of
20 town for the past two months. Thank you for your
21 consideration.

22 I will follow up on that with Juror 128.

23 And Juror No. 92: I am directing a wedding
24 rehearsal on Friday at 5:00. If I could leave here
25 at 4:00, I could get there on time. If this is not

1 possible, I would like to be able to tell the bride.

2 Nothing, of course, about the groom, but she
3 would like to be able to tell the bride. Maybe
4 we'll be able to accommodate that in that regard.
5 I'm going to speak to Juror No. 128.

6 Bring me Juror No. 128, please. That's
7 Mr. McLain.

8 When would they have gotten notice of this jury
9 service, Madam Clerk?

10 THE CLERK: The one about the wedding --

11 THE COURT: Not about the wedding --

12 THE CLERK: Oh, about this one?

13 THE COURT: When would the jury have gotten
14 notice to report to jury service?

15 THE CLERK: We send them out 30 days prior to
16 the date of service.

17 THE COURT: Mr. McLain, is that right?

18 THE JUROR: Yes, sir.

19 THE COURT: I received your note. Tell me
20 about it.

21 THE JUROR: My wife and I just had made plans
22 to go to the beach for the weekend a couple months
23 ago. I put it on the calendar at work.

24 THE COURT: When do y'all plan on leaving?

25 THE JUROR: Originally, Thursday after work is

1 when we planned on leaving.

2 THE COURT: Let's press on for now. Today is
3 Wednesday and we'll see where we are.

4 THE JUROR: Okay. Yes, sir, Your Honor.

5 THE COURT: Thank you.

6 Anything further before we bring in our jury,
7 Solicitor?

8 MS. MAYES: Just briefly, Your Honor. We do
9 have an exhibit that's been marked for ID at this
10 time, and it is Exhibit 8. That is the exhibit
11 which is a summary of the voluminous extraction.
12 And this covers the dates of August 9th, 2015
13 through August 12th, 2015, the results of the
14 defendant's phone.

15 We provided that on Friday to the Defense so
16 they could look over it and let us know if there are
17 any objections or changes that need to be made. We
18 would just need to know in advance before we
19 actually print the exhibit so that our paralegal can
20 make any necessary redactions. So if they could let
21 us know by 5:00 today, that would be beneficial to
22 us, or if you want to add in the new information
23 from the latest extraction, I think there are some
24 deleted calls, we have no position on that if you
25 want to add those or keep it as it is.

1 MR. STORY: Your Honor, we are fine with having
2 any redactions, if any redactions, before 5:00.
3 We'd be happy to take the solicitor up on that.

4 THE COURT: All right. Thank you, Mr. Story.
5 Anything, Mr. Story, before we bring in the
6 jury?

7 MR. STORY: Nothing further, Your Honor.

8 (The jury enters courtroom at 12:32 PM.)

9 THE COURT: Welcome back, ladies and gentlemen.
10 I hope you had a pleasant evening. We're, of
11 course, continuing with the trial of the case by the
12 cross-examination of Ms. James by the defense
13 attorney. If you would please continue to give the
14 parties your complete and undivided attention.

15 Ms. James, would you come back around and join
16 us, please? And you are still under oath.

17 Mr. Story?

18 MR. STORY: May it please the Court?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. STORY:

22 Q. Good afternoon, Ms. James.

23 A. Good afternoon.

24 Q. How long were you married to Josh?

25 A. We got married December 23rd, 2013.

CROSS-EXAMINATION OF ANN JAMES BY MR. STORY

295

1 Q. And during that -- during your marriage, was
2 there an incident where you tried to stab him with
3 scissors?

4 A. No, sir.

5 Q. Was there ever --

6 THE COURT: Step out, please, ladies and
7 gentlemen. Do not discuss this case during this
8 brief recess.

9 (The jury exits the courtroom at 12:34 PM.)

10 THE COURT: How did we go from eye injury,
11 telephone to stab with scissors?

12 MR. STORY: Your Honor, this incident was not
13 the pending domestic violence. We believe this was
14 a different incident.

15 THE COURT: What is the reasonable factual
16 foundation for that question?

17 MR. STORY: I beg the Court's indulgence.

18 Your Honor, we believe that we have testimony
19 that will show that incident later when we present
20 our defense case. And that would be admissible for
21 impeachment purposes, Your Honor.

22 THE COURT: Well, if you don't, I'm going to
23 strike all of that from the record in front of the
24 jury.

25 Bring us our jury, please.

1 MR. STORY: Your Honor, before -- I just want
2 to be clear what your ruling is.

3 THE COURT: You heard my ruling.

4 Bring us our jury, please.

5 (The jury enters the courtroom at 12:37 PM.)

6 THE COURT: Thank you, ladies and gentlemen.

7 MR. STORY: Thank you, Your Honor.

8 BY MR. STORY:

9 Q. Do you recall an incident in July involving a
10 cell phone with Josh?

11 A. I do.

12 Q. And did you hit Josh below his eye with a cell
13 phone?

14 A. What happened was Josh --

15 Q. And by the way --

16 THE COURT: No, sir. Don't interrupt the
17 witness when she's answering your question. You
18 asked the question; she has a right to answer the
19 question.

20 You may continue, Ms. James.

21 THE WITNESS: Josh and I were struggling over
22 the phone, actually, and he ended up getting hit
23 with the phone.

24 BY MR. STORY:

25 Q. Okay. Thank you. Let me ask you this: When

- 1 did you file for divorce?
- 2 A. It was in July of 2015.
- 3 Q. And do you recall when the divorce was final?
- 4 A. It was in March of 2016.
- 5 Q. So during this incident, the divorce was
- 6 pending, correct?
- 7 A. That's correct.
- 8 Q. Now, you've testified that Josh was jealous of
- 9 a friend you had, correct?
- 10 A. That's correct.
- 11 Q. His name was Javon Jones?
- 12 A. That's correct.
- 13 Q. You called him Tony Jones?
- 14 A. I did.
- 15 Q. And you've testified that he was someone you
- 16 had lunch with?
- 17 A. We've gone out, that's correct. We've had
- 18 lunch, bowling.
- 19 Q. And didn't you testify yesterday that he wasn't
- 20 even a Facebook friend at the time?
- 21 A. I don't recall that.
- 22 Q. But, in fact, Javon, he was a little more than
- 23 a friend, correct?
- 24 A. He was a friend.
- 25 Q. You were, in fact, in somewhat of a sexual

- 1 relationship with him, correct?
- 2 A. I never denied that we were intimate. But we
3 was friends.
- 4 Q. Do you recall texting Javon the morning of the
5 incident?
- 6 A. I don't recall that.
- 7 MR. STORY: I beg the Court's indulgence.
- 8 THE COURT: Yes, sir.
- 9
- 10 BY MR. STORY:
- 11 Q. And just so we're clear, you just testified you
12 never denied you were intimate with him, correct?
- 13 A. No, sir.
- 14 Q. So were you intimate before this incident?
- 15 A. Before the stabbing incident?
- 16 Q. Yes.
- 17 A. Yes.
- 18 Q. So do you remember texting Javon that morning?
- 19 A. Like I said, I don't remember it; not that it
20 couldn't have happened, but I don't remember it.
- 21 Q. Now, you've previously -- let me say this: You
22 understood that Joshua knew about the relationship
23 between you and Javon, correct?
- 24 A. Yeah, because I told him.
- 25 Q. So you told him that y'all were intimate?

CROSS-EXAMINATION OF ANN JAMES BY MR. STORY

299

1 A. I told him that I had a friend.

2 Q. And you believe he was jealous of this friend?

3 A. His actions showed me that he was.

4 Q. Now, did you believe at the time that Joshua
5 had proof that you were intimate with Javon?

6 A. No.

7 Q. And that -- weren't you concerned that this
8 might affect the divorce proceedings?

9 A. I'm not sure because I wasn't aware of what he
10 had. If he had anything or if he said he had
11 anything, I didn't know how truthful that was.

12 Q. Do you recall Josh texting you on August the
13 6th and saying, go ahead with the divorce, I have
14 all that I need to prove infidelity and the name of
15 the person and the videotapes, I'm good? Do you
16 recall that?

17 A. I don't recall that. Like I said, he might
18 have said that, but I don't recall that.

19 Q. Do you recall texting him also on August 6th,
20 at about 11:00 in the morning: Whatever, you're
21 still making excuses for last night. I hope she was
22 worth it?

23 A. I don't remember.

24 Q. In fact, you believed that if Josh had proof of
25 infidelity, that that may affect the alimony after

1 the divorce proceedings, right?

2 A. I wasn't concerned with alimony.

3 Q. Thank you.

4 MR. STORY: I beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 BY MR. STORY:

7 Q. Do you recall doing an internet search after
8 your conversation on the 6th "does cheating affect
9 alimony"?

10 A. I don't recall that.

11 Q. I want to go back to the events of that day,
12 August 11th.

13 A. Okay.

14 Q. You went to work early in the morning, right?

15 A. My work schedule began at 12:00 midnight.

16 Q. Okay. Now, you testified yesterday that you
17 agreed to meet Josh, correct?

18 A. That's correct.

19 Q. That it was a mutual agreement?

20 A. Yes.

21 Q. Okay. Do you remember meeting Officer Dana
22 Whetstone of the Cayce Department of Public Safety
23 that day, a female officer?

24 A. Meeting her the day that I got stabbed?

25 Q. Yes.

- 1 A. It was so many people that was in and out of
2 the hospital, like, I don't know who they were
3 specifically. I apologize.
- 4 Q. So you don't recall telling her it was Josh
5 that wanted to meet?
- 6 A. Like I said, it was so many people, I don't
7 remember. If she questioned me while I was in the
8 hospital bed, I'm not sure. Like, I just know it
9 was a bunch of people coming in asking me questions.
10 I apologize. I don't recall the specifics.
- 11 Q. So you don't recall Dana Whetstone meeting you
12 at the dock at the Riverwalk and you making those
13 statements to her?
- 14 A. I apologize. I don't remember that.
- 15 Q. Do you recall the next day, August 12th, at the
16 hospital, you told Officer Danielle McCord that Josh
17 was the one who wanted to meet up?
- 18 A. Like I said, I don't remember. I just know a
19 bunch of people came in questioning me. And I don't
20 know what day it was or anything like that. I know
21 I was sedated because I was in pain. But I don't
22 remember. I apologize.
- 23 Q. Do you remember her asking you, pointblank, so
24 it was your idea to meet?
- 25 A. No, I don't remember her asking me, pointblank,

1 that.

2 Q. And you don't recall telling her, no, it was
3 Josh's idea; Josh was the one who wanted to meet
4 because he said he couldn't let another day go by
5 without being with you?

6 A. No, sir, I don't recall that. I do apologize.

7 Q. In fact, it was you who wanted to meet that
8 day, correct?

9 A. It was a mutual agreement that we were going to
10 meet. I don't know who initiated it by saying, hey,
11 let's meet. But I do know it was an agreement that
12 both -- and the place was suggested by Josh.

13 Q. So you don't recall texting Josh -- you don't
14 recall texting Josh telling him that you wanted to
15 meet with him?

16 A. Like I said, I may have. But I don't recall
17 the specifics of it. I know, ultimately, it was an
18 agreement that we were going to meet and he
19 suggested the place. But, again, I don't recall who
20 initiated it, if it was myself or if it was
21 Mr. Brown.

22 Q. Do you recall calling him multiple times that
23 morning and evening?

24 A. Yes, sir.

25 Q. And being frustrated that he didn't answer?

1 A. Yes, sir.

2 Q. And then you recall texting with him,
3 communicating with him through text after that?

4 A. That morning? Yeah, I remember.

5 Q. Do you recall texting Josh in the early morning
6 hours of August 11th: Am I going to see you today?

7 A. Like I said, I don't deny that I was texting
8 him. But I don't know the specifics of what it was.

9 Q. So you do not recall saying, okay, I'm trying
10 to call you, but you won't answer?

11 A. Again, I may have. I'm not denying that I did.

12 Q. And then do you recall telling him we need to
13 talk before you met?

14 A. I may have. Like I said, I don't remember the
15 specifics. I remember we were texting back and
16 forth. It was around, maybe, 3:00 that morning. I
17 think he got up around maybe 4:00. I don't know the
18 specifics of it, but I know we were talking about
19 meeting up, talking about things that were going on.

20 I think I mentioned something about looking for
21 some jobs for him, trying to help him out. Like I
22 said, I don't remember all the details, but I do
23 remember a few things that stuck out.

24 Q. Do you recall him replying to you: We need to
25 talk about what?

1 A. Like I said, I don't remember the exact details
2 of those messages.

3 Q. And you don't remember him saying, about what,
4 and you replied, us?

5 A. Like I said, I don't remember the specifics
6 about those texts. I just know we were texting back
7 and forth and we were agreeing to meet and talk
8 about our situation.

9 Q. And then he told you, I'm listening. And you
10 said, face-to-face would be best -- or will be best?

11 A. Yes, sir.

12 Q. You do recall saying face-to-face will be best?

13 A. I don't remember the specifics of those text
14 messages. I am saying we were texting back and
15 forth, but I don't know the specifics of it.

16 Q. Okay. Do you recall him telling you -- or you
17 asking, what time do you get off or -- yeah. You
18 don't remember asking him what time he was going to
19 get off or anything like that?

20 A. Like I said, I remember us agreeing to meet,
21 but no specifics about anything else. I do know
22 that we agreed to meet.

23 Q. Do you recall texting him, I love you?

24 A. Yeah. I always text him that.

25 Q. So when you say always text him that, was that

1 a daily thing or...

2 A. Normally, if it was when we were communicating,
3 I would, either on the phone or via text, you know,
4 let him know, hey, I still love you.

5 Q. Do you recall, right before meeting up,
6 texting, where are we going to meet?

7 A. Like I said, I don't remember the specifics.

8 Q. And he said, are you okay with the Riverwalk by
9 your job? You don't recall that?

10 A. After looking over it, it may have been
11 possible. But I don't remember the actual without
12 seeing it.

13 MR. STORY: All right. I beg the Court's
14 indulgence.

15 BY MR. STORY:

16 Q. Do you think if you saw a written form of your
17 text messages that you may recall the conversation
18 then?

19 A. I possibly could. Yeah.

20 MR. STORY: May I approach the witness?

21 THE COURT: Yes, sir.

22 BY MR. STORY:

23 Q. All right. Backing up, do you recall what your
24 number was at the time?

25 A. I don't.

1 Q. You don't remember if it was (803) 210-5208?

2 Do you know if that was your number?

3 A. I think it was, but I'm not 100-percent sure.

4 I've had probably six different numbers.

5 THE COURT: Speak up a little bit for us,

6 please.

7 Q. Right here, and I'm looking at this column with

8 the numbers.

9 A. Okay.

10 Q. You see right below my pen?

11 A. Yes, sir.

12 Q. What is that number?

13 A. It's area code (803) 210-5208.

14 Q. And this column with the names, what does it
15 say in that second column?

16 A. Josh.

17 Q. Excuse me. Backing up, the first column, you
18 see these, they say incoming and outgoing?

19 A. Uh-huh.

20 Q. On this top text, is that incoming or outgoing?

21 A. That's incoming.

22 Q. Right below that?

23 A. The next one would be outgoing.

24 Q. And if you follow it, what does that say in the
25 column with the contents?

CROSS-EXAMINATION OF ANN JAMES BY MR. STORY

307

1 A. It says --

2 MS. MAYES: Objection to --

3 May we approach?

4 THE COURT: Yes, ma'am.

5 (Sidebar conference.)

6 THE COURT: Thank you, Solicitor.

7 Thank you, Mr. Story. You may continue.

8 BY MR. STORY:

9 Q. Okay. And just going back up, I'm only
10 concerned with the columns that say Josh. Do you
11 mind reading this handful of text messages.

12 A. That's the response after he texted me:
13 Thanks, we will make it. And that was incoming from
14 Josh.

15 And then our outgoing says: Just thinking
16 about you. Am I going to see you today?

17 Then it was the -- it says: Okay. I'm trying
18 to call, but you won't answer. Why aren't you
19 answering my calls? Like, seriously, what's going
20 on? What's up? I know you see me calling. Why do
21 you do that?

22 Q. Thank you. So does that sound like your text
23 messages that morning?

24 A. Yes, sir.

25 MR. STORY: Excuse me. Approach the witness

1 again?

2 THE COURT: Yes, sir.

3 BY MR. STORY:

4 Q. Okay. And -- so backing up to this call.

5 And --

6 A. This incoming?

7 Q. Yes. Well, excuse me, right below that.

8 A. It says from Josh. I'm looking for a call.

9 And then I said: Do you see the video of Trin?

10 Which is our daughter, T.J. [REDACTED]. And then I said:

11 We need to talk. He said: About what? I said:

12 Us. And he said: I'm listening. And I said:

13 Face-to-face would be best. And then he said: Are

14 you busy --

15 Q. Did you say are you busy or him?

16 A. This is outgoing: Are you busy? And he

17 replied: Yes. I said: Okay. Talk to you later.

18 He said: I'm going to call you in 20 minutes. I

19 said: I have a break from 8:00 to 8:20, so if we

20 don't catch up then, what time do you get off? And

21 he said: Okay. I get off at 2:00.

22 Q. Okay. You can stop there. I want to skip

23 ahead a little bit. And you and Josh had texted

24 back and forth I love you?

25 A. Right.

1 Q. Skipping ahead a little bit, do you recall Josh
2 texting you: Just getting off?

3 A. Yeah, he texted me just getting off.

4 Q. And what was your reply?

5 A. Okay. I'm about to leave in 13 minutes.

6 Q. And don't worry about the columns that say
7 Josh.

8 A. And I said: So what's up?

9 Q. So what's up.

10 And you also texted him again a couple minutes
11 later. What does that say?

12 A. Just says hello.

13 Q. And you see Josh texting you back?

14 A. Right.

15 Q. And then you asked him where are you going to
16 meet?

17 A. He says: Okay. And I said: Where are we
18 going to meet? And he said: You're okay with the
19 Riverwalk by your job? And I said: Okay.

20 Q. Thank you.

21 A. You're welcome.

22 Q. Now, when he suggested the Riverwalk by your
23 job, y'all had met there before, right?

24 A. We have met there before. Not at that
25 particular spot; it was further up where the boat

1 ramp was. But we had went out there before.

2 Q. You had not met in the parking lot where your
3 cars were before?

4 A. Yes, sir.

5 Q. So you have met in the parking lot where your
6 cars were?

7 A. We met that particular day in that parking lot.

8 Q. But had you met there before then?

9 A. Farther up by the boat ramp.

10 Q. Okay. So it was not uncommon for y'all to meet
11 at that spot?

12 A. It was not uncommon for us to meet at the
13 Riverwalk because we even met down the closer part
14 of Cayce as well, just in the park area. So, yeah.

15 Q. And this particular area of the Riverwalk was
16 right next to SCANA where you worked?

17 A. It was right behind the job. Not directly
18 behind it, but maybe -- like I said, from my job,
19 maybe ten minutes.

20 Q. And you were getting off work --

21 A. Yes, sir.

22 Q. -- at the time y'all were going to meet? And
23 Josh was on break? That was your understanding,
24 right?

25 A. My understanding was he just was getting off.

CROSS-EXAMINATION OF ANN JAMES BY MR. STORY

311

1 MR. STORY: Okay. Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 BY MR. STORY:

4 Q. Do you know what the purpose of dialing star 67
5 before you dial a number is?

6 A. Yes, sir.

7 Q. Is that to block a number so the person who's
8 receiving can't see who's calling, right?

9 A. That's correct; that's the purpose of star 67.

10 Q. Let me ask you this: How did you know to meet
11 at that spot at the Riverwalk?

12 A. Because that's where -- he said behind your
13 job. So when I turned down the road and was going
14 that way, I actually saw him in the parking lot.

15 Q. Okay. As opposed to any other spot at the
16 Riverwalk --

17 A. When we --

18 Q. -- the one --

19 A. I'm sorry.

20 Q. That's okay.

21 You said you had met at other locations at the
22 Riverwalk in Cayce?

23 A. Uh-huh.

24 Q. But when he said by your job, you understood
25 that to mean that particular parking lot?

1 A. No, sir. I took it as that particular location
2 of the Riverwalk; because the Riverwalk expands so
3 far, when he said by my job, I knew that I would
4 have to actually turn down a specific road. And as
5 you come down that road, you can actually see the
6 first parking lot, which is where the defendant and
7 myself was parked. And then if you go down a little
8 farther, you can actually go to that area of the
9 Riverwalk where the boat dock is at.

10 Q. And all I'm asking you is when he says the
11 Riverwalk by your job, you knew which location?

12 A. I knew, because if he would have said the
13 Riverwalk in Cayce where the park is, then I would
14 have known to go there.

15 Q. Okay.

16 MR. STORY: Beg the Court's indulgence.

17 BY MR. STORY:

18 Q. And let me just ask this one more time: Your
19 divorce -- you had filed for divorce, right?

20 A. I filed for divorce. I don't know the specific
21 date, but I know it was in July of 2015.

22 Q. Prior to this incident?

23 A. Yes. It was before the August 11th incident,
24 that's correct.

25 Q. And do you recall calling Josh 31 times the

REDIRECT EXAMINATION OF ANN JAMES BY MS. MAYES

313

1 night before?

2 A. Before August the 11th?

3 Q. On the early morning hours and evening before
4 August the 11th?

5 A. Yes, sir.

6 MR. STORY: No further questions.

7 THE COURT: Redirect, Solicitor?

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

9 REDIRECT EXAMINATION

10 BY MS. MAYES:

11 Q. If you could, just briefly take a look at
12 State's Exhibit 8. You identified that yesterday.
13 This involves communications with Mr. Brown as well.
14 So, just to clarify, you go into your job around
15 midnight?

16 A. Yes, ma'am.

17 Q. And then he would have gone into his job at
18 McDonald's around what time?

19 A. It varies. Normally, if he's opening, he would
20 get there around 4:00 a.m.

21 Q. So he is actually working in the middle of the
22 night just like you are?

23 A. Yes, ma'am.

24 Q. So is it common or uncommon to have
25 communications if you are working a night shift and

1 he's working an early morning shift of 4:00 a.m. at
2 McDonald's?

3 A. That's very common for us.

4 Q. And some of the communications that you had
5 with him about looking for a job, again, why were
6 you attempting to help him out in that regard?

7 A. Because he was always complaining about the job
8 at McDonald's wasn't paying enough and the
9 responsibilities of T.J. [REDACTED] and what he was going to
10 have to pay and him not being able to have enough
11 money to take care of himself, let alone take care
12 of T.J. [REDACTED].

13 And I was like, I don't want her to be a burden
14 to you; I will help you look for a job. I'm not
15 trying to get anything out you, but I feel like if
16 you have a better job, then things would be better
17 for you.

18 Q. Why did you want him to remain involved with
19 T.J. [REDACTED]?

20 A. Because I felt like with him never knowing who
21 his father was or not having a father, that was his
22 first child and it was important for him to have a
23 relationship with her. And she's a little girl and
24 I felt like every little girl needs their father,
25 regardless of their financial status. I just felt

1 like if he could just be there with her, that was
2 more than enough.

3 Q. When Mr. Story was asking you about alimony and
4 you stated you weren't concerned with alimony,
5 describe what you meant by that.

6 A. Well, I worked at SCANA and Josh worked at
7 McDonald's. I wasn't trying to get any type of
8 financial gain because the difference in our
9 salaries was, like, I was making three times the
10 amount that he was making. And I didn't feel like
11 it was fair for me to try to get anything from him
12 to make the situation even worse.

13 Like, I was actually trying to say, hey, I
14 don't want anything; I don't need child support; you
15 get your life together; you get your stable place
16 together, and then we can work on trying to see
17 about T.J. [REDACTED], if you want to do anything
18 financially.

19 Q. Now, one of the things Mr. Story was asking you
20 about is Javon. Let me go back to when you
21 testified on direct examination. Again, tell us the
22 time line regarding Facebook and then, eventually,
23 you and Javon meeting face-to-face.

24 A. Like I said, Javon was someone that I knew in
25 high school. I graduated in '97, so this had to be

1 around maybe '96 time. I hadn't had any contact
2 with Mr. Javon up until 2015. And I want to say
3 maybe around March or April, I may have started to
4 have contact with him via Facebook, because at that
5 time, he was in New Mexico. So there was no him
6 seeing me or anything like that.

7 I think our first visit may have been in June
8 of 2015, around that time. But, again, that was the
9 only time I ever saw him.

10 Q. And during that time frame, was the defendant,
11 Joshua Brown, seeing other people as well?

12 A. Yes, ma'am. He told me he was seeing other
13 people and he did have someone pregnant at the time.

14 Q. Now, one of the things that Mr. Story was
15 asking you about is whether the defendant had
16 knowledge of your relationship with Javon. How did
17 you become aware that he had knowledge of your
18 relationship with Javon?

19 A. At first, I knew he had been sneaking around
20 the house and seeing, you know, I guess a car in my
21 yard or whatever. But we were at Food Lion one day,
22 he was actually seeing T.J. [REDACTED], and he said -- and
23 that was the time that he had somebody pregnant.
24 And I said, well, if you got somebody, I got
25 somebody, too. And he was like, yeah, right or

1 whatever, you'll see, you'll see. And later that
2 afternoon, he did come by my house and the guy's --
3 Tony -- Javon Jones' car was there and he ended up
4 scratching it up.

5 Q. And that was during your separation?

6 A. During our separation. Yes, ma'am.

7 Q. So he was aware because he had driven by your
8 house and seen Javon's car there?

9 A. Yes, ma'am.

10 Q. And then, ultimately, after that, did the
11 defendant, Joshua Brown, admit to you that he had
12 keyed up the car of Javon Jones?

13 A. Yes, ma'am. We were in the house and my phone
14 rings and it's Josh. And I answer and he said, tell
15 that motherfucking nigga I just keyed his car and
16 when y'all walk out the door, I'm going to shoot the
17 house up.

18 MR. STORY: Objection, Your Honor.

19 THE COURT: Overruled.

20 BY MS. MAYES:

21 Q. Now, despite that, did you intend for him to
22 remain involved with T.J. [REDACTED]?

23 A. Yeah; despite the fact that we was not going to
24 have a relationship, that didn't have anything to do
25 with us co-parenting. I felt like you've moved on

1 and you've got someone and I have someone in my
2 life, that doesn't have anything to do with our
3 daughter. That's our main -- the only thing we have
4 in common is T.J. [REDACTED].

5 MS. MAYES: Nothing further.

6 THE COURT: Recross, Mr. Story?

7 RE-CROSS-EXAMINATION

8 BY MR. STORY:

9 Q. Don't you recall Josh telling you that he had a
10 name in texts earlier in August?

11 A. I apologize. I'm not sure what you're asking.

12 Q. Well, it was your testimony that Joshua wanted
13 the name of Javon. Let me ask you this: You said
14 you knew he had another girl pregnant, correct?

15 A. That's what he told me.

16 Q. And did he inform you that day at the
17 Riverwalk?

18 A. No, sir. He told me prior to that.

19 Q. He didn't tell you that day he had an
20 ultrasound with the mother of the new child that
21 afternoon at 2:00?

22 A. No, sir.

23 Q. And you just testified that you did want Joshua
24 in T.J. [REDACTED]'s life, right?

25 A. Once he got stable and had a stable place,

RE-CROSS-EXAMINATION OF ANN JAMES BY MR. STORY

319.

1 because he said he didn't have a place to stay. He
2 was looking for homeless shelters to go to and he
3 wasn't really making enough to have financial
4 stability to take care of her. So I was like, I
5 don't want you to have to burden yourself with her;
6 I will take the whole responsibility. If it's an
7 issue, then I don't want it to be an issue for you.

8 Q. And your divorce was pending at this time,
9 right?

10 A. I filed for divorce in July of 2015.

11 Q. Do you recall, on July 27th, searching "what is
12 the best way to prove biological father is unfit to
13 raise a child"?

14 A. I don't recall searching that. I do apologize.

15 Q. Okay. And so you do not recall Josh texting on
16 August the 6th: Go ahead with the divorce. I have
17 all I need to prove infidelity and the name of the
18 person and videotapes, I'm good now?

19 A. Like I stated last time with that question, I
20 don't recall that.

21 MR. STORY: Thank you. No further questions.

22 THE COURT: Thank you. Thank you very much.

23 You may step down.

24 Solicitor, you may call your next witness.

25 MS. USRY: Thank you, Your Honor. The State

1 calls Dana Whetstone.

2 DANA WHETSTONE

3 being first duly sworn, testified as follows:

4 THE WITNESS: Yes, ma'am.

5 THE CLERK: Once you have a seat, state your
6 full name, spelling your last on the record, please.

7 THE WITNESS: Dana Whetstone,
8 W-H-E-T-S-T-O-N-E.

9 DIRECT EXAMINATION

10 BY MS. USRY:

11 Q. Thank you, Officer Whetstone. Where are you
12 currently employed?

13 A. Lexington Medical Center.

14 Q. And how long have you been employed there?

15 A. Year and a half.

16 Q. What is your role at the Lexington Medical
17 Center?

18 A. Police officer.

19 Q. And is that your only law enforcement
20 experience?

21 A. No, ma'am.

22 Q. Tell me about your prior law enforcement
23 experience.

24 A. I worked for the City of Cayce approximately
25 five years. I worked as dispatch, firefighter, and,

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

321

1 also, a police officer.

2 Q. During your time with Cayce Department?

3 A. Yes, ma'am.

4 Q. Were you employed with Cayce on August 11th of
5 2015?

6 A. Yes, ma'am.

7 Q. What was your role at that time?

8 A. Police officer.

9 Q. And were you on duty on August 11th of 2015?

10 A. Yes, ma'am.

11 Q. Did you respond to an incident involving the
12 victim, Ann Brown?

13 A. Yes, ma'am.

14 Q. Tell me how the call involving Ann Brown first
15 came out.

16 A. Myself and my shift were on our way to lunch.
17 It was right at lunchtime, right around noon or
18 after, and a call came over the radio to respond to
19 a possible stabbing at the Cayce boat landing.

20 Q. Where is the Cayce boat landing? What is that?
21 What location?

22 A. It's right past Old State near the waste water
23 treatment plant, the boat landing right around the
24 500 block of Old State Road.

25 Q. Did you respond to that location?

1 A. Yes, ma'am.

2 Q. Were you the only unit to respond to that
3 location?

4 A. No, ma'am.

5 Q. Who else responded?

6 A. I had Officer Hall in front of me. It was
7 myself and I had Sergeant Pereira behind me.

8 Q. Were y'all all in separate cars?

9 A. Yes, ma'am.

10 Q. Who was first on scene?

11 A. We all got there at the same time, within
12 seconds of each other, the three of us did.

13 Q. Tell me what happened once you got there.

14 A. Once we arrived on scene, we had Sergeant
15 Pereira and Officer Hall running down the boat ramp.
16 I was right in behind them, I just was not running
17 as fast, and got down to the boat landing to the
18 dock and I noticed there was a black female in the
19 water. She was holding onto the dock.

20 Q. Then prior to getting there, when you got the
21 call that came out, what type of incident were you
22 responding to or how did the call come out?

23 A. It came out that there was a possible stabbing
24 at the boat landing, female screaming for help.

25 Q. So when you got to the boat landing, you ran

1 down to the dock?

2 A. Right. Yes, ma'am.

3 Q. Tell me what happened next.

4 A. We ran to the dock. I noticed a black female
5 in the water holding onto the dock. And then
6 Sergeant Pereira and Officer Hall lifted her out the
7 water.

8 Q. Did they actually get into the water?

9 A. They leaned over and lifted her out. They were
10 leaning on the dock trying to get her to stand up to
11 give more leeway to get her out of the water.

12 Q. What did you notice about the black female
13 first?

14 A. First thing I noticed about her was the look on
15 her face of absolute shock.

16 Q. Can you describe that for me?

17 A. Total shock. Her eyes were big. She was
18 staring at me and I was staring at her. And she was
19 just in disbelief and complete shock.

20 Q. Did you notice any injuries at that time?

21 A. Yes, ma'am, I did.

22 Q. Can you tell me about those.

23 A. I know that she had a laceration to her finger
24 and on her arm, on her wrist area.

25 Q. What did you do as soon as she was out on the

1 dock?

2 A. I immediately dropped to the dock and started
3 talking to her.

4 Q. Dropped to the dock. What do you mean by that?

5 A. I went to my knees and was sitting on my knees
6 so I was closer to her so we could talk.

7 Q. So you could get face-to-face with her?

8 A. Yes, ma'am.

9 Q. Can you describe her emotional state at that
10 time?

11 A. She was very much in shock. I started asking
12 her questions.

13 Q. What were the purposes of your questions at
14 that time?

15 A. At that time, the purpose of my questions were
16 for two reasons: I needed to make sure that we were
17 safe because of what I'm witnessing with her and I
18 needed to make -- I did not know that she was not
19 going to die right there on the dock.

20 Q. So at that time, were you concerned about her
21 health and wellbeing?

22 A. Yes, ma'am.

23 Q. Was she able to respond to your questions?

24 A. Yes, ma'am. She did.

25 Q. And tell me the type of questions you were

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

325

1 asking at the beginning.

2 A. I was asking her what her name was, who's done
3 this to you, what does he look like, what's he
4 wearing.

5 Q. And what are the purposes of those questions?

6 A. Again, I did not know she was not going to die
7 right there. I needed to know what had happened,
8 who had done this; I needed to know if he was still
9 in the area so we were all safe to find out what
10 happened.

11 Q. Can you tell me what she told you in response
12 to your questions?

13 A. Yes, ma'am. When I asked her her name, she
14 stated that her name was Ann Brown. And I asked
15 her -- I said, who had done this to you? And she
16 stated her husband, full name was Joshua Thomas
17 Brown. Then I asked what he looked like, what he
18 was wearing. And she stated he was black and
19 wearing all black.

20 Q. During this initial conversation, did she tell
21 you any other information about what happened?

22 A. Yes, ma'am. She did tell me that he told
23 her -- that Joshua told her she had three seconds
24 and he was going to kill her.

25 Q. When you're getting this initial information on

1 scene, is EMS on scene then?

2 A. Yes, ma'am. They're coming into the scene.

3 Q. They're coming in. Describe that for me?

4 A. This is a boat landing -- it's a boat landing.

5 People -- you know, you put your boats down. And

6 they're coming down the dock and we're gathering

7 information. And she's telling me as much as she

8 can. As fast as I'm asking, she's responding.

9 Q. So is this happening pretty fast at this
10 moment?

11 A. Yes, ma'am, very fast.

12 Q. So, tell me, do you notice any other injuries
13 on her person?

14 A. I noticed on her finger and on her wrist
15 initially.

16 Q. Okay.

17 A. And then are you asking me later?

18 Q. Yes.

19 A. Yes, ma'am. When EMS came on scene, she had
20 significant slices to her breast area and to her
21 chest.

22 Q. And while EMS is there and attending to her, do
23 you ask her further questions?

24 A. Yes, ma'am.

25 Q. What type of questions do you ask then?

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

327

1 A. I asked her if they showed up in a vehicle, if
2 she had a vehicle. She told me she did have a
3 vehicle. She stated she drove a blue Malibu. And
4 she did state he had taken the keys from her, Joshua
5 Brown had taken the keys from her.

6 Q. Did you ask any information about where she
7 lived?

8 A. Yes, ma'am. I asked where she lived and she
9 told me her address.

10 Q. What were the purposes of those questions?

11 A. To see if he had went back home, to see if we
12 could find who had done this, and see if he went
13 back home initially.

14 Q. What else did you ask her?

15 A. I asked her if she had any children, and she
16 stated she did have three children.

17 Q. Did she give you any information about those
18 children?

19 A. Yes, ma'am. She said she had a 19-year-old, a
20 17-year-old, and a three-month-old. And the baby,
21 the three-month-old, was the one that they shared
22 together.

23 Q. So she indicated she had a child in common with
24 the person who had done this to her?

25 A. Yes, ma'am.

1 Q. Were you able -- during that initial contact
2 with her while she's on the dock and being attended
3 to by EMS, were you able to get any further
4 information from her?

5 A. Yes, ma'am. She did state that he was in a
6 different vehicle than she was in.

7 Q. Did she give you information about that
8 vehicle?

9 A. Yes, ma'am. She stated it was a maroon Ford
10 Fusion.

11 Q. And did she give you any information about
12 where this incident had happened?

13 A. She did, yes, ma'am.

14 Q. Can you --

15 A. She stated that it was a -- all she could
16 remember was a wooded area on a hill of some sort.

17 Q. And tell me what happened next in regard to
18 your response to this incident.

19 A. As I'm getting information from Ms. Brown and
20 talking with her, I'm on my radio and I'm letting
21 other officers in the area know who we're looking
22 for, what we're looking for, the vehicles we're
23 looking for, the addresses, the children. I'm
24 passing that information on to anyone in the area
25 and anyone who's responding.

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

329

1 Q. Is this a hectic scene at that point?

2 A. Yes, ma'am.

3 Q. And I'm showing you what's been entered as
4 State's Exhibit 1. Do you recognize that item?

5 A. Yes, ma'am.

6 Q. What is happening in this item?

7 A. I am talking with Ms. Brown, putting out
8 information on the radio as to who's done this, the
9 address that he could possibly be at, the vehicle
10 that he was last seen in, his name; just putting out
11 the information as quick as she's telling me the
12 information.

13 Q. So you're relaying information in this picture?

14 A. Yes, ma'am.

15 Q. This is an active response?

16 A. Yes, ma'am.

17 Q. Going on at this time?

18 A. Yes, ma'am.

19 Q. And this is you in that picture?

20 A. That's me.

21 Q. And you had, kind of, your hand -- is that
22 where your radio was located?

23 A. This is my radio, actually. Yes, ma'am.

24 Q. Okay. Who else is on scene at that time?

25 A. I have EMS on scene.

1 Q. And is that the victim laying on the dock?

2 A. It is. Yes, ma'am.

3 Q. So when you earlier testified you got down on
4 the dock, this is what you were describing?

5 A. Yes, ma'am.

6 Q. Did EMS ultimately remove the victim from the
7 scene?

8 A. I'm sorry?

9 Q. Did EMS ultimately remove the victim from the
10 scene?

11 A. Yes, ma'am. Yes, ma'am.

12 Q. Tell me about that.

13 A. They were over working on Ms. Brown, as far as
14 getting her ready to go onto the stretcher to get
15 her medical treatment further than they could
16 provide. And when they rolled her over to put her
17 on the stretcher, that's when I seen the several
18 stabs to the back and lashes to the back.

19 Q. So you were able to observe those on scene?

20 A. Yes, ma'am.

21 Q. Was her clothing still on at that point?

22 A. No, ma'am. Her top and her bra was no longer
23 on.

24 Q. Why not?

25 A. For that reason, EMS was over there working and

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

331

1 cutting and trying to get to her wounds.

2 Q. So you weren't a part of removing that?

3 A. No, ma'am.

4 Q. And then once the victim was removed from the
5 scene by EMS, what did you do? What was your
6 further role in the investigation?

7 A. After that, I spoke to the individual that
8 called it in. He was at -- like I said, the boat
9 landing kind of goes down. He was up top. I spoke
10 with him and his three children briefly, and then I
11 followed Ms. Brown to the hospital.

12 Q. So you ultimately responded to what location
13 from there?

14 A. From the boat landing, we went to Palmetto
15 Health Richland.

16 Q. Was the victim already there?

17 A. Yes, ma'am. She had just gotten on scene a few
18 minutes prior to my arrival.

19 Q. And where was she when you got to that
20 location?

21 A. She was in the trauma room.

22 Q. What was happening at that point when you
23 walked in?

24 A. Complete chaos. Just the nurses and doctors
25 and complete medical staff, just chaotic, yelling

1 and trying to get her help and orders.

2 Q. Were you able to talk to her at that point?

3 A. Yes, ma'am.

4 Q. Was she able to respond to you?

5 A. Yes, ma'am.

6 Q. And while you're talking to her, is that chaos
7 still going on around?

8 A. Yes, ma'am.

9 Q. Why did you go to further speak with her? Why
10 did you go to the hospital?

11 A. I went to go check on her and her wellbeing.
12 And I wanted to see the events leading up to us
13 finding her at the boat landing, what happened;
14 wanted to find out any more I could find out about
15 Mr. Brown and the information she provided.

16 Q. So was she not able to give you a full account
17 of what happened at the boat landing?

18 A. No, ma'am. She told me who had done it. She
19 spoke of her children. She spoke of him having
20 three seconds to kill, and then it happened so fast.
21 So when I responded to Richland to meet with her, I
22 wanted to see what led up to this and what happened,
23 what caused -- you know, what else was going on that
24 day.

25 Q. So when you're talking to her, she's able to

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

333

1 answer your questions?

2 A. Yes, ma'am.

3 Q. And does she give you more information?

4 A. Yes, ma'am.

5 Q. What further does she give you at that point?

6 MS. GILREATH: Your Honor, objection; hearsay.

7 THE COURT: Solicitor, do you want to lay a
8 further foundation?

9 MS. USRY: Your Honor, I will attempt to lay a
10 further foundation.

11 BY MS. USRY:

12 Q. What was her emotional state at the hospital at
13 that point?

14 A. She was still in shock. I would say still in
15 shock.

16 Q. How long after she was removed by EMS did you
17 respond to the hospital? What time frame was that?

18 A. Within ten minutes, eight minutes. It was just
19 enough time for me to speak briefly to the caller
20 and then to get into my car and follow EMS to the
21 hospital.

22 Q. So when she was at Palmetto Health Richland --
23 and you said she was in the trauma unit. Was she in
24 a room at that point?

25 A. No, ma'am. She was still in the emergency

1 room, in the trauma room.

2 Q. And you indicated it was total chaos around
3 her?

4 A. Yes, ma'am.

5 Q. And you were able to ask her some questions at
6 that point?

7 A. Yes, ma'am.

8 Q. And then I'll ask you again, what, if anything,
9 did she respond to you and to your questions?

10 A. While she was in the trauma room?

11 Q. What did she say to you?

12 A. I'd ask her again what happened, asked her --
13 she stated that they had separated and they had met
14 to go walk and go talk and this was his idea and to
15 bring her belongings and everything. And he just
16 stated that his mother disappointed him; now, she's
17 disappointed him. And he stated it would not be
18 okay, he would kill her, kill the children, and then
19 kill himself. And that's when she stated to me that
20 he started lashing and stabbing and cutting.

21 Q. Did she -- and during your time with her, what
22 type of medical -- were you able to talk to her the
23 whole time? Was it uninterrupted?

24 A. There was time when we were talking that she
25 had to go have a CAT scan.

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

335

- 1 Q. So she was removed at that point?
- 2 A. She was removed at that point, yes, ma'am.
- 3 Q. When she came back, did you talk to her
- 4 further?
- 5 A. I talked to her briefly. That's whenever the
- 6 victim's advocate showed up.
- 7 Q. A victim advocate from your department showed
- 8 up?
- 9 A. Yes, ma'am.
- 10 Q. Is that common in assault cases?
- 11 A. Yes, ma'am.
- 12 Q. So when the victim advocate showed up, what did
- 13 y'all do?
- 14 A. Took pictures.
- 15 Q. Took pictures of what?
- 16 A. Took pictures of Ms. Brown's injuries.
- 17 Q. I'm showing you State's 29, 30, 32, 33, 31, 35,
- 18 37, 38, 40, 39 and 42. Are those the pictures that
- 19 you took?
- 20 A. Yes, ma'am.
- 21 Q. Looking at State's 29, is that one of the
- 22 pictures that you took?
- 23 A. Yes, ma'am.
- 24 Q. What was the purpose of taking this particular
- 25 picture?

1 A. To show her lacerations and the cuts on her
2 arm.

3 Q. And there's a black box around her breast area?

4 A. Yes, ma'am.

5 Q. Was there an injury in that location?

6 A. Yes ma'am. That's a laceration maybe a half an
7 inch from her nipple area. It almost took it off in
8 my opinion. It was very close.

9 Q. And State's 30, is that also showing some of
10 the same injuries?

11 A. Yes, ma'am.

12 Q. State's 32, why did you take this picture?

13 A. It shows that she's having to have assistance
14 with her breathing and she has lacerations on her
15 chest.

16 Q. This laceration near, I guess, the green cord?

17 A. Yes, ma'am.

18 Q. And State's 33, I believe that's a close-up of
19 that same injury. Is that why you took that
20 picture?

21 A. Yes, ma'am.

22 Q. State's 31, why did you take that particular
23 picture?

24 A. Again, showing it's blacked out. It was a
25 laceration in that blacked-out mark. And she was

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

337

1 starting to get bandaged up.

2 Q. So there were already some bandages on her
3 injuries. Did you have to remove some of the
4 bandages to take pictures at this time?

5 A. No, ma'am.

6 Q. 35, is that another injury?

7 A. Yes, ma'am.

8 Q. If an injury was bandaged, did you get to take
9 a picture of it?

10 A. Yes, ma'am, prior to being bandaged.

11 Q. So you were able to get pictures of all the
12 injuries. 37, what is that?

13 A. That's the laceration to her finger.

14 Q. And 38, is that the wrist area on that same
15 hand?

16 A. Yes, ma'am.

17 Q. 40, what does this picture represent?

18 A. That was a name of a -- her tattoo on her back
19 of a name. And that's where a lot of the stabbing
20 took place.

21 Q. A lot of the stabbing was in the vicinity of
22 that name?

23 A. Yes, ma'am.

24 Q. And this is the back?

25 A. Yes, ma'am.

- 1 Q. Is that the same area, 39?
- 2 A. Yes, ma'am.
- 3 Q. Showing some lower injuries?
- 4 A. Right.
- 5 Q. When did you conclude your time with Ms. James
6 at the hospital?
- 7 A. I left the scene whenever she would come to
8 experience so much pain that she had to be sedated.
- 9 Q. And that's when you concluded your time with
10 her?
- 11 A. Yes, ma'am.
- 12 Q. Prior to leaving the hospital, did you collect
13 any evidence?
- 14 A. Yes, ma'am. I was given her clothing that was
15 removed from her by the hospital staff.
- 16 Q. So she arrived in some clothing still at the
17 hospital?
- 18 A. Yes, ma'am.
- 19 Q. But I believe you earlier testified her shirt
20 had been removed at the dock?
- 21 A. Her shirt and bra was removed at the dock, yes,
22 ma'am.
- 23 Q. I believe this is State's 4 that I'm going to
24 show you. Is this the clothing that you were able
25 to collect from the victim?

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

339

1 A. Yes, ma'am.

2 Q. What type of clothing was it?

3 A. The pants and underwear.

4 MS. USRY: And, Your Honor, I believe it's item
5 4, the pants and underwear, that were collected by
6 Officer Whetstone. I move these into evidence. I
7 believe they were moved into evidence during the
8 victim's testimony, but just to make sure.

9 THE COURT: Are they in evidence, Madam Court
10 Reporter?

11 COURT REPORTER: I have the pants as 11.

12 MS. USRY: It's removed from the plastic, so
13 that would be right. That's what I wanted to make
14 sure. Item 11 into evidence. Thank you.

15 THE COURT: State's 11, Mr. Story?

16 MR. STORY: Your Honor, just so I'm sure what
17 State's 11 is --

18 MS. USRY: The pants.

19 MR. STORY: No objection, Your Honor.

20 THE COURT: State's 11 is in evidence without
21 objection.

22 (State's Exhibit No. 11 admitted into
23 evidence.)

24 BY MS. USRY:

25 Q. Officer Whetstone, backing up a little bit,

- 1 when you responded to the scene, did your car have
2 an in-car camera?
- 3 A. Yes, ma'am.
- 4 Q. Was it operational on the date of this
5 incident?
- 6 A. Yes, ma'am.
- 7 Q. Was it in working order?
- 8 A. Yes, ma'am.
- 9 Q. When you responded to this -- where exactly did
10 you park?
- 11 A. I parked right above the boat landing. When
12 you pull into the boat landing, there's a parking
13 lot. You have where you put your boat in,
14 obviously, here, and I parked right beside that.
- 15 Q. When you go down to respond to the scene, what,
16 if anything, is your in-car camera able to record?
- 17 A. Audio.
- 18 Q. And how is it able to record audio?
- 19 A. There's a speaker that you wear on your lapel.
20 When your in-car camera is activated, the mic comes
21 on and records audio.
- 22 Q. On August 11th of 2015, was your mic working?
- 23 A. Yes, ma'am.
- 24 Q. Was it in proper working order?
- 25 A. Yes, ma'am.

1 Q. Did you have any indication that your in-car
2 camera was not properly working at the time?

3 A. No, ma'am.

4 Q. I'm going to show you State's 2 and ask if you
5 can identify this.

6 A. Yes, ma'am.

7 Q. And what is this item that I'm showing you?

8 A. This is the video from the in-car camera.

9 Q. How do you recognize this?

10 A. I initialed it.

11 Q. Were you able to review State's 2?

12 A. Yes, ma'am.

13 Q. Does it accurately reflect what was recorded by
14 your camera on August 11th of 2015?

15 A. Yes, ma'am.

16 Q. And does it reflect what was recorded when you
17 initially responded to the Cayce boat landing?

18 A. Yes, ma'am.

19 Q. Has it been changed in any way?

20 A. No, ma'am.

21 MS. USRY: Your Honor, State offers State's 2
22 into evidence at this time.

23 THE COURT: Mr. Story?

24 MR. STORY: No objection.

25 THE COURT: State's 2 in evidence without

1 objection.

2 (State's Exhibit No. 2 admitted into evidence.)

3 MS. USRY: Your Honor, permission to publish
4 State's 2?

5 THE COURT: You may publish.

6 MS. USRY: Beg the Court's brief indulgence,
7 Your Honor.

8 BY MS. USRY:

9 Q. So your in-car camera starts when?

10 A. Right in front of Arby's on 321 when the call
11 came out.

12 Q. And how does the in-car camera turn on?

13 A. When you activate your blue lights.

14 Q. What are we currently watching?

15 A. We're watching Officer Hall in front of me
16 running code, and I'm running behind him, code 3,
17 which requires lights and sirens.

18 Q. And what direction are you heading in during
19 this time?

20 A. We are headed towards the Cayce boat landing.

21 Q. The camera passed an EMS unit. Is that the EMS
22 unit that ultimately responded to the incident
23 location?

24 A. I don't know.

25 Q. When the video first started playing, who is

1 the male voice we heard that first talked to the
2 victim?

3 A. Sergeant Pereira.

4 Q. And you indicated earlier that he was behind
5 you.

6 A. Yes, ma'am.

7 Q. So the first car that we saw in front of you
8 was Officer Hall?

9 A. Yes, ma'am.

10 Q. And behind you was Detective Pereira?

11 A. Yes, ma'am.

12 Q. And he's the first one down on the dock that
13 talks?

14 A. Right. Yes, ma'am.

15 Q. And the female voice that we hear, that's your
16 voice?

17 A. Yes, ma'am.

18 Q. And you indicated on there that, at some point,
19 she's in and out when you're getting information
20 you're relaying. What did you mean by she's in and
21 out?

22 A. She started hyperventilating, saying she
23 couldn't breathe.

24 Q. And you kind of hear it where you're getting
25 information from her and then repeating it. Who are

1 you repeating that information to?

2 A. I'm repeating it to Sergeant Pereira and other
3 officers on scene as well as into my radio.

4 Q. What's the purpose of doing that?

5 A. To put information out to any officers
6 responding to find the suspect.

7 Q. So when you do that, it goes out to all
8 officers? How does that work?

9 A. Yes, ma'am. It goes -- when you put it on the
10 radio, it goes to everyone that's on our Cayce
11 channel, which would have been anyone on duty, if
12 they're off duty and turn their dash on, anyone
13 could hear it.

14 Q. And she's indicating about her children. Can
15 you tell me about that? What's that about, her
16 concern?

17 A. Her concern about her children?

18 Q. Yeah.

19 A. She told me that he was going to kill her and
20 then the children as well.

21 Q. What did y'all do in response to that
22 information?

23 A. Dispatch was advised to call the jurisdiction
24 where the children were at and have officers respond
25 to check on their wellbeing.

DIRECT EXAMINATION OF DANA WHETSTONE BY MS. USRY

345

1 Q. And just for clarification, did you get the
2 name of the person who had called the 911 dispatch
3 on scene?

4 A. Yes, ma'am.

5 Q. Can you give us the name of that person?

6 A. His name is James Dunbar.

7 Q. And he was the 911 caller?

8 A. Yes, ma'am.

9 Q. Was he alone?

10 A. No, ma'am. He had three children with him.

11 Q. Did you get a full statement from Mr. Dunbar?

12 A. Yes, ma'am.

13 Q. As far as -- what information did you get, in
14 general?

15 A. He stated that --

16 Q. What type of information did you get?

17 A. That he heard a female screaming for help when
18 he had his children out.

19 Q. Did you get his contact information?

20 MR. STORY: Objection to hearsay, Your Honor.

21 THE COURT: Sustained.

22 BY MS. USRY:

23 Q. And then you said they were -- how many people
24 that you actually ended up just talking to at the
25 scene after meeting with the victim?

1 A. Four.

2 Q. And this Officer Pereira who is behind you, is
3 he in the courtroom?

4 A. Yes, ma'am.

5 Q. Can you point him out?

6 A. Right there, blue shirt.

7 Q. Blue shirt and blue tie?

8 A. Yes, ma'am.

9 MS. USRY: Nothing further for this witness,
10 Your Honor.

11 THE COURT: Thank you, Solicitor.

12 Mr. Story?

13 MR. STORY: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. STORY:

16 Q. Officer Whetstone, good afternoon.

17 A. Good afternoon.

18 Q. Do you recall, Ann Brown -- now Ann James --
19 she told you that she was actually -- that her
20 husband had taken some belongings from them and that
21 the purpose of the meeting was for him to return
22 those belongings?

23 A. Yes, sir.

24 Q. You do recall that?

25 A. I do.

CROSS-EXAMINATION OF DANA WHETSTONE BY MR. STORY

347

1 MR. STORY: All right. Thank you.

2 I beg the Court's indulgence.

3 BY MR. STORY:

4 Q. And just to clarify, she told you that the
5 defendant had called her?

6 A. Yes, sir.

7 MR. STORY: Thank you. No further questions.

8 THE COURT: Redirect?

9 MS. USRY: Nothing further for this witness,
10 Your Honor. We ask that she be able to leave.

11 THE COURT: Thank you, Solicitor.

12 Thank you, Lieutenant. Thank you for being
13 with us today. You may step down.

14 We've been at it about an hour and a half,
15 ladies and gentlemen. I know we got a late start
16 this morning, but I'm going to give y'all a luncheon
17 recess because I have another matter to take up.
18 I'll take that up while y'all are taking your lunch.

19 Madam Forelady, did y'all get the opportunity
20 to speak about how late you would want to be willing
21 to work?

22 THE FORELADY: Yes, Your Honor. We're willing
23 to stay as late as you need us. We just have one
24 juror that may need to leave no later than about
25 6:00 or 6:30.

1 THE COURT: Thank you. We'll press on. And I
2 talked to Mr. McLain and Ms. Helms.

3 I certainly have your issue in mind as far as
4 5:00 Friday afternoon. Is that right?

5 THE JUROR: Yes, Your Honor.

6 THE COURT: Need to leave by 4:00.

7 I do have one question for you, Ms. Helms.
8 Your note, which I have it, but it indicates if you
9 wasn't going to be able to make it, you need to
10 notify the bride. What about the groom?

11 THE JUROR: He doesn't matter yet.

12 THE COURT: Does he know that yet?

13 THE JUROR: No.

14 THE COURT: Thank you, Ms. Helms.

15 We'll take about an hour recess. Please
16 remember my instructions. Do not discuss the case
17 with anyone. Do not read, watch, or listen to any
18 news reports. Do not do any independent
19 investigation on your own.

20 And let's see -- one other thing, and you can
21 tell me to remain silent. 206?

22 THE JUROR: Yes, sir.

23 THE COURT: This is Juror 206?

24 THE JUROR: Yes, sir.

25 THE COURT: You're Mr. --

1 THE JUROR: Thigpen.

2 THE COURT: That name rang a bell to me.

3 THE JUROR: It does?

4 THE COURT: It did.

5 THE JUROR: What bell does it ring?

6 THE COURT: If you want me to remain silent, I

7 will.

8 THE JUROR: No. That's okay.

9 THE COURT: Where did you go to high school?

10 THE JUROR: I went to Fairfield Central High

11 School.

12 THE COURT: Where did you go to college?

13 THE JUROR: Coastal Carolina.

14 THE COURT: Who was the first quarterback of

15 Coastal Carolina?

16 THE JUROR: That was me.

17 THE COURT: That was you?

18 THE JUROR: Yes, sir.

19 THE COURT: And you were All-American?

20 THE JUROR: Yes, sir.

21 THE COURT: First one at Coastal Carolina?

22 THE JUROR: Yes, sir.

23 THE COURT: And played in the NFL?

24 THE JUROR: Yes, sir.

25 THE COURT: All of my jurors are fascinated.

1 But I've never had an NFL quarterback be on the
2 jury. I followed your career at Fairfield Central
3 and somewhat at Coastal. I didn't know I was a fan
4 until they got a football team and, of course, had
5 players like you and others. But delighted to have
6 you with us, Mr. Thigpen, as I am delighted to have
7 all of you with us.

8 Let's take about an hour recess. Thank you.
9 Thank you very much.

10 And, Mr. Thigpen, you always have the right to
11 remain silent.

12 THE JUROR: That's all right.

13 (The jury exits the courtroom at 2:02 PM.)

14 THE COURT: Anything further before we take our
15 recess, Solicitor?

16 MS. MAYES: No, sir.

17 MR. STORY: Nothing from the Defense.

18 (Luncheon recess 2:02 PM - 3:05 PM.)

19 THE COURT: Anything before we bring in our
20 jury from the State?

21 MS. MAYES: Nothing from the State, Your Honor.

22 THE COURT: Mr. Story?

23 MR. STORY: Nothing from the Defense, Your
24 Honor.

25 THE COURT: Welcome back, ladies and gentlemen.

DIRECT EXAMINATION OF RICHARD STEVENS BY MS. USRY

351

1 I hope you had a pleasant lunch. We're continuing
2 the trial of the case by the presentation of
3 testimony by the State in its case in chief.

4 Solicitor, you may call your next witness.

5 MS. USRY: Thank you, Your Honor. The State
6 calls Richard Stevens.

7 THE COURT: Yes, sir. If you would come around
8 and be sworn for me, please.

9 RICHARD STEVENS

10 being first duly sworn, testified as follows:

11 THE WITNESS: I swear.

12 THE CLERK: Have a seat, sir. Once you're
13 seated, state your full name, spelling your last,
14 please.

15 THE WITNESS: Richard Stevens. Last name
16 S-T-E-V-E-N-S.

17 DIRECT EXAMINATION

18 BY MS. USRY:

19 Q. Thank you, Mr. Stevens. Where are you
20 currently employed?

21 A. Lexington County EMS.

22 Q. How long have you been with Lexington County
23 EMS?

24 A. October will make nine years.

25 Q. What is your role at Lexington County EMS, your

1 title?

2 A. I'm a lieutenant.

3 Q. Have you always held the title of lieutenant?

4 A. No, ma'am.

5 Q. What previous positions have you held with
6 Lexington EMS?

7 A. I've been an EMT and paramedic crew chief.

8 Q. And is working with Lexington EMS your only
9 experience with an EMS service?

10 A. No, ma'am. I also work for a private service
11 now and I worked for a private service before I came
12 to Lexington County.

13 Q. In total, do you know how many years you've
14 worked with an EMS service?

15 A. I've been in EMS for 10, almost 11 years.

16 Q. And can you tell us briefly a little about your
17 educational background?

18 A. I received my EMT certification from Midlands
19 Technical College in 2007. After working for a
20 couple years as an EMT, I went to Midlands EMS
21 Association and received the advanced training to be
22 a paramedic. And that was in 2011.

23 Q. As far as working with EMS services, there are
24 higher training levels for working with an EMS
25 service?

DIRECT EXAMINATION OF RICHARD STEVENS BY MS. USRY

353

- 1 A. I'm sorry. What was that?
- 2 Q. Is there more education that you can receive
3 beyond EMS service?
- 4 A. There are some more specialized levels. But in
5 South Carolina, paramedic is, essentially, the
6 highest level.
- 7 Q. And what -- where were you working on August
8 11t of 2015?
- 9 A. Lexington County.
- 10 Q. So you were with Lexington County EMS at that
11 time?
- 12 A. Yes, ma'am.
- 13 Q. Were you working on that date?
- 14 A. Yes, ma'am.
- 15 Q. Did you have an opportunity to respond to a
16 call involving a patient, Ann Brown?
- 17 A. Yes, ma'am.
- 18 Q. What was the nature of that call?
- 19 A. We were dispatched for a stab wound.
- 20 Q. And what location was reported for that
21 stabbing?
- 22 A. We were dispatched to 197 Granby Landing Road
23 in Cayce.
- 24 Q. Can you explain where that location is?
- 25 A. It's the Cayce boat landing.

- 1 Q. Did you respond to that location?
- 2 A. Yes, ma'am.
- 3 Q. What time did the call come out?
- 4 A. We were dispatched at 1:21 in the afternoon.
- 5 Q. About what time did you arrive?
- 6 A. We were on scene at 1:27.
- 7 Q. What was your response priority to this call?
- 8 A. We went with lights and sirens.
- 9 Q. And, just generally, can you tell us a little
10 bit of when you're working EMS ambulance service, do
11 you work alone?
- 12 A. No, ma'am. We work with a partner.
- 13 Q. So you're always working at least two people?
- 14 A. When we're on the ambulance, yes, ma'am.
- 15 Q. Do you have specific roles each day that you
16 work?
- 17 A. Yes, ma'am.
- 18 Q. Can you tell me what your role was on this day?
- 19 A. My role was the paramedic crew chief. I had an
20 EMT partner, who has the basic training for EMT. I
21 was in charge of providing patient care.
- 22 Q. Is your training greater than the other
23 individual who was working with you that day?
- 24 A. Yes, ma'am.
- 25 Q. And you were in charge of patient care?

1 A. Yes, ma'am.

2 Q. And what does that mean?

3 A. Ultimately, all care that we render on the
4 ambulance was my authority and my responsibility and
5 anything that required advanced care was my
6 responsibility.

7 Q. So tell me what happened once you got out to
8 the Cayce boat landing.

9 A. When we got there, we were met by Cayce police
10 officers. They had led us to the patient. We found
11 her on the dock down at the bottom of the landing.

12 Q. Can you describe how you found her? What was
13 her position at that time?

14 A. We found her laying on her right side on the
15 dock. When we first approached her, she was just
16 telling us -- she kept saying I can't breathe over
17 and over again.

18 Q. What did you notice, if anything, about the
19 person at that time?

20 A. So we noticed right off the bat that she had
21 multiple wounds across her body. We couldn't see
22 exactly what they were because she still had her
23 shirt on. But there was some blood on the dock with
24 her. She was breathing rapidly.

25 Q. So what's the first thing you would have done

1 in responding to this scene?

2 A. We form what we call a general impression.

3 Just as we approach the patient, we get a sense of
4 what we're walking towards, what -- right from the
5 beginning, what we can figure out is going on.

6 Q. Did you do that in this case?

7 A. Yes, ma'am.

8 Q. Tell me how you do that.

9 A. Just observing the scene and observing the
10 patient's status, I could tell immediately this was
11 a patient who was what we call sick, which means she
12 needs immediate treatment.

13 Q. Is sick a term of art? Can you describe what
14 you mean by sick?

15 A. So when we are assessing a patient, we use the
16 term sick or not sick. Some people say critical or
17 stable. For us, sick just means somebody who needs
18 immediate treatment.

19 Q. And, tell me, once you make that determination,
20 what do you do next?

21 A. I do an assessment of the patient. We have a
22 systematic approach. We start with her airway. And
23 she was talking to us, so I knew that she had an
24 open airway. I then assessed her breathing, which
25 was rapid, labored. She was telling us that she

1 could breathe. And then did a quick check for
2 circulation, which I felt a pulse, a radial pulse
3 for her wrist that was weak and rapid. I also
4 assessed her skin condition. Her skin was wet and
5 her skin appeared pale.

6 Q. As a result of this initial assessment, taking
7 into account airway, breathing, and circulation,
8 what conclusion, if any, did you come to?

9 A. It confirmed my suspicion that she was sick and
10 it led me down the path of believing she was in a
11 state of shock.

12 Q. What does a state of shock mean?

13 A. So for us in healthcare, shock means you're not
14 getting enough oxygen to your organs. It can be
15 caused by a variety of reasons. But given the blood
16 loss that we saw, the wounds that we all saw on her,
17 immediately, it led us to believe that she was not
18 getting the oxygen she needed because of blood loss.

19 Q. Can shock be life threatening?

20 A. Yes.

21 Q. What is the next thing that you do in your
22 determination or assessment?

23 A. So the next thing I did was I cut off her shirt
24 to assess her wounds to figure out exactly what kind
25 of wounds she had. We saw that she had several

1 large wounds across her chest, back, and arms. The
2 wounds across her chest, we dressed with occlusive
3 bandages, which are just special bandages that have
4 Vaseline mixed in with them that allow wounds to let
5 air escape if they have any kind of airway
6 involvement.

7 Q. Tell me about that. Why would you use that
8 particular type of bandage?

9 A. If it involves airway, if any of the wounds had
10 affected her lungs or other parts of her airway, air
11 can become trapped in the wrong spot inside the
12 body, so the lungs can't work. And by using those
13 bandages, we can let air escape so that we can still
14 allow her to breathe.

15 Q. How would you determine which injuries to put
16 that particular type of bandage on?

17 A. It's based on location.

18 Q. So location where a puncture wound could have
19 been a problem?

20 A. Yes, ma'am.

21 Q. Are you able to tell on scene in responding EMS
22 whether an airway is punctured at that time?

23 A. Not entirely without being able to see where
24 exactly the wound is. We don't explore the wound
25 like they do at the hospital. We just see she has a

DIRECT EXAMINATION OF RICHARD STEVENS BY MS. USRY

359

1 wound on her chest anatomically over where her lungs
2 might be, so we assume that the lungs could be
3 involved.

4 Q. Were you able to assess any blood loss from her
5 lacerations?

6 A. On the dock, I noticed approximately 500 CCs of
7 blood. However, I was unable to assess her total
8 blood loss because we found her away from the
9 original site and she had been in the river for a
10 while.

11 Q. Tell me what you would have done to control her
12 blood loss.

13 A. In addition to the occlusive bandages over her
14 wounds that may have involved her airways, we also
15 placed regular bandages on some of her larger wounds
16 that were still bleeding.

17 Q. What would you have done next?

18 A. The next thing we did was placed her on oxygen
19 to help with her breathing and to help her replenish
20 the oxygen she was unable to get because of the
21 state of shock she was in. We then lifted her to
22 our stretcher and loaded her into our ambulance.

23 Q. So all this we've been talking about since we
24 started this conversation has all happened in what
25 location?

- 1 A. On the dock.
- 2 Q. Right where you initially found her?
- 3 A. Right where we found her. Yes, ma'am.
- 4 Q. So you loaded her on the stretcher and in the
5 ambulance. Tell me what happens next?
- 6 A. Once we're in the ambulance, we get a complete
7 set of vital signs on her.
- 8 Q. Why is that done in the ambulance versus on the
9 dock?
- 10 A. Well, we get a quick feel for her pulse. I
11 knew it was rapid. But given her injuries and her
12 state, I didn't want to take the time to get a
13 complete set of vitals because it wouldn't have
14 changed my treatment immediately in the moment.
15 Once we were in the ambulance, I was able to get a
16 heart rate, a blood pressure. I listened to her
17 lungs. And that just helped lead me to the
18 treatment on the way to the hospital.
- 19 Q. Can you tell me, were you able to determine a
20 blood pressure once in the ambulance?
- 21 A. Yes, ma'am. The first blood pressure we got
22 was 72 over 41, which is very low. Anything under
23 90 for that top number, we consider an emergency.
- 24 Q. And were you able to assess her pulse in the
25 ambulance?

DIRECT EXAMINATION OF RICHARD STEVENS BY MS. USRY

361

1 A. Yes, ma'am. Her first pulse was 150. That is
2 very high and helped me to confirm the shock
3 impression that I had. Anything over 100 is
4 abnormal.

5 Q. So you indicated earlier that shock is
6 life-threatening. Did you make any other
7 determinations regarding shock once you were in the
8 ambulance?

9 A. Yes, ma'am. Once we got the complete set of
10 vital signs, it led me to believe that she was in a
11 state of shock that we call decompensated, which
12 simply means that her body was not able to try to
13 fix itself anymore. And she required immediate
14 intervention on our part.

15 Q. So when you say the body is not able to fix
16 itself, left untreated and -- you said
17 decompensated?

18 A. Decompensated, yes, ma'am.

19 Q. Could someone rebound from that state?

20 A. No, ma'am. From decompensated shock, if it's
21 not corrected immediately, it leads to irreversible
22 shock, which is exactly what it sounds like, can't
23 be fixed.

24 Q. So once you made that determination, what did
25 you decide to do?

1 A. We took her with our lights and sirens to
2 Palmetto Richland, which is the trauma center. They
3 have capabilities to take care of patients with
4 these injuries better than any other hospital in the
5 area. I also started an IV and gave her IV fluids
6 to try to replenish some of the blood that she lost.

7 Q. Was there any other treatment that you did in
8 the ambulance on the way to the hospital?

9 A. Other than place her on my heart monitor, I
10 checked a blood glucose level, which is just a
11 standard vital sign we do on patients.

12 Q. Once you gave her the IV, did she respond to
13 these treatments on the way to the hospital?

14 A. Yes, ma'am. After the oxygen and after we set
15 her up on the stretcher in a position where she
16 could breath easier, her respiratory difficulty was
17 greatly improved. Also, her mental status improved
18 greatly. She was initially lethargic when we were
19 talking to her on the dock. She could answer
20 questions, but she was slow to answer them. But
21 after the oxygen and she started getting some fluid
22 in her, she was able to answer any question we asked
23 without any problems.

24 Q. Let's talk about that for a second. When you
25 are assessing a patient, do you ask them, as part of

1 your assessment, questions for purposes of medical
2 diagnosis and treatment?

3 A. Yes, ma'am.

4 Q. Did you ask Ms. Ann Brown those questions?

5 A. Yes, ma'am.

6 Q. Did she give you some information in response?

7 A. She did. I asked her simply what happened. It
8 helps us determine what we consider a history of
9 present illness, which is what led up to the
10 problems that we have found.

11 She told me she was at the Riverwalk with an
12 individual who told her that they wanted to give up
13 and then stabbed her several times. She told me
14 that she was then left on the side of the path in
15 the dirt and, after the individual left, she crawled
16 to the river, floated down river, and held onto the
17 dock at the boat landing and waited for somebody to
18 come find her.

19 Q. When you are given this information from her,
20 did you get a timing of when the injuries could have
21 happened?

22 A. She estimated that she was in the river for
23 about two hours.

24 Q. Is that information important to you?

25 A. Yes, ma'am. Given the time frame, it kind of

1 helps us understand how much blood she may have
2 lost. Because she was still bleeding when we found
3 her, that means she had been losing blood for the
4 entire time after it had happened. It also kind of
5 just helps us make a determination of how severe
6 these injuries are, given what we have found now,
7 and this is several hours later.

8 MS. USRY: I beg the Court's brief indulgence.

9 THE COURT: Yes, ma'am.

10 MS. USRY: No further questions for this
11 witness, Your Honor.

12 THE COURT: Thank you, Solicitor.

13 Mr. Story? Ms. Gilreath?

14 MS. GILREATH: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. GILREATH:

17 Q. Good afternoon, Mr. Stevens.

18 A. Good afternoon.

19 Q. I just have a few questions for you. I want to
20 make sure that I'm clear on a couple things. You
21 testified that you were dispatched at 1:21 p.m.; is
22 that correct?

23 A. Yes, ma'am.

24 Q. And you arrived 1:27 p.m.?

25 A. Yes, ma'am.

1 Q. Now, at the point where you're dispatched,
2 there is a service that is put on alert that
3 involves a helicopter, correct?

4 A. That's my understanding.

5 Q. Do you know the name of that service?

6 A. Lifenet.

7 Q. Lifenet?

8 A. Yes, ma'am.

9 Q. And that service, the Lifenet, when it's put on
10 standby, that's because there's some indication with
11 the kind of incident it is, that it might be
12 necessary to transport very quickly, correct?

13 A. Yes, ma'am.

14 Q. Kind of life-and-death sort of situation, that
15 would be the reason it's put on standby, correct?

16 A. Yes, ma'am.

17 Q. And then when you arrive on scene and begin
18 your assessment, you determine whether the Lifenet
19 is still necessary, correct?

20 A. There's a few things that go into it, including
21 whether or not it would be appropriate to use the
22 helicopter.

23 Q. But the Lifenet was canceled, correct?

24 A. Yes, ma'am.

25 Q. And it was canceled fairly soon after your

1 arrival?

2 A. Yes, ma'am.

3 Q. Now, you indicated that when you're arriving
4 for an incident that's reported as a stabbing, you
5 come with lights and sirens, right?

6 A. Yes.

7 Q. And that's standard when that kind of thing is
8 reported, correct?

9 A. Yes, ma'am.

10 Q. And you said it's also standard to start this
11 assessment -- when you first start to meet with
12 someone, you're going to always do an assessment
13 from the beginning, correct?

14 A. Yes, ma'am.

15 Q. Now, you indicated that oxygen was one of the
16 first things that you had done, right? You put her
17 on oxygen?

18 A. Yes, ma'am.

19 Q. At what point was she put on oxygen? Where was
20 she when she was put on oxygen?

21 A. She was still on the dock.

22 Q. She was still on the dock?

23 A. Yes, ma'am.

24 Q. Was she on the stretcher yet?

25 A. I can't remember if it was before or after we

1 placed her on the stretcher.

2 Q. Do you recall that while you were treating then
3 Ms. Brown, now Ms. James, on the dock that she was
4 talking to other officers about the incident at that
5 time while you were treating her?

6 A. I cannot remember. The only thing I remember
7 for sure is that she told me she was unable to
8 breathe.

9 Q. So you remember her asking for oxygen, correct?

10 A. No, ma'am. I remember her saying I can't
11 breathe. And that's the only thing I remember her
12 saying.

13 Q. So you don't recall that she said, can I get
14 some oxygen or something, I can't breathe?

15 A. I remember her saying I can't breathe.

16 Q. Do you remember telling her that her airways
17 were good because she was talking? Do you remember
18 telling her that at that point?

19 A. No, ma'am.

20 Q. So you don't also remember that you and the
21 officer mentioned that because she was able to talk,
22 she was probably just anxious? You don't remember
23 that part?

24 A. No, ma'am.

25 Q. Do you have a copy of your report?

1 A. Yes, ma'am.

2 Q. You talked about giving her the oxygen. Do you
3 recall doing the assessment to determine what her
4 oxygen levels were?

5 A. I cannot recall that for sure.

6 Q. If you have your report there, I'm looking at
7 what, I believe for you, would be maybe the third
8 page -- yeah. Page 3 of 6.

9 A. Yes, ma'am.

10 Q. Do you have that page? Down at the bottom
11 where it says vital signs, right under that, down
12 there at the bottom, what is that talking about
13 where it says 1340 and then there's numbers to
14 indicate something that was checked?

15 A. Yes, ma'am. That was first documented vital
16 sign. That was after we had got her in the
17 ambulance. Her pulse was 150 and her oxygen levels
18 were 100 percent.

19 Q. Was there ever a point where you checked her
20 oxygen levels and it was not at 100 percent?

21 A. I do not recall.

22 Q. If you turn to page 4. This is a page that
23 shows every time that you checked her vitals between
24 the time that you started treating her and ended at
25 the hospital, correct?

1 A. It's not from the time that we started
2 treatment. This is from the time that we got her in
3 the ambulance and were able to put her on our
4 monitor in the ambulance.

5 Q. Right. I mean, from the beginning of the point
6 where you've hooked her up to the machines, you're
7 checking these things; you're doing these checks and
8 you indicate the results periodically throughout the
9 trip?

10 A. Yes, ma'am.

11 Q. And so the levels that are indicated here for
12 the oxygen, do any of them read below 100 percent?

13 A. No, ma'am.

14 Q. Now, you also mentioned her blood pressure. I
15 believe you said it was 72 over 41.

16 A. Yes, ma'am.

17 Q. And that is considered low, correct?

18 A. Yes, ma'am.

19 Q. Now, with conditions such as anemia and other
20 conditions, things like that, would that affect your
21 blood pressure levels in general?

22 A. Anemia would not affect blood pressure, no,
23 ma'am.

24 Q. Anemia would not affect your blood pressure
25 levels?

1 A. No, ma'am.

2 Q. Are there conditions having to do with -- that
3 are blood genetic disorders that can affect your
4 blood pressure on a general basis?

5 A. There are things that can affect it, yes,
6 ma'am.

7 Q. If someone had something like that, would that
8 then also affect -- if there is a situation where
9 there's been an incident that's caused your blood
10 pressure to lower, if you're starting from a lower
11 baseline, it would be lower than a normal person who
12 doesn't have that condition, correct?

13 A. I'm sorry. Say that again.

14 Q. I'm sorry. I'm rambling a little bit with the
15 question. I guess what I mean is, if someone had
16 had a condition that already caused their blood
17 pressure to be lower than what a general, random
18 person off the street without that condition would
19 have, if the same incident happened to them that
20 lowered their blood pressure, they're starting from
21 a lower baseline, right?

22 A. Okay.

23 Q. So if their blood pressure has lowered, it's
24 going to appear lower than what it would for a
25 normal person starting at a higher baseline?

- 1 A. Yes, ma'am.
- 2 Q. Okay. Now, I believe you had said that you
3 asked her general questions about the incident about
4 what happened.
- 5 A. Yes, ma'am.
- 6 Q. And that's in your report, too, correct?
- 7 A. Yes, ma'am.
- 8 Q. I believe that's on page 2. Now, it indicates
9 here that when you asked her about it, you asked
10 her -- and it was in the context of it being a
11 stabbing, correct?
- 12 A. Yes, ma'am.
- 13 Q. And I believe you testified earlier that
14 Ms. James told you that her husband had said he just
15 wanted to give up and proceeded to stab her several
16 times; is that right?
- 17 A. Yes, ma'am.
- 18 Q. She then gave you a description of a knife,
19 correct?
- 20 A. Yes, ma'am.
- 21 Q. Then, after that, did she tell you anything
22 about what he had done with the knife?
- 23 A. She stated that she heard him twist the knife
24 and break it when he stabbed her in the back.
- 25 Q. So she told you that when he put the knife in

1 her back, he twisted it and broke it?

2 A. Yes, ma'am.

3 Q. Did you find a blade in her back or anything
4 like that?

5 A. No, ma'am.

6 Q. Did you find pieces of the knife in her or on
7 her or in any of the wounds as you were treating
8 them?

9 A. No, ma'am.

10 Q. And then you said she also indicated that when
11 she got in the water, she swam down the river?

12 A. Yes, ma'am.

13 Q. And she told you she was in the water for two
14 hours at that point, correct?

15 A. That was her approximation.

16 MS. GILREATH: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 MS. GILREATH: No further questions, Your
19 Honor.

20 THE COURT: Thank you. Thank you,
21 Ms. Gilreath.

22 Redirect, Solicitor?

23 MS. USRY: Yes, sir, Your Honor. Thank you.

24 REDIRECT EXAMINATION

25 BY MS. USRY:

1 Q. Does loss of blood affect blood pressure?

2 A. Yes, ma'am.

3 Q. Does blood volume, the volume of blood loss,
4 affect blood pressure?

5 A. Yes, ma'am.

6 Q. And in this case, you indicated you did notice
7 that there was continued blood loss when you saw the
8 victim?

9 A. Yes, ma'am.

10 Q. And what type -- or what did you estimate the
11 amount to be at the time?

12 A. From what I could see on the dock, I could see
13 about 500 CCs.

14 Q. And was she losing blood from one location or
15 multiple?

16 A. Multiple wounds.

17 Q. Were you able to assess how many wounds she had
18 at that time?

19 A. I did not count.

20 Q. Were you able to assess where the wounds were
21 located at that time?

22 A. Yes, ma'am. They were located on her chest.
23 She had several approximately one-inch wounds across
24 her chest, several approximately one-inch wounds
25 across her left arm, including one very large

1 laceration on her shoulder, several wounds across
2 her right arm, both upper and lower arms, and also
3 across her neck.

4 Q. Would loss of blood from those locations affect
5 blood pressure?

6 A. Yes, ma'am.

7 Q. How close was the location that you responded
8 to, to Palmetto Health Richland?

9 A. We were 9.3 miles away driving distance. And
10 we were, looks like, 15 minutes' worth of driving to
11 get there.

12 Q. And despite canceling the helicopter, did the
13 patient require immediate medical care?

14 A. Yes, ma'am. And that was part of the reason
15 why we did cancel the helicopter. Given our
16 vicinity to the hospital and also the fact there was
17 nowhere good to land the helicopter near where we
18 were, it would not have been appropriate to try to
19 use the helicopter to transport.

20 Q. Is there any doubt in your mind that the
21 patient required immediate medical intervention to
22 reverse the shock that you observed?

23 A. No doubt. No, ma'am.

24 MS. USRY: Nothing further, Your Honor.

25 THE COURT: Thank you, Solicitor.

1 Recross, Ms. Gilreath?

2 MS. GILREATH: Just briefly, Your Honor.

3 RE-CROSS-EXAMINATION

4 BY MS. GILREATH:

5 Q. Mr. Stevens, when talking about the estimation
6 of the amount of blood that was lost, you mentioned
7 that you were going based off of what was on the
8 dock when you got there, correct?

9 A. Yes, ma'am.

10 Q. So that's not something you were able to
11 measure, it was just sort of an estimate based on
12 looking at it, right?

13 A. Yes, ma'am.

14 Q. And that's something you indicate in your
15 report as to an estimate of blood level loss, right?

16 A. Correct.

17 Q. And in the report, that would be marked -- when
18 you do your report, that's essentially a box that
19 you check, correct?

20 A. Correct.

21 Q. So the one that is checked in your report, is
22 that the 100-to-500-milliliter blood-loss level?

23 A. Yes, ma'am.

24 Q. And that's actually the lowest amount that you
25 can check, correct?

1 A. No, ma'am.

2 Q. That's the lowest number that you can check in
3 that box?

4 A. No, ma'am. We can also check less than 100 or
5 no blood loss.

6 Q. Sure. But once you go above the blood loss,
7 you've got the 100, less than 100, and then 100 to
8 500, correct?

9 A. Yes, ma'am.

10 Q. I guess what I'm trying to say is there are
11 higher levels that you could have checked, correct?

12 A. Yes, ma'am.

13 Q. Sorry. I'm not asking my questions great
14 today. I apologize.

15 You mentioned that was on the dock. You said
16 that there was continued blood loss after your
17 arrival from the wounds.

18 A. Yes, ma'am.

19 Q. But you also mentioned that during -- once you
20 got her into the ambulance with the oxygen and the
21 IV, that she was then able to start talking well,
22 she wasn't lethargic anymore. You said that
23 earlier, correct?

24 A. Yes, ma'am.

25 Q. And so that trip to the hospital that's 9.3

1 miles, about how long did that take?

2 A. Fifteen minutes.

3 Q. So during that 15 minutes with the oxygen and
4 the IV, you were able to get her to the point to
5 where she was able to fully answer all of your
6 questions?

7 A. Yes, ma'am.

8 Q. And she also answered questions there at the
9 scene, correct?

10 A. Initially on scene, she was only able to say I
11 can't breathe when I was talking to her. That was
12 the only thing I can remember her saying.

13 Q. So you don't remember hearing her answering
14 officers' questions while you were treating her?

15 A. I do not.

16 MS. GILREATH: No further questions, Your
17 Honor.

18 THE COURT: Thank you very much, Paramedic
19 Stevens, for being with us today. You may step
20 down. You may be excused. I appreciate what you
21 do.

22 Solicitor, you may call your next witness.

23 MS. USRY: Thank you, Your Honor. The State
24 calls Cathy Rhoden.

25 THE COURT: Yes, ma'am. Would you come around

1 and join us, please.

2 KATHY RHODEN

3 being first duly sworn, testified as follows:

4 THE WITNESS: I do.

5 THE CLERK: Once you're seated, ma'am, please
6 state your name on the record, spelling your last.

7 THE WITNESS: Kathy Rhoden, R-H-O-D-E-N.

8 DIRECT EXAMINATION

9 BY MS. USRY:

10 Q. Thank you, Ms. Rhoden. Where are you employed?

11 A. SCANA.

12 Q. How long have you been with SCANA?

13 A. Fifteen years.

14 Q. What's your title at SCANA?

15 A. I'm a senior analyst and also records custodian
16 in the legal department.

17 Q. How long have you been the records custodian?

18 A. Approximately eight years.

19 Q. As records custodian, do you keep the records
20 that are kept in the normal course of business at
21 SCANA?

22 A. Yes, ma'am.

23 Q. Can you tell me if you keep, in particular,
24 timecards for employees?

25 A. Yes. They are kept in our Columbia call

- 1 center. Yes.
- 2 Q. So you're at the Columbia call center. Can you
3 tell me a little bit of how those records are kept
4 in your call center? Are they kept on the computer
5 or --
- 6 A. Yes. They're electronic records.
- 7 Q. And when employee timecards are created, are
8 they created -- just tell me how an employee clocks
9 in and clocks out at SCANA?
- 10 A. It's logging into the system, into the call
11 center system.
- 12 Q. So each employee individually logs into the
13 system?
- 14 A. Yes.
- 15 Q. And when that happens, is that captured by the
16 system?
- 17 A. Yes.
- 18 Q. And are those times captured in real time?
- 19 A. Yes.
- 20 Q. And the system, does it keep those records in
21 the normal course of activities throughout the day?
22 As an employee goes and clocks in through the
23 system, is it kept in the system without being
24 changed in any way?
- 25 A. Yes.

- 1 Q. Are you able to pull employee timecards?
- 2 A. I was able to request the employee timecard
3 from the call center.
- 4 Q. And you're able to request that as part of your
5 role as --
- 6 A. Yes, as records custodian.
- 7 Q. Were you able to request a timecard for Ann
8 Brown for August 10th through 11th of 2015?
- 9 A. Yes, ma'am.
- 10 Q. And when you reviewed that record, did it
11 appear accurate?
- 12 A. Yes, ma'am.
- 13 Q. So when it was recorded in the system, when
14 would that record actually have been recorded within
15 the call center system?
- 16 A. When the employee logged in.
- 17 Q. Would it have been changed in any way since
18 that time?
- 19 A. No, ma'am.
- 20 Q. When you reviewed the record, did it appear to
21 have been changed or altered in any way since that
22 time?
- 23 A. No, ma'am.
- 24 Q. And I'm going to show you what's been marked as
25 State's Exhibit 43. Is that the timecard for Ann

DIRECT EXAMINATION OF KATHY RHODEN BY MS. USRY

381

1 Brown on August 10th through 11th of 2015?

2 A. Yes, ma'am.

3 Q. Does it appear to reflect the form that you
4 were able to pull from your system?

5 A. Yes, ma'am.

6 Q. It does not appear to be changed?

7 A. No, ma'am.

8 MS. USRY: Your Honor, State moves that exhibit
9 into evidence at this time.

10 MS. GILREATH: No objection, Your Honor.

11 THE COURT: State's Exhibit 43 in evidence.

12 (State's Exhibit No. 43 admitted into
13 evidence.)

14 BY MS. USRY:

15 Q. Ms. Rhoden, can you tell me when Ann Brown
16 would have checked into work at SCANA on that date?

17 A. 12:00 a.m. on 8/11/15.

18 Q. When would she have checked out of SCANA or
19 completed her workday?

20 A. Timecard reflects 10:30 a.m. on 8/11/15.

21 Q. And those times are created when the employee
22 logs out of the system?

23 A. Correct.

24 Q. And that's when they are leaving for the day,
25 they would have logged into the system?

1 A. Correct.

2 MS. USRY: No further questions for this
3 witness, Your Honor.

4 THE COURT: Mr. Lobshire [sic]?

5 MR. TURNBLAD: No questions, Your Honor.

6 THE COURT: Thank you very much, Ms. Rhoden.
7 Thank you for being with us. You may step down and
8 you may be excused.

9 All right. Solicitor, you may call your next
10 witness.

11 MS. MAYES: The State calls Loretta Mitchell.

12 LORETTA MITCHELL

13 being first duly sworn, testified as follows:

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Have a seat right up there, ma'am.
16 Once you're seated, speak up loud and clear, state
17 your full name, spelling your last, please.

18 THE WITNESS: My name is Loretta Mitchell,
19 M-I-T-C-H-E-L-L.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. Good afternoon, Ms. Mitchell. Can you tell us
23 a little bit about yourself. Where are you
24 employed?

25 A. At McDonald's, 2929 Charleston Highway.

1 Q. The Charleston Highway McDonald's, that's in
2 what area of Lexington County?

3 A. Cayce.

4 Q. In Cayce?

5 A. Yes, ma'am.

6 Q. So I want to ask you what you do there and how
7 long you've been with McDonald's.

8 A. I have been working for McDonald's for 37
9 years. March 8th was 37 years. I'm a shift
10 manager.

11 Q. All right. And were you working as a manager
12 back on August 11th of 2015?

13 A. Yes, ma'am.

14 Q. Now, as manager, do you require all employees
15 to clock in and clock out?

16 A. Yes, ma'am.

17 Q. Do employees at McDonald's have a set schedule
18 for when they're supposed to work?

19 A. Yes, ma'am.

20 Q. Is that schedule set ahead of time?

21 A. Yes, ma'am.

22 Q. So I'm going to make a note here that we're
23 talking about August 11th, 2015. I want to ask you
24 whether or not you know the defendant, Joshua Brown.

25 A. Yes, ma'am.

1 Q. How is it that you know him or acquainted with
2 him?

3 A. He's employed at McDonald's.

4 Q. Was he working at McDonald's on August 11th of
5 2015?

6 A. Yes, ma'am.

7 Q. Now, did he also have a set schedule for when
8 he was supposed to work that day?

9 A. Yes, ma'am.

10 Q. What hours was he supposed to work on August
11 11th, 2015?

12 A. It was 4:00 a.m. to noon, or either 4:00 a.m.
13 to 1:00 p.m.

14 Q. All right. And this is a 24-hour McDonald's?

15 A. No, ma'am.

16 Q. How come employees go in at 4:00 a.m.?

17 A. Because we open up at 5:00.

18 Q. 5:00 a.m.?

19 A. Yes, ma'am.

20 Q. And you are the morning manager; is that
21 correct?

22 A. Yes, ma'am.

23 Q. Now, when someone goes in at 4:00 a.m. and
24 they're scheduled to work until noon or 1:00 p.m.,
25 do they get a break?

1 A. Yes, ma'am.

2 Q. Is that ordinary or normal for an employee
3 working that shift to get a break?

4 A. Yes, ma'am.

5 Q. And are McDonald's employees required to clock
6 in and clock out?

7 A. Yes, ma'am.

8 Q. Is that something that McDonald's keeps a
9 record of?

10 A. Yes, ma'am.

11 Q. And those records are kept in the ordinary
12 course of business there at McDonald's?

13 A. Yes, ma'am.

14 Q. And do you have the clock-in and clock-out
15 information for Joshua Brown on August 11th, 2015?

16 A. Yes, ma'am.

17 Q. And you recognize that that applies to him
18 because his name is on it?

19 A. Joshua Brown, ID No. 5.

20 Q. Okay. And the clock report, the time-clock
21 report, can you tell us whether or not this
22 time-clock report is the same time-clock report
23 that's maintained for every employee there that
24 works your morning shift at McDonald's?

25 A. Yes, ma'am.

1 MS. MAYES: Your Honor, this would be for
2 evidence. I believe it's going to be State's 44.

3 MR. STORY: No objection, Your Honor.

4 THE COURT: State's 44 in evidence without
5 objection.

6 (State's Exhibit No. 44 admitted into
7 evidence.)

8 BY MS. MAYES:

9 Q. I'm going to hand this back to you.

10 Now, you mentioned that he goes in at 4:00 on
11 that shift. What time on that particular day did
12 Joshua Brown actually clock in?

13 A. It was a little after 4:00, one or two minutes
14 after 4:00.

15 Q. Can you look at the actual clock-in report and
16 let us know exactly what State's Exhibit 44
17 indicates in terms of clocking in?

18 A. He clocked in at 4:01 a.m.

19 Q. All right. Let me stop you right there. Clock
20 in is 4:01 a.m. And then you mentioned employees
21 working this shift get a break.

22 A. Yes, ma'am.

23 Q. If you take a break, do you have to clock out
24 for the break?

25 A. Yes, ma'am.

1 Q. So I'm going to ask you about that. What time
2 did he clock out for the break?

3 A. At 8:43 a.m.

4 Q. Now, employees who work this shift, the
5 4:00 a.m. to noon or 4:00 a.m. to 1:00 p.m. shift,
6 when do they ordinarily take that break?

7 A. I usually start giving out breaks between 8:30
8 and 9:00.

9 Q. So the break is in the ordinary time period; is
10 that right?

11 A. Yes, ma'am.

12 Q. So he clocks out for that break at 8:43 a.m.
13 What, if anything, happened next?

14 A. Well, I was getting ready to do the shake
15 machine. I was walking around doing my little
16 travel path and I noticed Mr. Brown hasn't come back
17 in. So I texted him and asked: If you walk out,
18 you quit, right?

19 Q. I'm going to stop you right there. You
20 indicated you were working the shake machine. And,
21 as manager, even if you're working shake machine, if
22 you have an employee that clocks out for break and
23 doesn't come back, what action do you take?

24 A. Try to get in contact with them. If I don't
25 get in contact with them, I let the GM know.

1 Q. So when 9:00 a.m. rolls around -- it's getting
2 close to 9:00 a.m. and he's not back from the break,
3 what did you do?

4 A. I noticed it was almost time for him to be back
5 off break. So I text Mr. Brown and said: You walk
6 out, you quit, right? I didn't get no response
7 back.

8 Q. Okay. I'm going to ask you about that. Now,
9 this is State's Exhibit 8 for identification. I'm
10 going to move to the time period around when he
11 would have clocked out for that break at 8:43 a.m.

12 Now, the text you just told us about where you
13 texted him, do you see it on here?

14 A. Yes, ma'am.

15 Q. What time did you send that text to him?

16 A. 8:52 a.m.

17 Q. All right. And your question by text was --

18 A. I say: You walk, you quit, right?

19 Q. You walk out, you quit, right?

20 A. Yes.

21 Q. And did you get any response back?

22 A. No, I didn't.

23 Q. All right. And, Ms. Mitchell, what was your
24 phone number at the time?

25 A. (803) 262-7855.

1 Q. So you recognize that text by your own phone
2 number?

3 A. Yes, ma'am.

4 Q. So did he ever come back to McDonald's that day
5 to finish his shift?

6 A. No, ma'am.

7 Q. Did you receive any phone call from him at all?

8 A. No, ma'am.

9 MS. MAYES: Beg the Court's indulgence.

10 THE COURT: Yes, ma'am.

11 MS. MAYES: Nothing further at this time, Your
12 Honor.

13 THE COURT: Thank you, Solicitor.

14 Mr. Story?

15 MR. STORY: Yes, Your Honor, briefly.

16 CROSS-EXAMINATION

17 BY MR. STORY:

18 Q. Good afternoon, Ms. Mitchell.

19 A. Good afternoon.

20 Q. So on the morning of August 11th, you were
21 working as manager at McDonald's?

22 A. Yes.

23 Q. And you didn't notice anything unusual about
24 Joshua Brown's behavior that morning, did you?

25 A. No.

1 MR. STORY: Beg the Court's indulgence.

2 No further questions.

3 THE COURT: Thank you, Mr. Story.

4 Thank you very much, Ms. Mitchell. Thank you
5 for being with us today. You may step down. You
6 may be excused.

7 All right. Solicitor?

8 MS. MAYES: The State calls Darwin Weaver.

9 THE COURT: Yes, sir. Come around and be
10 sworn.

11 DARWIN WEAVER

12 being first duly sworn, testified as follows:

13 THE WITNESS: I do.

14 THE CLERK: Have a seat up here, sir. Once
15 you're seated, state your name, spelling your last,
16 please.

17 THE WITNESS: Darwin Weaver, W-E-A-V-E-R.

18 DIRECT EXAMINATION

19 BY MS. MAYES:

20 Q. Good afternoon. Could you give us some
21 information about yourself? Tell us a little bit
22 about your career in law enforcement.

23 A. I started with the City of Cayce in 1994.
24 That's where I started my law enforcement career.
25 And I retired from the City in July of 2017.

1 Q. All right. So how many years all together did
2 you spend in law enforcement prior to that
3 retirement?

4 A. About 22 years.

5 Q. All right. And I'll hand you this. During
6 that 22 years in law enforcement, what various
7 agencies have you worked with?

8 A. I've worked with Secret Service, FBI, SLED,
9 Lexington County Sheriff's Department, West
10 Columbia, a bunch of agencies.

11 Q. All right. In what capacity and what role?

12 A. Just assisting. I did some training with SLED;
13 I worked with a task force, multi-agency task force
14 on underage drinking, stuff like that.

15 Q. And while you were at the Cayce Department of
16 Public Safety, what was your job title?

17 A. Which time?

18 Q. In 2015?

19 A. 2015, I was doing crime scene and evidence.

20 Q. When we talk about crime scene, is it possible
21 for you to estimate how many such crime scenes you
22 had worked prior to August 11th, 2015?

23 A. Not really because we -- I did so much. I
24 start with investigations. And, you know, even on
25 patrol, we did our own stuff. And when I went into

1 investigations, we worked -- a lot of times when we
2 were on call, we did a lot of our own crime scene
3 stuff.

4 So the position I was in was kind of a newly
5 developed position. We were trying to start a crime
6 scene unit where we could handle more and more of
7 our own stuff and become more independent.

8 Q. As opposed to calling in the State Law
9 Enforcement Division?

10 A. Correct.

11 Q. Have y'all developed the capacity there at
12 Cayce to process the crime scene?

13 A. Yes. We've been processing crime scenes for
14 quite some time. The less intense ones, yes.

15 Q. Collecting evidence --

16 A. Collecting evidence.

17 Q. -- documenting the scene, things of that
18 nature?

19 A. Correct.

20 Q. Is that something you have been trained in as
21 well?

22 A. Right.

23 Q. I want to take you to August 11th, 2015. How
24 did you become involved at the crime scene down by
25 the Riverwalk?

DIRECT EXAMINATION OF DARWIN WEAVER BY MS. MAYES

393

1 A. I received a call on the radio advising me that
2 they had discovered a crime scene for an incident
3 that had recently occurred and requested that I come
4 down there for the crime scene.

5 Q. And when you arrived, who do you recall already
6 being at the scene?

7 A. I believe a Wilcox, Detective Merrill; I
8 believe Pereira at some point in time. Not sure who
9 all else was there.

10 Q. All detectives with Cayce Department of Public
11 Safety?

12 A. Correct.

13 Q. What's the first step you take in terms of
14 processing this crime scene?

15 A. Attempting to locate as much of the crime scene
16 as I can and then starting with photographing and
17 documenting that way before we start anything else,
18 just trying to get an overall view of the scene as
19 it is.

20 Q. Were you notified of a particular area along
21 the Riverwalk that had been identified as a crime
22 scene?

23 A. I was.

24 Q. Do you remember which officers notified you of
25 that?

1 A. I don't recall which particular officers
2 notified me because I don't remember who exactly
3 called me. And there were several officers there
4 when I got there, and I was actually led to the
5 scene by some of the officers.

6 Q. Take us to that point, what you recall about
7 the scene upon your arrival.

8 A. When I got to the scene, they directed me to a
9 portion of the Riverwalk where you just had the
10 walkway there. There was a light pole. And some of
11 the other officers had started -- you know, had
12 already cordoned it off so that the scene would not
13 be disturbed and would be left like it was when they
14 found it as much as possible to keep other people
15 from coming through.

16 And, from there, I just started deciding what
17 all I was going to need to -- as far as equipment,
18 what I was going to need to document the scene down
19 there.

20 Q. When you say that the scene had been secured,
21 what type of measures were taken to secure that
22 scene?

23 A. Officers were posted on each end prior to where
24 the actual scene was or where they believed the
25 scene to be. And they put crime scene tape on both

1 sides and had officers standing there to prevent
2 others from walking through the scene.

3 Q. Such as bystanders or civilians there at the
4 Riverwalk?

5 A. Correct.

6 Q. You mentioned the general area and also a light
7 pole. So I'm going to ask if you could sketch that
8 for us.

9 MS. MAYES: And, Your Honor, if the witness can
10 have permission to step down?

11 THE COURT: Yes, sir, you can step down.
12 Please keep your voice up.

13 BY MS. MAYES:

14 Q. The first thing I want to do is show you what
15 is State's Exhibit 3 already in evidence. And if
16 you could, show us the general point of this crime
17 scene using this document with this being the dock
18 and this being the parking area.

19 A. Pretty much, it's going to be almost in the
20 middle, kind of right here, on the Riverwalk. I
21 know it was a little bit further from this one than
22 it was this one.

23 Q. Okay. And now we're talking about -- if you
24 could, step back just a little so all jurors can
25 see. So you're talking about the cement walkway?

- 1 A. Right. The cement walkway, this one here right
2 along here.
- 3 Q. Now, there's a river side and then there's a
4 side that is encompassed by trees, correct?
- 5 A. Correct.
- 6 Q. I want to ask a little bit more about that. If
7 you could sketch for us the cement walkway and then
8 what surrounds it.
- 9 A. (Witness complies.)
- 10 Q. Okay. So, here, we're looking at the cement
11 walkway, trees on both sides. And then this would
12 be the river side, correct?
- 13 A. Correct.
- 14 Q. Now, you mentioned a light pole. Which side is
15 the light pole on the cement pathway? That would be
16 the river side or the other side.
- 17 A. That would be on the hill side, so off over
18 here.
- 19 Q. All right. That's the light pole. And then
20 you mentioned the hill side. What do you mean by
21 that?
- 22 A. On this side here where the pole is, this would
23 be the hill side, basically. It's kind of flat
24 starting here and has an upward grade.
- 25 Q. So there's somewhat of an upward grade on this

1 side of the pathway?

2 A. Correct.

3 Q. All right. Thank you. You may return to your
4 seat.

5 MS. MAYES: Your Honor, if I need to move this,
6 just let me know, please.

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

8 BY MS. MAYES:

9 Q. What do you recall observing as you arrived
10 there on the cement pathway?

11 A. The first thing that I noticed was spots of
12 blood on the walkway itself around where the light
13 pole was with the electrical connection, which is
14 like a greenish plastic box where they do their
15 electrical connections.

16 I then noticed some shoes there. And then you
17 could see where there was some places back up
18 towards the hill on the hill side of it that were
19 disturbed on the ground over there.

20 Q. I'm going to show you some photographs and ask
21 you whether or not you recognize what is depicted in
22 them.

23 A. This is towards what we determined to possibly
24 be the beginning of the incident, the sidewalk there
25 itself. And you can see where the dirt and stuff

1 has been disturbed and kicked off on the sidewalk
2 itself.

3 This next one is pictures of a spot where some
4 blood was originally found on the walkway itself
5 just prior to that.

6 Q. Let me ask you this: Do you recognize the
7 photos?

8 A. Oh, yes.

9 Q. Who took the photos?

10 A. I did.

11 Q. Are all of these a fair and accurate
12 representation of the scene that day?

13 A. Yes.

14 Q. And the markers that are depicted in the
15 photos, who placed them there?

16 A. I did.

17 Q. All right. I'm going to ask you a little bit
18 more about them.

19 MS. MAYES: Your Honor, this would be State's
20 45, 46, and 47 for evidence.

21 THE COURT: Ms. Gilreath?

22 MS. GILREATH: No objection, Your Honor.

23 THE COURT: State's 45, 46, 47 in evidence
24 without objection.

25 (State's Exhibit Nos. 45, 46, and 47 admitted

1 into evidence.)

2 BY MS. MAYES:

3 Q. And you have a laser pointer as well, if you
4 need to use it for any reason. I want to start by
5 asking you about the cement pathway and then
6 specifically this area around the light pole that
7 you have depicted. This is State's Exhibit 45.
8 Again, who created the markers here to document
9 these items?

10 A. I did.

11 Q. So there's -- which marker would this be?

12 A. Item A and item B.

13 Q. What are we looking at here?

14 A. That's the bottom of the light pole.

15 Q. So this whole area here would be the hill side,
16 correct?

17 A. Correct.

18 Q. 46 being a close up of item A?

19 A. Correct.

20 Q. And what is depicted in this photograph and why
21 did you take this photograph?

22 A. The drops of blood that were discovered there.
23 That's why the marker was placed there because
24 that's where we first found the blood.

25 Q. Directly on the cement?

1 A. Yes, ma'am.

2 Q. Now, State's 47?

3 A. That's marker B that was depicting where we
4 first saw disturbance of the ground as if some type
5 of, you know, scuffle took place, kicking dirt up
6 onto the side. And that was right after where the
7 spots of blood were found.

8 Q. The -- going back here, so we've got A with the
9 blood droplets and B with the disturbance in the
10 ground that you noted?

11 A. Correct. And then off to the right of that is
12 where the shoes were discovered.

13 Q. All right. So we see markers here and here.
14 Who placed those markers?

15 A. I did.

16 Q. I'm going to refer you to some photographs
17 already in evidence. I'll look here at the light
18 pole here with State's 16.

19 A. Uh-huh. That was marker C where I found the
20 left shoe.

21 Q. Is that exactly how you found it?

22 A. Yes, ma'am.

23 Q. And State's 15?

24 A. Right. That's marker D. That's where the
25 right sandal was found. They were about five feet

DIRECT EXAMINATION OF DARWIN WEAVER BY MS. MAYES

401

1 apart, like some type of struggle had taken place.

2 Q. Now, looking here at State's 14, before the
3 markers are put down?

4 A. Correct. That's where the shoes were located
5 before I placed the markers.

6 Q. And, again, this would be the hill side?

7 A. That's the hill side.

8 Q. And, using your laser pointer, if you could,
9 show us how that hill progresses in that area.

10 A. So, looking at it from here, the way the hill
11 progresses, the further you go this way, this is
12 where the incline starts.

13 So this would -- this is the pathway; there's
14 your light pole. And as you continue up this way,
15 then you start to hit the incline where it raises
16 up.

17 Q. Now, in addition to the sandals, was anything
18 else found in the vicinity of that pathway?

19 A. Yes. On the same side or are we talking
20 anywhere?

21 Q. Anywhere along the path.

22 A. Yes. I did locate the victim's keys -- or what
23 was later identified as the victim's keys on the
24 water side of the pathway. So it was actually back
25 across on the other side. So we found the keys and

1 then, later on, I discovered a hair extension that
2 was found again on the water side down the
3 embankment, closer to the edge of the water.

4 Q. So this State's 18 is what?

5 A. Item T and the keys that were found, again, on
6 the left side of the path about 25 feet or so from
7 the light pole.

8 Q. And how close to the walkway?

9 A. I would say probably about three or four feet
10 off the side of the walkway.

11 Q. Okay. I'll show you some additional photos and
12 ask you about them. First, I need you to identify
13 them. If you could, look at those and tell us who
14 took the photos.

15 A. Yeah. These are photos I took.

16 Q. Are all these a fair and accurate
17 representation of the scene?

18 A. Yes.

19 Q. And the markers you placed at the scene?

20 A. Yes. And these are all ones that I took.

21 Q. So already in evidence. I'm going to take you
22 back to this light pole and the area around the
23 light pole. The sandals found at the light pole on
24 what you termed the hill side?

25 A. Correct.

1 Q. So after State's Exhibit 15, I want to take a
2 look at 19. Why are there continuing markers along
3 the way?

4 A. Because as I found the trail, then I kept
5 marking places where I found what appeared to be
6 blood going up the trail. So I continued placing
7 markers to show the path.

8 Q. Okay. State's 20?

9 A. This, again, is still on that same hill side.
10 This is continuing from the light pole. And it
11 continues up towards to the top of the hill side
12 where it gets up here towards the end.

13 Q. And what, if anything, is significant about
14 State's 22?

15 A. This was the upper-most area where I found it.
16 And we had the log or branch -- tree branch that was
17 found here with blood on it and an area that was
18 disturbed and leaves, possibly indicating some type
19 of struggle, maybe someone laying there. I don't
20 know.

21 Q. So State's 23?

22 A. And that's a closer-up image of that same thing
23 with the disturbance on the ground and the continued
24 markers of the blood trail or possible blood trail.

25 Q. And what, if anything, was noted around the log

1 there at that location at the top of the incline you
2 described?

3 A. There was blood on that as well, along with the
4 disturbed area of ground.

5 Q. Okay. Now, after you completed your assessment
6 of this area involving the hill and the log there
7 near the top of that hill, what about this other
8 side out towards the river?

9 A. I followed the path where it crosses back over
10 the walkway from the hill side to the water side.
11 And that is where I located the victim's keys, on
12 the water side of the walkway.

13 After that, I was able to continue to follow
14 the trail and found additional points of suspected
15 blood until it got all the way up to the embankment
16 where it drops off and goes to the water's edge.

17 When I got over there and viewed down and took
18 pictures over there as well, that is where I located
19 the hair extension and footprints from someone
20 walking off into the water as well.

21 Q. At this point in time, as you're processing the
22 scene, did you have information that the victim had
23 been in the river?

24 A. Yes, I did have information that she had been
25 in the river.

1 Q. And, with that information, did you feel like
2 you needed to process down towards the river as
3 well?

4 A. Oh, absolutely.

5 Q. I'm going to show you this photograph and ask
6 you whether or not you recognize it.

7 A. Yes, I do.

8 Q. And who would have taken that photograph?

9 A. I did.

10 Q. And the markers depicted in that photo were
11 created by who?

12 A. Created by me.

13 Q. All right.

14 MS. MAYES: This would be State's 48 for
15 evidence, Your Honor.

16 THE COURT: Mr. Story?

17 You're offering it or it's already in evidence?

18 MS. MAYES: Offering it, Your Honor.

19 MS. GILREATH: No objection.

20 THE COURT: 48 is in evidence without
21 objection.

22 (State's Exhibit No. 48 admitted into
23 evidence.)

24 BY MS. MAYES:

25 Q. I'm going to leave what is State's 23, which

1 was the log here near the hill area. Now we're
2 going to take a look at State's 48. You mentioned
3 that you had left the hill side area, crossed the
4 path in order to process the area around the river.

5 A. That is correct.

6 Q. What are we looking at here?

7 A. I'm on the water side now taking a picture back
8 towards the path where I had followed it across the
9 walkway. This is the marker for the keys and I'm
10 standing back behind that taking a picture back
11 towards the hill side.

12 Q. And what are all of these items?

13 A. Those are the markers that we followed all the
14 way up to where we saw the log in the previous
15 picture, and then the path continuing back across
16 and coming back to the water side.

17 Q. All right. And how were you able to determine
18 the path that the victim had taken?

19 A. Again, we followed the trail of suspected blood
20 all the way through, looking at the leaves and where
21 the stuff had been moved or appeared to have been
22 moved out of the way, and then just followed the
23 path all the way. And I placed markers as I went
24 along.

25 Q. And this was a visible blood trail to you?

1 A. Yes.

2 Q. And what is State's Exhibit 27?

3 A. That is marker V. And that is the hair
4 extension that I found down the embankment just
5 before leading to the water's edge.

6 Q. And now 25?

7 A. That is the continued pathway. And these are
8 footprints that I was able to locate going towards
9 the water's edge.

10 Q. And, finally, 28?

11 A. These are all markers as well for footprints
12 that were located leading into the water.

13 Q. From this area here, State's Exhibit 48, with
14 this being the pathway, the river side and then the
15 hill side, was there a visible blood trail
16 throughout that area?

17 A. Yes.

18 Q. Ultimately, what, if any, decisions did you
19 make regarding collection of evidence at the scene?

20 A. We decided to collect all the physical evidence
21 that we could find. And I also collected some swabs
22 from near the beginning of the trail and towards the
23 latter end of the trail just to see if that's the
24 same person's blood that was going through the whole
25 trail.

1 Q. I'm going to show you State's 10 and State's 9
2 and ask you if you can identify those items.

3 A. State's 10 are items C and D, which are the
4 left and right sandals that were found at the scene.
5 And this is item V that was identified and there is
6 the hair extension.

7 Q. All right. And then you mentioned some swabs
8 that were taken there at the scene.

9 A. Correct.

10 Q. I'm going to show you this item and ask you
11 whether or not you recognize it?

12 A. Yes.

13 Q. Whose initials are on the outside of that
14 sealed bag?

15 A. Mine.

16 Q. And what is the date that -- I'm going to have
17 to break this seal. If you could, break that seal
18 and let us know whether or not the swabs that you
19 collected at the scene are in there.

20 A. These are the swabs that I collected.

21 Q. From the crime scene?

22 A. From the crime scene. They're item P-1, which
23 indicates that I took this swab from marker P. And
24 this is item F-1, which indicates that I took that
25 swab from marker F. The date on them is 8/11/15 and

DIRECT EXAMINATION OF DARWIN WEAVER BY MS. MAYES

409

1 the time on it was 1804 and 1807.

2 Q. And which side of the path did you process
3 first?

4 A. The hill side.

5 Q. Can you tell us whether or not marker F would
6 have been on the hill side?

7 A. Yes. Marker F is on the hill side.

8 Q. All right. Now, moving forward to May 3rd,
9 2016, can you tell us whether or not you had an
10 opportunity to obtain a buccal swab from the
11 defendant in this case, Joshua Brown?

12 A. I did.

13 Q. And buccal swab comes from what area of the
14 body?

15 A. The mouth.

16 Q. And that's for, what, purpose of potential DNA
17 analysis?

18 A. That's correct.

19 Q. And the swabs that you collected were for the
20 purpose of being submitted to what agency?

21 A. Being submitted to SLED.

22 Q. And that would be for what purpose?

23 A. For known DNA standard.

24 Q. And then the swabs that you collected from the
25 scene would have been submitted to what agency?

1 A. To SLED.

2 Q. Again, for what purpose?

3 A. For DNA analysis and comparison.

4 Q. To the blood at the crime scene?

5 A. Yes.

6 MS. MAYES: Your Honor, he has identified the
7 buccal swab of the defendant. The State would offer
8 that as evidence at this time as well.

9 THE COURT: Ms. Gilreath?

10 MS. GILREATH: No objection, Your Honor.

11 THE COURT: State's 49 is in evidence without
12 objection.

13 (State's Exhibit 49 admitted into evidence.)

14 MS. MAYES: And the swabs from the scene are
15 packaged together, Your Honor. We would offer both
16 swabs packaged as State's Exhibit 50.

17 THE COURT: Ms. Gilreath?

18 MS. GILREATH: No objection, Your Honor.

19 THE COURT: State's 50 in evidence without
20 objection.

21 (State's Exhibit No. 50 admitted into
22 evidence.)

23 MS. MAYES: Nothing further from the witness at
24 this time, Your Honor.

25 THE COURT: Thank you, Solicitor.

1 Ms. Gilreath?

2 MS. GILREATH: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. GILREATH:

5 Q. Good afternoon, Mr. Weaver.

6 A. Good afternoon.

7 Q. I want to talk first about the evidence that
8 you collected.

9 A. Yes, ma'am.

10 Q. You collected evidence at the scene, correct?

11 A. Yes, ma'am.

12 Q. That's something you were trained in doing at
13 the academy?

14 A. I wasn't so much trained at the academy, but I
15 spent a three-week internship with SLED. Most of it
16 was on-the-job training, but I did spend a
17 three-week internship with SLED. One week was
18 forensic services and two weeks with the crime scene
19 unit.

20 Q. So a total of three weeks of training to do
21 crime scene investigations; is that correct?

22 A. A total with SLED for three weeks, yes.

23 Q. And that included evidence collection, correct?

24 A. Yes, ma'am.

25 Q. Now, the evidence that you collected in this

1 case, that included photographs, correct?

2 A. Yes, ma'am.

3 Q. And that included some of the photographs that
4 we've seen here today?

5 A. Yes, ma'am.

6 Q. So the other photographs, even if you didn't
7 take them, you said that they fairly and accurately
8 represent the scene when you were there that day,
9 correct?

10 A. Yes, ma'am.

11 Q. And those photographs show -- I believe we can
12 see some here in the picture that's up. It shows
13 these little cards that are placed along the way.
14 And you said that you placed those cards, correct?

15 A. Yes, ma'am, I did.

16 Q. And those are spots of interest or places of
17 interest?

18 A. Things of interest, right.

19 Q. Let's talk about the photos for a second. You
20 took photos there of the scene, correct?

21 A. Yes, ma'am.

22 Q. And that's in the area along the pathway?

23 A. Yes, ma'am.

24 Q. And you also took photos, I believe, of the
25 area down near the river. Was that correct, too?

- 1 A. Yes, ma'am.
- 2 Q. But didn't take any photos down at the dock,
3 correct?
- 4 A. No, ma'am, I did not.
- 5 Q. So you didn't take any photos of the area where
6 Ms. James was found?
- 7 A. Correct. I did not.
- 8 Q. And you didn't take any photographs of the
9 blood that was on the dock, correct?
- 10 A. Correct.
- 11 Q. Did you do any evidence collection at all down
12 near the dock?
- 13 A. No, ma'am.
- 14 Q. So you didn't collect a T-shirt down at the
15 dock, correct?
- 16 A. No.
- 17 Q. And you weren't the one who collected
18 Ms. James' clothes also, right?
- 19 A. Right. I did not.
- 20 Q. But those were things that you were aware that
21 were collected as evidence, correct?
- 22 A. Yes, ma'am.
- 23 Q. Did you ever find or discover that there was a
24 T-shirt that was not Ms. James' that was collected
25 into evidence?

1 A. No, ma'am.

2 Q. We talked about the shoes. I believe they're
3 in the photographs here. You said this is a
4 photograph that shows where the shoes were found,
5 correct?

6 A. Yes, ma'am.

7 Q. And you indicated that the shoes were found
8 there near the pathway, correct?

9 A. Correct.

10 Q. And those were on the non-river side?

11 A. Right; the hill side.

12 Q. You indicated that the area here closest to the
13 pathway was an area of disturbance, correct?

14 A. I'm sorry. Do what now?

15 Q. You indicated that along the pathway, there was
16 an area of disturbance. That was how you located
17 the crime scene, correct?

18 A. I didn't locate the crime scene; somebody else
19 located the crime scene. I just came and started
20 documenting the stuff that I found there. Yes.

21 Q. But you did indicate there was area of
22 disturbance along the pathway?

23 A. Right; marker B.

24 Q. And that's along the same side of the pathway
25 near where the shoes are?

CROSS-EXAMINATION OF DARWIN WEAVER BY MS. GILREATH

415

1 A. Yes, ma'am.

2 Q. Now, this one here, which direction did you
3 indicate this was looking? This is looking away --

4 A. I'm standing on the water side and taking the
5 picture back across the path to the hill side.

6 Q. So all of these little white markers that we
7 see, those are those cards that you placed?

8 A. Yes, ma'am. Those are on the hill side.

9 Q. Do you recall about how many markers that you
10 made?

11 A. I know I got up to F, I believe, was the last
12 marker that I placed.

13 Q. So you label them by alphabet, correct?

14 A. Correct.

15 Q. Then once you reach the end of the alphabet,
16 you go into double letters?

17 A. Right.

18 Q. And you said you believe you got to AF,
19 correct?

20 A. Yes, ma'am.

21 Q. And so that would be, let's see --

22 A. 26 --

23 Q. -- 26 in the alphabet, and so up to F. So
24 we're talking upwards of 30 markers in this case,
25 correct?

- 1 A. Yes, ma'am.
- 2 Q. You said that most of those markers were
3 showing places where there was blood, correct?
- 4 A. Yes, ma'am.
- 5 Q. So that's what's shown here, correct?
- 6 A. Yes, ma'am.
- 7 Q. And you indicated you took swabs for purposes
8 of submitting for DNA purposes, correct?
- 9 A. Yes, ma'am.
- 10 Q. And you took those from two of the cards,
11 correct?
- 12 A. Yes, ma'am.
- 13 Q. So out of over 30 cards, there were a number of
14 those that were blood, correct?
- 15 A. Yes.
- 16 Q. If not maybe the majority of those were blood?
- 17 A. Right.
- 18 Q. And there were only two that were taken -- two
19 that had swabs taken, correct?
- 20 A. Right.
- 21 Q. And swabs were not taken for blood on this
22 location, correct?
- 23 A. Correct.
- 24 Q. And that's along the pathway, correct?
- 25 A. Correct.

1 Q. And that's near that area of disturbance near
2 the pathway, correct?

3 A. That's correct.

4 Q. And that's going to be the area of disturbance?

5 A. The area of disturbance.

6 Q. Now, you actually indicated there were multiple
7 areas of disturbance; is that right?

8 A. That's correct.

9 Q. And those are along the -- I guess, the lines
10 of where these cards are laying, correct?

11 A. Yes, ma'am.

12 Q. So these places of disturbance you're talking
13 about, you're talking about areas where it appears
14 that leaves have been moved or the area on the
15 ground --

16 A. Has been disturbed and doesn't match the other
17 stuff around it.

18 Q. You said earlier that that would indicate to
19 you that there was a scuffle of some sort, correct?

20 A. Correct.

21 Q. And you said that there were areas of
22 disturbance on both sides of the walkway, right?

23 A. The water side, not so much areas of
24 disturbance as that's where I found the footprints,
25 as I recall, because there weren't a whole lot of

1 leaves and stuff on the water side that I saw that
2 were really messed up or would indicate there was a
3 struggle or something going on, but that's the side
4 that I found the footprints on.

5 Q. Right. And the footprints that you're talking
6 about, those are actually down at the river,
7 correct?

8 A. Correct.

9 Q. Once you have gone over to the side and gone
10 down the embankment --

11 A. Gone down the embankment.

12 Q. So up closer to the pathway, you had indicated
13 earlier that this is the river side here, correct?

14 A. That's correct.

15 Q. And you indicated there was an area of
16 disturbance here?

17 A. No. The marker there is where the keys are.

18 Q. But earlier you said that the keys were found
19 near an area of disturbance, correct?

20 A. No, ma'am.

21 Q. Do you see this area right here?

22 A. Yes, ma'am.

23 Q. Do you recall what that was there?

24 A. That's some grass or something, I believe, that
25 was up on the walkway.

- 1 Q. And this here, this is dirt along the --
- 2 A. Yes, ma'am.
- 3 Q. Right here. And you said that her keys were
- 4 actually found over here, correct?
- 5 A. Right.
- 6 Q. And the sandals were found on the other side
- 7 near the light pole that we talked about earlier?
- 8 A. Correct.
- 9 Q. Now, the markings that we have here, these
- 10 were -- were any of these for anything other than
- 11 blood?
- 12 A. I don't believe so. I think most all that was
- 13 the blood trail.
- 14 Q. And these that you found that you have marked
- 15 for blood, you said those were basically spots of
- 16 blood, correct?
- 17 A. There was blood there. Not all of them are
- 18 necessarily just spots of blood. But --
- 19 Q. And I guess I should maybe rephrase. I don't
- 20 mean to say that you said that they were tiny little
- 21 spots; I just mean it was a concentrated area.
- 22 A. Right, concentrated areas of blood.
- 23 Q. As opposed to, for example, you couldn't have,
- 24 basically, just made a card for that entire area
- 25 there? It wasn't all blood there, right?

- 1 A. Right.
- 2 Q. And so with here, for example, these here would
3 each indicate an area of blood?
- 4 A. Yes, ma'am.
- 5 Q. All of these here?
- 6 A. Yes, ma'am.
- 7 Q. And there was not an area -- there was not an
8 area along this path that you indicated that there
9 was a continuous streak of blood, correct?
- 10 A. Not that I could find, no.
- 11 Q. So along the path of blood is what you're
12 talking about here?
- 13 A. Right.
- 14 Q. And any other areas over here, you didn't find
15 a continuous streak of blood on the ground?
- 16 A. Not that I recall, no.
- 17 Q. So it's sort of the same for these areas of
18 disturbance that you mentioned, correct? There's
19 areas of disturbance and then there's a space and
20 then there's another area of disturbance, correct?
- 21 A. Right.
- 22 Q. So that would indicate to you that there was
23 likely either a -- you said a scuffle, I think is
24 how you put it?
- 25 A. Yeah. Could be a scuffle, a struggle,

- 1 something.
- 2 Q. Something along those lines?
- 3 A. Yeah.
- 4 Q. And, again, you only swabbed two of these,
5 correct?
- 6 A. Yes.
- 7 Q. Do you recall where the two were exactly?
8 Would you be able to show us on the photograph?
- 9 A. Marker F and marker P.
- 10 Q. Marker F and marker P. Do you recall about
11 where those were?
- 12 A. F was towards the beginning. So it would be --
- 13 Q. Would that have been closer to the pathway or
14 further away from the pathway?
- 15 A. It would have been -- the first one would have
16 been fairly close to the pathway, maybe 10 or 15 --
17 without going back through all the pictures, it's
18 hard to tell where marker F was placed.
- 19 Q. And then marker P, then you're getting further
20 away from the pathway, correct?
- 21 A. I was either further away or it was -- because
22 the path goes out and then turns and comes back. So
23 I don't know if P is going to be further away or
24 closer to the walkway.
- 25 Q. Do you recall if it was on the river side

1 or the --

2 A. I believe marker P was still on the hill side,
3 because T was where the keys were found and that was
4 on the opposite side. So P would have probably been
5 on the hill side.

6 Q. Now, you also indicated that you recovered the
7 braid of hair, correct?

8 A. Right.

9 Q. And that's what this is here, correct?

10 A. Yes, ma'am.

11 Q. You indicated that was recovered down next to
12 the river, correct?

13 A. Yes, ma'am.

14 Q. And you didn't recover any braids of hair up
15 along this pathway going up towards the --

16 A. No, ma'am. I did not locate any up there.

17 Q. Towards the hill. And with the hill,
18 essentially, if I'm looking at the angle of the
19 picture right, the walkway would be over to this
20 side, correct?

21 A. Yes, ma'am.

22 Q. And then you would be walking along this where
23 it's relatively flat, correct?

24 A. Yes, ma'am.

25 Q. Before it turns and goes up the hill?

1 A. Right.

2 Q. So the markers end right here, sort of at the
3 base of the hill?

4 A. Yeah. They're just kind of starting the
5 incline right there.

6 Q. Okay. You said that there was no braid of hair
7 that was recovered on that side in that trail of
8 cars there?

9 A. That's correct.

10 Q. When you went down here and you recovered the
11 braid of hair, you said that's next to the river,
12 right?

13 A. Yes, ma'am. When you go off the path on the
14 waterway side, it kind of drops off there. And that
15 was kind of towards the base of that drop-off.

16 Q. Did you recover any hair or were there any
17 spots of blood that were along the -- I guess, going
18 down the embankment?

19 A. There was a spot which I believe was marker U
20 that was blood on that side. I don't know if that
21 was in one of the pictures or not. But I did find a
22 spot of blood there just before you went down the
23 embankment. And that would have been the marker
24 just before this one.

25 Q. Now, this --

- 1 A. That's standing at the top.
- 2 Q. And that's leading down to where the river is,
3 correct?
- 4 A. Yes, ma'am.
- 5 Q. And that's the river here, right?
- 6 A. Yes, ma'am.
- 7 Q. On the other side. And that is also the river
8 here, correct?
- 9 A. Yes, ma'am.
- 10 Q. When you went down to the river there, it
11 appears you went all the way to the edge. And
12 that's how you were able to place these markers for
13 the blood?
- 14 A. Yes, ma'am.
- 15 Q. You were also able to see the footprints at
16 that point?
- 17 A. Yes, ma'am.
- 18 Q. Did you have the opportunity to look at the
19 river while you were there?
- 20 A. To look at it as far as -- I mean, I looked at
21 the water.
- 22 Q. Did you have an idea about how wide the river
23 was at that point?
- 24 A. No, I have no idea how wide the river was at
25 that point.

1 Q. Do you have any idea how deep it is? Is the
2 river fairly deep at that area? Is it relatively
3 shallow?

4 A. I'm pretty familiar with that. So it depends
5 on where at on the river you are, because parts of
6 it -- depending on where on the river you are, parts
7 of it are deeper on the different sides of the
8 river.

9 So you have to know how to navigate it coming
10 up or down because you may be deep on the right side
11 of the river to a certain point where you have to
12 cross over where it's, I guess, dredged, and it's
13 deeper than on the other side of the river. So it
14 kind of switches back and forth.

15 Q. So it would be sort of varying depths,
16 depending on where you're at?

17 A. Yes, ma'am.

18 Q. Do you have any idea about how deep it would be
19 there in that particular location?

20 A. Right there at the edge, it was shallow enough
21 for you to walk out into. But I don't know how far
22 you would walk before it would start getting deep.

23 Q. So the depth of the river, then, would -- from
24 what you're saying, could change between there and
25 where the dock is down at the boat ramp?

1 A. Oh, absolutely.

2 Q. And you don't have any idea how strong the
3 current is in that particular area or anything like
4 that?

5 A. No, ma'am. It all depends on how the level of
6 the river at the time as to how strong the currents
7 are.

8 Q. Now, going back to here when you're down at the
9 river, the braid that was collected there, were any
10 swabs for DNA taken for it?

11 A. No, ma'am.

12 Q. And the swabs that you said were letters F and
13 P, correct?

14 A. Yes, ma'am.

15 Q. So swabs weren't taken for any of the other
16 cards, A, B, C, D, E, G, any of those, correct?

17 A. No, ma'am.

18 Q. But a lot of those did represent blood?

19 A. Right.

20 Q. And you said you didn't recover any of the
21 clothes. But you were aware clothes were recovered,
22 correct?

23 A. Yes, ma'am.

24 Q. And when you took DNA swabs, did you take swabs
25 of any of the clothes that were collected?

1 A. No, I did not.

2 Q. Not of the pants or shirt or sandals or any of
3 those things?

4 A. No, ma'am.

5 Q. And you said not the hair extension?

6 A. Normally, we wouldn't take the swabs of the
7 hair extension itself because we're looking for the
8 epithelial cells, which wouldn't be on the hair
9 itself.

10 Q. And you didn't take any where the blood markers
11 were down in that area either, right?

12 A. No.

13 Q. Okay. And you said that the keys there -- if I
14 remember correctly, the keys were on one side of the
15 Riverwalk and the shoes were on the other?

16 A. Yes, ma'am. The keys were on the water side
17 and the shoes were on the hill side.

18 Q. And those keys and shoes were determined to be
19 Ms. James', correct?

20 A. Yes, ma'am.

21 MS. GILREATH: Beg the Court's indulgence.

22 THE COURT: Yes, ma'am.

23 MS. GILREATH: No further questions, Your
24 Honor.

25 THE COURT: Thank you, Ms. Gilreath.

1 Redirect?

2 MS. MAYES: Yes, sir, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Just to clarify, Ms. Gilreath was asking you
6 about the location of the disturbance. And I'm
7 going to ask you to put that on the sketch as
8 opposed to trying to use the photographs which may
9 not show everything.

10 MS. MAYES: Your Honor, if he could step down?

11 THE COURT: Yes, sir, you may step down. Keep
12 your voice up.

13 THE WITNESS: Yes, sir.

14 BY MS. MAYES:

15 Q. Okay. Ms. Gilreath was asking you about the
16 location of that disturbance that we're looking at
17 there in the photograph. I'm going to ask you to go
18 back to this sketch and show us that approximate
19 location where you could see the visible disturbance
20 along the pathway. I'll get you to use purple this
21 time.

22 A. So this would be about where the disturbance
23 was, and then, I believe, the first shoe there and
24 second shoe there.

25 Q. All right. Now you can stay there.

1 Specifically, as to that area up the hill, you noted
2 an additional disturbance. And if you could
3 describe that for us?

4 A. Basically, it looked -- you know, the leaves
5 are all falling down here. So the other disturbance
6 I was talking about was, basically, just a
7 cleared-out area where leaves and stuff had been
8 kicked up out of the way or moved out of the way
9 from where they normally would lay.

10 Q. And, if you could, give us the approximate area
11 of the log that was noted to have blood or what
12 appeared to be blood on it.

13 A. If you're looking at where the light pole is
14 here, the path kind of went up this way, and the log
15 was probably about right up in here, I'm guessing
16 maybe 30, 35 feet from where the light pole was.

17 Q. Taking a look at that photograph, do you see
18 that area that you have described?

19 A. I do.

20 Q. And if you could, note that on the diagram as
21 well. And I'm going to put it up here and ask you
22 to take a look at this, what is State's Exhibit 13.

23 A. Okay. That's a shot of the Riverwalk from the
24 boat landing or the boat ramp side looking back
25 towards the other end. So, basically, the river

1 would be -- just like this, the river would be on
2 this side, the hill would be on this side, so it
3 would be a shot coming back down the path this way.

4 Q. You may return to your seat. And that area of
5 disturbance by the log, were you able to get a
6 close-up photograph of that?

7 A. Yes.

8 Q. Let me show you State's Exhibit 23 and ask you
9 what we're looking at there.

10 A. That would be where the log and the disturbance
11 in the leaves are.

12 Q. So, just to clarify, the areas of disturbance
13 were on what side of the cement pathway?

14 A. On the hill side of the cement pathway.

15 Q. Did you note any obvious signs of disturbance
16 on the river side?

17 A. The only thing I found on the river side was,
18 like I said, the footprints, the keys, and the other
19 marker of blood that I noted. I don't remember -- I
20 don't recall, though, whether there was any leaf
21 disturbance or anything that I saw. If it was, I
22 didn't -- it wasn't enough for me to note.

23 Q. So the obvious leaf disturbance was on the hill
24 side?

25 A. Correct.

1 MS. MAYES: Nothing further.

2 THE COURT: Recross?

3 MS. GILREATH: Briefly, Your Honor.

4 RE-CROSS-EXAMINATION

5 BY MS. GILREATH:

6 Q. If I could return your attention to the drawing
7 here.

8 A. Yes, ma'am.

9 Q. Now, you indicated this is the river side,
10 correct?

11 A. Yes, ma'am.

12 Q. And this is the hill side, correct?

13 A. Yes, ma'am.

14 Q. Now, from the path here -- and you said this is
15 where the light pole is?

16 A. Yes, ma'am.

17 Q. So this area here from the light pole over to
18 where it says hill, that's a relatively flat area
19 for a period of a little ways until you get to where
20 the hill slopes up, correct?

21 A. Correct.

22 Q. And that's, essentially, what we see here,
23 correct, the flat area leading over to where the
24 hill is?

25 A. Yes, ma'am.

1 Q. And this was where the keys were found, here
2 under these leaves, here in this area?

3 A. Yes, ma'am.

4 Q. And you said that the area that was -- I
5 believe was described where the logs were, you said
6 that that was 30 to 35 feet, you said?

7 A. Approximately, yes, ma'am, 30 to 35 feet.

8 Q. And that was from the light pole?

9 A. From the light pole.

10 Q. And we're talking about this area here?

11 A. Yes, ma'am.

12 Q. And these are all cards that you placed,
13 correct?

14 A. Yes, ma'am.

15 Q. And that's also what that is there, correct?

16 A. Yes, ma'am.

17 Q. And that is there?

18 A. Yes, ma'am. Like I said, the trail went up
19 there, loops, and starts coming back down and going
20 across.

21 Q. Okay. So, just to make sure we're clear, that
22 30 to 35 feet was from that light pole --

23 A. That pole, right.

24 Q. -- and that original area of disturbance here?

25 A. Yes, ma'am.

1 MS. GILREATH: No further questions, Your
2 Honor.

3 THE COURT: Thank you, Ms. Gilreath.

4 Thank you, Detective Weaver. Thank you for
5 being here today. You may step down. You may be
6 excused.

7 Ladies and gentlemen, let's take about a
8 20-minute recess. Do not discuss the case during
9 this brief recess. You may take a walkabout if you
10 would like to. You don't have to be trapped back
11 there in the jury room. If you want to walk
12 downstairs or anything of that nature, just be back
13 in 20 minutes.

14 (The jury exits the courtroom at 4:47 PM.)

15 THE COURT: Solicitor, will you make sure no
16 witnesses are out in the lobby during -- no State's
17 and Defense witnesses, if the jury does go outside,
18 so they won't encounter anyone.

19 MS. MAYES: Yes, sir, Your Honor.

20 (Brief recess.)

21 THE COURT: Anything before we bring in our
22 jury, Solicitor?

23 MS. USRY: Nothing from the State, Your Honor.

24 THE COURT: Mr. Story?

25 MR. STORY: Nothing from the Defense.

1 (The jury enters the courtroom at 5:12 PM.)

2 THE COURT: All right. Our jury is back.

3 Solicitor, you may call your next witness.

4 MS. USRY: Thank you, Your Honor. The State
5 calls Angela Corbett.

6 THE COURT: If you would come around and be
7 sworn, please.

8 ANGELA CORBETT

9 being first duly sworn, testified as follows:

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Have a seat right up there, please,
12 ma'am. Once you're seated, state your name,
13 spelling your last name.

14 THE WITNESS: Angela M. Corbett, C-O-R-B-E-T-T.

15 DIRECT EXAMINATION

16 BY MS. USRY:

17 Q. Thank you, Ms. Corbett. What is your
18 occupation?

19 A. I'm a registered nurse.

20 Q. Where do you currently work?

21 A. Palmetto Health in Sumter.

22 Q. And can you tell me a little bit about your
23 work history. Where have you previously worked as a
24 registered nurse?

25 A. I've been a nurse for 11 years. I've worked

1 all over North Carolina, South Carolina, Virginia,
2 and California.

3 Q. And during August of 2015, can you tell me
4 about your employment during that time?

5 A. I was working for Providence downtown in the
6 emergency department.

7 Q. Were you working on August 11th of 2015?

8 A. Yes, ma'am.

9 Q. And where is Providence Hospital located?

10 A. Downtown Columbia.

11 Q. While working on August 11th of 2015, did you
12 have an opportunity to interact with a patient
13 Joshua Brown?

14 A. Yes, ma'am.

15 Q. Can you tell me what time he was admitted to
16 Providence Hospital?

17 A. He arrived at 12:53 and signed in. He was
18 triaged at 1322.

19 Q. What department was he admitted into?

20 A. The emergency department.

21 Q. And for what was he admitted to the emergency
22 department?

23 A. For a laceration to his right hand to the
24 palmar surface.

25 Q. As part of his treatment stay at Providence

1 Hospital, would a history of his present illness for
2 purposes of medical diagnosis and treatment been
3 obtained?

4 A. Yes, ma'am. We always look into injuries as to
5 how they happened. He said he was washing dishes
6 and cut his hand.

7 Q. Why do you always look into injuries and why
8 they happened?

9 A. So we know what we need to do to correct the
10 injury, if there's a chance a foreign body was in
11 the laceration and needed films or anything such as
12 that.

13 Q. And what type of treatment did you perform on
14 the laceration? What was performed on the
15 laceration?

16 A. Mr. Brown received an X-ray of the hand to make
17 sure there were no foreign bodies in the laceration
18 and then he received sutures or stitches.

19 Q. During the observation of the laceration, was
20 the length and depth recorded of the injury, or
21 recorded?

22 A. It was four centimeters.

23 Q. Was the depth recorded?

24 A. I don't recall seeing the depth, but let me
25 look again. The only thing I see says superficial

1 and four centimeters long.

2 Q. Superficial injury. What does that mean to
3 you?

4 A. Superficial, it's not a very deep cut. It was
5 deep enough for sutures, but not a really deep
6 incision.

7 Q. And can you tell me when the patient,
8 Mr. Brown, ultimately was discharged?

9 A. I went to the room at 1622 to discharge him and
10 he had left without instructions or a work note or
11 anything else.

12 MS. USRY: I beg the Court's brief indulgence.

13 BY MS. USRY:

14 Q. And just again for me, can you tell me, at what
15 time did Joshua Brown check into Providence
16 Hospital?

17 A. He signed in at 12:53.

18 MS. GILREATH: Objection, Your Honor; this is
19 cumulative, asked and answered.

20 THE COURT: Overruled.

21 BY MS. USRY:

22 Q. You can tell me what your answer was.

23 A. 12:53.

24 Q. What time was he admitted?

25 A. At 1322, he was triaged, then placed in a room.

1 Q. And 1322 is 1:22 p.m.?

2 A. Yes, ma'am. I'm sorry to use military time.

3 Q. And what time was discharge or when you went to
4 his room and he was no longer there?

5 A. 4:22.

6 MS. USRY: Thank you, Ms. Corbett. No further
7 questions.

8 THE COURT: All right.

9 Yes, Ms. Gilreath.

10 MS. GILREATH: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. GILREATH:

13 Q. Good afternoon, Ms. Corbett.

14 A. Good afternoon.

15 Q. Just a couple questions for you. So when you
16 treated Mr. Brown, it was for a wound that was
17 listed as being by a cutting instrument, correct?

18 A. He just said washing dishes.

19 Q. So when someone is treated, the details or the
20 information that they are given and the things that
21 you receive regarding the injury and the treatment,
22 those are put into medical records, correct?

23 A. Yes, ma'am.

24 Q. It's entered and it's saved and can be brought
25 back later to review to see what had happened and

1 what was told, correct?

2 A. Yes, ma'am.

3 Q. So if someone had entered that the nature of
4 the wound or the cause of the wound was ACC cutting
5 instrument, that would be something that would be
6 sharp? It's just something that would be able to
7 make a laceration, correct?

8 A. I don't -- I'm not sure what you're asking me.

9 Q. I guess what I'm saying is, it's listed as the
10 reason for the wound being cutting instrument, is
11 what's listed in the medical records. So if that
12 was the case, that would be based on the nature of
13 the wound and what was told by the patient, correct?

14 A. If that's what was listed. But that's not what
15 I'm aware of. What I see in the note is that he cut
16 his hand washing dishes.

17 Q. Do you have the records with you?

18 A. I do.

19 Q. I don't know if yours are numbered the same as
20 mine. The one I'm looking at is page 1 here. At
21 the top, it says patient abstract. Is that what
22 yours says there?

23 A. Yes.

24 Q. And I'm looking down where it says diagnosis.
25 Do you see that part?

1 A. I do. I'm not familiar with this sheet. This
2 is a physician's sheet.

3 Q. So that would have been entered by a doctor who
4 also treated him?

5 A. Yes.

6 Q. So he was also seen by a doctor there?

7 A. Yes. He received sutures. We don't suture;
8 the physicians do.

9 Q. So you didn't do the sutures?

10 A. No. I was his primary nurse, but I didn't do
11 the sutures.

12 Q. So this information would have been entered by
13 the doctor who treated him. So the list here of
14 diagnoses would have been made by a doctor, not by a
15 nurse?

16 A. Correct.

17 Q. But you indicated that it was a four-centimeter
18 laceration to the hand?

19 A. Yes.

20 Q. And that it did require sutures?

21 A. Yes.

22 Q. And you were aware that it required five
23 sutures?

24 A. Yes.

25 Q. And what would it mean if it's listed in the

1 medical records that the wound was contaminated?

2 A. It means, because of the nature of how he said
3 he got the wound being in dish water, automatically,
4 you would assume that the dish water is dirty.

5 Q. So that's based on -- and I don't know if you
6 have this page.

7 MS. GILREATH: Your Honor, may I approach?

8 THE COURT: Yes, ma'am, of course.

9 BY MS. GILREATH:

10 Q. Just efficiency's sake to see if we're looking
11 at the same page here, I'm looking at this page
12 here. Do you have that one? Okay. Do you see
13 where it says wound explored in the list under
14 laceration/wound?

15 A. I do.

16 Q. And then it says contaminated there; is that
17 right?

18 A. Yes.

19 Q. And then it indicates it was irrigated with
20 saline, correct?

21 A. Yes, ma'am.

22 Q. That just means it was cleaned out? There was
23 a saline solution that was used to clean it out,
24 correct?

25 A. Correct.

1 Q. So you're saying contaminated would have been
2 based on what the patient said, not on the actual
3 exploration of the wound?

4 A. I'm not sure what you're asking me. But he had
5 an X-ray that said his hand was clear. So being
6 that he was in dirty dish water, it would
7 automatically contaminate the wound and we would
8 irrigate it because of that.

9 MS. GILREATH: Just a moment, Your Honor.

10 THE COURT: Yes, ma'am.

11 MS. GILREATH: No further questions, Your
12 Honor.

13 THE COURT: Redirect?

14 MS. USRY: No further questions for this
15 witness, Your Honor. We ask that she be excused.

16 THE COURT: Thank you very much, Ms. Corbett.
17 Thank you for being with us this afternoon. You may
18 step down. You may be excused.

19 Solicitor, you may call your next witness.

20 MS. MAYES: The State calls Detective Jason
21 Merrill.

22 THE COURT: Yes, sir. You can come around and
23 be sworn for us, please.

24 JASON MERRILL

25 being first duly sworn, testified as follows:

DIRECT EXAMINATION OF JASON MERRILL BY MS. MAYES

443

1 THE WITNESS: I do.

2 THE CLERK: Once you're seated, state your full
3 name, spelling your last.

4 THE WITNESS: Jason Merrill. Last name spelled
5 M-E-R-R-I-L-L.

6 DIRECT EXAMINATION

7 BY MS. MAYES:

8 Q. And, Detective Merrill, tell us a little bit
9 about yourself. Where are you employed?

10 A. I'm employed with the Cayce Department of
11 Public Safety.

12 Q. In what capacity?

13 A. My current capacity is a sergeant in the
14 investigations division. At the time of this
15 incident, I was an investigator.

16 Q. All right. Tell us about how you became
17 involved in the investigation down by the Riverwalk
18 on August 11th, 2015.

19 A. That day, I was at the office conducting some
20 other duties and I overheard a radio call on our
21 police radio dispatching units to the boat ramp
22 area. Based on the nature of the incident that I
23 knew at that time, based on the radio broadcast, I
24 went ahead and headed down to the boat ramp area to
25 see if I could assist and lend a hand.

1 Q. All right. What time was it? Do you have
2 notes and do you have a report in connection with
3 your involvement in this case?

4 A. Yes. I do have notes that I prepared on the
5 date of the incident, as well as subsequent dates.

6 Q. All right. What time did you arrive there at
7 the scene?

8 A. Approximately 1:30 in the afternoon.

9 Q. And that's depicted in your report?

10 A. Yes, it is.

11 Q. And at the time of your arrival, where was the
12 victim located?

13 A. The victim was located at the end of the dock
14 that's located at the boat ramp area.

15 Q. I'll show you State's Exhibit 1 and ask you if
16 you took this photograph.

17 A. Yes. I recognize that as a photograph that I
18 took.

19 Q. All right. So you're here. I believe
20 Detective Pereira is also present. And you're
21 familiar with the female officer?

22 A. Yes; Officer Whetstone.

23 Q. And then the victim located on the dock?

24 A. Correct.

25 Q. What's the next step that you took in this

1 investigation after arriving there and taking the
2 initial photos?

3 A. After taking those initial photos, by that
4 time, I was able to overhear some information from
5 Officer Whetstone and other officers that responded
6 slightly ahead of me.

7 We received information from the victim through
8 those officers that there was a potential crime
9 scene located somewhere between the boat ramp where
10 she was found and the parking lot where she
11 described her car was being parked prior to the
12 incident.

13 Q. What did you do next?

14 A. Myself and other officers began to search that
15 area trying to locate where the crime occurred.

16 Q. And you're talking about the cement path along
17 the Riverwalk?

18 A. Correct.

19 Q. And what did you observe, if anything?

20 A. After a little bit of time, we were able to
21 find some sandals and some keys located in a certain
22 area along that pathway that were consistent based
23 on our understanding of the sandals the victim was
24 wearing at the time.

25 Q. And who is with you as you're making your way

1 down the pathway?

2 A. Some other officers with the Cayce Department
3 of Public Safety, such as Robert Marzole, I think,
4 was in the area. He may not have been by my side.
5 I believe Investigator Wilcox. That's all I recall
6 at this time.

7 Q. You say the first thing you noticed was...

8 A. There was two sandals near a certain light pole
9 along the path. And there was also a set of keys on
10 the other side of the path, on the river side of the
11 path. The sandals were located on the inland side
12 or the hill side of the path. The keys were on the
13 river side of the path.

14 Q. Now, the side that you mentioned with the hill,
15 were you able to walk that area and observe that
16 area?

17 A. Yes, I was. Once we located the sandals and
18 the keys, I also was able to observe some areas of
19 what I suspected to be blood at the time. Based on
20 that, that was a pretty good indicator to me it was
21 a potential crime scene, what we call a primary
22 crime scene.

23 After we observed those things, then I began to
24 walk the area trying to locate other areas of
25 suspected blood, other items. Especially items of

1 physical evidence, is basically what we're looking
2 for. Once I identified kind of how big of an area
3 that we were dealing with, then I arranged to have
4 the scene secured by placing crime scene tape on the
5 trail and posting officers at either end keeping
6 people from walking in or intruding on the scene.

7 Q. From the time that you were there and
8 discovered the scene, were there any civilians that
9 had the opportunity to disturb the scene?

10 A. After we arrived, no, absolutely no civilians.

11 Q. And measures were taken to preserve the scene
12 from that point on?

13 A. Correct.

14 Q. And what, if anything, can you tell us about
15 the area on the side of the path where the sandals
16 were found? Can you describe that area
17 geographically?

18 A. Yes. The area to the inland side of the path,
19 what's remarkable about that area, of course, there
20 was an SCE&G light pole. Geographically, it's kind
21 of level right next to the path, but it gradually
22 kind of goes up to an incline the farther you get
23 away from the path. So probably within the first 10
24 to 20 feet off the path, it really starts an incline
25 up the hill. It's almost like the side of a hill.

1 Q. And did you have the opportunity to walk that
2 incline?

3 A. I did.

4 Q. Taking a look at State's Exhibit 20.
5 Ultimately, who notified Detective Weaver that the
6 crime scene had been located?

7 A. I did. Once I was confident that that was our
8 primary crime scene, I notified CSI Weaver to
9 respond and assist in processing the crime scene.

10 Q. Were you present as he placed markers there
11 along the walkway, as well as up that incline that
12 you described?

13 A. Yes, I was.

14 Q. Were you also taking photographs of your own
15 after initially locating that scene?

16 A. Yes. I did take an initial set of photographs
17 of the scene before we placed any markers down or
18 anything had an opportunity to be moved or --
19 unintentionally moved. Weather conditions are
20 sometimes uncertain, so I wanted to get a quick set
21 of initial pictures just to show the scene as it
22 was, as we found it, before anything else happened.

23 Q. Let me show you these two photographs and ask
24 you whether or not you recognize them.

25 A. Yes. I recognize both these pictures as

DIRECT EXAMINATION OF JASON MERRILL BY MS. MAYES

449

1 pictures I took as part of the initial set of
2 photographs.

3 Q. All right. So those are actually your
4 photographs?

5 A. Yes.

6 Q. Fair and accurate representation of what you
7 observed that day after you initially located the
8 crime scene?

9 A. Yes.

10 MS. MAYES: These would be for evidence, Your
11 Honor. I believe this would be 59 and -- I'm sorry,
12 57 and 58 -- I'm sorry, my mistake, Your Honor. 51
13 and 52.

14 MS. GILREATH: No objection, Your Honor.

15 THE COURT: State's 51 and 52 in evidence
16 without objection.

17 (State's Exhibit Nos. 51 and 52 admitted into
18 evidence.)

19 BY MS. MAYES:

20 Q. And, again, you're there at the scene prior to
21 Sergeant Weaver?

22 A. Yes. That is correct.

23 Q. So you're taking photos even before the markers
24 go down?

25 A. Yes. That's correct.

1 Q. What is depicted in this photograph?

2 A. The billboard is in the way.

3 Q. Yes. On the side where the light pole is
4 located and, as you've indicated, the sandals?

5 A. Yes. That picture depicts the spot of
6 suspected blood that I observed. There's also --
7 it's quite obvious to me that the ground, the earth,
8 had been disturbed in that area. It's kind of
9 kicked up or otherwise disturbed and kind of
10 displaced on the path. And it looks like there's
11 some kind of leaves and whatnot that are moved or
12 somewhat out of place and in an abnormal position.

13 Q. Where, if any, did you notice an obvious blood
14 stain?

15 A. Right there near that curved branch. I can't
16 really make it out in the picture, but if I recall
17 correctly, there was -- it may not be captured in
18 this picture, but there were smaller spots somewhere
19 along the pavement near where that dirt is.

20 Q. And the general area or location of the sandals
21 in relation to the light pole?

22 A. Well, based on my recollection -- I can't make
23 it out in the pictures here. But there was one
24 somewhere on this side of the light pole and, I
25 believe, one on the other side of the light pole.

1 Q. Now, I'm going to show you what is State's
2 Exhibit 52 and ask you what you took a photograph of
3 here.

4 A. That's just a closer-in picture of that area of
5 suspected blood.

6 Q. So 52 that we're looking at here is a close-up
7 of that suspected blood stain --

8 A. Yes.

9 Q. -- near that area of disturbance?

10 All right. So what happens next after Sergeant
11 Weaver arrives to process the scene? Where do you
12 go?

13 A. I was there with him for a while. I was able
14 to observe him put down markers. We walked the area
15 a little bit more looking for additional physical
16 evidence. One thing that I noticed in my
17 observations was the areas of suspected blood that
18 we were finding seemed to follow a path, if you
19 will; not a path that you would walk on, but there
20 was a distinct linear correlation to them.

21 Q. And where did they go?

22 A. They seemed to go up the side of the hill
23 that's on the inland side of the path or what we
24 refer to as the hill side.

25 Q. Did you walk that entire area?

1 A. Yes; on that side of the path, I did.

2 Q. What, if anything, did you note around that
3 side of the path that you've described? Again, are
4 we talking about the side with the hill or the side
5 with the river?

6 A. The side with the hill.

7 Q. What, if anything, of significance did you note
8 there?

9 A. Besides the numerous areas of suspected blood
10 being in a certain pattern, they traveled up the
11 hill side and there were some areas where leaves and
12 earth had kind of been displaced or moved in an
13 unnatural fashion.

14 Q. So looking at State's 52 -- I'm sorry. State's
15 20, are you familiar with that area?

16 A. Yes. That appears to be the hill side that I
17 was referring to earlier.

18 Q. All right. State's 22?

19 A. Yes. That appears to be a little further up or
20 the top-most portion of the hill side where we found
21 suspected blood.

22 Q. And State's 23, if you could take a look at
23 that and tell us where that is in relation to the
24 photograph that's on the overhead right now.

25 A. That appears to be a closer-in picture of this

1 area right here that I'll designate with the laser.

2 Q. In comparison, back to the walkway, about how
3 far is that distance up the hill?

4 A. My rough estimate would be 50, 60 feet.

5 Q. I'll show you what is State's 23 and ask you
6 what, if anything, is significant in this
7 photograph?

8 A. What is significant about this photograph is
9 you can see there's an area here where it's kind of
10 a void of leaves in the area. To me, that appeared
11 kind of unnatural with the given environment where
12 it would be consistent with something moving those
13 leaves.

14 And I noticed also a spot of suspected blood on
15 this piece of wood here. I can't really make it out
16 in the photograph, but I think there was some other
17 smaller spots around this area.

18 Q. All right. Now, at this point in time, did you
19 have any indication that the suspect is still at the
20 scene?

21 A. No. We had no indications that the suspect was
22 still at the scene. The best information we had was
23 that he was no longer on the scene.

24 Q. Had you been given a vehicle description for
25 him?

1 A. Yes. The victim was able to provide us with a
2 description of the vehicle that he was last known to
3 be in.

4 Q. Specifically as to a weapon or knife used in
5 this case, can you tell us whether or not this area
6 that you scoured was searched?

7 A. Yes. Between myself and Investigator Weaver --
8 and, I believe, Investigator Wilcox also did some
9 searching. We were all able to cover a pretty large
10 area.

11 Q. Were you or any other member of the Cayce
12 Department of Public Safety able to locate the knife
13 or suspected weapon used in this assault?

14 A. No, we were not.

15 Q. And you mentioned that the suspect was not at
16 the scene. You had received information as to his
17 vehicle. What did you do with that information
18 during the course of the information?

19 A. We distributed that information, including the
20 description of the suspect and description of the
21 vehicle, to surrounding law enforcement agencies.
22 And, at some point, we also did a news release
23 releasing the majority of that same information.

24 Q. Was that on the incident date, the date of
25 August 11, 2015?

DIRECT EXAMINATION OF JASON MERRILL BY MS. MAYES

455

1 A. Yes, it was. I believe it was the afternoon of
2 that day.

3 Q. So with this incident being discovered around
4 1:30 p.m. and a news release going out, did this
5 event make it onto the news or the local medial that
6 night?

7 A. I didn't see it myself, but my understanding
8 is, yes, it did.

9 Q. And that was the purpose of your news or media
10 release?

11 A. Yes. We were trying to get the public to call
12 in tips on either location or information on the
13 case that might assist in our investigation.

14 Q. Did that include, at this time, public
15 disclosure of the name Joshua Brown as the person
16 wanted in connection with this crime?

17 A. Yes, it did.

18 Q. Now, back at the scene, what did you do after
19 you were involved there at the area around the light
20 pole and the hill? Where did you go next and for
21 what purpose?

22 A. About 3:30 that afternoon, Weaver was still on
23 scene, he was still processing the scene. I left to
24 go address the issue of the victim's vehicle that
25 was located in a nearby parking lot on the other end

1 of the park. I had to make a determination of what
2 we were going to do with the vehicle as far as part
3 of the investigation.

4 And what I was able to determine was -- I took
5 photographs of it in place, then arranged to have it
6 towed back to our headquarters for future possible
7 processing. At that point, we weren't quite sure of
8 the importance of that vehicle in the investigation
9 quite yet.

10 Q. But you had identified this as the victim's
11 vehicle?

12 A. Yes, I did.

13 Q. Now, what methods were used to actually search
14 the vehicle?

15 A. At that time, none. We did not search the
16 vehicle at that time. After a tow company towed it
17 back to our headquarters -- which I followed the tow
18 truck back to headquarters to make sure the car
19 wasn't tampered with or changed --it sat in the
20 police department parking lot overnight in a locked
21 condition. The next day, I was finally able to
22 search the vehicle.

23 Q. Was it locked when officers first retrieved it
24 there at the parking lot?

25 A. Yes. It appeared to be.

1 Q. And it was towed back to the Cayce Department
2 of Public Safety. And then, ultimately, what legal
3 measure did you use to search the vehicle?

4 A. Ultimately, I ended up getting a search
5 warrant. That was not my first plan, but the victim
6 was unavailable due to being in surgery, so she
7 wasn't able to consent to the search. So I ended up
8 getting a search warrant.

9 And after getting that search warrant, I was
10 able to make entry into the car using the victim's
11 keys, and I retrieved her purse and the phone that
12 was inside the car. Also, I looked around inside
13 the vehicle for any other immediately recognizable
14 physical evidence that would be relevant to this
15 case.

16 Q. So the victim's phone would have been recovered
17 from where?

18 A. If I recall correctly, it was in her purse.

19 Q. And her purse was recovered from where?

20 A. Inside the vehicle.

21 Q. So both her purse and phone were in there.

22 And, ultimately, were they returned?

23 A. Yes. The phone and purse were both returned to
24 the victim while she was still in the hospital.

25 Q. All right. What's the next step you took in

1 obtaining any DNA swabs or potential DNA swabs from
2 the victim?

3 A. It was actually several weeks later, I was able
4 to meet with the victim. If I recall correctly, she
5 came and submitted -- allowed us to obtain what we
6 call buccal swabs of her inner cheek for a known
7 standard, DNA standard, normal procedure in a case
8 like this where there's potential DNA.

9 Q. And she agreed to provide those swabs?

10 A. Yes, she did. She signed a written consent
11 allowing us to do that.

12 MS. MAYES: So, for evidence at this time, Your
13 Honor, I believe this is State's Exhibit 12.

14 THE COURT: State's 12, you're offering it in
15 evidence?

16 MS. MAYES: Yes, sir.

17 THE COURT: Why don't you show it to defense
18 counsel?

19 MS. MAYES: Yes, sir.

20 MS. GILREATH: No objection, Your Honor.

21 THE COURT: State's 12 in evidence without
22 objection.

23 (State's Exhibit No. 12 admitted into
24 evidence.)

25

1 BY MS. MAYES:

2 Q. Ultimately, were those swabs submitted to the
3 State Law Enforcement Division for analysis?

4 A. Yes. After I collected them from Ms. Brown, I
5 submitted them to our evidence room. And then at
6 some point subsequent to that, the evidence
7 custodian transported it out to SLED to be tested.

8 Q. Now, you mentioned that the victim's vehicle
9 was searched. Who actually conducted that search
10 after you got the search warrant?

11 A. I did.

12 Q. And did you search the entire vehicle?

13 A. I searched the entire passenger compartment. I
14 don't recall if I was able to get into the trunk or
15 not, but at least the entire passenger compartment.

16 Q. The area where someone would sit if they were
17 using the vehicle?

18 A. Correct.

19 Q. Were there any indications of a weapon or any
20 accompaniments of a weapon?

21 A. No, absolutely not.

22 Q. Accessories for a weapon, anything of that
23 nature?

24 A. No, nothing of that nature.

25 Q. Now, ultimately, the victim's clothing, which

1 is -- which was collected in this case, did it come
2 to the Cayce Department of Public Safety for
3 inspection?

4 A. Yes. I believe there were clothing collected
5 and it did come to us.

6 Q. Okay. I'm going to show you these photographs
7 and ask you whether or not you recognize them.

8 A. Yes. I recognize these to be photographs that
9 I took of the victim's clothing that we did collect
10 at various points in the investigation.

11 Q. Is that normal protocol to inspect it and
12 examine the clothing of an assault victim in a case
13 such as this, a stabbing case?

14 A. Yes, very normal.

15 Q. And who placed the markings on the clothing?

16 A. I did.

17 Q. Is this how it was found and submitted to you?
18 It was in this condition?

19 A. Yes, minus the added scale. But, yes, other
20 than that, it was unchanged.

21 MS. MAYES: This would be for evidence, Your
22 Honor, State's 53, 54, and 55.

23 MS. GILREATH: No objection, Your Honor.

24 THE COURT: State's 53, 54, 55 is in evidence
25 without objection.

DIRECT EXAMINATION OF JASON MERRILL BY MS. MAYES

461

1 (State's Exhibit Nos. 53, 54, and 55 admitted
2 into evidence.)

3 BY MS. MAYES:

4 Q. If you could, tell us what we're looking at in
5 State's 53 and why you placed the markers at those
6 locations.

7 A. What we're looking at in these pictures is the
8 clothing that the victim was wearing on the upper
9 half of her body. And what's significant about
10 these pictures is, I placed, it's an adhesive ruler,
11 for lack of a better term, next to defects in the
12 clothing that are consistent with what a knife blade
13 or a cutting instrument would have made in the
14 clothing.

15 Q. State's 54?

16 A. Very similar to the last picture. I think this
17 was the camisole-type clothing. Same thing, you see
18 defects in the clothing. And the scale is there to
19 provide an idea of how large the defect is.

20 Q. And State's 55, tell us what we're looking at
21 here in this photograph.

22 A. This is a bra that we determined to be worn by
23 the victim at the time of the assault. And, here,
24 you see the defects here consistent with a cut or
25 something similar along this area right here.

1 Q. Now, you mentioned that throughout the day on
2 August 11th, 2015, the incident date, you were
3 unable to locate the suspect with a news release.

4 A. Correct.

5 Q. And, ultimately, on what date was he arrested?

6 A. He was arrested on August 12th, 2015, which was
7 the day after the incident.

8 Q. And what outside agency did Cayce Department of
9 Public Safety reach out to for assistance in
10 locating and tracking down Mr. Brown?

11 A. On the same day of the incident, after we
12 obtained an arrest warrant and we were trying to
13 locate the defendant, we contacted, I believe it
14 was, the Lexington County Fugitive Task Force to
15 request their assistance with trying to locate the
16 defendant.

17 Q. And having brought in the fugitive task force,
18 did they have additional investigative measures?

19 A. Yes, they did.

20 Q. And had you provided to them a phone number
21 that you had for Mr. Brown?

22 A. Yes. I believe we did at that time.

23 Q. And, ultimately, was he tracked?

24 A. Yes. My understanding is they did receive
25 information that lead them to a certain apartment in

1 Columbia where he was located.

2 Q. All right. And were you present for his
3 arrest?

4 A. I was not present, but I do have knowledge of
5 it.

6 Q. What was the location of his arrest,
7 ultimately, on August 12th, the next day?

8 MS. GILREATH: Objection, Your Honor. He
9 indicated he wasn't there.

10 THE COURT: I will sustain the objection unless
11 he has personal knowledge. Based on hearsay, it's
12 not admissible through this witness.

13 MS. MAYES: Yes, sir, Your Honor.

14 BY MS. MAYES:

15 Q. Who is the detective with Cayce Department of
16 Public Safety that was involved in tracking him down
17 at that location the next day?

18 A. That was Investigator Cal Thomas who was the
19 investigator that contacted the fugitive task force
20 and was also, based on my understanding, involved in
21 his arrest the next day.

22 Q. That's Investigator Cal Thomas present in the
23 courtroom, correct?

24 A. Yes, he is.

25 Q. Now, ultimately, was Mr. Brown -- after he was

1 arrested, as you've described, was he brought to the
2 department of public safety?

3 A. Yes, he was.

4 Q. And while at that location, did you have the
5 ability to contact him in reference to his phone?

6 A. Yes. There was a phone brought in with him as
7 part of his arrest. And I spoke to the defendant
8 and was able to get a written consent from him to
9 search the phone and have data extracted from the
10 phone.

11 Q. And do you have that consent form?

12 A. I do not, not in front of me.

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

15 A. Yes. I recognize that to be the written
16 consent form that I presented to the defendant on
17 August 12th, 2015.

18 Q. And can you tell us whether or not he agreed to
19 provide the Cayce Department of Public Safety with
20 that phone that had been on his person at the time
21 of arrest?

22 A. Yes, he did.

23 Q. I'll show you an item and ask you whether or
24 not you recognize it. And if we need to break the
25 seal, we can do so.

DIRECT EXAMINATION OF JASON MERRILL BY MS. MAYES

465

1 A. Yeah. If you don't mind, just to be absolutely
2 sure, I'd like to open it up.

3 Q. Now, does your consent form contain a
4 description of the actual type of phone or device?

5 A. Yes, it does.

6 Q. And, if you could, describe for us exactly what
7 is in the consent to search form that you indicated
8 Mr. Brown signed.

9 A. It list a Samsung Galaxy Note 4 that was in my
10 possession, with my referring to the defendant.

11 Q. Does it contain his signature?

12 A. Yes, it does.

13 Q. What is the date and time of his signature?

14 A. August 12th, 2015, at approximately 2:00 p.m.

15 Q. Did you witness his signature?

16 A. Yes, I did.

17 MS. MAYES: It would be State's 56 for
18 evidence, Your Honor, the consent to search form.

19 MS. GILREATH: No objection, Your Honor.

20 THE COURT: State's 56 in evidence without
21 objection.

22 (State's Exhibit No. 56 admitted into
23 evidence.)

24 THE WITNESS: And, yes, this appears to be the
25 same phone.

1 BY MS. MAYES:

2 Q. A Samsung Galaxy Note 4?

3 A. Yes.

4 Q. Was that retrieved as evidence in this case?

5 A. Yes, it was.

6 Q. For what purpose?

7 A. To have an examiner extract data from that
8 phone, such as call logs, contact list, messages,
9 incoming, outgoing phone calls, that sort of thing,
10 deleted data.

11 MS. MAYES: So this would be State's 57 for
12 evidence, Your Honor, the Samsung Galaxy.

13 THE COURT: Ms. Gilreath?

14 MS. GILREATH: No objection, Your Honor.

15 THE COURT: State's 57 is in evidence without
16 objection.

17 (State's Exhibit No. 57 admitted into
18 evidence.)

19 BY MS. MAYES:

20 Q. Now, going back to the scene briefly, did you
21 have an opportunity to take some measurements at
22 that location?

23 A. Yes, I did.

24 Q. And do you have notes in that regard?

25 A. I do.

DIRECT EXAMINATION OF JASON MERRILL BY MS. MAYES

467

1 Q. What, if any, measurements have you taken
2 during the course of this investigation?

3 A. I was able to measure the distance between the
4 parking lot where the victim's car was located and
5 the boat ramp entrance to the park where the victim
6 was ultimately located on the date of the incident.

7 And what I was able to determine was the
8 distance from the parking lot where her vehicle was
9 located to the light pole that you see in the
10 pictures that we used as kind of a reference point
11 of the crime scene was 2077 feet, again from the
12 parking lot where the victim's car was located to
13 the light pole that was central to the primary crime
14 scene.

15 Q. 2,077 feet?

16 A. Correct. Approximately. I used a
17 measuring-wheel-type device to walk it, following
18 the center of the path just like a normal walk would
19 occur.

20 Q. And what else?

21 A. The distance between the light pole and the
22 boat ramp parking lot entrance to the trail would be
23 approximately 1,840 feet -- 1,840 feet. And I also
24 took a time measurement of just an average -- my
25 average walking pace to get an idea of how long it

1 would take to walk those distances. Again, it's my
2 average pace. Everybody is a little bit different,
3 but just to get a ballpark estimate.

4 Q. All right. How long did it take you to get
5 from the parking lot where the victim's car was
6 located down to that specific light pole that you
7 noted to be the actual crime scene?

8 A. It took me, without any stops or other delays,
9 8 minutes and 20 seconds, approximately.

10 Q. All right. And specifically as to that
11 location where the victim's car is found, where is
12 that in relation to the Cayce SCANA building,
13 corporation -- corporate lot?

14 A. As the crow flies, it's pretty close; as far as
15 driving, you have to make a couple turns. And
16 there's not a direct route between the two. I don't
17 know how else to describe it without showing on a
18 map.

19 Q. Okay. You can use this to do so. This is
20 State's Exhibit 3. And being an officer in Cayce,
21 are you familiar with the various roads in this
22 area?

23 A. Yes.

24 Q. Again, not shown on the map, but in the
25 approximate area, where would that SCANA corporation

1 be?

2 A. Part of their facilities would be down in this
3 area. And then their corporate headquarters would
4 be kind of way down in this area over here. When I
5 say way down here, it's a good distance off this
6 picture. Like I said, as the crow flies, it's not
7 very far at all. The closest SCANA buildings would
8 be maybe less than a half mile.

9 And then the corporate headquarters, which is,
10 I believe, where the victim worked, would have been
11 a little bit further away, maybe a mile or mile and
12 a half somewhere.

13 MS. MAYES: Thank you, Detective Merrill.
14 Nothing further at this time.

15 THE COURT: Thank you, Solicitor.

16 Ms. Gilreath?

17 CROSS-EXAMINATION

18 BY MS. GILREATH:

19 Q. Good afternoon, Detective Merrill.

20 A. Good afternoon.

21 Q. Now, you mentioned earlier -- when we were
22 looking at some of these photographs here, you
23 mentioned you went to the scene and you kind of
24 walked that entire area, correct?

25 A. Along the path, I walked a good bit of that

1 area, and then the hill side. The inland side of
2 the path, I wasn't able to do much walking on the
3 area between the path and the water.

4 Q. Just one second to grab these photographs.
5 Now, you mentioned that you had walked the path.
6 This is what we were looking at earlier. This is
7 one of the pictures that depicts that path you were
8 talking about; is that correct?

9 A. Yeah. I can't make out the path in that
10 picture, but if I remember correctly, that's kind of
11 looking from the path, up kind of the side of the
12 incline.

13 Q. So that's looking from the Riverwalk, the
14 concrete Riverwalk towards that hill that's up at
15 the top of the picture, correct?

16 A. That's what it appears to me from this angle.

17 Q. Would it help if I brought the picture for you
18 to look at up close?

19 A. Yes, please.

20 MS. GILREATH: Permission to approach the
21 witness, Your Honor?

22 THE COURT: Yes, ma'am, of course.

23 BY MS. GILREATH:

24 Q. And this is State's 21?

25 A. Yeah. It appears in this picture the path

1 would be off the frame on the left side of the
2 picture and behind whoever took the picture.

3 Q. But the area here that we talked about that
4 goes up the towards the hill, you said you had
5 walked that, too, correct?

6 A. Yes.

7 Q. And you said you were present when Investigator
8 Weaver was placing the cards, correct?

9 A. Yes.

10 Q. So when you walked this area where the blood
11 was, you walked the area up here towards the hill
12 where the cards are going along this way?

13 A. Yes. At some point, yes, I did walk up that
14 area.

15 Q. And then you walked over here where the other
16 cards were over on this side, correct?

17 A. Possibly. I don't remember specifically
18 walking in that specific area, but it's like that I
19 did. Yeah.

20 Q. And then you said this was looking from the
21 river side over towards the hill side. And you said
22 this was the side you weren't able to walk very much
23 because of the -- it's not a far distance to where,
24 I guess, drop-off embankment is?

25 A. Yeah. I was not -- other than what I could see

1 from the pathway area, I didn't venture towards the
2 water very much. I would have, had I stayed on the
3 scene much longer, but I had to leave and take care
4 of some other things.

5 Q. And you mentioned -- when you arrived, you had
6 mentioned seeing the area of disturbance. And
7 that's what you were talking about, correct?

8 A. That's correct.

9 Q. And you said you knew it was an area of
10 disturbance because it appeared that leaves had been
11 moved and dirt had been kicked up and things of that
12 nature, correct?

13 A. Yes. That was my general impression. Yes.

14 Q. And so part of what you're talking about is
15 this dirt here on the side, it's kicked up here on
16 the sidewalk, correct?

17 A. Yes.

18 Q. And you also mentioned there being a spot of
19 blood near that area that -- you said that was right
20 there, roughly in that area? I don't know how well
21 you can see it from there.

22 A. That's correct.

23 Q. And you mentioned spots of blood on the
24 pavement. And that would be these here; is that
25 right?

1 A. Yes.

2 Q. Okay. You noted that some of the areas were
3 swabbed, right, for DNA?

4 A. That is correct.

5 Q. And you actually noted in your investigative
6 notes that not every area was swabbed.

7 A. Correct.

8 Q. And so we know that -- do you know how many of
9 the areas were swabbed?

10 A. I believe two -- two areas were swabbed.

11 Q. Did you swab any of these areas yourself?

12 A. No, I did not.

13 Q. I believe that was the picture that you said
14 you had taken, correct? I think I put the wrong one
15 down there earlier with the spot of blood.

16 A. Yes. That looks like the one I took.

17 Q. And the area of disturbance here?

18 A. Yes.

19 Q. And you also talked about the clothes. You had
20 taken the clothes in, correct?

21 A. I didn't personally collect the clothing, but
22 once they were collected by our agency, at some
23 subsequent point, I pulled them out or accessed them
24 in evidence and took those pictures of them.

25 Q. Did you swab any of the clothes for DNA?

- 1 A. No, I did not.
- 2 Q. But you were able to see that there was stains
3 on the clothes that could have possibly been blood,
4 correct?
- 5 A. Yes. Correct.
- 6 Q. This was one I believe you had mentioned you
7 had noted some marks and holes and things like that
8 that were in the clothes, correct?
- 9 A. Correct.
- 10 Q. And that's what the -- I think you said they
11 are like sticky-tape rulers here. Are they to
12 measure?
- 13 A. Yes. That's something we use to -- to use a
14 scale. It's just another form of a ruler.
- 15 Q. And so this area here is a space that is
16 intended to be measured by this mark here, correct?
- 17 A. Yes. It appears to be.
- 18 Q. And that would be because -- it appears that
19 you would be assuming that there was a place that
20 would be a knife wound or something like that, a
21 stab wound, based on the information you had?
- 22 A. Yes. Possibly.
- 23 Q. Can you sort of describe what the shape of that
24 area is.
- 25 A. From what it looks like from here, it's a -- I

1 guess I'd call it an elliptical shape. But the --
2 from here, from this perspective, the top and
3 bottoms would be kind of pointed or a sharp angle.

4 Q. So on either end of the mark, it would be
5 pointed; that's what you're talking about? There's
6 one here and one here. That's the pointy parts
7 you're talking about?

8 A. Yes.

9 Q. So that would suggest to you that a sharp edge
10 was coming on either side here, correct?

11 A. I don't know if I'd go that far, based on my
12 knowledge and training.

13 Q. But you would agree that both sides here both
14 have sort of pointy edges that are, essentially, the
15 same?

16 A. Yes. That would be a fair statement.

17 Q. And this one here is also noted. And would you
18 agree it has the pointy edges on both sides of that
19 as well?

20 A. If I could look at that picture a little bit
21 closer. It's hard for me to tell from this
22 distance.

23 Q. This is State's 55.

24 A. Yeah. I'd say that would be a fair statement
25 on that one, too, although it has a little bit

1 different shape than the previous one you showed me.

2 Q. And there's a wrinkle in the fabric the way
3 it's laying here, correct?

4 A. Yeah. It appears so. Yes.

5 Q. But, otherwise, both ends, you've said, seem to
6 be a pointy edge, from what you're able to see?

7 A. That's correct.

8 Q. Now, getting to your interaction with
9 Mr. Brown, you said that you took the consent
10 form -- you had him sign a consent form, correct,
11 for the phone?

12 A. That's correct.

13 Q. And he signed that willingly, correct?

14 A. Yes. There were no indicators to me that he
15 didn't understand what I was asking him and he
16 didn't understand the form.

17 Q. And he signed the form willingly?

18 A. Yes.

19 Q. Consenting to let you search his phone?

20 A. Yes.

21 Q. And the last -- the last question I meant to
22 ask you, with regards to the crime scene, we talked
23 about the -- I think there's a picture here. We
24 talked about the area where SCANA was.

25 MS. GILREATH: Your Honor, may I approach the

CROSS-EXAMINATION OF JASON MERRILL BY MS. GILREATH

477

1 witness?

2 THE COURT: Yes. Yes, ma'am, of course.

3 BY MS. GILREATH:

4 Q. And you indicated that SCANA would be where at
5 again?

6 A. It's not the easiest thing. But my estimation
7 would be -- 220 Operations Way campus, which is more
8 of their maintenance crews, repair crews, I think,
9 would somewhere down here. And then their corporate
10 headquarters would be more out 12th Street
11 Extension, this area here.

12 Q. So you indicated that's a relatively short
13 distance to those SCANA buildings?

14 A. As the crow flies, yes. Driving, it may --
15 it's not a direct route. So you got to come down
16 12th Street Extension, take a right on Godley
17 Street, take a right on some New State Road, come
18 down through a neighborhood, and travel down Old
19 State Road. When you get to Old State Road is when
20 you get to that phase of the parking --

21 Q. But you said it's roughly a mile and a half to
22 the corporation and about a half a mile to the other
23 one, correct?

24 A. As the crow flies, yes, an estimate.

25 Q. And where was the parking lot? Do you know

1 where the parking lot is where the car was found?

2 A. I believe that's it right there.

3 Q. And there are cameras over behind this parking
4 lot, are there not?

5 A. We had information initially that there may
6 have been some cameras. When we contacted the
7 utility or water department that's in control of
8 that facility, they stated they were not functioning
9 at that time, to the best of my recollection.

10 Q. But there are cameras that are there and
11 visible in that parking lot?

12 A. That -- I don't recall if there was actually
13 cameras in the parking lot at the time. I know the
14 water facility had some cameras nearby.

15 Q. And I may have kind of misstated my question.
16 I guess what I mean is, there are cameras there near
17 and visible from that parking lot? Not in the
18 parking lot, but visible from that parking lot?

19 A. My understanding is, yes, there was.

20 Q. Okay. Thank you. And you said you attempted
21 to get those, but they said they weren't functioning
22 at the time?

23 A. Best of my recollection, that was the case.

24 MS. GILREATH: Beg the Court's indulgence.

25 THE COURT: Yes, ma'am.

1 MS. GILREATH: No further questions, Your
2 Honor.

3 THE COURT: Redirect?

4 MS. MAYES: No, sir, Your Honor.

5 THE COURT: Thank you, Detective. You may step
6 down.

7 Perhaps now would be a good time to take our
8 evening recess. Ladies and gentlemen, I appreciate
9 your work ethic today and your patience with the
10 Court. Please remember my instruction, you can
11 probably repeat them back to me by now: Do not
12 discuss this case with others, including your
13 family, friends, anyone else, other jurors.

14 Do not read, watch, listen to any news accounts
15 about the case, past, if there were any; present, if
16 there should be any. Do not do any independent
17 investigation or any investigation on the internet.

18 With that being said, we'll take our evening
19 recess. I ask you to please be back at 9:30 in the
20 morning. If you'd please be back at 9:30 in the
21 morning. Thank you. Thank you very much.

22 (The jury exits the courtroom at 6:12 PM.)

23 THE COURT: All right. Before we take our
24 evening recess, of course Mr. McLain wants to be
25 excused probably today, but no later than tomorrow.

1 And there's a few moving parts in this: We have two
2 alternates. I could excuse Mr. McLain, but I want
3 to hear y'all's position.

4 I have noted, from time to time, that Alternate
5 Juror No. 77 -- I'm not saying she's sleeping from
6 time to time, but I think you'd have to wake her up.

7 MS. MAYES: Judge, the State's position would
8 be, first of all, we leave excusing that juror in
9 the Court's discretion. As to the alternate, Your
10 Honor, we would want the alternate who hasn't had
11 those issues that were apparent to the Court.

12 I do think, based on that, there would be
13 justification for the Court, in its discretion,
14 placing the more attentive alternate on the jury.
15 In terms of scheduling, Your Honor, we expect to
16 rest sometime tomorrow before lunch -- by lunch or
17 even before lunch.

18 THE COURT: All right. Thank you. Thank you
19 for that.

20 Mr. Story, do you want to put something in the
21 suggestion box as to the jurors?

22 MR. STORY: Your Honor, I'm in agreement with
23 Your Honor and the solicitor on that issue. Of
24 course, it's in your discretion. We have no
25 objection with you excusing the juror who wants to

1 be released and seating the second alternate.

2 THE COURT: If the State intends to rest by
3 lunchtime or at lunchtime tomorrow, would you
4 object -- and I would like to have some colloquy
5 with Mr. Brown this afternoon. Do you have any
6 objection to that?

7 MR. STORY: I apologize, Your Honor.

8 THE COURT: I'd like to question Mr. Brown this
9 afternoon about his right to testify or not to
10 testify.

11 MR. STORY: No objection to that, Your Honor.

12 THE COURT: Come around to the podium for me,
13 please, Mr. Brown.

14 Madam Clerk, if you would place Mr. Brown under
15 oath.

16 JOSHUA BROWN

17 being first duly sworn, testified as follows:

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Tell me your full name, please.

20 THE DEFENDANT: Joshua Thomas Brown.

21 THE COURT: Speak up just a little bit for me,
22 Mr. Brown. I need to go over some things with you.
23 I do this with everyone who is on trial. And I
24 needed your responses to be under oath, that's why I
25 had the clerk place you under oath. Do you

1 understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: As you have heard, the State
4 indicates that they may rest their case by lunchtime
5 or at lunchtime tomorrow. Once they rest their
6 case, your side, the defense, would have the
7 opportunity to present evidence for the jury to
8 consider. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: In that regard, your side may call
11 witnesses to testify on your behalf. And if you
12 choose to testify yourself, you may do so. Do you
13 understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: No one can force you to testify,
16 Mr. Brown. You have an absolute right to remain
17 silent. And if you choose not to testify, I will
18 tell this jury that they cannot hold your silence
19 against you in any way. I will tell them that they
20 are not to even discuss the fact if you do not
21 testify in the jury room. Do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And Solicitor, Mr. Story, it has
24 now become my practice that I do not go into
25 Question No. 5 concerning the shifting of the

1 closing arguments. I'm following the Supreme Court
2 Beatty decision that Solicitor closes in full first,
3 followed by the Defense, and then there could be a
4 brief reply. All right?

5 And if y'all understand it otherwise, I'll be
6 glad to listen to you. But I think that's the way I
7 would do the closing arguments. It doesn't matter
8 whether he offers testimony or not.

9 Mr. Story, Solicitor, does Mr. Brown have any
10 criminal history that would subject him to
11 impeachment under Rule 609?

12 MS. MAYES: Yes, sir, Your Honor. It should be
13 contained in the clerk's file. We did provide
14 notice, Your Honor, under Rule 609. The conviction
15 is for armed robbery within the last ten years --
16 I'm sorry. The sentence was still being served
17 within the last ten years.

18 Your Honor, this is actually a copy. I believe
19 the file may have been pulled, so the original is
20 actually at the clerk's office.

21 THE COURT: All right. Mr. Story, do you have
22 any position in this matter as far as impeachment
23 under 609 for the previous armed robbery conviction?

24 MR. STORY: No, Your Honor.

25 THE COURT: And this is under 609(b),

1 Solicitor?

2 MS. MAYES: Yes, sir, Your Honor.

3 THE COURT: And I am looking at the 2016
4 edition. My '17 and '18 are sitting there in the
5 back with the Rules of Evidence.

6 Help me track this time frame: His armed
7 robbery conviction date was July 8th, 2002. He was
8 sentenced to 14 years' confinement, and a period of
9 more than ten years has not elapsed since the
10 completion of such confinement.

11 What am I not tracking here, Solicitor? Track
12 that time frame for me. If I'm reading the rule, it
13 says: Evidence of a conviction under this rule is
14 not admissible if a period of more than ten years
15 has elapsed since the date of the conviction or of
16 the release of the witness from the confinement
17 imposed for that conviction, whichever is the latter
18 date.

19 And it goes on into: Unless the Court
20 determines in the interest of justice the probative
21 value of the conviction supported by specific facts
22 and circumstances; however, evidence of the
23 conviction more than ten years old and calculated
24 therein is not admissible unless you give notice,
25 which you have done.

1 When was -- is this telling me, Solicitor, that
2 the latter of the date applies? But when did his
3 confinement end? Most of my years of practice --
4 well, many years, seven, I think it's now ten-year
5 confinement mandatory minimum armed robbery, right?
6 And he got 14. We know he was released -- they got
7 married December 23rd, 2013. Isn't that right?

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

9 THE COURT: I assume they didn't get married at
10 the department of corrections. I don't know, but I
11 kind of made that assumption. I think she said she
12 met him in 2010.

13 MS. MAYES: Yes, sir. She actually initially
14 became acquainted with him -- obviously, she didn't
15 testify to this. But she actually became acquainted
16 with him while he was an inmate. But his date of
17 release was after today's date in 2008, which would
18 be the ten-year period. Today's date, subtracting
19 ten years, would be 2008. And it was after that
20 date that he was released after 2008.

21 THE COURT: So you're kind of backing into it?
22 You're going from -- I thought you hit it head-on.
23 I thought you'd go to the 2002 date, look at his
24 sentence, although it's 14 years. But you're
25 telling me he's been released from his

1 confinement -- let me read it again, Solicitor.

2 Evidence is not admissible if a period of more
3 than ten years has elapsed since the date of
4 conviction or release of the witness. I see what
5 you're saying. You're saying -- when was he
6 released from that conviction? Do y'all know?

7 MS. MAYES: 2013, Your Honor. They met in 2010
8 while he was incarcerated at Manning Correctional
9 Center.

10 THE COURT: Does he have other convictions that
11 subject him to impeachment under Rule 609?

12 MS. MAYES: No, sir, Your Honor. It appears he
13 was incarcerated -- or he served that sentence on
14 the armed robbery from the time he was 17 or 18
15 years old, and then after his release was in a
16 relationship with the victim and this event
17 occurred. We're not aware of any others.

18 THE COURT: Trying to think of Judge Cooper's
19 armed robbery case over in Richland County. I think
20 Judge Lockemy wrote the decision, something about
21 armed robbery. Of course, I know you're not going
22 on moral turpitude, that armed robbery wasn't a
23 crime of moral turpitude. I've read that decision a
24 number of times. I can't quite pull a name out.

25 MS. MAYES: Al-Amin.

1 THE COURT: Al-Amin. I didn't think it was
2 Al-Amin. I prosecuted an Al-Amin and I thought that
3 had a different issue, but it relied on Al-Amin --

4 MS. GILREATH: Broadnax.

5 THE COURT: Thank you. That's right.

6 And they founded part of it on Al-Amin. But,
7 anyway, I think it directs me that I have to hold
8 kind of what I call an internal 403 analysis, to a
9 certain extent. And I thought Broadnax kind of held
10 that; one of those cases. And this -is an armed
11 robbery when he was what age?

12 MR. STORY: I believe 16, Your Honor. But that
13 was the conviction.

14 THE COURT: And his conviction was 2002?

15 MR. STORY: That's correct.

16 THE COURT: And he served 8, 9, 10, 11 years of
17 a 14-year sentence. Am I tracking that correctly?

18 MR. STORY: That sounds approximately accurate.
19 Yes, Your Honor.

20 THE COURT: Does he have other criminal history
21 not subject to 609?

22 MS. MAYES: No, sir, Your Honor.

23 THE COURT: There, of course, is, in my
24 observation, a great deal of corroboration --
25 independent corroboration in this case. There's,

1 obviously, direct testimony from Ms. James and a
2 pretty good dump truckload of circumstances. I just
3 haven't decided how many wheels are on it.

4 I think an armed robbery conviction 16 years
5 ago, the prejudicial effect outweighs the probative
6 value when you've got no independent eyewitness.
7 You've got Ms. James. And, of course, he hadn't
8 said he was there. That hasn't come out before me
9 yet, if it's going to be said. You got two people
10 that I'm aware of that are at the scene, so I find
11 it's more prejudicial than probative. And I'm not
12 going to allow him to be cross-examined on this.

13 So you don't have to take that into your
14 consideration as far as whether you do or do not
15 testify, Mr. Brown. Also, Mr. Brown, the decision
16 about whether you testify or not is your decision to
17 make and yours alone. I expect that you may confer
18 with your attorneys or with others, if you have an
19 opportunity to do so, whose opinions you value on
20 life's very important decisions. But the decision
21 about whether you testify or not is your call to
22 make. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Has anyone exercised any undue
25 influence over you to get you to choose to testify

1 or not testify?

2 THE DEFENDANT: No, sir.

3 THE COURT: Today, are you under the influence
4 of drugs, medication, alcohol, or anything that
5 negatively affects your thinking ability?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you suffer from any physical or
8 mental or nervous problem that affects -- negatively
9 affects your thinking ability today?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right. I'm going to give you
12 the overnight to think about this. I probably won't
13 ask you first thing in the morning, but I will
14 probably at the first recess, whatever that time may
15 be, so you'll have an opportunity to discuss this
16 issue further with your attorneys. Thank you.
17 Thank you very much.

18 If I get an alternate, it won't be Number 77.
19 I'm just going to press on with 128 that wants to go
20 out of town with his wife. I'm just going to press
21 on him. Anything further I need to address,
22 Solicitor?

23 MS. MAYES: No, sir, Your Honor.

24 THE COURT: Mr. Story?

25 MR. STORY: Nothing.

1 THE COURT: Thank you very much. 9:30 in the
2 morning. Hope you have a pleasant evening.

3 (The following proceedings were held June 21,
4 2018.)

5 THE COURT: Anything from the State before we
6 bring in our jury?

7 MS. USRY: Nothing from the State, Your Honor.

8 THE COURT: From the defense?

9 MR. STORY: Yes, Your Honor. We do have a
10 motion for a mistrial based on the tainted jury,
11 Your Honor. I'd like to point out that
12 Juror No. 137 -- I don't know if he's been found yet
13 or not, Your Honor. But he was -- obviously, had to
14 be picked up by deputies --

15 THE COURT: He what?

16 MR. STORY: I believe Juror No. 137 is not with
17 us, Your Honor --

18 THE COURT: I'm going to place an alternate on
19 the jury and go forward. 137 is going to be excused
20 from this jury panel.

21 MR. STORY: And, Your Honor, just related to
22 that, Number 77 was observed yesterday by the Court
23 and the Solicitor and the Defense as being
24 inattentive --

25 THE COURT: I don't intend to put Number 77 on

1 the jury panel.

2 MR. STORY: Okay. Thank you, Your Honor. I --
3 my math's not real good. But if we have another
4 juror who wanted to leave --

5 THE COURT: I'm denying that request.

6 MR. STORY: -- obviously, he will be influenced
7 by the late time that we had to start since he has
8 to go on vacation. So we would move for a mistrial
9 on that basis.

10 THE COURT: Well, that's denied. Mistrial is
11 based on manifest necessity in cases I have read in
12 the past. Of course, it's in the discretion of the
13 Court. Juror 128 never notified the Court of any
14 conflict until we were in the second day of the
15 trial and I received a note from him.

16 Life has priorities. And the jurors'
17 priorities right now is to follow their oath. And
18 so I'm not going to excuse him from the jury panel.
19 I'm going to replace the juror that has not been
20 located with Juror No. 47, I believe it is. So that
21 gives us a 12-panel jury.

22 (The jury enters the courtroom at 10:49 a.m.)

23 THE COURT: Good morning, ladies and gentlemen.
24 I apologize for holding y'all captive this morning
25 in your plush accommodations back there in the jury

1 room. I've delayed this morning in hopes of our
2 other juror arriving. I have certainly taken steps
3 to attempt to locate that young man through the
4 clerk's office, through the sheriff's office, and
5 have not done, so we're going to press on.

6 I'm promoting Juror No. 47 [sic]. You're now
7 promoted from -- I'm not diminishing your role when
8 I say promoted, Juror 77, the importance of an
9 alternate. But I'm appointing you as a member of
10 the primary jury. We have delayed long enough so
11 we'll press forward.

12 I will say this: There are fits and starts
13 during trials. Sometimes there are more in some
14 trials than others. And I know you will not --
15 don't let this delay -- and I know it will not
16 affect your fairness and impartiality for or against
17 the State or for or against the Defense. With that
18 being said, if you will continue to give the parties
19 your complete and undivided attention.

20 Solicitor, you may call your next witness.

21 MS. MAYES: The State calls Dr. Christopher
22 Watson.

23 THE COURT: Doctor, if you would come around
24 and join us, please.

25 CHRISTOPHER WATSON, M.D.,

1 being first duly sworn, testified as follows:

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Have a seat, please, sir. Doctor,
4 once you're seated, state your full name, spelling
5 your last, please.

6 THE WITNESS: Christopher Madison Watson,
7 W-A-T-S-O-N.

8 DIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. Good morning, Dr. Watson. Can you give us some
11 information regarding your educational training and
12 background?

13 A. Sure. I trained in medicine at Mercer
14 University School of Medicine and trained in general
15 here at the University of South Carolina 2001 to
16 2007. I did a fellowship at University of Virginia,
17 2009 to 2010. I've been doing primarily trauma and
18 acute care surgery since that time, since 2007 to
19 present.

20 Q. Where are you currently employed?

21 A. At Palmetto Health.

22 Q. And what type of certifications do you hold as
23 a medical doctor?

24 A. I have a medical degree. I also have -- I'm
25 certified by the American Board of Surgery in

1 general surgery and surgical critical care.

2 Q. Now, you mentioned surgical critical care.

3 What is it about Palmetto Health Richland that is
4 unique to critical care?

5 A. We're the only level-one trauma center in this
6 region and we have six trauma surgeons. And we're
7 required to have that training in surgical critical
8 care because of the level of trauma we take care of.

9 Q. And what is a trauma unit?

10 A. A trauma unit is a unit that's specialized to
11 take care of the seriously injured patients. It
12 spans the ICU is a stepdown and the regular floor.

13 Q. And you, yourself, what type of training and
14 experience do you have in the field of trauma care?

15 A. In trauma, as a resident, we spent -- at
16 Palmetto Health Richland, we spent over a year
17 specifically on trauma services. So over 20 percent
18 of our time as a resident was spent on that, which
19 is unusually high for most training programs.

20 Q. All right. And, specifically, what type of
21 care do you provide as a physician at the Palmetto
22 Health Richland Trauma Center?

23 A. It's three parts. I provide trauma surgery
24 care; I provide surgical intensive care for both
25 trauma and nontrauma surgical patients; and, also, I

1 do acute care surgery, which is emergency general
2 surgery.

3 Q. And, Dr. Watson, are you a trauma surgeon?

4 A. Yes.

5 MS. MAYES: Your Honor, at this time, the State
6 would offer Dr. Christopher Watson as an expert in
7 the field of trauma surgery and trauma care.

8 THE COURT: All right.

9 Any voir dire as to the doctor's expertise?

10 MS. GILREATH: None, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury
12 panel, normally a person cannot testify to opinion
13 testimony. Normally, when a witness testifies, they
14 must testify as to what they saw, heard, sensed by
15 smell, or something of that nature. However, there
16 is an exception for a witness who is qualified as an
17 expert witness in a particular profession,
18 occupation, craft, or otherwise. If that person is
19 so qualified, he or she may testify to opinion
20 testimony and the basis of that opinion.

21 This witness, Dr. Christopher Watson, will be
22 qualified as an expert in the field of trauma
23 surgery and trauma care to give testimony in that
24 regard, opinion testimony in that regard, and the
25 basis for holding those opinions. It would be up to

1 the jury to give the weight and value the jury
2 thinks is just and appropriate.

3 Thank you, thank you very much, Solicitor and
4 Ms. Gilreath.

5 You may continue, Solicitor.

6 MS. MAYES: Yes, sir, Your Honor.

7 BY MS. MAYES:

8 Q. Now, Dr. Watson, as a trauma surgeon, can you
9 tell us whether or not you were working on the date
10 of August 11th, 2015 when a patient arrived at
11 Palmetto Health Trauma Center by the name of Ann
12 Brown?

13 A. Yes.

14 Q. And have you had an opportunity to review that
15 chart?

16 A. I have.

17 Q. All right. I want to take you first to the
18 steps along the way once a trauma patient arrives.
19 What's the general procedure?

20 A. The procedure is what we call ATLS, Advanced
21 Trauma Life Support. And it's basically the way we
22 respond to all traumas that show up in our trauma
23 bay. We first are alerted to their severity of
24 illness criteria based on some triage criteria that
25 we've developed. So we have a high level triage and

1 a lower level triage. And that determines how
2 quickly I respond to the trauma.

3 Q. And, specifically, what can you tell us
4 regarding this patient, Ann Brown, and the level --
5 the classification level of her trauma upon arrival?

6 A. She was our highest level, which we call a 911
7 as opposed to an 811 alert. So she was a 911 alert,
8 which is a level-one alert. And that means she was
9 more critically ill, her injuries could have led to
10 loss of life.

11 Q. And when you have a level-one 911 response, how
12 long do you have to respond and get to the hospital?

13 A. I have to be there within 15 minutes.

14 Q. That is protocol, that you must arrive within
15 15 minutes to care for the patient?

16 A. Yes.

17 Q. And was that done in this case?

18 A. Yes.

19 Q. Now, what, if any, factors led to Ann Brown
20 being a level-one trauma unit response?

21 A. She fulfilled, at least, two of the criteria.
22 She had blood pressure that was significantly low.
23 If her systolic blood pressure, which is the higher
24 number, is less than 90, that would be one criteria;
25 and also penetrating trauma to the torso, which is

1 the main part of the body, the neck to the pelvis.

2 Q. Now, you mentioned the blood pressure, with the
3 blood pressure of -- are you -- have you had the
4 opportunity to review the EMS medical history as
5 well?

6 A. I did.

7 Q. And is all of this routinely taken into account
8 during a trauma unit assessment?

9 A. Right. We are alerted to the patient's vitals
10 and condition by EMS or First Responders. The comps
11 then are assigned to level of response from us,
12 which is paged out.

13 Q. Doctor, what, if anything, is significant about
14 her blood pressure level?

15 A. Her blood pressure was very low. It was 70s
16 over 40s. Normal blood pressure is typically 120s
17 over 70s. She was significantly low.

18 Q. What does that indicate to you as a physician?

19 A. That she's sustained some sort of injury that's
20 led to her body not able to profuse herself. So
21 penetrating trauma most likely causes hemorrhagic
22 shock.

23 Q. And if you can break that down for us. What
24 does that mean in layperson's term?

25 A. So shock is the inability of the body to supply

1 oxygen to the organs. And the vehicle of oxygen is
2 blood. So if there's not enough oxygen to the
3 organs, we term that shock. And not enough oxygen
4 leads to decrease in function and, ultimately, death
5 of those cells.

6 Q. You're talking about blood loss?

7 A. Right.

8 Q. And, Doctor, what happens if a patient
9 continues to have blood loss without medical
10 intervention?

11 A. Their organs will fail and then they will die.

12 Q. In addition to the blood pressure and blood
13 volume being a factor for the level-one response,
14 you mentioned also penetrating trauma to the torso.

15 A. Right.

16 Q. As a trauma surgeon, how familiar are you with
17 stab wounds and penetrating trauma of that nature?

18 A. We have a lot of penetrating trauma in this
19 region. We're the busiest trauma center in the
20 state and we see -- about 15 percent of our traumas
21 are penetrating traumas. So probably 3- or 400
22 penetrating traumas a year come to Palmetto Health
23 Richland. So I'm very familiar with it.

24 Q. What, if anything, is the concern about that
25 area of the body, speaking specifically about the

1 torso?

2 A. The torso has many vital organs that can lead
3 to immediate death if they are injured. Heart,
4 lungs, the great vessels, which are the main vessels
5 that come to and from the lungs and the heart, are
6 all present in that area. And the organs that are
7 peripheral to that, like the lungs, they could be
8 injured second and they can cause impairment of how
9 the heart works.

10 Q. So I want to ask you specifically about that.
11 In addition to the low blood volume, what, if any,
12 diagnosis was made regarding this patient, Ann
13 Brown?

14 A. She had multiple stab wounds. But the reason
15 she was -- even if her blood pressure would have
16 been normal, she would still have been a level-one
17 trauma alert because of the location of her
18 injuries, which were to the torso itself.

19 Any time we get any penetrating trauma to that,
20 regardless of blood pressure, we are alerted to
21 level one just because of the significance of the
22 location where the heart and lungs are.

23 Q. What, if any, indication was there of a lung
24 injury?

25 A. She had a hemothorax on her CT scan, which is