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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARK ANTHONY FESTUS SCHEIBLER,

APPELLANT

APPELLATE CASE NO. 2025-001268

RECORD ON APPEAL

MOLLY M KEEGAN
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

P. SANDERS LINKER
Assistant Attorney General
PO Box 11549
Columbia, SC 29211

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

State of South Carolina,)
 Plaintiff,)
)
 V)
)
Mark Anthony Festus Scheibler,)
 Defendant.)

)

2023-GS-32-02933 and -02934
TRANSCRIPT OF RECORD

June 16-17, 2025
Lexington, South Carolina

B E F O R E:

The Honorable Judge Walton J. McLeod, IV.

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

ATTORNEY FOR PLAINTIFF:

Suzanne Mayes, Deputy Solicitor
Kelly Oppenheimer, Assistant Solicitor

ATTORNEY FOR DEFENDANT:

Jean M. Popowski, Esquire
Stephen Russell Story, Jr. Esquire
Gabriel L. Mangold, Esquire

Tara T. Scott, CVR
Official Court Reporter

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TRIAL DAY 1: June 16, 2025

(WHEREUPON, case called at 11:13 a.m.)

1 THE COURT: Is the State ready to call the case for
2 trial this week?

3 MS. MAYES: The State is ready, Your Honor.

4 THE COURT: Proceed.

5 MS. MAYES: Your Honor, may it please the Court?

6 THE COURT: Yes, ma'am.

7 MS. MAYES: Your Honor, before you at this time is
8 indictment number 2023-GS-32-02933, the State of South
9 Carolina v Mark Anthony Scheibler. This indictment is for
10 murder. Indictment number 2023-GS-32-02934, the State of
11 South Carolina v Mark Anthony Scheibler. This indictment is
12 for possession of a weapon during commission of a violent
13 crime. Your Honor, the defendant is present in the
14 courtroom and represented by counsel. The State is ready
15 for trial in this case.

16 THE COURT: Ladies and gentlemen, the indictments charge
17 the defendant with murder and possession of a weapon during
18 the commission of a violent crime. They provide that on or
19 about November 27, 2021 the Defendant, Mark Anthony Festus
20 Scheibler, did commit the offense of murder by unlawfully
21 killing one Jimmy F. Johnson with malice aforethought. Also
22 an indictment for possession of a weapon states on the same
23 date and time, November 27, 2021, he did possess a firearm

1 MR. STORY: Of the case?

2 MS. MAYES: Correct.

3 MR. STORY: I do. I was going to keep it for my
4 reference. Do you want a citation?

5 MS. MAYES: I've got the citation.

6 MR. STORY: Okay. So anyway, Your Honor, as I was
7 saying, first, a court must determine if the first jury made
8 a critical determination of ultimate fact. Second, the court
9 must examine whether or not a necessarily decided issue was
10 an essential element of the offense to which the State seeks
11 re-prosecution. So Your Honor, in this case, the jury,
12 November 2023 did make a determination of ultimate fact.
13 They found the Defendant, Mark Scheibler, not guilty of
14 arson in the second degree.

15 Second, the State has made a motion to introduce res
16 gestae evidence in which they want to bring in evidence of
17 that arson for which Mr. Scheibler was found not guilty.
18 Essentially, Your Honor, they say in their motion that the
19 setting of a fire was an act taken in furtherance of the
20 Defendant's attempt to kill. They say it is necessary, Your
21 Honor, and extremely probative to their case.

22 Essentially Your Honor, the State seeks to undermine
23 one of the most important guarantees under the double
24 jeopardy clause, which is finality. Yeager focused that one
25 of the interests in the double jeopardy clause is finality

1 of the decision. The State seeks, apparently, in this
2 trial, seeks to relitigate the arson case. Your Honor, they
3 want to bring in evidence of the fire. They want to bring in
4 statements the Defendant made to witnesses that he intended
5 to set the fire. Your Honor, they asked if, in their voir
6 dire, if any member of the jury panel had been a victim of
7 or accused of certain violent crimes, such as arson. Your
8 Honor, they put all the fire department witnesses that were
9 on their witness list in the first trial. They put their
10 arson expert, the person who is qualified as an arson expert
11 in the last trial on their witness list.

12 So Your Honor, it is clear they intend to introduce
13 evidence of the arson for which Mr. Scheibler was found not
14 guilty as evidence of intent and malice in murder. Malice
15 is an essential element of murder. So, in doing so, the
16 State seeks to undermine the double jeopardy clause of the
17 United States and the South Carolina constitutions. And so,
18 I ask Your Honor to quash both indictments.

19 THE COURT: Madam Solicitor?

20 MS. MAYES: Your Honor, just for the record, this
21 motion was apparently filed today, so this motion was not
22 received by the State along with our other pre-trial motions
23 that were due on Wednesday and submitted. We did receive an
24 email at 4:30 on Friday that said there would be a motion to
25 quash the indictment, but stated no grounds. And I'm

1 charge. He has been acquitted. Again, an acquittal being a
2 completely different standard of proof. Proof beyond a
3 reasonable doubt being the requirement there. If it were
4 being offered as a prior act, the standard would be clear
5 and convincing evidence. A completely different standard and
6 lesser standard, which can certainly be shown here, Your
7 Honor. It's undisputed that there was a fire. But beyond
8 that, Your Honor, this is not a prior bad act. The only
9 standard here for the admissibility of this evidence as res
10 gestae evidence is that it's relevant. And it can't be more
11 relevant than when he has allegedly, as will be presented
12 through testimony, told two separate witnesses that he was
13 going to set the fire and shoot the victim when he came out.

14 THE COURT: Yes, sir, Mr. Story.

15 MR. STORY: Just briefly. Your Honor. Your Honor, you
16 know, Your Honor, I agree. I put it on the record. They
17 keep saying, "Fire. Fire. Set the fire. Had to put out the
18 fire." Your Honor, if we keep talking about "set the fire"
19 and "the fire", then the jury is going to believe. They are
20 going to assume that they're introducing evidence that Mark
21 Scheibler set the fire which he has been acquitted for. The
22 jury found -- they've already made a determination of
23 ultimate fact on that issue.

24 So Your Honor, again, under 403, it's going to just
25 lead to confusion by the jury. The prejudice greatly

1 outweighs the probative value to the State. And I would say
2 that for all the -- you know, I moved to go keep out three
3 things that the State mentioned.

4 THE COURT: Just to be clear, I think the State agrees
5 as far as the ABHAN goes.

6 MR. STORY: Yes, they do. I think Ms. Popowski has a
7 little more to say on that later, but yeah. So they concede
8 that one. But I've said everything I need to say about
9 that. Thank you.

10 THE COURT: Ultimately, it is next to impossible to
11 completely separate the fire from this case. Now, I may
12 have to talk to the attorneys as we get going with evidence
13 and have a little bit more discussion about how the
14 testimony can be elicited, but I certainly I'm not going to
15 -- I don't find the arson acquittal prohibits the State from
16 addressing the fact that there was a fire in this case. But
17 the State has said that he's not being tried for arson.
18 Y'all agree that he's not being tried for arson. So you
19 have to have some level of attention to ensuring that we
20 don't elicit testimony that makes it sound like he's being
21 prosecuted for arson, to which he's already been acquitted.
22 And I find that the fire itself as part of the res gestae
23 the State can elicit testimony about the fire, but I would
24 want to talk to the attorneys a little bit more about that.
25 I don't think --- Yes, sir?

1 MR. STORY: I'm going to let you finish, Judge.

2 THE COURT: Okay. So I think the same goes along with
3 the res gestae regarding fire thus far. Some of this
4 frankly, this didn't come up first time around, so I'm
5 hearing it the first time now. Just to be clear, I'm
6 denying your motion to prevent the State from discussing the
7 fire in their case in chief, or eliciting testimony
8 regarding the occurrence of the fire.

9 MR. STORY: Your Honor, going back to Dowling ---

10 THE COURT: So, just to be clear on the use of vehicle,
11 the rental car, the alleged larceny. I'll allow that to be
12 used for the purpose of res gestae, but I'm not trying him
13 on any larceny charges this week.

14 MR. STORY: Your Honor, I would ask, under State v
15 Dowling -- excuse me, believe it's U.S. v Dowling the State
16 cited, that early 90's case. And Your Honor, I think that
17 was greatly modified by Yeager. But Your Honor, if we're
18 going by that case, they do say that we can tell the jury he
19 was acquitted of the arson charge. So Your Honor, I would
20 ask, under Rule 201, that the Court take judicial notice
21 that he was acquitted of arson.

22 THE COURT: I'll consider that. I haven't heard the
23 argument against it. Ms. Mayes?

24 MS. MAYES: Yes, Your Honor, there is a case directly
25 on point that that would not be admissible. I'm going to

1 MS. MAYES: Not at the moment, Your Honor.

2 THE COURT: I'm going to take the opportunity to read
3 more of this.

4 MS. MAYES: Your Honor, I also think that as testimony
5 in this case develops, I think Your Honor has said that a
6 lot of the direction that will be taken depends on to what
7 extent information relating to the fire is utilized. I
8 think it will be easier to revisit this issue when we get to
9 a later stage in the trial.

10 THE COURT: Mr. Story?

11 MR. STORY: So, Your Honor, I'm asking you to keep it
12 all out now, Your Honor, for the reasons I stated earlier.
13 You know, if we have to get up and object, or the State has
14 to object, it will stop the flow of the trial.

15 THE COURT: At a bare minimum, I'm going to review this
16 tonight. All right, what's the next issue?

17 MS. POPOWSKI: Your Honor, the last part of the State's
18 res gestae motion talks about admitting a text that was
19 prohibited from coming in in the first trial as an admission
20 of flight. And I just wanted to address that.

21 THE COURT: The "phone got me" text?

22 MS. POPOWSKI: Right. That's correct, Your Honor.

23 COURT REPORTER: Your Honor, you said the phone what
24 text?

25 THE COURT: Yeah, I'll let them make the record.

1 MS. POPOWSKI: Thank you, Your Honor. The case law on
2 evidence of flight requires that there be an actual flight
3 and some kind of nexus between the flight and the crime
4 charged. So, State v Pagan, which is 369 S.C. 201, in that
5 case, the Defendant is charged with murder. He gets out on
6 bond, and then he ends up running from the police and
7 getting charged with failure to stop for a blue light. And
8 in that case, the court said there was no nexus between his
9 flight and the murder, and so the flight could not be used
10 in the murder case.

11 They quoted State v Robinson, which is 360 S.C. 187,
12 and said the evidence of flight should be excluded when the
13 flight is clearly linked to a separate offense for which the
14 Defendant is not on trial. And State v Foutz, which is 540
15 F.2d 733. Evidence of flight should be excluded where the
16 Defendant flees while being investigated for another crime.
17 The State relied on -- or the case relied on by the State,
18 which is State v Middleton, is -- would be factually
19 distinguishable from our case in the sense that the
20 Defendant in that case was ducking and dodging, and that's
21 in quotes, law enforcement while law enforcement made
22 several attempts to interview him.

23 In this case -- first, I'll start with the nexus
24 requirement. There's no required nexus because the Richland
25 County arrest is regarding the Richland County shooting.

1 That is Richland County authorities surrounding a trailer
2 that my client is in because he's been charged with this
3 shooting. If he was at large for any crime at that point,
4 it's the Richland County shooting. They didn't have
5 probable cause for the Lexington County shooting and so --
6 and obviously we contend that he's not guilty of the
7 Lexington County shooting, and so he was only on the run for
8 the Richland County shooting.

9 In addition, there's no actual flight. I mean, he
10 surrenders to law enforcement and then gives a full
11 confession for both crimes. There was no flight. So without
12 flight and without a nexus, you know, we all agreed in the
13 first case that the Richland County arrest and everything
14 surrounding it was off limits. I think they bring in a
15 bookbag with some bullets at some point, and that's the only
16 thing that they intended to get into in the first case. And
17 we would contend that he's pled to the assault and battery
18 of a high and aggravated nature in Richland County. That
19 was the basis for the State's seeking of life without the
20 possibility of parole. That was the crime that he was being
21 arrested for on that day. And again, Your Honor, he didn't
22 flee. He was in the trailer, and then he surrendered to
23 authorities, and then went and talked to the police. So we
24 would ask that that particular text not be allowed in.

25 Also, and I don't think I need to reiterate this, but

1 just for the record. Any other details about that standoff
2 or that arrest, we would ask that that not be included in
3 any testimony. I think my client made a statement at some
4 point about I'm not going back to jail. We obviously don't
5 want that to come in. So, we would ask that all of that be
6 kept out on the basis of Rule 402 and Rule 403 and then the
7 case law that I've cited with regard to flight.

8 THE COURT: Ms. Mayes?

9 MS. MAYES: So Your Honor, going back to the last
10 trial, I want to be clear that there was no pre-trial
11 discussion about the use of that text. What occurred is
12 that testimony was offered by law enforcement that the
13 Defendant's phone was deactivated during the time frame of
14 the murder of Jimmy Johnson here in Lexington County. And
15 that's going to be the same testimony that that expert
16 testifies to in this trial, that his phone appears to be off
17 and deactivated. It was only after the defense challenged
18 that determination during cross-examination, and I believe
19 also at some point, through some witness, suggested that he
20 had factory reset his phone because he was getting ready to
21 sell his phone. It was at that point, I believe, that
22 Assistant Solicitor Oppenheimer sought to admit the text,
23 although it was not redacted at that time.

24 I say all of that because we now know full well that
25 this evidence is going to be challenged. We know full well

1 that the defense is going to challenge that the Defendant's
2 phone had, in fact, been deactivated during the time frame
3 of the murder, but it was. It's working fine before the
4 murder. It's working fine after the murder. But the phone
5 is not connecting to a network at the time that the murder
6 occurs. That's relevant and probative to the State's case
7 because, again, it's evidence of premeditation or planning,
8 which all relates to malice.

9 Beyond that, Your Honor, he is going to factory reset
10 that phone three times after the murder, including a factory
11 reset that occurs within three hours of the murder of Jimmy
12 Johnson. Again, relevant information to the Defendant's
13 state of mind and knowledge that that phone can be traced.
14 And so, when he is surrounded by law enforcement on December
15 2nd and states, "The phone. They got me. The phone killed
16 me." That's a relevant admission by the Defendant that he
17 knows, in fact that his phone can be traced. Going back to
18 the ultimate jury question, did he, in fact, deactivate his
19 phone during the time frame of the murder, or did the
20 battery just die? Well, it's relevant and probative that he
21 knows full well the phone can be traced.

22 And so, Your Honor, the evidence of flight as to this
23 crime, there is a strong nexus, and it is very detailed, and
24 I will lay out for the record where we are with this phone
25 after the shooting of his girlfriend in Richland County,

1 November 19th. When his girlfriend was shot on November
2 19th, he was using a completely different phone. Not this
3 phone. A completely different phone that he used to
4 communicate with people. I think he called someone who knew
5 the victim and told them, "Hey, somebody needs to go check
6 on her", because she had been shot. That phone, Your Honor,
7 completely disappeared. I don't know that that phone was
8 ever recovered by law enforcement, but it was a completely
9 different phone and a different phone number.

10 This phone was activated for the first time after the
11 shooting of his girlfriend. And this phone that he was
12 caught with, and is referencing, "phone got me", is the
13 phone that he would have been in possession of. Would have
14 been ultimately deactivated during the time frame of the
15 murder. It's the same phone that, within an hour and a half
16 of the murder, he's going to call that witness, Jeffrey
17 Davidock on. So, it's a completely different phone.

18 Then, as I stated, we know that this phone was factory
19 reset three times after the murder, including three hours
20 after Jimmy Johnson was shot. We know that he fled the
21 scene of this crime. And when I say "fled the scene", Your
22 Honor, he leaves in that vehicle. He's ultimately going to
23 abandon that vehicle. He's going to tell witnesses, "You
24 don't want that car back", showing he has knowledge that
25 that vehicle can be found and connected to the murder of

1 Jimmy Johnson. Same reason that he's factory resetting his
2 phone.

3 He does not call 9-1-1. He also gets rid of the gun
4 that's used in the crime, just as he got rid of the vehicle
5 and hid the vehicle that was used in this crime. And then,
6 Your Honor, he flees Lexington County and returns back, not
7 only to the county where he shot his girlfriend, being
8 Richland County, but to an area that, give or take, is
9 probably 200 yards from the crime scene where she was shot.
10 He goes and stays at a residence on Thrush Street in very,
11 very close proximity to the original location where he shot
12 the girlfriend.

13 And so, Your Honor, he's fleeing this crime. He is
14 fleeing this crime when he returns back to Richland County.
15 He's fleeing this crime when he gets rid of the car, and
16 he's fleeing this crime, or concealing this crime, when he
17 wipes that phone and then ultimately this phone number is
18 going to be traced. And he says, "They got me. Phone killed
19 me." And the testimony that we offered in the last trial is
20 that he's then detained. The jury never heard well, yeah,
21 he's got another charge, ultimately, that he's going to be
22 arrested on too. But he's detained also on this charge,
23 because those authorities knew he was wanted as a suspect in
24 this case. That's why they immediately notified our
25 Sheriff's Department so that they could come and also

1 interview the Defendant.

2 So there is a very strong nexus, Your Honor, between
3 this phone, that communication, and ultimately him being
4 detained on December 2 and stating, "My phone got me." At
5 the same time that he's sending that text, Your Honor, he's
6 texting multiple other people saying that he wants or needs
7 a ride. He is thanking someone by the name of Abby Kirby,
8 who, as evidence will show in this case, is certainly in
9 close proximity, lives in very close proximity to where that
10 vehicle was ditched and abandoned. And he's communicating
11 with them, thanking them for their help, obviously showing
12 his intent to flee and his state of mind.

13 So Your Honor, here the evidence of flight is directly
14 connected to the murder of Jimmy Johnson, from the time he
15 fled the crime scene onwards. From the time he fled the
16 crime scene, ditched that car, factory reset his phone, and
17 then gets apprehended and said, "My phone killed me." It's
18 all relevant and probative, Your Honor, to his state of mind
19 and his knowledge of what law enforcement can and cannot
20 trace, and his wanton ability, capabilities in this case, to
21 conceal and destroy evidence. And he did conceal and
22 destroy the gun. That's never been recovered. He did
23 conceal that car up until two weeks ago. And he did conceal
24 and destroy evidence on that phone. We only have evidence
25 for the very date that he was detained, which was December

1 2. Although we know he was using that phone for a long
2 period of time. In fact, he's going to send a text to
3 someone saying, "Delete this." All relevant, Your Honor, to
4 show his intent to conceal and destroy evidence relating to
5 the murder of Jimmy Johnson.

6 THE COURT: Yes, ma'am.

7 MS. POPOWSKI: Just briefly, Your Honor. I just want to
8 reiterate that it's our position that there's no flight
9 here. There's two different cases. State v Middleton, which
10 is the one that the State relied on in their motion.
11 There's another case, State v Crawford, which is 362 S.C.
12 627, and in that case, where they discuss flight and the
13 nexus and all of that, those defendants in that case
14 actually ran from the police in a car and then fled on foot.
15 So they've actually run from law enforcement.

16 In the case that the State relies on, the Defendant is
17 and I quote, ducking and dodging law enforcement on several
18 occasions. Law enforcement is calling him, trying to get in
19 touch with him. He is not responding, and so they have made
20 him aware that he is being investigated for a crime. The
21 first time my client had any interaction with the police is
22 in Richland County when they surround a trailer that he's in
23 and he surrenders and he goes in and he speaks to law
24 enforcement. So, Your Honor, there's no flight here. He
25 surrendered.

1 MS. MAYES: Finally, Your Honor -- I don't -- I'm not
2 following the argument that there's no flight when law
3 enforcement arrives at the scene of the shooting and he's
4 not there, and he did not call 911. That's the very essence
5 of flight, and he remained in flight until the date of his
6 apprehension.

7 THE COURT: Okay. How many more issues have we got
8 after this?

9 MS. MAYES: There will be a character evidence issue as
10 well. Your Honor, regarding the evidence of that
11 communication, "My phone killed me", we would not anticipate
12 that information being presented to the jury until probably
13 around Thursday. That's not something that's going to be
14 referenced during opening arguments.

15 THE COURT: The flight issue?

16 MS. MAYES: Well, Your Honor, the fact that he fled the
17 scene would certainly be the evidence that we would be
18 offering.

19 THE COURT: The text?

20 MS. MAYES: The text. That's right, Your Honor. The
21 content of that text wouldn't be offered until probably
22 Thursday at the earliest. So I would ask that the State be
23 allowed to continue to see how the trial develops and to
24 what extent this text remains probative and becomes more
25 probative depending on testimony that we hear about the

1 phone itself.

2 THE COURT: Well, that's sort of in line with what I
3 was thinking. I'm not going to grant the motion at this
4 time, but kind of like the acquittal issues we talked about
5 I would like to read it a little bit more myself. I also
6 think -- I'll hold off on that. It's 3:00? I think we've
7 been going about two hours or more? I need five minutes.
8 So, what other issues do we have?

9 MS. MAYES: Your Honor, the State has filed a motion to
10 exclude improper character evidence, and we certainly would
11 need a ruling on this pre-trial. I think during the last
12 trial, Your Honor to held it in abeyance, and then there
13 were questions about tattoos and all sorts of things that
14 certainly would be excluded under McCray. McCray, Your
15 Honor, is a case that we submitted to the Court to review
16 because it dealt with every possible aspect of character
17 evidence. In that case, it dealt with the victim's prior
18 record, possession of guns, drug use, living in a bad
19 neighborhood. All of that, Your Honor, we would be moving
20 to exclude in this case. It has nothing to do whatsoever
21 with the murder of Jimmy Johnson. And then we can take up
22 separately the issue related to drug use.

23 THE COURT: Let's take five minutes.

24 (Whereupon, recess.)

25 THE COURT: We are back on the record. As to flight I'm

1 denying your motion at this time to suppress flight
2 evidence, but as the Solicitor indicated, specific incidents
3 will come up in trial and we will address those on a case by
4 case basis. All right.

5 MS. MAYES: Your Honor, can I get clarification on that.
6 You're not suppressing that he fled the crime scene?

7 THE COURT: I am not suppressing evidence of flight at
8 this time. But, you know, the text for example, which you
9 said wouldn't come up until Thursday might be an issue we
10 tackle at that time. But there's more than one piece of
11 evidence that you just cited to.

12 MS. MAYES: Your Honor, may we approach?

13 (WHEREUPON, sidebar held off the record.)

14 THE COURT: Ladies and gentlemen, if you have a cell
15 phone on your person here in the courtroom, please remove it
16 from the courtroom. Unless you're an attorney, a member of
17 the defense team, or the prosecution team, no one needs to
18 have a cell phone in this courtroom. Thank you. All right,
19 Ms. Mayes?

20 MS. MAYES: Yes, Your Honor. The State has filed a
21 motion in limine for exclusion of improper character
22 evidence. That would include specific tattoos on the
23 victim's body, evidence that the victim lived in a bad
24 neighborhood being 333 Mac Circle. I will state for the
25 record that I have been involved in another murder case,

1 THE COURT: And identified him.

2 MS. POPOWSKI: All of which she can testify to.

3 THE COURT: She can, but it doesn't exclude -- it
4 doesn't prevent the State from offering the statements under
5 801(1) and 803(2). I find that it's admissible and that you
6 just update the defense on the reactions. What's next?

7 MS. STORY: I'd like to argue the motion to suppress the
8 jail call.

9 THE COURT: Proceed.

10 MR. STORY: So Your Honor, in the last trial, and
11 certainly the State has turned over multiple jail calls.
12 They were recorded by the Defendant at Alvin S. Glenn while
13 he was being detained on this charge and another. So Your
14 Honor, I'd argue that admission of that jail call would
15 violate the Fourth Amendment of the United States
16 Constitution, the right against unreasonable searches and
17 seizures, as well as the right against unreasonable searches
18 and seizures and the right to privacy in Article One Section
19 10 of the South Carolina Constitution. Your Honor has a
20 copy of my written motion. I base it largely on the case of
21 Ellison, Your Honor, State v Ellison. That was a case from
22 the 1970's.

23 In that case, Your Honor, the Court, our Supreme Court,
24 ruled that law enforcement search and seizure of letters of
25 a defendant from jail to some of their close personal

1 acquaintances should not have been admitted as violations of
2 the South Carolina United States Constitution. They note
3 that a pre-trial detainee remains in custody. They are not
4 disrobed of constitutional rights and laid bare the zealous
5 investigation of his case.

6 They are presumed innocent, Your Honor, and their
7 rights are curtailed only to the extent justified in
8 considerations underlying our penal system. They, as I said
9 before, they reversed the trial and remanded it. They
10 looked at two prongs to determine whether or not the search,
11 in this case the letters, was justified. One is the
12 regulation or practice in question must further an important
13 substantial governmental interest, unrelated to the
14 suppression of expression. Number two, the limitation of
15 the First Amendment freedoms must be no greater than
16 necessary and essential to the protection in particular the
17 government interest in all.

18 Your Honor, in this case, the searching and the -- it's
19 routine practice for them to listen to and record all jail
20 calls in our jail, in Alvin S. Glenn, and other jails. Your
21 Honor, these are people that are talking to members of the
22 outside. The Court was very concerned that a pre trial
23 detainee in particular needs to talk to people on the
24 outside in order to marshal defenses, because they are
25 pretrial detainees, Your Honor. The State will argue, has

1 argued that, because there is a statement that the calls
2 record in the beginning that they waive their right to
3 privacy.

4 Your Honor, the court in Ellison, there was a signed,
5 written waiver in that case that their letters would be
6 read, and the court found that was not dispositive, and they
7 did not -- that was not a voluntary waiver of their right to
8 privacy and their right against searches and seizures under
9 the Fourth Amendment. That is certainly more assertive,
10 actually signing a waiver, than in the case of many of these
11 recorded jail calls in which it just says "these calls are
12 being recorded". Your Honor, there's no substantial
13 governmental interest except for investigation.

14 Your Honor, the Court -- well, law enforcement and the
15 Solicitor, they often cite safety issues, but Ellison and
16 other cases, they cannot just use them for general safety.
17 One case is pertinent that was brought up the last time I
18 argued this was the State v Gaskins case from the 80's that
19 was dealing with the infamous Peewee Gaskins. There's two -
20 - there's important distinctions between the Gaskins case
21 and Ellison and, of course, Mr. Scheibler's case. One,
22 Gaskins was already convicted, so he was not a detainee. He
23 was a prisoner, and the Court made that distinction.

24 Now, at the same time, prisoners don't give up all
25 their rights either, but they certainly have fewer rights

1 than a pre trial detainee who has to talk to people on the
2 outside in order to marshal a defense, communicate with
3 attorneys, but also communicate with their friends and
4 family members and other close persons.

5 THE COURT: Well, attorneys are protected.

6 MR. STORY: They're supposed to be, Your Honor, and
7 that's certainly one of my concerns. And I won't go into
8 any specific details at this moment, Your Honor, but my
9 understanding is that, you know, all jail calls are
10 recorded, and oftentimes, sometimes law enforcement -- and
11 they may have a legitimate interest in safety for a specific
12 instance, such as contraband coming into the jail or
13 something like that. But oftentimes, it's the Solicitor
14 requesting these calls. They are simply for investigative
15 purposes, Your Honor.

16 Again, in the Gaskins case, law enforcement and members
17 of SCDC already had information that explosives and other
18 contraband were being brought into prison, and so they were
19 listening to calls to try to narrow down the suspects in
20 that case. There is no interest like that in Ellison or in
21 the case of Mark Scheibler, Your Honor. This is the jail,
22 and actually a company that contracts with the jail, just
23 listens to all the cases, and the Solicitor gathers those
24 jail calls, and also other members of law enforcement,
25 simply for the purpose of investigation.

1 In this case, Your Honor, there is no evidence of any
2 sort of investigation with Mr. Scheibler or any of
3 associates bringing contraband into jail or anything like
4 that. It was merely for investigative purposes, Your Honor.
5 And for those reasons, we ask you to suppress all recorded
6 jail calls.

7 THE COURT: Yes, ma'am.

8 MS. OPPENHEIMER: Your Honor, the Fourth Amendment
9 focuses on reasonable expectations of privacy, and I think
10 the distinction here is, is it reasonable to expect privacy
11 in your jail calls when you're at a bank of phones in front
12 of other inmates, in front of many other people working the
13 jail, being housed in the jail, and when there is a
14 recording that says your calls are subject to not only being
15 recorded, but to monitoring by law enforcement personnel.
16 There is absolutely zero reasonable expectation of privacy
17 in your calls made while in the jail, and there's certainly
18 a waiver by continuing to make phone calls in the jail.
19 There is certainly a distinction in the Gaskins case and the
20 Ellison case and Mr. Scheibler's case, in that Gaskins and
21 Ellison, they're talking about mail. We're talking about
22 jail calls. Jail calls that any other person working the
23 jail, any other inmate in the booking area where he made
24 this call, could overhear what he was saying. There is no
25 reasonable expectation of privacy in the statements he made

1 to his niece. Not his attorney. His niece.

2 And to the extent that Mr. Story is saying that we
3 listen to calls made to an attorney, those are absolutely
4 not monitored at all. They're blocked. Every attorney has
5 to submit their phone numbers to the jail so that those
6 calls are not recorded and they are blocked. They're not
7 monitored whatsoever. There's absolutely no reasonable
8 expectation of privacy, and the Fourth Amendment would not
9 protect his phone calls. There's also an implicit waiver,
10 if there even were a reasonable expectation of privacy. He
11 continues to make his calls.

12 THE COURT: Brief reply.

13 MR. STORY: Very brief reply, Your Honor. I believe
14 the Gaskins case did involve a recorded jail call. Of
15 course, the court let that in because for the two reasons I
16 stated earlier, Your Honor. He was a prisoner, and they had
17 a substantial interest in safety in the jail, which they
18 articulated in that case. And Your Honor, I won't speak to
19 my wider concerns at this moment, but my objection is noted.
20 I think I've replied to everything.

21 THE COURT: Very well. All right. Based on the record
22 we've made here today I'll deny the motion to suppress the
23 jail calls at this time. That is all. Any other motions?

24 MS. POPOWSKI: Yes, Your Honor. I have a couple of short
25 motions. I made a motion to exclude Facebook records of

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1 witness stand. As I told you yesterday, I try not to go
2 over an hour and a half without taking a break. If someone
3 needs a break sooner, that's okay. And if you can't get my
4 attention, get the Bailiff's attention and they'll get mine.
5 So if you need to take a break, that's okay. We just need to
6 know. Otherwise, at this time, please give your complete
7 and undivided attention to the attorneys as they make
8 opening statements.

9 MS. OPPENHEIMER: May it please the Court?

10 THE COURT: Yes, ma'am.

11 OPENING STATEMENTS

12 MS. OPPENHEIMER: Good morning. Now, I know it's hard
13 to think about the holidays right now because it's so hot
14 outside, but let's think about Thanksgiving week. It's a
15 time for family, a time for friends, a time for food, a time
16 for football. The time to feel safe in your own home. But
17 unfortunately, the Saturday after Thanksgiving, November 27,
18 2021, Jimmy Johnson, Jr. did not feel safe in his own home.
19 It was a time of anguish for him. He didn't feel safe in
20 his own home at 333 Mac Circle, because on that morning he
21 woke up and he saw on his cameras on his property a fire.
22 There was a fire at one of the campers at the front of his
23 property. So he ran outside, woke up his girlfriend, Dede,
24 and ran outside to go try and save some of his items in his
25 home. DeDe quickly tried to go to the bathroom, put on her

1 shoes to help him put out that fire, but before she could
2 even get out of the door to the trailer that they had slept
3 in that night -- to the front of the property, to the camper
4 in the front of their property -- she heard what she thought
5 was a transformer blowing. It wasn't a transformer blowing.
6 It was gunshots. All that took less than two minutes. She
7 ran outside and saw her boyfriend, JJ, face down, bleeding
8 from five gunshot wounds. He was on his porch of his camper
9 on his property. No one was there. The shooter had fled
10 the scene. And in less than two minutes, in the time it took
11 for JJ to run out to his camper and get on his porch, he had
12 been shot right in the back. He had been shot in the back
13 and in the flank four times. And he had also been shot in
14 the leg once. All he was trying to do was get inside of his
15 home to save some of his items and his property from that
16 fire. You're going to hear from some of the neighbors around
17 the area that within seconds of hearing these gunshot wounds
18 -- or gunshots, excuse me, they start calling 911. And all
19 they see is a small white car fleeing the area. All this
20 happened in less than two minutes at JJ's home. The
21 evidence is going to show that JJ was not armed that day.
22 He was on his own property, at his own home. And at about
23 7:15 that morning, this man, Mark Scheibler, ambushed him.
24 All JJ was trying to do was run on his porch, get into his
25 camper to save some of his property from a fire. But this

1 man was waiting for him with a gun. And this man ambushed
2 him. Immediately when JJ gets on that porch of his home, of
3 his camper, Mark Scheibler shoots him in the back. JJ had
4 no idea what was even going on. He was just trying to get
5 into his home. You're going to hear that in the days
6 leading up to JJ's murder that the Defendant was under the
7 impression that some items from him had been stolen from a
8 U-Haul truck. Some tools and some personal belongings from a
9 girlfriend named Ashton. Now, any rational person would
10 have called the police and reported this theft so that it
11 could have been properly investigated. But what did Mark
12 Scheibler do? He just got angry. And he irrationally came
13 to the conclusion that JJ stole these items. He had no
14 evidence that JJ stole the items. That's the conclusion he
15 came to. So, what does this man do? He starts to get
16 angry. Starts to be fueled by this anger and this hatred,
17 and he starts to talk to people. And you're going to hear
18 from some of those people. You're going to hear that this
19 man made multiple threats to JJ's life. And that this man
20 made a plan. How JJ was going to pay. How JJ was going to
21 pay for allegedly stealing Ashton's stuff and some tools.
22 Something that he had no evidence that JJ did, but in his
23 mind, JJ did it. No one, absolutely no one, could talk
24 since into Mark Scheibler. It didn't matter. He had made up
25 his mind, and he was going to carry out that plan. You're

1 going to hear from one witness. This man told that witness
2 that he was going to go to JJ's home and make a crime scene.
3 That's exactly what he did. He made a crime scene when he
4 went to JJ's home, slashed the tires of the only vehicle
5 that JJ had on his property so that JJ couldn't get away,
6 and then shot JJ in the back. You're also going to hear
7 from two other people, two people that this man knew, about
8 threats that Mark Scheibler made about killing JJ. You're
9 going to hear from a man named Jeffrey Davidock, who the
10 Defendant used to work with. They worked construction
11 together. Mr. Davidock actually gave the Defendant a place
12 to stay for three days prior to November 27, 2021. Mr.
13 Davidock is going to tell you that this man made threats to
14 JJ's life in front of him, and he heard those threats. Mr.
15 Davidock is going to tell you that the Defendant said he was
16 going to go to JJ's home and wait, wait until he came out of
17 his home, and then shoot him. Because he was angry. Angry
18 that JJ had stolen Ashton's stuff. And that's exactly what
19 this man did. He went to JJ's home and he waited. Waited
20 until daybreak when JJ came out of his home, and he shot him
21 on his own property. In his home. Exactly what the Defendant
22 did. You're also going to hear from Stacie Fidler. She
23 heard the exact same threats that the Defendant made.
24 Defendant was going to wait at JJ's home, wait for him to
25 come out, and then shoot him. You're also going to hear

1 that she lived with Mr. Davidock at the time, and that she
2 had happened to rent a car that Thanksgiving week, and it
3 was a small white car, a white Hyundai Elantra, like the one
4 those neighbors saw fleeing the scene early morning,
5 November 27, 2021. You're going to hear that the Defendant
6 was staying at her home, and one morning when she woke up,
7 that car was no longer there. And neither was the Defendant.
8 You're going to hear that the Defendant took that car, went
9 to JJ's house and waited for him. Waited for him to come
10 out, and then shot him as soon as he did. You're then going
11 to hear that he fled the scene and abandoned that car.
12 Abandoned it in the middle of the woods. And then when Mr.
13 Davidock and Stacie were asking for that car back, he never
14 gave it back. This man never gave that car back. Told
15 them, you don't want that car back. And why hide it in the
16 middle of the woods? Hide the evidence, right? You're
17 going to hear from several crime scene investigators and law
18 enforcement personnel in this case the evidence of
19 premeditation that this man took steps. That this man took
20 before and after the murder of JJ. You're going to hear that
21 he turned his phone off before going to 333 Mac Circle so
22 that he couldn't be traced. You're going to hear that he
23 slashed the tires of the only vehicle that JJ had on his
24 property. Those tires were fine the night before when DeDe
25 and JJ went to bed, and they were slashed. There's no other

1 damage that could have been caused. It couldn't have been
2 caused by road damage or anything like that. It wasn't from
3 a nail or a screw. They were slashed. You're going to hear
4 that the Defendant unloaded on JJ. That he ambushed him.
5 That the Defendant shoots JJ twice in the back and twice in
6 the flank. Four times while JJ is lying on his porch down,
7 and the Defendant is standing over him with a gun shooting
8 down at him. JJ had no time to defend himself whatsoever,
9 and the evidence will show that. Crime scene investigators
10 will show you that. As soon as JJ gets on his porch of his
11 home he is shot in the back. You're going to hear that the
12 Defendant fled the scene. Again, this all took less than two
13 minutes. And then you're going to hear that not once, not
14 twice, but three times after the murder, the Defendant
15 factory reset his phone. Why? To get rid of evidence.
16 Because clearly he's talking to someone about this murder,
17 about steps he took, about things he did. Three times he
18 factory reset his phone so that law enforcement couldn't get
19 the evidence on his phone. The Defendant is charged with
20 murder, and that's simple enough. It's the killing of
21 another with malice aforethought. Malice is anger or ill
22 will. You're going to hear a lot about how angry the
23 Defendant was. Angry that JJ allegedly stole this, these
24 belongings of Ashton's. That his anger and hatred for JJ
25 continued for days. That he expresses anger towards multiple

1 people. That's malice. You're going to hear a lot about his
2 hatred towards JJ. And aforethought, that's premeditation.
3 That's what we were talking about before. The turning off
4 his phone. Waiting for JJ to come out of his house. Slashing
5 the tires. And finally, you're going to hear words directly
6 from the Defendant's mouth, in a call that he makes to his
7 niece shortly after he's detained while in the jail. And in
8 that call, you're going to hear despicable, terrible words
9 that this man uses about murdering JJ in cold blood. You're
10 going to hear him say, "That boy, he still got that sock.
11 He didn't give me that sock back, so he got his ass fucked
12 up over a sock. He got his ass killed. I mean, if they
13 give me the death penalty, I don't give a fuck. Do what you
14 gotta do. Motherfucker stole something, and I told him he
15 got four hours to give it back, and he didn't want to give
16 it back, so I sure for sure unloaded on him." That's the
17 Defendant's words. Listen closely. The evidence in this
18 case is overwhelming. On November 27, 2021 the Defendant
19 became judge, jury, and executioner when he murdered JJ on
20 the front porch of JJ's home. The courtroom was JJ's home
21 at 333 Mac Circle. It was trial by ambush. Ladies and
22 gentlemen, the State will meet its burden of proof in this
23 case. There is overwhelming evidence of malice and
24 overwhelming evidence of murder. This man, Mark Scheibler,
25 unloaded on JJ. Thank you.

1 MR. MANGOLD: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. MANGOLD: My wife and I, we like to watch movies.
4 And the other night, we were searching for a movie to watch
5 on one of our favorite streaming networks, like Amazon or
6 Netflix. And we came across a movie called Cocaine Bear,
7 and it sounded pretty crazy in the little blurb, so we
8 decided we would give it a shot and watch it. And I hope
9 I'm not ruining the plot for anyone here, but Cocaine Bear
10 is the tale of this, kind of, crazy guy who's flying an
11 airplane of cocaine over the mountains of Georgia. And at
12 some point, he kicks open the door, and he takes these
13 duffel bags filled with cocaine, and he starts throwing them
14 out. Bag after bag. And then he starts, kind of, doing
15 karate kicks with them, and punching them out of the
16 doorway, until almost all the bags are gone, until he gets
17 to the final one. He picks that bag up, puts on a
18 parachute, and he jumps out of the airplane. And then on the
19 screen in black and white, it reads, "Based on actual
20 events." And they had me. I'm like, what's going to happen
21 next? So we continue to watch the movie. And the scene
22 cuts to a beautiful morning in the Georgia mountains. Along
23 comes a lumbering, big black bear. And that black bear finds
24 one of those duffel bags of cocaine, and like what most
25 bears do, he's just looking for snacks. So he gets into

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1 that bag, and he ends up eating that cocaine, and turns into
2 this cocaine-fueled killing machine that just needs more
3 cocaine. And the movie basically is this bear trying to
4 find more, and a bunch of people get in his way, you know,
5 the police and drug dealers and park rangers, teenagers from
6 town. And it's quite a fantastical tale, outrageous, even
7 outlandish. And I know at this point you're probably
8 thinking, well, I need to watch it. So I won't ruin the
9 ending for you, but I will tell you this much. My wife and I
10 looked at each other after that movie was over, and we said,
11 man, that was a bad movie. But we also had to know what was
12 the actual tale there. What really happened to this cocaine
13 bear? So I googled it, and it came up, and this is what it
14 was. Indeed, there was a plane flying over the Georgia
15 mountains. Somehow a parcel of cocaine came out of that
16 plane and landed in the woods below, and some poor,
17 unfortunate black bear came up and got into that cocaine and
18 ate it, and it overdosed and it died, and that's it. That's
19 the story. It was disappointing to say the least, but we
20 understand how this happens. I mean, once Hollywood gets
21 hold of something, and with Hollywood directors and
22 producers and writers and editors come up with these
23 fantastical, entertaining tales to convince us to buy it, so
24 that my wife and I will press play on that streaming
25 service. That's exactly what's going to play out this week,

1 is that these directors, these editors, and these writers,
2 and these producers are going to weave a tale of their own,
3 sitting right here at the government's table. They are
4 based on actual facts, but not all the facts. You know,
5 after the shooting death of Jimmy Johnson, deputies really
6 didn't have much to go on. There's no DNA in this case, no
7 fingerprints, there's no eyewitness. And even four years
8 later, still no DNA, still no fingerprints, no eyewitness.
9 And that's where you come, right here. Because this man,
10 Mark Scheibler -- Mark, stand up for just a second. Mark
11 Scheibler has been waiting for you. He's been waiting for
12 you to set the record straight. Thank you, Mark. And you
13 heard the Judge charge you earlier. Evidence doesn't come
14 from lawyers. Doesn't come from what you just heard in our
15 opening statements. It only comes from one place. It comes
16 from right up here in this witness stand. This is where it
17 comes from, and you have the sole power to evaluate this
18 evidence, to evaluate whether or not someone's statements
19 are credible, whether or not physical evidence that is
20 entered is credible, and also the weight of that evidence.
21 How much is it truly valued? So what's our job? We don't
22 have the burden here, but from our table, we're just going
23 to point out some things that the witnesses said, or might
24 not have said, or maybe there's some physical evidence that
25 isn't missing that doesn't go along with the fantastical

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1 tale. When we get down to the actual events of what
2 occurred. Because, you heard it. They do have the burden in
3 this case. They have to prove each and every element of
4 every crime charged beyond a reasonable doubt. And they have
5 to disprove any defenses. And by reasonable doubt, all I
6 mean is they have to rule out any other logical or
7 reasonable alternative as to what may have happened that
8 day. And if they can't do that, and you will see during the
9 course of this week that they won't be able to do that, then
10 you must return a verdict of not guilty. Thank you for your
11 attention. Thank you for your service as jurors.

12 THE COURT: The State may call its first witness.

13 MS. MAYES: May it please the Court, Your Honor. The
14 State calls Melissa Drafts.

15 Whereupon, Melissa Drafts, having first
16 been duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q Good morning, Ms. Drafts. Tell us a little bit about
20 yourself.

21 A My name is Melissa Drafts. My last name is spelled D-r-
22 a-f-t-s. I am the compliance officer at Lexington County
23 Communications.

24 MS. MAYES: And Your Honor, if I may approach the
25 witness?

1 THE COURT: Yes, ma'am.

2 Q First thing I'm going to do is I'm going to move this a
3 little bit closer to you and ask if you can speak directly
4 into the microphone. One more time, Ms. Drafts. Where are
5 you employed and in what capacity?

6 A Lexington County Communications, compliance officer.

7 Q And when you say you work for Lexington County
8 Communications, does that include the 911 Center?

9 A Yes, ma'am.

10 Q So for example, if anyone in Lexington County were to
11 make a 911 call, where would that go?

12 A It would come into our dispatch center and our call
13 takers would process the call accordingly, with address,
14 phone number, verifying all of that, and the caller's name.

15 Q All right. Now, do you maintain the actual recordings
16 of those 911 calls?

17 A Yes, ma'am.

18 Q And in addition to maintaining the recordings, do you
19 also have data entry records known as the call dispatch
20 records?

21 A Yes, ma'am.

22 Q And do you maintain those records in the ordinary
23 course of business?

24 A Yes, ma'am.

25 Q And how long have you worked there, Ms. Drafts?

1 A Tree and a half years.

2 Q Can you tell us, during those three and a half years
3 that you worked there, and going back specifically to the
4 time frame in November 27, 2021, were those records
5 maintained in the ordinary course of business?

6 A Yes, ma'am.

7 Q And are they still maintained in the ordinary course of
8 business today?

9 A Yes, ma'am.

10 Q Now, in your job responsibility, are you a custodian of
11 those records?

12 A Yes, ma'am.

13 Q You have the ability to pull those records?

14 A I do.

15 Q Including those 911 calls that you mentioned?

16 A Yes, ma'am.

17 Q I'm going to ask you specifically about the date of
18 November 27, 2021 and an incident that occurred at 333 Mac
19 Circle in Lexington County. Were you able to retrieve
20 records associated with that incident?

21 A Yes, ma'am.

22 Q I'm going to ask you a few questions about those.
23 First, I want to begin by showing you what is pre-marked as
24 states 11, 12, and 13, and ask you whether or not you are
25 familiar with these items.

- 1 A Yes, ma'am.
- 2 Q How so?
- 3 A I listened to them and initialed them.
- 4 Q And you see your initials on these items?
- 5 A Yes, ma'am.
- 6 Q And you said you've had an opportunity to initial them
- 7 yourself?
- 8 A Yes, ma'am.
- 9 Q So looking at State's 11, 12, and 13, can you tell us
- 10 whether those items are, in fact, recorded 911 calls
- 11 associated with this event at 333 Mac Circle?
- 12 A Yes, ma'am. They are.
- 13 Q Now, in addition to those recordings, do you also have
- 14 the data entry notes associated with this call?
- 15 A Yes, ma'am.
- 16 Q Or this series of calls?
- 17 A I do.
- 18 Q And are you able to see this from where you are?
- 19 A Yes, ma'am.
- 20 Q I'm just going to make some notes about the times of
- 21 those calls. First, I want to ask you what time the initial
- 22 911 call was made?
- 23 A 7:14.
- 24 Q 7:14, is this p.m. or a.m.?
- 25 A A.m.

Melissa Drafts: Direct Examination

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1 Q All right. And again, what is the incident location?

2 A 333 Mac Circle.

3 Q And what is the date?

4 A The date is going to be 11/27/21.

5 Q So November 27th?

6 A 2021. Yes, ma'am.

7 Q All right. Now when that first 911 call comes in at
8 7:14 a.m., eventually having made a note that that is the
9 time of the first call, are you also able to show when an
10 officer is actually not only dispatched, but on scene?

11 A Yes, ma'am.

12 Q And what is the first time it appears that an officer
13 is on scene in response to this call?

14 A 7:25.

15 Q 7:25?

16 A Yes, ma'am.

17 Q And again is that a.m. or p.m.?

18 A A.m.

19 Q Now, what was the name of that first caller?

20 A Jason Cooper.

21 Q So Jason Cooper is the caller that called in at 7:14
22 a.m.?

23 A Yes, ma'am.

24 Q And do you have a notation as to whether he made one
25 call or more than one call?

1 A He made two calls.

2 Q All right. And then do you also have a note or a
3 notation as to a caller by the name of Angela Jeffcoat?

4 A Yes, ma'am.

5 Q Would that call have been received on that same
6 morning?

7 A Yes, ma'am.

8 Q So call comes in 7:14 a.m., and by 7:25, officers are
9 on scene?

10 A Yes, ma'am.

11 Q Now as for those three items, State's 11, 12, and 13.
12 All of those calls that you have listened to and initialed
13 came from or into that 911 center?

14 A Yes, ma'am, they did.

15 Q And all of them correspond with this date and time?

16 A Yes, ma'am.

17 MS. MAYES: Your Honor, at this time State's 11, 12,
18 and 13 for evidence.

19 THE COURT: Without objection?

20 MS. POPOWSKI: Without objection, Your Honor.

21 THE COURT: State's Exhibits 11, 12, and 13 are
22 admitted. You may publish.

23 MS. MAYES: Nothing further at this time, Your Honor.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

Jason Cooper: Direct Examination

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1 BY MR. MANGOLD:

2 Q Four people called 911 that morning from the 333 Mac
3 Circle?

4 A There were two calls by Jason, one call by Helen
5 Jeffcoat, a Mindy Hess.

6 Q What was that last one? I'm sorry, I didn't catch
7 that.

8 A Mindy.

9 Q Mindy? And let's see, Mr. Cooper, Jason Cooper, called
10 twice. Is that correct?

11 A That's correct.

12 Q And this Mindy, Mindy Hess, she also called twice,
13 didn't she?

14 A I'm not showing that in this record.

15 Q But she did call the once? You have that in that
16 record?

17 A That's correct.

18 MR. MANGOLD: One moment please. No further questions.
19 Thank you.

20 THE COURT: Any redirect?

21 REDIRECT EXAMINATION

22 BY MS. MAYES:

23 Q You said that Ms. Jeffcoat. Would that be Ms. Angela
24 Jeffcoat?

25 A Yes, ma'am. Ms. Angela Jeffcoat.

1 Q Thank you.

2 MS. MAYES: Nothing further.

3 THE COURT: Mr. Mangold?

4 MR. MANGOLD: Nothing further.

5 THE COURT: Very well. The witness may step down. Thank
6 you. Next witness.

7 MS. OPPENHEIMER: The State calls Jason Cooper.

8 WHEREUPON, Jason Cooper, having
9 first been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. OPPENHEIMER:

12 Q Good morning, Mr. Cooper.

13 A Good morning.

14 Q Can you tell us where you currently reside?

15 A At 343 Mac Circle.

16 Q And how long have you been living there?

17 A Eleven years or so.

18 MS. OPPENHEIMER: Your Honor, may I approach the
19 witness?

20 THE COURT: Yes, ma'am.

21 Q I'm showing you what's been marked as State's Exhibit
22 15. Can you tell me if you recognize this photograph?

23 A Yes, I do.

24 Q And what is it?

25 A It's an aerial photograph of just the area around 343

Jason Cooper: Direct Examination

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1 Mac Circle and 333 Mac Circle.

2 Q It's your neighborhood?

3 A It's my neighborhood.

4 Q Is it an accurate depiction of your neighborhood?

5 A Yes, it is.

6 Q Does it appear to have been altered in any way?

7 A No, it doesn't.

8 Q Is it an accurate reflection of your neighborhood?

9 A Uh-huh.

10 MS. OPPENHEIMER: Your Honor, at this time on offer,
11 State's Exhibit 15 into evidence.

12 MS. POPOWSKI: Without objection, Your Honor.

13 THE COURT: State's Exhibit 15 is admitted into
14 evidence.

15 (WHEREUPON, Map, marked for identification as State's
16 Exhibit No. 15, admitted into evidence.)

17 THE COURT: You may publish.

18 MS. OPPENHEIMER:

19 Q All right, can you see that pretty well?

20 A Yes, I can.

21 Q I think you have a laser pointer up there. Can you
22 show us where your house is on this map?

23 A My place is right there.

24 Q Okay, so the white house up at the top where you're
25 pointing?

1 A Yes.

2 Q Okay. And you said it's the area of 333 Mac Circle.

3 Where is 333 Mac Circle in relation to your home?

4 A Mine's right there at 343. 333 is right here, this
5 area here.

6 Q And can you tell us, were you living at 343 Mac Circle
7 on November 27, 2021?

8 A Yes, I was.

9 Q And can you tell us if anything unusual happened that
10 morning?

11 A Yeah. Around 7:14, probably seven, around that time I
12 was woke up by gunfire. Probably -- it was like four or
13 five shots and a pause, then two or three more.

14 Q So you were woken up by gunfire? Is that what you said?

15 A Yes, I was woke up by gunfire.

16 Q And as a result of being woken up by gunfire, what, if
17 anything, did you do?

18 A I just kind of rolled out of bed and kind of took cover
19 because, I mean, it was so loud. I didn't know which way,
20 where it was coming from. I just called 911.

21 Q And have you had an opportunity to listen to your call
22 to 911 before?

23 A Yes, I have.

24 MS. OPPENHEIMER: And Your Honor, I'd ask to publish
25 State's Exhibit 11 at this time.

Jason Cooper: Direct Examination

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1 THE COURT: Very well.

2 (WHEREUPON, State's Exhibit 11 published to jury.)

3 Q Mr. Cooper, so you told 911 that this would have been
4 10 to 20 seconds after you heard the gunshots. Is that
5 correct?

6 A Yeah, that's correct.

7 Q Okay, and when you say that the shots were coming from
8 down in front of your residence, that would have been about
9 right here?

10 A Yeah.

11 Q So your residence up top, at State's Exhibit 15, down
12 here at 333, where the pinpoint is, is down in front. Is
13 that what you meant?

14 A Yeah, correct.

15 Q And can you tell us if you made another call that day?

16 A Yes, I did call 911 back again.

17 Q Do you remember what prompted you to call again?

18 A Yeah, because I assumed it was his girlfriend. She
19 started screaming, and she was screaming real loud, "help".
20 So just that just made me think of, you know, something had
21 went on. It wasn't just somebody plinking or something like
22 that.

23 Q But you heard multiple gun shots, correct?

24 A Uh-huh. I'm sorry. Yes, I did.

25 Q And you've had an opportunity to listen to your second

1 call?

2 A Yes, I have.

3 MS. OPPENHEIMER: Permission to publish, Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. OPPENHEIMER: State's Exhibit Number 12.

6 (WHEREUPON, State's Exhibit No. 12 published to jury.)

7 Q Mr. Cooper, did you ever go down to 333 Mac Circle that
8 morning?

9 A Yes, I did.

10 Q Can you tell us whether or not you actually went onto
11 the crime scene itself?

12 A No, I didn't go on Mr. Johnson's property. I just stood
13 in my driveway. If you put that picture back up I can show
14 you where.

15 Q Yes, sir. So, looking at State's 15. Can you show us
16 where you stood that morning?

17 A I stood right there, right outside of this. This right
18 here is a asphalt driveway.

19 Q Okay.

20 A I just stood right off to the side right here.

21 Q You stood on to the side of the ---

22 A This is my property. This is 341 Mac Circle, which is
23 mine too. I just stood right here on my property.

24 Q Okay. Can you tell us whether or not you stood with
25 other neighbors on that side of the driveway?

Jason Cooper: Cross-Examination

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1 A Yeah, me and Jimmy's girlfriend, and then the neighbor
2 from, I think, right there.

3 MS. OPPENHEIMER: Beg the Court's indulgence. Thank you,
4 Mr. Cooper. Please answer any questions that Ms. Popowski
5 may have for you.

6 THE COURT: Cross-examination?

7 MS. POPOWSKI: Thank you, Your Honor. Just briefly.

8 CROSS-EXAMINATION

9 BY MS. POPOWSKI:

10 Q Good morning, Mr. Cooper.

11 A Good morning.

12 Q You just pointed out with the laser pointer a house
13 across the street?

14 A Yeah. Across the street?

15 Q Yeah.

16 A You mean right here?

17 Q Yeah. Who lives there?

18 A I'm not sure his name.

19 Q Okay, is it a male or a female?

20 A It was a male and a female I believe. That's who came
21 across the street.

22 Q And they both came over and stood with you that
23 morning?

24 A Yes, they did.

25 Q And you've testified that you lived in in the house

1 behind him for about 11 years. Is that right?

2 A Yes, something like that. I can't say for sure, but
3 it's been at least 11 years.

4 Q And you told police that you'd only talked to him three
5 or four times?

6 A Correct.

7 Q Mr. Johnson. And on the day that you called 911 twice,
8 you never saw Mr. Johnson get shot. Is that right?

9 A No. I didn't.

10 Q You didn't see anybody leaving the property?

11 A No, I didn't.

12 MS. POPOWSKI: At this time, Your Honor, I have a
13 proffer.

14 THE COURT: Can you approach?

15 (WHEREUPON, sidebar out of the hearing of the jury.)

16 MS. POPOWSKI: Your Honor, I don't have any further
17 questions for this witness.

18 THE COURT: Very well. Any redirect?

19 MS. OPPENHEIMER: None, Your Honor.

20 THE COURT: The witness is excused. Next witness?

21 MS. OPPENHEIMER: Yes, Your Honor. The State calls
22 Angela Jeffcoat.

23 WHEREUPON, Angela Jeffcoat, having
24 first been duly sworn, testifies as follows:

25 THE WITNESS: My name is Angela Pauline Jeffcoat.

Angela Jeffcoat: Direct Examination

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1 That's J-e-f-f-c-o-a-t.

2 DIRECT EXAMINATION.

3 BY MS. OPPENHEIMER:

4 Q Good morning, Ms. Jeffcoat.

5 A Good morning.

6 Q Can you tell us where you were living back in November
7 of 2021?

8 A 332 Mac Circle.

9 Q All right. And if you're looking up here at State's
10 Exhibit Number 15. I believe you have a laser pointer up
11 there with you. Do you see your house on that? I can zoom
12 in if you need me to.

13 A Okay, what am I looking at? Mac Circle here?

14 Q Yes, ma'am. If the you see the red dot up there?

15 A Uh-huh.

16 Q That's 333 Mac Circle. You've heard from another
17 witness that that's 333. All right.

18 A It looks different.

19 Q That's fair. So you live right there in the bottom
20 right corner. Is that correct?

21 A Yes.

22 Q All right. So do you remember what you were doing the
23 morning of November 27, 2021?

24 A Yeah, I was up on my couch reading.

25 Q You were reading? And did anything distract you that

1 morning?

2 A Yes. I heard a sound. Kind of sounded like fireworks,
3 something going off. Pop, pop, pop.

4 Q Okay, all right, and after you heard that sound, what
5 if anything, did you do?

6 A From what I remember -- I just remember getting up and
7 going to the porch. I put my glasses on. I heard a lady
8 screaming.

9 Q And did you see anything when you went to your porch?

10 A There was a white car that sped away.

11 Q Okay. And ---

12 A I could -- Oh, sorry. And I could see, like, at some
13 point there was like smoke coming up from over that way.

14 Q Okay, so after hearing pop, pop, pop, seeing a white
15 car speed away and seeing smoke, did you do anything?

16 A At some point I called because 911, because I also
17 heard a lady screaming for help and calling the name, JJ.

18 Q Okay. You heard someone screaming, "JJ"?

19 A Yeah.

20 Q And you called 911?

21 A Yes.

22 Q Have you listened to your 911 call before?

23 A I did, yes.

24 MS. OPPENHEIMER: Your Honor, at this time I'd ask
25 permission to publish State's 13.

Angela Jeffcoat: Cross-Examination

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1 THE COURT: Very well.

2 (WHEREUPON, State's Exhibit No. 13 published for jury.)

3 Q Ms. Jeffcoat, did you ever leave your home that morning
4 to try and figure out what was going on?

5 A I stayed in my yard.

6 Q You stayed in your yard?

7 A Uh-huh.

8 Q Is that because you really didn't know if ---

9 A Well, I didn't know what was going on, and I was scared
10 if somebody had been shot or whatever was happening.

11 Q Yes, ma'am. And do you remember anything else about
12 that little white car?

13 A The tires were mismatched somehow, whether it was the
14 hubcaps being on different wheels, but the tires were
15 mismatched.

16 Q And do you recall if you gave a description of that
17 little white car to law enforcement?

18 A Yeah, I told them it was a white car. I think it was
19 two doors. I really don't remember. I just remember white.
20 I remember mismatched tires.

21 Q It's been quite a while, hasn't it?

22 A Yes.

23 Q That is quite all right.

24 MS. OPPENHEIMER: Beg the Court's indulgence. Ms.

25 Jeffcoat, I don't have any more questions. If you'll answer

1 anything that Ms. Popowski has for you.

2 MS. POPOWSKI: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 MS. POPOWSKI: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. POPOWSKI:

7 Q Good morning, Ms. Jeffcoat.

8 A Good morning.

9 Q So you've testified you didn't see JJ get shot.

10 A No.

11 Q Because you didn't leave your home.

12 A Exactly.

13 Q And you didn't see inside the car that you saw leaving?

14 A I did not.

15 Q You have no idea who was driving?

16 A No.

17 Q And you don't know how many people might have been in
18 that car?

19 A I do not.

20 Q Do you remember telling law enforcement, I believe it
21 was Detective Gilliam, that that the vehicle had a fin?

22 A I don't remember saying that. I -- just the wheels
23 stick out to me in the wheels and the color of the car.

24 Q Okay. Yeah, you absolutely told her that as well, but
25 you don't remember that portion?

1 A (NON-VERBAL RESPONSE)

2 Q It's been a long time.

3 MS. POPOWSKI: Okay, thank you. No further questions.

4 REDIRECT EXAMINATION

5 BY MS. OPPENHEIMER:

6 Q Ms. Jeffcoat, it's possible that you might have
7 reported a fin on the little white Car to Detective Gilliam?

8 A It's possible.

9 MS. OPPENHEIMER: Thank you. No further questions.

10 THE COURT: Any recross?

11 MS. POPOWSKI: Beg the Court's indulgence. No, your
12 Honor.

13 THE COURT: The witness may step down. Thank you.

14 MS. MAYES: The next witness would be a Little more
15 lengthy, Your Honor.

16 THE COURT: Counsel.

17 (WHEREUPON, sidebar out of the hearing of the jury.)

18 THE COURT: All right, ladies gentlemen. You're due for
19 your not-so-midmorning break. And the next witness might
20 take a little while, so let's just go ahead and break for
21 lunch now. We will get back on the record at 1:00 p.m. I'd
22 like you in your jury room by 12:30. While you are out,
23 please don't discuss the case. Please don't do any
24 independent research about the case, or the law or anything
25 you've heard during this trial and don't discuss it amongst

1 yourselves. See you back here in the jury room in about an
2 hour. Thank you.

3 (WHEREUPON, jury exited courtroom at 11:47 a.m.)

4 THE COURT: We will recess for lunch. Ms. Popowski, do
5 you want to proffer that exhibit?

6 MS. POPOWSKI: Sure. Do I need to read it into the
7 record?

8 THE COURT: Well, let's just say what it is.

9 MS. POPOWSKI: Sure.

10 THE COURT: This is an exhibit from a -- testimony from
11 a previous trial. You are proffering a question you wanted
12 to ask, but you did not in response to my pre-trial rulings.
13 Is that accurate?

14 MS. POPOWSKI: That's correct, Your Honor.

15 THE COURT: The question would have been what?

16 MS. POPOWSKI: The question would have been right after
17 I asked him, how many times he talked to JJ. I asked him --
18 he says, I mind my own business. And I said, right, but did
19 you tell them that you had noticed a lot of traffic in and
20 out of the property?

21 THE COURT: That's page 99, I think?

22 MS. POPOWSKI: That's correct, Your Honor. I asked
23 about cameras on the property as well.

24 THE COURT: That will be marked as -- what Exhibit are
25 we on?

Brian Holliman: Direct Examination

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1 COURT REPORTER: Number 9.

2 THE COURT: Court's Exhibit Number 9. Anything else
3 before we recess for lunch?

4 MS. MAYES: Nothing from the State at this time, Your
5 Honor.

6 THE COURT: Anything else, Ms. Popowski?

7 MS. POPOWSKI: No, your Honor.

8 (WHEREUPON, lunch recess held from 11:50 a.m. to 1:12
9 p.m.)

10 THE COURT: Is the State ready to proceed with it's next
11 witness?

12 MS. MAYES: The State is ready, Your Honor.

13 THE COURT: Is the Defense ready?

14 MS. POPOWSKI: Yes, Your Honor.

15 THE COURT: Let's bring them in.

16 (WHEREUPON, Jury entered the courtroom at 1:12 p.m.)

17 THE COURT: Please be seated. Madam Forelady, ladies and
18 gentlemen, welcome back. I hope you had a nice lunch. We're
19 just going to pick up where we left off with the next
20 witness in the State's case in chief. Madam Solicitor?

21 MS. MAYES: May it please the Court? The state called
22 Brian Holliman.

23 WHEREUPON, Brian Holliman, having
24 first been duly sworn, testifies as follows:

25 THE WITNESS: My name is Brian Holliman, H-o-l-l-i-m-a-

1 n.

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q Mr. Holliman, I'm going to ask you to take the
5 microphone and pull it a little bit closer to you. Exactly
6 like that. Tell us a little bit about yourself, sir. Are you
7 a resident of Lexington County?

8 A I am.

9 Q And can you tell us approximately how long you've been
10 a resident of Lexington County.

11 A Forty-one years.

12 Q All right. And what type of work do you do?

13 A Residential remodeling.

14 Q All right. And were you in that type of work back in
15 2021?

16 A Yes, ma'am.

17 Q I want to take you back specifically to the date of
18 November 27, 2021. Do you remember that morning?

19 A Yes, ma'am.

20 Q Where were you at in the early morning hours, around
21 7:14 a.m., on the morning of November 27?

22 A I was at 326 Mac Circle.

23 Q All right, and what were you doing there?

24 A I was there to help my friend, Mindy Hess, study for a
25 test that she was preparing to take.

Brian Holliman: Direct Examination

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1 Q All right. I'm going to show you a photograph and ask
2 you whether or not you see that residence that you just
3 referenced on this aerial photograph?

4 A Yes, ma'am. Right there.

5 MS. MAYES: This is already in evidence, Your Honor.
6 This is State's 15.

7 THE COURT: Very well.

8 Q All right. Now, Mr. Holliman, you have up there with
9 you a laser pointer. If you could, using that pointer, take
10 a look here at State's 15 and show us -- first of all, tell
11 us whether or not you recognize this area shown in State's
12 15.

13 A Yes, ma'am.

14 Q All right. Show us the house that you were staying at
15 with your friend.

16 A This house right here.

17 Q So, you're at this house. Are you familiar also with a
18 neighbor by the name of Angela Jeffcoat, or would have been
19 a neighbor back in 2021?

20 A Yes, ma'am.

21 Q And then can you show us the approximate area that you
22 observed some type of incident?

23 A Yes, ma'am. It was right at this address right here.

24 Q So, across the street?

25 A Yes, ma'am.

1 Q Now, going back to that morning of November 27, what do
2 you recall happening? What got your attention that morning?

3 A While we were getting ready -- she was, like I said,
4 getting ready to take a test, or getting ready to study for
5 a test. We heard several gunshots and then a short pause
6 and several more, or a couple more. So, that's what got my
7 attention. So I went outside to see what was going on or
8 whatnot, and that's when I heard a woman hollering for help,
9 and saw a car leaving from across the street.

10 Q Okay, so I'm going to ask you -- first of all, you
11 mentioned you are at a door. Can you show us looking at
12 State's 15, where you are and where would you would be
13 looking out towards that direction?

14 A I was at the front door, which is right there, and I
15 was looking over this way.

16 Q Now, you mentioned a car. What can you tell us about
17 the car that you saw leaving?

18 A It was a small, white sporty looking kind of car.

19 Q Okay, and you said it was small and white?

20 A Yes, ma'am.

21 Q From where you were looking out, were you able -- was
22 the car moving?

23 A Yes, ma'am.

24 Q And understanding that it was moving, were you able to
25 get a license plate number?

Brian Holliman: Direct Examination

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- 1 A No, ma'am.
- 2 Q Were you able to definitively make out the make or
3 model of that car?
- 4 A No, ma'am.
- 5 Q But you do recall it was a small, white car?
- 6 A Yes, ma'am.
- 7 Q And was that car going towards the scene or away from
8 the scene?
- 9 A It was going away from the scene, taking a -- headed up
10 that way.
- 11 Q All right. And is this shortly after those gunshots?
- 12 A Yes, ma'am.
- 13 Q And then you mentioned you also, at some point, can
14 hear a woman screaming?
- 15 A Yes, ma'am.
- 16 Q And was that coming from this side of the road or
17 across the street?
- 18 A It was coming from over here.
- 19 Q All right. Take us through your actions from the time
20 you see the car speeding away until the time you hear a
21 woman screaming.
- 22 A Basically, all I did was run and grab my coat, then I
23 was headed across the street, because that's -- that's how
24 quickly she was screaming. Just that quick. So I was headed
25 across the street, and that's when she was understandably

1 upset and crying. She asked me if I could help her get her
2 boyfriend, Jimmy, off the porch. He was laying there,
3 already deceased. So, that's what we did. We drug him off
4 the porch and then found, I guess, it was a lid, or top off
5 the golf cart to put him on, because he was very heavy. That
6 helped scoot him away from the camper, just because it was
7 on fire at the time, or a fire was next to it.

8 Q All right. So, I want to ask you, sir, a few more
9 questions about that. When you said you heard a woman
10 screaming, do you recall whether or not she was screaming
11 for help?

12 A She was.

13 Q And by the time you arrived, were you the first person
14 to come assist her and help her?

15 A Yes, ma'am.

16 Q So at that point in time, when you first got across the
17 street, it was only you and her?

18 A Yes, ma'am.

19 Q And is this after that car had already sped away?

20 A That is correct.

21 Q And tell us what your initial first observations are
22 when you make it across the street and get to the woman
23 who's screaming for help.

24 A First observations were when she pointed over to the
25 deck and asked if I could help get her boyfriend off the

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1 porch. And he was laying there dead. And her car was, like
2 it had been shot and two tires had been slashed too. Like I
3 said, there was a fire that had been started right at the
4 front edge of the camper.

5 Q So you're able to observe a vehicle that also has
6 damage to it?

7 A Yes, ma'am.

8 Q As well as the victim, who I think you indicated,
9 appears to be deceased?

10 A Yes, ma'am.

11 Q And that's based upon your own observations looking at
12 him?

13 A Yes, ma'am.

14 Q So going back to your first arrival there. I know you
15 mentioned there was a woman, and it's her boyfriend. Did
16 you actually know these people?

17 A No, ma'am.

18 Q Had you ever met or interacted with the victim in this
19 case, Jimmy Johnson, prior to finding him on the porch that
20 morning?

21 A I had not.

22 Q And the girlfriend. I'm going to call a name, Deirdre
23 Smith, or DeDe Smith. Did you know her personally prior to
24 that morning?

25 A No, ma'am.

1 Q So you simply came over because you heard a woman
2 screaming for help?

3 A That's correct.

4 Q I'm going to start by showing you a series of photos.
5 This is going to be State's 36, 37, 39 and 35, these being
6 the same photos that were --- looking here at 37 and 36. Do
7 you recognize what is depicted in those photographs?

8 A Yes, ma'am.

9 Q As well as State's 34 and 35 from a body worn camera of
10 a police officer?

11 A Yes, ma'am.

12 Q Do these photos correctly and accurately depict the
13 scene as you recall it that morning while you were there?

14 A They do.

15 MS. MAYES: Offer evidence at this time, Your Honor,
16 34, 35, 36 and 37.

17 THE COURT: Not 39? I wrote down 39.

18 MS. MAYES: That's correct, Your Honor. No 39.

19 THE COURT: State's 34, 35, 36, and 37 admitted for
20 evidence.

21 Q Now looking here at this overhead, the structure or
22 home that you went to to provide aid or provide assistance.
23 Was that a traditional brick home?

24 A No, ma'am.

25 Q What type of home was it?

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1 A It was a camper.

2 Q And did that camper home have a porch to it as well?

3 A Yes, it did.

4 Q An attachment with appliances and other items on that
5 front porch?

6 A That is correct.

7 Q I'm going to show you here State's 37.

8 MS. MAYES: Beg the Court's indulgence. We just have a
9 technical issue. One moment, Your Honor. I beg the Court's
10 indulgence.

11 Q All right. Looking here at State's 37. I realize the
12 quality of this photo on an overhead may not be the same as
13 when you're actually looking at the photograph, but do you
14 see here the location in which you found the victim, Jimmy
15 or JJ Johnson?

16 A Yes, ma'am.

17 Q Can you, using your laser pointer, show us where you
18 found him?

19 A He was laying right here.

20 Q Now, right here where you pointed to, there appears to
21 be some type of stain.

22 A There is.

23 Q Having been at that scene and observed what was
24 occurring, what is that stain?

25 A That is a blood stain.

1 Q All right. So where blood is depicted here in this
2 photograph is actually the approximate area that JJ Johnson
3 was at when you arrived to him?

4 A Yes, ma'am.

5 Q And then you mentioned his girlfriend. Do you now know
6 her name to be Deirdre Smith or Dede Smith?

7 A Yes, ma'am.

8 Q Was the girlfriend there with him?

9 A Yes, she was.

10 Q And from the time you arrived there, until all law
11 enforcement arrived and crime scene tape was put up, did
12 Dede or Deirdre Smith remain there with the victim?

13 A Yes, ma'am.

14 Q And throughout the time that you were there, present at
15 the scene, did she ever leave your eyesight?

16 A No, ma'am. She did not.

17 Q Did you, or Ms. Smith, or any other civilians in this
18 case, ever interfere with any evidence that would have been
19 around the area?

20 A No, ma'am.

21 Q Was there an attempt at some point to -- you mentioned
22 a fire -- to put out a fire that was near the porch?

23 A Yes, ma'am. Sort of. I mean...

24 Q Were you able to actually extinguish or put out the
25 fire?

1 A No, ma'am.

2 Q All right. What concern, if any did you have about the
3 fact that the victim, who has been injured, is in proximity
4 to a fire that is near the area?

5 A There are propane tanks under the camper, which I had
6 asked Dede and she said that there were. That was my only
7 concern.

8 Q All right. So, I want to ask you a little bit more
9 about that. Propane tanks. Why would propane tanks being
10 underneath this camper pose a risk to any civilians?

11 A Just in case fire made its way over there, and if they
12 got hot enough to ignite or explode.

13 Q It could cause an explosion?

14 A Yes, ma'am.

15 Q And at this point in time when you find the victim
16 laying here, what efforts did you or Dede Smith take to get
17 him away from where the fire and the propane tanks may be?

18 A We drug him off the porch and then found the top of a
19 golf cart, the plastic lid, whatever, and got him on that so
20 we could slide him over by the fence.

21 Q All right. So there was a golf cart lid, or an appendix
22 to a golf cart, some type of golf cart piece that y'all were
23 able to put him on?

24 A Yes, ma'am.

25 Q And then use that as a slide?

- 1 A Yes, ma'am.
- 2 Q And were you able to then remove him from the porch?
- 3 A Yes, we were.
- 4 Q Based upon your observations when you first got to him,
- 5 did you see any signs of life for JJ Johnson?
- 6 A No, ma'am.
- 7 Q Did you see him breathe?
- 8 A No, ma'am.
- 9 Q Did he ever open his eyes or appear to speak?
- 10 A He did not.
- 11 Q Did it appear he had one gunshot wound or multiple
- 12 gunshot wounds?
- 13 A Multiple.
- 14 Q And you mentioned that from the time you are at your
- 15 home, or at the home with your friend, and observe this that
- 16 morning, you headed off in that direction as soon as you
- 17 heard her call for help?
- 18 A Yes, ma'am.
- 19 Q And shortly after that car had sped away?
- 20 A Yes, ma'am.
- 21 Q Would that be any longer than two minutes?
- 22 A No, ma'am.
- 23 Q So all within two minutes to your estimation?
- 24 A Yes, ma'am.
- 25 Q I'm going to take a look here at State's 36. You had

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1 mentioned the blood stain area located here in State's 37,
2 shown here in the foreground with a red chair nearby. Does
3 36 also -- do you recognize the general area where this
4 stain would be?

5 A Yes, ma'am.

6 Q Is that also located on the porch you're shown in 37?

7 A It is.

8 Q Now, I'm going to show you what is State's 34. Are you
9 aware of whether or not, once law enforcement arrived at the
10 scene around 7:25 a.m., if any of the officers were wearing
11 what's known as a body worn camera, a body cam?

12 A Yes, ma'am.

13 Q Have you seen photographs taken from those body cams?

14 A I have.

15 Q Looking here at 34, with the time on, a date of
16 11/27/2021 and a time of 7:28, do you recall the events that
17 were occurring at this time?

18 A Yes, ma'am.

19 Q Looking here at this body cam still shot. Do you
20 recognize this vehicle that's right here in front of a
21 wooden rail porch?

22 A I do.

23 Q I'm going to go back to State's 37 where you initially
24 found the victim laying here. Looking here at that wooded
25 rail fence, do you recognize -- or wooded rail porch, do you

- 1 recognize it? Is that here in 39 -- or 34?
- 2 A Yes, ma'am.
- 3 Q Can you tell us whether or not it would be this area
- 4 here?
- 5 A That is it.
- 6 Q Now, this vehicle here. Did that vehicle belong to, and
- 7 what was it on the property of Jimmy Johnson, the victim?
- 8 A Yes, ma'am. It was.
- 9 Q And that would be a car that I believe -- do you know
- 10 who is moving the car at this point in time?
- 11 A Well, Dede is the one that moved it.
- 12 Q The girlfriend?
- 13 A Yes, ma'am.
- 14 Q Okay, so this car had been there on their property next
- 15 to the porch?
- 16 A Yes.
- 17 Q You mentioned propane tanks. What concern, if any, did
- 18 you guys now have about the car being parked here, if there
- 19 is a fire nearby and if there are propane tank underneath
- 20 the camper?
- 21 A Just, there again, if the fire had gotten over to them,
- 22 if they ignited or exploded and the car was right next to
- 23 it, it would blow the windows out I would imagine. That was
- 24 my concern.
- 25 Q You had concerns that it could present a further

1 danger?

2 A Yes, ma'am.

3 Q And who is the individual now moving the car at 7:28
4 a.m.?

5 A That was Dede Smith.

6 Q All right, so this is approximately 14 minutes after
7 the 911 call?

8 A Yes, ma'am.

9 Q And looking here in the background, who is -- can you
10 tell us what we're looking at here in the background of this
11 State's 34?

12 A Yes. That's Jimmy Johnson on the golf cart lid top,
13 whatever, where we had moved him to.

14 Q Okay, so by this time, 7:28, you have made it across
15 the street to assist Ms. Smith, and you've been able to move
16 Mr. Johnson over to this area?

17 A Yes, ma'am.

18 Q On that golf cart lid? And did Dede Smith actually --
19 was she actually able to move the vehicle from this location
20 to a safer location?

21 A Yes, ma'am.

22 Q Looking here at State's 35, also from a body worn
23 camera. Again, at 7:28. Does that show that the car is now
24 being removed away from the scene?

25 A Yes, ma'am.

1 Q And you mentioned previously that you noticed damage to
2 a car. Do you see in this photograph the car that you
3 noticed damage to? Looking at 35 and 34.

4 A Yes, ma'am. That's the car.

5 Q This is the car?

6 A It is.

7 Q You mentioned you saw not only what appeared to be
8 bullet damage to the vehicle, but some other type of damage?

9 A Yes, ma'am. It looked like both tires on the passenger
10 side had been slashed.

11 Q Tires had been slashed?

12 A Yes, ma'am.

13 Q I'll ask you a few more questions about that in a
14 moment. Now, looking here at State's 34. I'm going to show
15 you what is State's 28. Do you recognize State's 28?

16 A Yes, ma'am.

17 Q Is this a fair and accurate representation of Mr.
18 Johnson as you found him?

19 A It is.

20 Q And then, once he had been moved onto the golf cart lid
21 and taken to that location that we see there in State's 34?

22 A Yes, ma'am.

23 MS. MAYES: 28 for evidence, Your Honor.

24 MS. POPOWSKI: No objection, Your Honor.

25 THE COURT: State's Exhibit 28 is admitted into

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1 evidence.

2 Q So is State's 28 a close-up view of what we see here in
3 the background of 34?

4 A Yes, ma'am.

5 Q Now, the time on this body worn camera is 7:29 a.m.?
6 When you found Jimmy Johnson on that porch, is this how you
7 found him with his pants on and belt buckled?

8 A Yes, ma'am.

9 Q And his shirt buttoned?

10 A Yes, ma'am.

11 Q You mentioned it appeared that there were multiple
12 gunshot wounds?

13 A It did.

14 Q I want to go back to this vehicle and talk a little bit
15 more about it. Let me show you State's 16, 17, 18, 19, and
16 32. Are these a fair and accurate representation of that
17 damage that you observed of that vehicle?

18 A Yes, ma'am.

19 Q Now, once law enforcement has arrived at this scene or
20 is on scene around 7:25 a.m., did you remain there at the
21 scene to speak with officers?

22 A I did.

23 Q And do you recall whether or not you told them about
24 the small white car you saw leaving the scene?

25 A I did.

1 Q Did you tell them that you had observed damage to this
2 vehicle?

3 A Yes, ma'am.

4 Q What's shown there in 34, I believe, is a white Nissan
5 Maxima. Looking here at State's 16, what can you tell us
6 about that photo?

7 A That looks like where a bullet was fired through the
8 rear windshield or the rear glass of the car.

9 Q Now, in the background we see what? What is that
10 yellow that we see there?

11 A That's crime scene tape.

12 Q Did you remain there at the scene while crime scene
13 tape was put up?

14 A Yes, ma'am.

15 THE COURT: Can you all approach?

16 (WHEREUPON, sidebar out of the hearing of the jury.)

17 MS. MAYES: Offer for evidence, Your Honor.

18 THE COURT: 166, 17, 18, 19, and 32. So admitted.

19 Q So in the background we see crime scene tape.

20 A Yes, ma'am.

21 Q Were you -- did you remain there at that scene
22 throughout the time that the crime scene tape is placed by
23 officers?

24 A Yes, ma'am.

25 Q In an effort to assist them?

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1 A Yes, ma'am.

2 Q And then going back to State's 37. From the time that
3 you first arrived there at the scene to render aid, to the
4 time that law enforcement has arrived and placed crime scene
5 tape up, did you ever see anyone remove evidence, tamper
6 with evidence, or interfere with evidence in any way?

7 A No, ma'am.

8 Q Now we see State's 17. What are we looking at here in
9 this photograph?

10 A That was the same car with the crime scene tape draped
11 over it now on one side.

12 Q Is there anything about this back passenger side car
13 tire that caught your attention?

14 A Yes, it looks like it has been slashed right there.

15 Q And do you remember whether or not there also appeared
16 to be damage to the front passenger tire?

17 A Yes, ma'am. It appeared to have been slashed as well.

18 Q Looking here at State's 18. Does that reflect the
19 damage that you just spoke about to the back passenger tire?

20 A Yes, ma'am.

21 Q It had been completely flattened?

22 A It had.

23 Q And now looking at State's 19, front passenger side.
24 Did you also note that it had been flattened?

25 A Yes, ma'am.

1 Q Now we're looking at State's 32. The time on the body
2 worn camera is 7:38 a.m. Is full light outside now?

3 A Yes, ma'am.

4 Q And from the time you first got over there around 7:14,
5 was it getting more and more light as the morning went by?

6 A It was.

7 Q Looking here now, 7:38, what appears to be full light
8 in the background. Who is here?

9 A That's me.

10 Q All right. And what are you showing the officer in
11 this photograph?

12 A I was pointing out the -- where the rear glass looked
13 like it had been shot through.

14 Q Going back again to State's 37 and 15. Mr. Holliman,
15 from the time you left here out of this front door, made it
16 across the way to this camper, would you estimate it took
17 any longer than two minutes?

18 A No, ma'am. I would not.

19 Q And from that entire time, from when you arrived there,
20 and when y'all rendered aid to the victim, did Deirdre Smith
21 ever leave his side or close proximity to Mr. Smith?

22 A She did not.

23 Q To Mr. Johnson.

24 A She did not.

25 MS. MAYES: Thank you. Beg the Court's indulgence.

1 Nothing -- well, one more question.

2 Q Again, I know I asked you before if you had ever had
3 any prior relationship with Jimmy Johnson, the victim in
4 this case.

5 A I did not.

6 Q Diedre Smith, his girlfriend in this case?

7 A I did not.

8 MS. MAYES: Thank you. Nothing else.

9 THE COURT: Cross-examination.

10 MS. POPOWSKI: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. POPOWSKI:

13 Q Good afternoon. All right. So you've testified that
14 you are at Mindy Hess's house. Is that correct?

15 A That is correct.

16 Q Okay, and she's a friend of yours?

17 A She is.

18 Q Mindy called 911 that morning. Is that correct?

19 A That is correct.

20 Q And how many times did she call 911? More than once? A
21 Just the once, or twice. I'm not sure.

22 Q Okay. And Mindy came over to the scene almost
23 immediately with you. Is that correct?

24 A Yes, ma'am. She was right behind me.

25 Q And she -- while she's on scene, she talked to police?

- 1 A Yes, she did.
- 2 Q She gave some interviews?
- 3 A Yes, ma'am.
- 4 Q And a written statement?
- 5 A Yes.
- 6 Q And you testified that you heard the shots?
- 7 A Yes.
- 8 Q But you didn't see the shooting?
- 9 A I did not.
- 10 Q And while you said that you saw the car leaving, you
- 11 didn't see who was in the car?
- 12 A I did not.
- 13 Q And as the car was leaving, you told police that you
- 14 saw the passenger door open and close?
- 15 A I believe that's correct.
- 16 MS. POPOWSKI: No further questions.
- 17 THE COURT: Any redirect?
- 18 MS. MAYES: Yes, Your Honor.
- 19 REDIRECT EXAMINATION
- 20 BY MS. MAYES:
- 21 Q So, your friend Mindy -- just to get this straight. You
- 22 leave first. You leave across the way because you can hear
- 23 Ms. Smith calling for help?
- 24 A Yes, ma'am.
- 25 Q So you get to her first?

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1 A Yes.

2 Q And you see her. And did you remain there with her the
3 whole time?

4 A I did.

5 Q Now, meanwhile, Mindy, she's actually making a 911
6 call?

7 A That is correct.

8 Q And did she stay behind for some time, at least
9 initially, to make that 911 call?

10 A Yes, ma'am.

11 MS. MAYES: Nothing farther.

12 THE COURT: Recross.

13 MS. POPOWSKI: Just one question.

14 RECROSS-EXAMINATION

15 BY MS. POPOWSKI:

16 Q Mindy, once she arrived on scene, helped you pull JJ
17 off the porch. Isn't that correct?

18 A That was Ms. Smith. That was Dede Smith that helped
19 me.

20 Q Dede? Mindy was there during that process?

21 A She was there, but she didn't help move him, no.

22 MS. POPOWSKI: Thank you. No further questions.

23 THE COURT: The witness may step down. Thank you.

24 MS. MAYES: The State called Deputy Willie Baron.

25 WHEREUPON, Willie James Harris, having first

1 been duly sworn, testifies as follows:

2 THE WITNESS: Willie James Harris. H-a-r-r-i-s.

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q Good afternoon, Deputy Harris. Tell us a little bit
6 about yourself. Where are you currently employed?

7 A I'm currently employed at the Lexington County
8 Sheriff's Department.

9 Q And how long have you been with the Sheriff's
10 Department?

11 A Eight years.

12 Q And tell us about your job responsibilities and the
13 role you play within the Sheriff's Department Patrol Unit.

14 A My current title is patrol sergeant for the south
15 region at the Sheriff's Department. Some of my
16 responsibilities include managing deputies and basically
17 ensuring that they are following protocols.

18 Q All right. And how long were you a deputy prior to
19 being promoted to sergeant?

20 A Six years.

21 Q All right. And going back to your response to this
22 scene on November 27, 2021. Who was the first officer to
23 actually arrive at the scene and make it out of their
24 vehicle?

25 A I was the first officer.

1 Q And do you recall this case?

2 A I do.

3 Q Do you recall what you observed upon your first initial
4 arrival there at the scene? And I'm going to put up a
5 photograph that's already in evidence. This being State's
6 34. Looking here at this photograph -- looking here at this
7 photograph, we see in the top right a timestamp affiliated
8 with a body worn camera. Whose body worn camera was that?

9 A That's mine.

10 Q All right. And upon you actually exiting your vehicle
11 and getting out, tell us what you remember observing as you
12 walk towards the scene.

13 A I can remember observing a white sedan parked near the
14 fence line and a trailer or camper.

15 Q All right. And looking right next to you. Do you have
16 a laser pointer with you?

17 A I do.

18 Q Using that laser pointer, can you tell us whether or
19 not you also observed a victim in this case?

20 A Yes, right there. That's going to be where the victim
21 is located.

22 Q All right. So my first question is, was it apparent to
23 you how he was injured?

24 A Yes.

25 Q You've worked numerous other scenes as a patrol

- 1 sergeant?
- 2 A I have.
- 3 Q You have encountered gunshot victims before?
- 4 A I have.
- 5 Q Did it appear to you that the victim had sustained one
- 6 gunshot wound or multiple gunshot wounds?
- 7 A Multiple gunshot wounds.
- 8 Q So what is the first thing you do there, Sergeant, upon
- 9 your arrival?
- 10 A Well, first thing you'll do is try to determine whether
- 11 or not the scene is secure. Once the scene is secure, then
- 12 I'll proceed in and try to render aid if necessary.
- 13 Q All right. How did you go about ensuring that the
- 14 scene was secure?
- 15 A I was told that the suspect had already fled the scene
- 16 at that point. There was nobody arguing or anything like
- 17 that. So, at that time, I determined that the scene was
- 18 safe enough for me to proceed.
- 19 Q All right. And so question number one is whether or
- 20 not the shooter is still on the premises?
- 21 A Yes.
- 22 Q And you were able to determine that, in this case, the
- 23 shooter had fled the scene?
- 24 A Yes.
- 25 Q And did you also have a general description of the

1 vehicle that the suspect fled the scene in?

2 A I did.

3 Q Now, did you have an actual license plate number?

4 A I did not.

5 Q Did you have anything else to definitively put
6 something out, what we call a BOLO, be on the lookout for?
7 Were you able to put a BOLO out for any specific license
8 plate number?

9 A I was not.

10 Q So, at this point in time, other than small white car,
11 did you have any other information about the shooter?

12 A I did not.

13 Q Tell us what occurred once you approach the victim.

14 A Once I approach the victim, I assessed him for any
15 injuries, and at that point I attempted to render aid.

16 Q I'm going to show you what is State's 28 already in
17 evidence. This photograph of the victim is time stamp 7:29
18 on November 27. Whose body camera is filming right now?

19 A Oh, that's mine.

20 Q So this is your body camera, which has this screenshot
21 showing the victim as you found him?

22 A It is.

23 Q Did you attempt to check for a pulse?

24 A I did.

25 Q Did you attempt to check for breathing?

1 A I did.

2 Q Did it appear to you that you were able to provide any
3 first aid to him?

4 A I was unable.

5 Q Did you still, in fact, put on a first responder gloves
6 and attempt to potentially provide aid?

7 A I did.

8 Q But even having done that, you are not able to detect
9 any signs of life?

10 A That's correct.

11 Q Now, is this how you found him with the pants on and
12 belt buckle fastened?

13 A Yes.

14 Q As well as the shirt here with all buttons intact?

15 A Yes.

16 Q So other than the gunshot wounds in multiple locations,
17 was there anything else that you observed about the victim?

18 A After looking at him, it didn't appear that he was in
19 any type of physical altercation.

20 Q Did you ever see any kind -- any evidence of a weapon?

21 A No.

22 Q You mentioned that the scene had been secured. Looking
23 here at State's 34 and also State's 37, you mentioned that
24 the scene had been secured. Did yourself and other officers
25 officers take measures to secure the scene with crime scene

1 tape?

2 A We did.

3 Q Did you take measures to secure the scene by removing
4 witnesses or civilians from any of this immediate area
5 around the bloodstain?

6 A We did.

7 Q Did you protect the scene from any interference by any
8 person?

9 A Yes.

10 Q And did you ever have any reason to believe that any
11 civilian did interfere with evidence?

12 A No.

13 Q So that scene was secure from the time of your arrival?

14 A It was.

15 Q Until you turned it over to crime scene investigators?

16 A Yes.

17 Q And were you present when the crime scene tape was put
18 up around that scene?

19 A I was.

20 Q Now looking here at State's 34. Did you observe that
21 car being moved by the victim's girlfriend, Dede Smith?

22 A I did.

23 Q Were you also aware of a fire that may have been
24 nearby?

25 A I was.

1 Q Can you tell us whether or not there was an attempt to
2 remove that vehicle from the fire itself?

3 A That's what it appeared to be.

4 Q Now I'm going to show you some photographs and give you
5 a chance to look at these. State's 32. Is State's 32 also
6 from your body worn camera.

7 A It is.

8 Q State's 19, State's 18, State's 17 and State's 16. Are
9 these a fair and accurate representation of your
10 observations regarding that Nissan Maxima shown there in
11 State's 34?

12 A Yes, it is.

13 Q Did you observe all of this yourself while at the
14 scene?

15 A I did.

16 Q Looking here at State's 32. Here is a civilian showing
17 you what appears to be some type of damage to that vehicle?

18 A Yes.

19 Q That's the vehicle that had been parked right there in
20 the victim's yard next to his porch?

21 A Yes.

22 Q State's 16. Do you see crime scene tape in this
23 photograph?

24 A I do.

25 Q As well as State's 17?

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1 A I do.

2 Q Can you tell us whether or not there appeared to be
3 damage to the back right passenger side and front right
4 passenger side tires of this vehicle?

5 A Yes, it appears to be damaged.

6 Q Is that depicted here in State's 17, State's 19 and
7 State's 18?

8 A It is.

9 Q Did you consider that scene to be secure, basically
10 from the time of your arrival onto the scene?

11 A I did.

12 Q By that you mean a shooter was no longer present at the
13 scene?

14 A That's correct.

15 Q There didn't appear to be anyone causing damage or
16 injury to another person?

17 A That's correct.

18 Q Only a victim being moved away from a fire and a
19 vehicle being moved away from a fire?

20 A Yes.

21 Q So from the time of your arrival on, would you consider
22 that scene to be secure?

23 A Yes.

24 MS. MAYES: Beg the Court's indulgence.

25 Q Now, you've shown us throughout your testimony various

1 body worn camera still shots. I'm going to show you what is
2 State's 20, 21, and 22 and ask you whether or not you've had
3 a chance to review these body worn camera stills. State's
4 20?

5 A Yes.

6 Q State's 21?

7 A Yes.

8 Q And State's 22?

9 A Yes.

10 Q Are all of these a fair and accurate representation of
11 your body worn camera?

12 A They are.

13 MS. MAYES: All for evidence at this time, Your Honor.

14 MS. POPOWSKI: Subject to my prior objection.

15 THE COURT: All right. Subject to previous objection,
16 State's Exhibits 20, 21, and 22 admitted into evidence.

17 MS. MAYES: 20, 21, and 22 are all in evidence at this
18 time, Your Honor?

19 THE COURT: Very well.

20 (WHEREUPON, State's Exhibit published.)

21 MS. MAYES: I'm going to stop it right here.

22 DIRECT EXAMINATION (RESUMED)

23 BY MS. MAYES:

24 Q Were you able to determine that no one else had been
25 inside or around the camper?

Willie James Harris: Cross-Examination

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1 A I was.

2 Q So you didn't have any concerns about anyone actually
3 being inside the camper that would need to be rescued?

4 A I did not.

5 Q There had only been the victim located outside on the
6 porch area?

7 A Yes.

8 Q Is this where that vehicle is being moved?

9 A It is.

10 Q Is that Mr. Holliman?

11 A It is.

12 Q Now, you've gone to the victim to render aid, as you
13 spoke about previously?

14 A I have.

15 MS. MAYES: State's 22, Your Honor.

16 THE COURT: Very well.

17 Q And is this now, at 7:38, Mr. Holliman pointing out the
18 damage to that vehicle?

19 A It is.

20 Q After that vehicle has been moved?

21 A Yes.

22 Q And then in State's 21 did you also have interaction
23 with the victim's girlfriend in this case, Dede or Deirdre
24 Smith?

25 A I did.

1 Q What can you tell us about her emotional condition or
2 demeanor as you met with her?

3 A She appeared very concerned, upset, visibly shaken.

4 Q And from the time you arrived, did she ever leave that
5 area where you and other officers were located?

6 A She did not.

7 MS. MAYES: Nothing further questions of Sergeant
8 Harris at this time, Your Honor.

9 THE COURT: Cross-examination?

10 MS. POPOWSKI: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. POPOWSKI:

13 Q Sergeant Harris, you were on scene, according to the
14 body worn clip, right at 7:29 is that right?

15 A 7:28.

16 Q It was at the end of the 7:28 minute. Is that right?

17 A 7:28.

18 Q And as soon as you get there, you basically observe the
19 scene. You go over to the victim, and then you go back to
20 your car. Is that right?

21 A Yes.

22 Q To render aid? You had to get aid materials to be able
23 to render aid to the victim. Is that right?

24 A That's correct.

25 Q And there was testimony that you just -- you declare

Willie James Harris: Cross-Examination

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- 1 the scene secure at 7:30. Is that right?
- 2 A That's correct.
- 3 Q Okay, and -- but -- and what you testified to was that
- 4 that essentially meant that whoever had committed the crime
- 5 was no longer there.
- 6 A Not necessarily.
- 7 Q Okay. Well, then please explain what that means.
- 8 A Scene security?
- 9 Q Uh-huh.
- 10 A I made a determination that the scene was secure. One
- 11 factor was because the suspect was no longer on scene.
- 12 Another factor is other parties that were currently on
- 13 scene. There was no type of altercation or anything like
- 14 that going on. So, at that point, I determined that the
- 15 scene was secure and proceeded from there.
- 16 Q Okay. So the suspect is not on scene?
- 17 A Yes.
- 18 Q And no one else that's on scene seems to be posing a
- 19 threat?
- 20 A Correct.
- 21 Q And you interviewed several people in this case. Not
- 22 just Deidre. Is that right?
- 23 A That's correct.
- 24 Q Okay. You interviewed Mindy Hess first?
- 25 A Yes.

- 1 Q And Brian Holliman?
- 2 A Yes.
- 3 Q And Jason Cooper?
- 4 A Yes.
- 5 Q And no one saw the shooting. Is that correct?
- 6 A That's correct.
- 7 Q And you mentioned in your report that there were
- 8 cameras on scene, but they were only live action cameras.
- 9 Meaning they didn't record. Is that right?
- 10 A I don't recall.
- 11 Q Okay. And when you interviewed these folks that were
- 12 on scene, it was just minutes after whatever happened
- 13 happened? Is that right?
- 14 A That's correct.
- 15 Q In fact, if you showed up at 7:28, that would have just
- 16 been 14 minutes after the first 911 call. Is that right?
- 17 A I suppose.
- 18 Q Okay. So this incident had just happened?
- 19 A Yes.
- 20 Q Everyone on scene is feeling the effects of that?
- 21 Would you say that?
- 22 A Re --
- 23 Q They all appear to be visibly shaken and upset?
- 24 A Yes.
- 25 MS. POPOWSKI: Your Honor, may we approach?

Willie James Harris: Redirect Examination

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1 (WHEREUPON, sidebar out of the hearing of the jury.)

2 MS. POPOWSKI: Your Honor, I don't have any further.
3 questions at this time.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MS. MAYES:

7 Q Regarding the questions about the -- Sergeant,
8 regarding the questions about the scene being secure. In
9 addition to yourself, were multiple units dispatched out
10 there that morning?

11 A There were.

12 Q Law enforcement units?

13 A Yes.

14 Q Was EMS also dispatched out there?

15 A Yes.

16 Q And ultimately, was fire also dispatched out there?

17 A Yes.

18 Q Do you remember who arrived first?

19 A I believe it was fire. Or -- that arrived after me is
20 what you're asking me?

21 Q Yes.

22 A After me I believe it was fire.

23 Q Okay. So looking here at State's 37. From the time
24 that you arrive and are looking here at the scene, as well
25 as observing this general porch area, did you have a chance

1 to do that?

2 A Yes.

3 Q To view this area of the porch?

4 A Yes.

5 Q And again, you're told that no suspect is at the scene,
6 that the suspect has left, but do you also have to ensure
7 that yourself?

8 A Yes, I do.

9 Q And have to ensure that no one might be hiding in the
10 area?

11 A Yes.

12 Q And did you ever, upon your arrival here, did you ever
13 see any evidence of the shooter still on the scene?

14 A I did not.

15 Q And did you ever see anyone interfere with this scene
16 in any way?

17 A I did not.

18 MS. MAYES: Thank you. Nothing further.

19 THE COURT: Any recross?

20 MS. POPOWSKI: No, Your Honor.

21 THE COURT: Ladies and gentlemen, I think we're going to
22 take a break. Head on back to the jury room. Do not discuss
23 the case, and I'll give further instructions to you shortly.
24 Thank you.

25 (WHEREUPON, jury exited courtroom at 2:15 p.m.)

1 THE COURT: Ms. Popowski, you indicated a request for a
2 proffer on some testimony pertaining to some pre-trial
3 rulings I made. Ms. Popowski.

4 MS. POPOWSKI: Thank you, Your Honor.

5 (WHEREUPON, witness examined outside of the presence of
6 the jury.)

7 RECROSS-EXAMINATION

8 BY MS. POPOWSKI:

9 Q Sergeant Harris, you interviewed Mindy Hess?

10 A I did.

11 Q And she was one of the first people you interviewed on
12 scene?

13 A Yes.

14 Q And we talked about that everybody appeared shaken and
15 upset. Do you remember that Mindy appeared shaken and upset?

16 A She appeared startled.

17 Q Startled. Okay. Sure. And it was minutes after the
18 incident had happened when -- it was minutes after you
19 arrived? How about that.

20 A Yes.

21 Q And when you interviewed her, you asked her, did you
22 see the altercation?

23 A I did.

24 Q And she responded, and I quote, "No, but I mean, this
25 place has had problems before." Do you remember that?

1 THE COURT: Just remind me, you're quoting the ---

2 MS. POPOWSKI: I am quoting -- quoting the ---

3 THE COURT: --- the body cam.

4 MS. POPOWSKI: Yes.

5 THE COURT: Thank you.

6 A I don't recall her saying that, but if that's what is
7 on body camera.

8 Q All right. Do you think replaying it would refresh
9 your recollection?

10 A Sure.

11 (WHEREUPON, Exhibit published.)

12 Q Is that Mindy Hess?

13 A It is.

14 Q So you just heard her say, "This place has had problems
15 before."

16 A Yes.

17 MS. POPOWSKI: Thank you, Your Honor. I don't have any
18 further questions.

19 THE COURT: Anything from the State on the proffer?

20 MS. MAYES: Yes, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. MAYES:

23 Q Regarding "This place has had problems before", do you
24 know whether or not she's referring specifically to this
25 camper, as opposed to the general area of 333 Mac Circle?

Deidre Smith: Direct Examination

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1 A I have no idea.

2 Q Were you involved in the murder investigation of
3 Charles Moorehouse and Wiley Sisk?

4 A I was not.

5 Q Are you aware that 333 Mac Circle is the area in which
6 a raid or search warrant was executed to potentially
7 retrieve the murder weapon, as well as clothing used in the
8 murder?

9 A I was not aware.

10 Q Are you aware of who else may have been residing nearby
11 at 333 Mac Circle?

12 A No.

13 Q Are you aware of an individual named Christopher
14 Williams, goes by the nickname, "Snoop", who currently has
15 pending charges, drug related charges?

16 A No.

17 Q So you don't know who Mindy Hess was referring to when
18 she made that statement?

19 A No, I don't.

20 Q And you don't know what problem she's referring to?

21 A I don't.

22 MS. MAYES: Nothing further, Your Honor.

23 THE COURT: I think that satisfies the proffer. You are
24 excused. We're going to take a short recess here, and then
25 our next witness. I stopped a little bit earlier than

1 normal. Let's take 20 minutes.

2 (WHEREUPON, trial in recess until 2:57 p.m.)

3 THE COURT: Is the State ready to proceed?

4 MS. MAYES: Yes, Your Honor.

5 THE COURT: Is the Defense ready?

6 MS. POPOWSKI: Yes, Your Honor.

7 THE COURT: All Right. Call your next witness. Oh, I'm
8 sorry. We need our jury.

9 (WHEREUPON, Jury enters courtroom at 2:57 p.m.)

10 THE COURT: You may be seated. Ladies and gentlemen,
11 we'll pick up where we left off in the State's case in
12 chief.

13 MS. MAYES: The State calls Deirdre Smith.

14 WHEREUPON, Deidre Leigh Smith, having
15 first been duly sworn, testifies as follows:

16 THE WITNESS: My full name is Deidre Leigh Smith, S-m-i-
17 t-h.

18 DIRECT EXAMINATION

19 BY MS. MAYES:

20 Q Good afternoon, Ms. Smith. Tell us a little bit about
21 yourself. What county do you live in?

22 A Lexington.

23 Q And how long have you lived in Lexington County?

24 A For most of my life.

25 Q All right.

Deidre Smith: Direct Examination

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1 MS. MAYES: Your Honor, if I may approach.

2 THE COURT: Yes, ma'am.

3 Q Ms. Smith, where were you residing back on November 27,
4 2021?

5 A At 333 Mac Circle in Lexington County.

6 Q And while residing there, tell us a little bit about
7 your home and whether or not you were familiar with the home
8 of Jimmy "JJ" Johnson.

9 A Yes. I had a camper that was located on the property
10 that JJ also had a camper.

11 Q All right. So yourself and JJ both had campers on the
12 property?

13 A Yes. We did.

14 Q So I'm going to ask you a few more questions about that
15 momentarily. Do going to give you a chance to look at one
16 photograph with the naked eye, and that's going to be
17 State's 20, or State's 15. Do you recognize that
18 photograph?

19 A I do.

20 Q Do you recognize that photograph?

21 A Uh-huh.

22 Q As well as State's 37?

23 A I do.

24 Q Looking here at State's 15. You mentioned that you had
25 a camper on this property.

- 1 A I did, at the rear of the property.
- 2 Q Now when you say, camper, is this a camper that was
3 actually your home?
- 4 A Yes.
- 5 Q So, this camper, it had kitchen space?
- 6 A Yes.
- 7 Q And bed space?
- 8 A Yes.
- 9 Q Can you, looking at State's 15, show us approximately
10 where your camper was located?
- 11 A I'm trying to get my perspective here. Yes, I can.
- 12 Q Yes, please. Do you want me to show it to you again?
- 13 A Well, maybe a little closer. I recognize the property,
14 but I'm having trouble with the buildings.
- 15 Q What is the name of this road that long runs along
16 here?
- 17 A That's Mac Circle. And my camper was located -- that's
18 it right there.
- 19 Q All right. And then, what is the general or approximate
20 area where JJ had a camera?
- 21 A This is JJ's right here.
- 22 Q Now, did JJ own his camper?
- 23 A Yes, he did.
- 24 Q And looking here at State's 37, do you recognize this
25 location?

Deidre Smith: Direct Examination

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- 1 A I do.
- 2 Q Whose camper is this?
- 3 A JJ's.
- 4 Q And this porch affixed to JJ's home, who built that
- 5 porch?
- 6 A He did.
- 7 Q So, not only does he own the camper, but also the porch
- 8 affixed to it?
- 9 A Yes.
- 10 Q All his property?
- 11 A Right.
- 12 Q And then you mentioned that you also had a camper in
- 13 the back area?
- 14 A I did.
- 15 Q Now, who actually owned your camper?
- 16 A He owned my camper.
- 17 Q All right. So he owned both campers here on this
- 18 property?
- 19 A Yes.
- 20 Q And you resided in your camper?
- 21 A I did.
- 22 Q Can you tell us whether or not JJ sometimes stayed with
- 23 you in your camper?
- 24 A He did.
- 25 Q And his camper, located here in State's 37, is that a

- 1 camper that one can reside in?
- 2 A Yes.
- 3 Q It had bed space?
- 4 A Yes, ma'am.
- 5 Q As well as a basic kitchenette type space?
- 6 A It did.
- 7 Q Did he have personal belongings in that camper?
- 8 A Yes.
- 9 Q In the in the early morning of November 27, around day
- 10 break, who was in your camper?
- 11 A Myself and JJ.
- 12 Q Had he stayed the night with you?
- 13 A He did.
- 14 Q And was that common or uncommon?
- 15 A It was common.
- 16 Q And can you tell us your relationship or how would you
- 17 ---
- 18 A He was ---
- 19 Q Are you -- Okay, were you married?
- 20 A No.
- 21 Q But he was your boyfriend?
- 22 A Yes.
- 23 Q So around day break, November 27, 2021, you testified
- 24 that you and Jimmy, or JJ -- what name did you call him by?
- 25 A JJ or Jimmy.

Deidre Smith: Direct Examination

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1 Q Okay, but his first or his true birth name was Jimmy
2 Johnson?

3 A Right.

4 Q So JJ is short for Jimmy Johnson?

5 A Yes.

6 Q So only the two of you there in your camper that
7 morning?

8 A Yes.

9 Q Tell us what you remember.

10 A I just remember being woken up by JJ saying that his
11 camp was on fire. He was looking at the monitor from a set
12 of cameras that we had on the property.

13 Q All right. I'm going to need you to pull the microphone
14 up a little bit closer to you.

15 A Okay, I can speak louder.

16 Q Please do. So you've indicated that you were woken up
17 that morning by who?

18 A By JJ telling me the camper was on fire.

19 Q All right. And you've indicated on that you had
20 security cameras there?

21 A Yes, ma'am.

22 Q And on security camera, what did you observe? Or what
23 -- what has he indicated that he saw?

24 A He saw smoke coming from where his camper was.

25 Q All right. So here with you in this camper, you awake

1 to him saying that there appears to be, based on
2 surveillance video, some type of smoke in the area?

3 A Yes, ma'am.

4 Q And was coming from the general area where his camper
5 would be located?

6 A Yes. Yes.

7 Q What did he do next?

8 A He left out of my camper, and I guess went out front to
9 see what was going on with his -- to find out what was going
10 on with his.

11 Q All right. What did you do?

12 A I got up. I -- to go to help him, of course. But I got
13 up. I grabbed my shoes. I went to the restroom. I heard
14 his dog BB go out right after him, so I knew I had to get BB
15 back in the camper. And I left out of the there almost
16 immediately, and grabbed BB and ran back to my camper and
17 put him in the door, and ran to help him.

18 Q All right, so just to get some clarification on this.
19 Once he states to you that he has observed smoke, did he
20 leave your camper?

21 A Yes.

22 Q And you said you have -- what kind of animal is BB?

23 A He's a dachshund.

24 Q Okay. So you have a little dog?

25 A Yes.

Deidre Smith: Direct Examination

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1 Q Now, was it common or uncommon for BB to follow you or
2 JJ out every time you went out that front door?

3 A Every time.

4 Q And would BB sometimes beat you out the door?

5 A Yes.

6 Q So if the doors open, BB is at your feet?

7 A He's going to try to see what's going on.

8 Q And to your knowledge, did BB follow JJ right out the
9 door?

10 A Yes, he did.

11 Q And did JJ appear to be in a hurry to leave when he
12 observed smoke?

13 A Yes.

14 Q And you yourself said you had to go to the restroom?

15 A Yes.

16 Q You're first waking up, first thing in the morning?

17 A Right. Go to the restroom. While I'm actually going to
18 the restroom I put my shoes on.

19 Q So you're doing all that as quickly as you can to get
20 out the door?

21 A Yes.

22 Q And when you leave out the door, are you looking for
23 BB?

24 A Yes. I knew he had gone out, so I knew I was going to
25 grab him, so I didn't want him around our feet or anywhere

1 near us while we were trying to put the fire out and figure
2 out what was going on.

3 Q And are you also looking for JJ?

4 A At that moment, no. I was worried about getting BB back
5 into my camper, and I assume JJ is up front putting the fire
6 out, or figuring out what's going on. And we're just
7 talking a matter of seconds here. I put BB back in my
8 camper, and then I'm running down to help him to see what's
9 going on.

10 Q So you believe all of this happen within a matter of
11 seconds?

12 A It wasn't long. I wouldn't say, seconds.

13 Q Can you tell us whether or not -- whether or not it
14 would have all been within a matter of two minutes?

15 A Two or so minutes. Yes.

16 Q What is the first thing that you recall hearing once
17 you start to get up, put your shoes on, and start to head
18 out?

19 A The first thing -- after BB left the camper?

20 Q Yes.

21 A I heard a set of "pops", and my lights had flickered in
22 my camper, so I assumed this was a breaker box or some
23 electrical that was being destroyed by the fire, or caused
24 by the fire up front, so.

25 Q But you could hear "pops"?

Deidre Smith: Direct Examination

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1 A Yes.

2 Q Did you know at that time that it was gunshots?

3 A I had no idea. No. My first assumption was electrical,
4 because the electrical thing was a nightmare.

5 Q Do you think you heard one pop or multiple pops?

6 A Multiple pops.

7 Q What happened next?

8 A After that, well, I guess this is before I got the dog
9 back in when I heard the pops. So I got BB, put him back in
10 my camper, and ran down to help JJ. Then I ran up to the
11 porch and saw him.

12 Q Where did you find BB?

13 A BB was on my side of the gate. We had a privacy fence
14 in between our two campers, and there was a gate connecting
15 the two, and he was on my side of the gate barking towards
16 the camper.

17 Q So he had not made it past the gate?

18 A No.

19 Q But JJ had?

20 A Yes.

21 Q What happened once you made it past the gate yourself?

22 A I ran up onto the porch. I assumed that that's where
23 he was, or in the camper, and that's when I saw JJ face down
24 on the porch. I didn't know what had happened to him. My
25 first thought was electrocution. Maybe fallen and hit his

1 head. I'm not sure. But I tried to move him. I tried to -
2 - I tried to talk to him. He was unresponsive, and then I
3 tried to put the fire out, because the leaves were on fire.
4 I didn't want them to approach him, and I grabbed a chair
5 cushion. I tried to put them out and I couldn't. And so
6 after that, I ran to see if I could get a water hose and
7 just right around the corner from his camper and I started
8 screaming for help at the same time. Because he was
9 unresponsive. I needed help.

10 Q What injuries did you see to Jimmy?

11 A I saw him, at that time he was just face down and not
12 responding to me. That's it. I tried to get the water hose.
13 There was no water that came out of the water hose, and then
14 I guess my screams for help alerted my neighbors. And my
15 neighbor came over to help me, and we pulled JJ off the
16 front porch onto a golf cart top and got him to safety. That
17 was when I realized he'd been shot when we moved him over to
18 the golf cart top.

19 Q What do you remember observing?

20 A I saw blood on the front of him and what appeared to be
21 gunshot wounds.

22 Q Where did you see what appeared to be gunshot wounds?

23 A More towards his lower abdomen area as best I can
24 recall.

25 Q Did you ever see him take a breath?

Deidre Smith: Direct Examination

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1 A No. No. Of course, I couldn't hear. I didn't see him
2 take a breath. He was unresponsive.

3 Q Did he ever attempt to speak to you?

4 A No. Absolutely not.

5 Q I'm going to show you some additional photographs in
6 evidence. Do you recognize these photographs?

7 A I do.

8 Q Looking here at the overhead, State's 37. Where did
9 you, when you made it to the camper, where did you first see
10 Jimmy?

11 A I saw him laying on the floor with his head about here
12 and his feet here.

13 Q Do you know what stain is depicted in State's 37 on the
14 surface of the porch?

15 A I'm sorry. What was the question?

16 Q State's 36 and State's 37. Do you see what is depicted
17 in 36 and 37?

18 A I can't see it. No, ma'am.

19 Q I'm going to show you 37.

20 A Possibly.

21 Q This right here. Looking at 37 and 36. Do you see
22 blood?

23 A Yes.

24 Q And is that also depicted in 37 where his body was
25 laying?

- 1 A It's hard to tell.
- 2 Q So, as you approach, you see his body there.
- 3 A Yes, ma'am.
- 4 Q Is there anyone else on that porch or in that area at
- 5 that time?
- 6 A No, ma'am. It was just JJ.
- 7 Q And was there some type of fire near the area as well?
- 8 A Yes, there was.
- 9 Q What action did you first take, having knowledge that
- 10 he is down and there is a fire in the area?
- 11 A I tried to put the fire out with a chair cushion that
- 12 was on the porch. I grabbed it and just tried to -- a couple
- 13 of times, but that was ---
- 14 Q Were you able to put it out?
- 15 A No. No.
- 16 Q And were you able to find a water hose nearby?
- 17 A No. I found the water hose and no water came out. It
- 18 was frozen that morning. It was very cold.
- 19 Q So were you able to get the fire out?
- 20 A No.
- 21 Q During this time that you first find him, what are you
- 22 saying or doing?
- 23 A When I first find him I tried to talk to him, just
- 24 trying to figure out what was going on. And then I got no
- 25 response from him. I start screaming. Help me. Help me.

Deidre Smith: Direct Examination

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1 Please. Just screaming at the top of my lungs for anybody in
2 the area to help.

3 Q For anybody in the area to help you?

4 A For anybody to help me. Yes. I was screaming loud.

5 Q Do you have a phone in your hand to call 911 yourself?

6 A No. No. I was screaming to call 911, please help me.

7 Q And who is the first neighbor that you recall coming to
8 help you?

9 A Brian Holliman.

10 Q Brian Holliman?

11 A Uh-huh.

12 Q Okay. You know him now to be someone who did come to
13 your aid?

14 A Yes. Yes.

15 Q And when Brian Holliman came to help you, what is the
16 first thing the two of you did concerning Jimmy?

17 A We put him onto the golf cart top that was located just
18 behind the gate to get him to safety. So we rolled him over
19 and put him on that and slid him to the corner of the yard
20 to get him away from the fire or any possible explosion of
21 propane tanks from the camper. That was our main concern was
22 just to get him to safety.

23 Q Looking at 28. Is that how you recall JJ appearing when
24 he left the house that morning?

25 A (NO VERBAL RESPONSE)

1 Q When he left your house, he was uninjured?

2 A Yes, he was uninjured.

3 Q Is this how he was dressed, with his pants on and his
4 belt buckled and his shirt fully buttoned?

5 A Yes.

6 Q But when he left your home he was healthy and
7 uninjured?

8 A Yes. Absolutely.

9 Q And then looking here at State's 36. This blood here
10 on the porch. Is that all from this incident where Jimmy's
11 body had been found?

12 A Yes.

13 Q How long would you estimate it was between when you
14 made it out of the house, or when Jimmy left the house and
15 you made it to Jimmy's side?

16 A It was probably a minute and a half, two minutes tops.

17 Q Did you ever see a shooter in the yard or nearby?

18 A No.

19 Q Did you ever see the vehicle that the shooter was in?

20 A No.

21 Q So, by the time you arrive and begin yelling for help,
22 it appears to you that the suspect had already left the
23 premises?

24 A Yes. I had no idea he was shot at that moment, so I
25 wasn't looking for anybody either. But, no there was nobody.

Deidre Smith: Direct Examination

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1 Q And then once you move him, you're able to see the
2 presence of blood?

3 A Yes.

4 Q All over his clothing?

5 A Yes.

6 Q Looking here at State's 34. Who does this vehicle
7 belong to?

8 A Me.

9 Q It belongs to you. And then, you showed us earlier,
10 Jimmy's camper. Is this the same camper that we saw
11 previously in the photograph where he built that porch?

12 A It is.

13 Q So the car is parked in his yard?

14 A It's parked outside of the gate, which was the only
15 place we had to park. Yes.

16 Q And did you and Jimmy both utilize this vehicle?

17 A Yes.

18 Q And you're moving the vehicle when the officer arrives,
19 for what reason?

20 A Because the neighbors had called 911.

21 Q And what were your concerns about leaving the vehicle
22 in that location?

23 A I didn't want it to possibly be caught in the fire,
24 explosion from the propane tanks.

25 Q Are there propane tanks in the area of Jimmy's camper?

- 1 A Three of them.
- 2 Q Three propane tanks?
- 3 A Yes.
- 4 Q Had you or any of the neighbors at this point been
- 5 successful in putting out that nearby fire?
- 6 A No.
- 7 Q So the fire is still going?
- 8 A Yes.
- 9 Q So the vehicle is moved where?
- 10 A It is moved just -- there's a driveway behind my car.
- 11 It's moved to the other side of the driveway.
- 12 Q And all of this occurs after you and Mr. Holliman move
- 13 JJ to an area away from the fire?
- 14 A Yes.
- 15 Q And did you stay there with law enforcement?
- 16 A Yes.
- 17 Q As they work the scene?
- 18 A I did.
- 19 Q Did they speak with you?
- 20 A Yes.
- 21 Q Did they take efforts to secure that crime scene?
- 22 A They did.
- 23 Q Ms Smith, did you ever see any person at that scene
- 24 interfere with evidence?
- 25 A No.

Deidre Smith: Direct Examination

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1 Q Did you ever see any person at that scene remove or
2 tamper with any evidence shown here in State's 37, being the
3 front porch, State's 34, being the yard? Did you ever
4 observe any individual interfere with evidence in any way?

5 A No.

6 Q From the moment that law enforcement arrived was that
7 scene secure?

8 A Yes.

9 Q And did it remain secure?

10 A Yes, it did.

11 Q That first officer that arrived, Sergeant Harris, do
12 you recall speaking with him?

13 A I do.

14 Q Have you had a chance to review State's 21, being a
15 clip from his body worn camera?

16 A Yes.

17 Q Where he's speaking with you?

18 A Yes.

19 Q Is that a fair and accurate representation of your
20 emotional condition on that morning?

21 A Yes, ma'am.

22 Q Is it possible for you to explain or describe to us
23 your emotional condition?

24 A I was panicked. I was shocked, scared, had no idea what
25 was going on. Everything happened so fast. I was

1 distraught.

2 MS. MAYES: State's 21, Your Honor.

3 (WHEREUPON, State's Exhibit 21 published.)

4 Q Who are you holding here in that video?

5 A I'm holding BB.

6 (WHEREUPON, State's Exhibit 21 published.)

7 Q So looking here where we are at 7:36, roughly 22
8 minutes after the first 911 call. Are there multiple law
9 enforcement officers at the scene?

10 A Yes.

11 Q Have they put up, in the process of putting up crime
12 scene tape?

13 A Yes.

14 Q Can you tell us whether or not a law enforcement
15 officer was with you and accompanied you for any reason?

16 A To get BB from my camper.

17 Q So you had law enforcement with you when you went to go
18 get BB and hold her and have her with you?

19 A That's the only time I was allowed on the property.

20 Q And that's at 7:36 p.m?

21 A A.M.

22 Q A.M.

23 A Yes, ma'am.

24 Q And that's Lexington County Sheriff's Department Deputy
25 that would have been with you?

Deidre Smith: Direct Examination

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1 A Yes.

2 Q And they remained there with you throughout this time
3 period?

4 A I was in sight of anyone there, not -- there wasn't
5 someone with me the entire time, but I was within sight.

6 Q So the only time you left this property was with the
7 deputy to retrieve BB?

8 A Yes.

9 Q And then you return back?

10 A Yes.

11 Q Again, with a deputy.

12 A Yes.

13 Q I believe at the end of this tape you said all of it
14 happened within two minutes. What are you talking about?

15 A From the time that he left my camper to the time that I
16 discovered him on the porch.

17 Q All within two minutes?

18 A Yes.

19 Q Now want to ask a few more questions about what led to
20 this. The Defendant in this case, Mark Scheibler. Had you
21 ever seen him before?

22 A I had seen him just a few nights before that morning.

23 Q All right. I'm going to ask you a few questions about
24 that. Looking here at a calendar for November 27, 2021. The
25 morning of the 27th, when this occurred, was around day

1 break on Saturday?

2 A Yes.

3 Q I want to take you back to the time period, Tuesday,
4 November 23rd. Can you tell us around that time of November
5 23rd, what if anything you remember?

6 A I remember Mark coming to the property. He called from
7 the front gate.

8 Q I need you to speak up a little bit, Ms. Smith.

9 A I'm sorry.

10 Q If you could, start over, please.

11 A JJ and I were in the backyard and we heard a voice call
12 out from the front gate, JJ's name. JJ answered him. He
13 asked if he could come in. He walked out to where we were,
14 and he and JJ had a conversation. Mark asked him if he
15 could get a ride into town. JJ told him that he didn't have
16 a car and that he could borrow mine. They had a
17 conversation about it, but I didn't hear everything. Didn't
18 hear the part about the ride. And JJ asked if he could
19 borrow my car and I said yes.

20 Q Can you tell us whether or not that would be consistent
21 with occurring on the night of Tuesday, November 23?

22 A Yes. That would make sense, yes.

23 Q You know it was several days before?

24 A Yes.

25 Q Looking here at State's 15, if you could use the laser

Deidre Smith: Direct Examination

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1 pointer that you have and show us the approximate area that
2 you remember being approached, and you said a name as to the
3 person who approached yourself and JJ. What is the name of
4 that individual?

5 A Mark Scheibler.

6 Q Did you see that individual that night?

7 A I did.

8 Q Did you lay eyes on that individual.

9 A I did.

10 Q Do you recognize that individual anywhere in this
11 courtroom today?

12 A I do.

13 Q Where is he seated?

14 A Right there. (INDICATING)

15 Q What type of shirt is he wearing?

16 A A flannel.

17 Q Can you point to where he is located in the courtroom?

18 A Right here. (INDICATING) Second from the left.

19 MS. MAYES: Your Honor, let the record reflect that she
20 has identified the Defendant in this case, Mark Scheibler.

21 THE COURT: Very well.

22 Q So that night he was asking for a ride?

23 A Yes, ma'am.

24 Q And what vehicle did Jimmy use, or JJ use, to give him
25 a ride?

- 1 A He took my car.
- 2 Q Is that the same car that we see here in State's 34?
- 3 A Yes. The white Maxima.
- 4 Q And when that car left the property, who was driving?
- 5 A JJ.
- 6 Q And was anyone else in the car other than JJ and Mark?
- 7 A No.
- 8 Q You didn't go with them?
- 9 A No, did not.
- 10 Q Did Mark say where he needed a ride to?
- 11 A Somewhere in the Three Fountains area.
- 12 Q Three Fountains area, being another area located here
- 13 in Lexington County?
- 14 A Yes, maybe a few miles away.
- 15 Q And when they left, was it daylight or was it dark?
- 16 A It was dark.
- 17 Q And about how long was it before JJ came back with your
- 18 car?
- 19 A It was about 30 minutes.
- 20 Q So about 30 minutes they were gone?
- 21 A Yes.
- 22 Q And when JJ came back, was Mark with him, or was he
- 23 alone?
- 24 A He was alone.
- 25 Q Now, do you know anything about -- anything else about

Deidre Smith: Direct Examination

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1 Mark Scheibler's visit to the residence or to that area on
2 that day, being Tuesday, November 23rd?

3 A Yes.

4 Q What else do you remember about him coming on the
5 property or being around the property that day?

6 A He had driven a U-Haul truck to -- close to where our
7 property was. It was in between the neighbor's property and
8 our property, and parked it there. And that's when he
9 walked over and asked for a ride.

10 Q All right. So he got to the property in a U-Haul truck?

11 A Yes, to my knowledge.

12 Q And then left the U-Haul truck on the property?

13 A He did, yes.

14 Q And then asked JJ for a ride to Three Fountains?

15 A Yes.

16 Q Did you see the U-Haul truck on the property?

17 A I saw the top of the truck, but I never saw the truck
18 itself, no.

19 Q Can you show us approximately where? Looking here at
20 this map -- and I realize it's an aerial map, so you may not
21 be exact. But can you show us approximately where you
22 remember the Defendant, Mark Scheibler, parking that U-Haul
23 truck?

24 A I believe it was right around here. (INDICATING)

25 Q All right. And who else lives in close proximity to

1 that property?

2 A Our neighbor was Christopher Williams.

3 Q Christopher Williams lives in close proximity to that?

4 A Uh-huh. He was the neighbor.

5 Q Okay, so is the U-Haul truck, to the best of your
6 estimation, is the U-Haul truck on Christopher Williams'
7 property or your property?

8 A Christopher's property. I believe it's his family's
9 property. I'm not sure if it was if it was that home, but
10 it as their family's property.

11 Q All right. And when he left with JJ to go to Three
12 Fountains, did the U-Haul truck remain there to the best of
13 your knowledge?

14 A Yes.

15 Q And when do you next recall seeing or hearing about
16 anything connected to that U-Haul truck?

17 A I heard the doors opening and closing when I was doing
18 laundry in the shop, which was in between my camper and JJ's
19 camper. I could hear through the wall a couple of voices
20 and the doors opening and closing on that truck.

21 Q Were the voices male or female?

22 A Male.

23 Q Did you recognize any of the voices?

24 A Yes, one voice.

25 Q Which was who's voice?

Deidre Smith: Direct Examination

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1 A Christopher Williams.

2 Q And you are familiar with Christopher Williams and have
3 lived on the property long enough to know and recognize the
4 voice of your neighbor?

5 A Yes.

6 Q So one of the voices you heard going into the U-Haul
7 was Christopher Williams?

8 A I'm not sure who was going into the U-Haul, but I heard
9 the doors opening and closing and I heard his voice.

10 Q You could hear doors to the U-Haul being opened and
11 closed?

12 A Yes.

13 Q And where was JJ during this time?

14 A In my camper.

15 Q What happened next?

16 A After the -- after I heard the voices? I'm not sure.

17 Q Did you return to your camper?

18 A Yes.

19 Q Who was in your camper?

20 A JJ was in my camper, and I let him know that I heard
21 voices.

22 Q You reported to him that you would heard that as well?

23 A Yes.

24 Q Now, to your knowledge, did Mark Scheibler ever come
25 back to your property immediately after that event, such as

1 November 24 or November 25, to your knowledge?

2 A Not to my knowledge.

3 Q Did you ever see him actually confront JJ over the U-
4 Haul.

5 A No.

6 Q So did everything appear to be normal after he left to
7 go to Three Fountains?

8 A Yes.

9 Q Did you give any further thought or concern to that U-
10 Haul?

11 A No.

12 Q Did JJ appear to give any further thought or concern to
13 that U-Haul?

14 A He didn't appear to give it any thought.

15 Q Then on the morning of November 27, after JJ leaves the
16 camper observing a fire, you next find him here?

17 A Yes.

18 Q And when you moved that vehicle, State's 34, what if
19 anything did you observe or notice about your car that was
20 new or different?

21 A Both the right -- I'm sorry -- passenger front and rear
22 tires were slashed. They were both flat.

23 Q When had you last used your car, Ms. Smith?

24 A The day prior to.

25 Q So, prior to daybreak, 7:14 a.m. on November 27, you

Deidre Smith: Cross-Examination

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- 1 had last used the car the day before?
- 2 A Yes.
- 3 Q Including into the evening hours?
- 4 A Yes.
- 5 Q Was your car in working order?
- 6 A Absolutely.
- 7 Q Were the tires slashed or cut on it?
- 8 A No.
- 9 Q Did you have a bullet hole in your back windshield?
- 10 A I didn't, but I did that morning.
- 11 Q That morning when you woke up?
- 12 A When I went to move the car and looked in my review, I
- 13 noticed that it was shot.
- 14 Q Just as you're finding a JJ and moving him away from
- 15 the fire and moving the car away from the propane tank?
- 16 A Yes.
- 17 Q That's when you discovered this damage?
- 18 A Yes.
- 19 Q Any doubt in your mind that your car was in good
- 20 working order the night before?
- 21 A None.
- 22 Q That your tires had not been cut?
- 23 A They had not been cut.
- 24 Q Ms Smith, from the time that JJ walked out your camper
- 25 door, made it down here, and the time that you come to find

1 him. How long do you estimate that time to be?

2 A Just a couple of minutes.

3 Q And as you stated to the officer that morning, all
4 within two minutes?

5 A Yes.

6 Q From when he left?

7 A Yes.

8 Q Do you hear shots or popping sounds?

9 A Yes.

10 Q And then arrive to find him down?

11 A Right. Yes.

12 MS. MAYES: Nothing further, Your Honor.

13 THE COURT: Cross-examination.

14 MS. POPOWSKI: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. POPOWSKI:

17 Q Ms. Smith, you had the opportunity to talk to Sergeant
18 Harris in this case. Is that right?

19 A I'm not familiar with who Sergeant Harris is.

20 Q You spoke with multiple law enforcement officers?

21 A Yes.

22 Q Okay. Do you remember talking to Detective Vaughn?

23 A I do.

24 Q Okay. And he interviewed you, and you provided him with
25 two of JJ telephones. Is that correct?

Deidre Smith: Cross-Examination

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- 1 A Yes.
- 2 Q And you have testified about Christopher Williams?
- 3 A Yes.
- 4 Q He has a nickname. Isn't that right?
- 5 A Yes.
- 6 Q And his what is his nickname?
- 7 A Snoop.
- 8 Q And on the day the in question, there were multiple
- 9 people on scene.
- 10 A (NO VERBAL RESPONSE)
- 11 Q You've testified about this. Multiple people came to
- 12 your aid. Brian Holliman?
- 13 A Yes.
- 14 Q And Jason Cooper?
- 15 A Yes. Were there.
- 16 Q Right. And Mindy Hess?
- 17 A Yes.
- 18 Q And so Brian Holliman and Mindy Hess were there before
- 19 the police arrived?
- 20 A Yes, very shortly.
- 21 Q And right when the police were arriving, you were
- 22 moving your vehicle?
- 23 A Yes.
- 24 Q And no one else was in your vehicle with you when you
- 25 moved it?

1 A No.

2 Q Ms. Smith, you didn't see who shot JJ?

3 A No.

4 Q And you didn't see a vehicle leave.

5 A No.

6 Q And again, you moved your vehicle all by yourself?

7 A Yes.

8 MS. POPOWSKI: Your Honor, may we approach?

9 (Sidebar was held outside of the hearing of the jury.)

10 THE COURT: I'm going to let the jury have a short break
11 at this time. Please don't discuss the case. See you
12 shortly.

13 (WHEREUPON, the jury exited at 3:43 p.m.)

14 THE COURT: I probably should have let the witness step
15 down.

16 MS. POPOWSKI: I have no further questions.

17 THE COURT: Ma'am, you can step down.

18 MS. MAYES: She remains sequestered, Your Honor.

19 THE COURT: Thank you, ma'am. Very well. Ms. Popowski.

20 MS. POPOWSKI: Thank you, Your Honor. I would like
21 proffer testimony from the previous trial starting on the
22 transcript page 172. I asked, "But JJ would have friends
23 come occasionally." She said, "Yes". "You provided some
24 names of those associates." She said, "Yes. I think some of
25 the names are..." Do I need to read all of this, or can I

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1 just submit the ---

2 THE COURT: Okay. You are submitting the transcript
3 questions you would like to have asked, but subject to pre-
4 trial rulings you were not, therefore you are proffering
5 those questions at this time? If you want to that's fine
6 too.

7 MS. POPOWSKI: Sure.

8 THE COURT: Just in case.

9 MS. POPOWSKI: Just in case. "Do you know their real
10 names? No. And finally, in preparation for trial, you met
11 with the Solicitor? Yes. You indicated to the Solicitor
12 that JJ would sleep in any of the three locations on the
13 property. Yes, sometimes. Depending on when he got tired,
14 right." And that's it.

15 THE COURT: Madam Court Reporter, what are we up to now?

16 COURT REPORTER: Ten.

17 (WHEREUPON, transcript excerpt marked Court's Exhibit
18 Number 10 for identification.)

19 MS. POPOWSKI: I give you this to make a Court's
20 Exhibit.

21 (WHEREUPON, recess from 3:46 p.m. to 4:15 p.m.)

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

23 (WHEREUPON, jury entered at 4:15 p.m.)

24 THE COURT: You may call your next witness in the
25 State's case in chief.

1 MS. MAYES: Your Honor, at this time the State calls
2 Agent Patrick Ward.

3 WHEREUPON, Patrick Ward, having first been duly sworn,
4 testifies as follows:

5 THE WITNESS: Patrick Ward, W-a-r-d.

6 DIRECT EXAMINATION

7 BY MS. MAYES:

8 Q Tell us a little bit about your self, Agent Ward. Where
9 are you currently employed?

10 A I'm currently employed by the South Carolina Law
11 Enforcement Division, also known as SLED.

12 Q So you are a SLED Agent?

13 A That's correct.

14 Q How long have you been a SLED Agent?

15 A Approximately two and a half years.

16 Q And prior to that, where were you employed?

17 A I was employed by the Lexington County Sheriff's
18 Department.

19 Q In what capacity?

20 A As a crime scene investigator.

21 Q So you worked CSI, or crime scene investigations, for
22 the Lexington County Sheriff's Department?

23 A That's correct.

24 Q And your work now, currently as a SLED Agent, is in
25 what field?

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1 A Also crime scene investigation.

2 Q So most of your career, in the latter part of your
3 career, has been devoted to CSI work?

4 A That's correct. A little over seven years.

5 Q And how long have you been a law enforcement officer?

6 A Around 12 years. Twelve and a half.

7 Q What can you tell us about your educational background
8 and training?

9 A I have an undergraduate degree in Philosophy and
10 Religious Studies from Winthrop University, a Master's in
11 Divinity from Covenant Theological Seminary. I've been in
12 numerous trainings around crime investigation, including
13 photography, death investigation, shooting incident
14 reconstruction.

15 Q All right, when you talk about shooting reconstruction,
16 I'm going to ask you, back when you were with the Lexington
17 County Sheriff's Department, was that 2021?

18 A It was.

19 Q Did you have that experience and training at that point
20 in time?

21 A Yes, I did.

22 Q And have you continued to renew and follow up on that
23 field of training throughout your work as a CSI SLED Agent?

24 A Yes. I have.

25 Q And when you talk about specifically shooting

1 reconstruction, does that include what's known as rodding,
2 to help determine or aid in determining the trajectory or
3 path of a flying bullet?

4 A Yes, that's correct.

5 Q And how long have you been receiving study, including
6 work in the field in that area of CSI work?

7 A I received training in shooting reconstruction fairly
8 early on, so it's been at least six years.

9 Q And have you also had the opportunity to work shooting
10 reconstruction, including the use of rods for a trajectory
11 path as a SLED Agent?

12 A Yes, I have.

13 Q Is it possible for you to estimate how many crime
14 scenes you worked while with the Lexington County Sheriff's
15 Department CSI division?

16 A It was at least, close to 300. Not all homicides or
17 shootings.

18 Q And did that work also include homicides?

19 A Yes.

20 Q And shooting fatalities that were from a shooting
21 incident?

22 A That's correct.

23 Q And your work as a SLED Agent, as a CSI Agent for the
24 State Law Enforcement Division, does that also include
25 multiple crime scenes?

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1 A Yes.

2 Q Is it possible to estimate how many crime scenes you
3 worked now that you're with SLED?

4 A I do have the exact number somewhere, but not handy,
5 but it's at least a hundred.

6 Q All right. And does that also include murders,
7 homicides?

8 A Yes.

9 Q Shooting deaths?

10 A That's correct.

11 Q Now, in addition to your training and experience in
12 using rods to determine direction or path of a bullet, can
13 you tell us whether or not you also have training and
14 experience in blood pattern?

15 A Yes, I do.

16 Q Does that include blood letting?

17 A Yes.

18 Q And what a blood trail, or blood pattern at a crime
19 scene may tell you as a CSI investigator?

20 A That's correct.

21 Q What courses or what type of courses have you attended
22 specifically covering not only shooting reconstruction, but
23 blood patterns.

24 A As far as shooting incident reconstruction, I've taken
25 the introductory level 40-hour credit classes on shooting

1 reconstruction. I've taken advanced ballistic math. I've
2 taken analysis of violent crime scenes. Introduction to
3 blood stain pattern analysis, and other more specific
4 advanced BPA classes.

5 Q All right. And in addition to that, have you been
6 trained in what's known as latent print lifts?

7 A Yes.

8 Q Have you been trained in collecting DNA swabs?

9 A Yes, I have.

10 Q All of that part of common CSI work?

11 A Yes, it is.

12 Q Can you tell us whether or not you have been previously
13 qualified in the courts of this state in the field of crime
14 scene investigation?

15 A Yes, I have.

16 MS. MAYES: Your Honor, at this time the State offers
17 Agent Patrick Ward as an expert in the field of crime scene
18 investigations.

19 THE COURT: Any voir dire?

20 MS. POPOWSKI: Just -- how many times have you been
21 qualified in court previously?

22 THE WITNESS: In this courtroom, three times in crime
23 scene as well as evidence collection and digital forensics.

24 MS. POPOWSKI: Thank you. No objection, Your Honor.

25 THE COURT: Ladies gentlemen, a person who testifies

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1 cannot give opinion testimony. They can testify as to what
2 they personally saw, heard, sensed by smell, or something of
3 that nature. However, there's an exception when someone is
4 qualified because of knowledge, education, or experience and
5 they are permitted to give their opinion in certain areas if
6 the court qualifies them that way. This witness will be
7 qualified in the area of crime scene investigation and give
8 opinion testimony in that area. That does not mean you must
9 accept the opinion, but it is evidence for you to use in any
10 way you see fit.

11 DIRECT EXAMINATION (Continued)

12 BY MS. MAYES:

13 Q Do you have with you full notes, as well as your CSI
14 report, regarding your response to 333 Mac Circle on the
15 morning of November 27, 2021?

16 A Yes, I do.

17 Q Tell us what time you arrived.

18 A I arrived, according to my notes, right at 9:00 a.m.

19 Q And can you tell us, upon your arrival there at the
20 scene, how was the scene protected by other law enforcement
21 officers prior to your arrival?

22 A When I arrived on scene, there were numerous deputies
23 on scene. They had put yellow crime scene barrier tape up.
24 I believe the fire department was also on scene at that
25 time.

1 Q When we talk about crime scene tape being up, I want to
2 show you State's 37 already in evidence. Would that include
3 protection of this scene right here, around the camper and
4 the porch area where the victim had initially been located?

5 A Yes, it would have. They would have established a
6 perimeter, basically close to the roadway to prevent anybody
7 from walking in.

8 Q And when you say, prevent anybody from walking in or
9 accessing that scene. Does that include civilians?

10 A That's correct.

11 Q Does that include neighbors?

12 A Yes.

13 Q So other than law enforcement officers, would anyone
14 else be allowed access into this scene once it's secured by
15 law enforcement?

16 A No, they would not.

17 Q And civilians and neighbors are told to retreat where?

18 A Either to outside the perimeter or to their residences.

19 Q And by outside the perimeter, you mean outside behind
20 the crime scene tape?

21 A That's correct.

22 Q Now, in addition to photographing the scene, what other
23 work did you do to document what you're finding at a crime
24 scene?

25 A I did complete a crime scene diagram.

Patrick Ward: Direct Examination

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1 Q I'm going to show you what it State's 69 and State's
2 70. I'm going to also show you what is State's 130 and 131.
3 I'm looking here at State's 131 and 130. Are both of these
4 a fair and accurate representation of those smaller
5 photographs?

6 A Yes, they are.

7 Q Diagrams, not photographs. Diagrams.

8 A They are.

9 Q Who actually created these diagrams?

10 A I created them.

11 Q And were they based on your sketches and your
12 measurements, done and conducted there at the crime scene?

13 A Yes, they were.

14 Q As well as the crime scene photographs that you took?

15 A Yes.

16 Q As well as the evidence collection conducted on the
17 morning of November 27?

18 A That's correct.

19 Q Is each a fair and accurate representation of the scene
20 as you recall it?

21 A Yes, they were.

22 MS. MAYES: State's 69 and 70, 130 and 131, for
23 evidence, Your Honor.

24 THE COURT: 69, 70, 130, and 131.

25 MS. POPOWSKI: No objection, Your Honor.

1 THE COURT: So admitted into evidence.

2 Q I'm going to begin here with 130, although the writing
3 is very small. So what we're going to do is use the smaller
4 one. You can refer to the larger one if you need to, Agent
5 Ward, but at the same time I'm going to put the smaller one
6 on the overhead. And I want to make sure as we go that we
7 don't interfere in the ability to see the overhead. Are you
8 able to see the poster from where you are?

9 A I am.

10 Q I think this may be more effective so that each member
11 of the jury can see the overhead as we go. All right,
12 looking up here in the top left hand corner. Agent Ward,
13 you've indicated that this is, in fact, your drawing?

14 A Yes.

15 Q It is your diagram?

16 A Yes.

17 Q I'm going to show you what is State's 37 already in
18 evidence. And can you show us on the diagram where this
19 camper and porch is located here on your 69?

20 A This is the camper location, and this is the front
21 porch. The roadway would be located closer to the bottom.

22 Q And each number that is affixed here on your diagram
23 represents what?

24 A Those are items of evidence that I located while I was
25 on scene.

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1 Q Those items of evidence, were they properly collected
2 by you?

3 A Yes, they were.

4 Q And then how are they noted here in State's 69?

5 A I've tried to color code them based on ballistic
6 evidence, like cartridge cases, or projectiles, or bullets
7 also found some fragments on scene.

8 MS. MAYES: Beg the Court's indulgence.

9 Q I now want to go back to 37. Did you work the scene of
10 this porch?

11 A Yes, I did.

12 Q I want you, Agent Ward, to walk us through where you
13 recall seeing blood on that porch.

14 A When I arrived on scene and began to approach the front
15 porch, there's a set of steps located here at the bottom of
16 the picture. I did see several drops there, but as I walked
17 onto the porch, or the deck, there was additional suspected
18 blood here, as well as leading up to closer to the front
19 door.

20 Q All right. So you actually are able to observe blood
21 around the front door area as well?

22 A I did.

23 Q I want to ask you a few questions about that. When we
24 look here at this blood -- I'm going to show you a close up
25 of State's 36 already in evidence. Looking at State's 36.

1 Do you recognize where this area of blood letting would be
2 in State's 37?

3 A I do.

4 Q I'm going to ask you to show us what that would be
5 looking here at 36 being a close up. What is meant by the
6 term of bloodletting or blood pooling?

7 A Essentially, a blood letting event is just any event
8 where someone is bleeding. A pool of blood would just be a
9 place where blood has been allowed to accumulate.

10 Q All right, would that be consistent with a victim who
11 has sustained gunshot wounds and is down?

12 A It would indicate that somebody was in that position
13 for a period of time.

14 Q To produce that amount of blood?

15 A That's correct.

16 Q And that would be State's 36. And one more time, where
17 we see that blood letting or that blood pooling in 36 on
18 your photograph, which is now State's 37?

19 A You can't see it from this angle, but there's a washer
20 and a dryer located here, and it would be approximately
21 here, if the handrail was not blocking the view.

22 Q I'm going to show you 74, not yet in evidence, and ask
23 you whether or not you recognize this.

24 A I do.

25 Q How so?

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1 A That's a photograph that I took of the front porch
2 area.

3 Q Do you see in 74 where this would be depicted in
4 State's 37?

5 A I do.

6 Q Is this a fair and accurate representation of the scene
7 as you found it?

8 A Yes, it is.

9 MS. MAYES: State's 74 for evidence at this time.

10 THE COURT: No objection?

11 MS. POPOWSKI: No objection, Your Honor.

12 THE COURT: State's 74 is admitted?

13 Q Now, looking here at 37. Where is it that you said you
14 saw additional blood pooling, or blood letting, beyond just
15 this area here at the front porch?

16 A Behind this area here you would see additional blood on
17 the surface of the porch.

18 Q What is this right here depicted in State's 37?

19 A That's a gas grill.

20 Q It's a grill on the porch?

21 A Correct.

22 Q What, if anything, did you note about blood in the area
23 of that grill?

24 A On the surface of the porch in front of that between
25 the front door, there was additional blood.

1 Q And is that what's depicted in State's 74?

2 A Yes.

3 Q So using the grill to orient us, looking here at 37. Do
4 you see where the grill is in relation to the front door?

5 Now, I'm going to show you 74. Where do you see additional
6 blood in relation to that grill?

7 A Blood was located here. There was also -- it's hard to
8 see here, but there were multiple drips, or drops of blood
9 on the surface of the porch.

10 Q And where would the front door be?

11 A It's just to the right of this photo here with the
12 floor mat.

13 Q So a front door mat. Font door to the right, or in this
14 area here. The grill, and then additional blood?

15 A That's correct.

16 Q Does that indicate that the victim had been located
17 there at some point in time?

18 A I would believe it indicates it.

19 Q The presence of blood, or bloodletting, indicates that
20 the victim had been there?

21 A That's correct.

22 Q So you have a blood pattern that is more than just one
23 area of blood loss?

24 A That's correct.

25 Q Would that indicate that the victim has been moving at

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1 some point?

2 A It would indicate that.

3 Q Or able to move at some point?

4 A Yes.

5 Q Prior to the final area of bloodletting?

6 A Correct.

7 Q About that grill, I want to ask you a few more
8 questions. Going back to what you observed about the scene,
9 what is meant by the term fired cartridge case?

10 A A fired cartridge case would simply mean that a firearm
11 was discharged and ejected a spent cartridge case.

12 Q How many fired or spent cartridge cases did you observe
13 here at this scene, looking here at 37, including on the
14 porch and around the porch?

15 A I located two cartridge cases in the front yard area
16 and five cartridge cases on the front porch.

17 Q All fired?

18 A Yes.

19 Q So seven fired cartridge cases?

20 A That's correct.

21 Q Were they all of the same caliber?

22 A Yes, they were.

23 Q And what caliber was that?

24 A Nine millimeter.

25 Q So seven fired nine millimeter cartridge casings in

1 this whole area shown here in State's 37 or the surrounding
2 area?

3 A That's correct.

4 Q How many were actually found on the porch itself?

5 A Five.

6 Q Five fired cartridge casings on that porch?

7 A Yes.

8 Q I'm going to go back to the grill shown here in State's
9 74. Take a look at it there, in relation to where we see
10 blood, and then in relation to State's 37, that whole porch
11 area where you've indicated five fired cartridge casings
12 were found. Were all of those collected by you?

13 A Yes, they were.

14 Q I'm going to show you a photograph, beginning with
15 State's 88. State's 88, 89, 90, 91, 92, 93, and 94 and ask
16 you whether or not you recognize these items.

17 A I do.

18 Q I'm going to show you what is marked as State's 133.

19 MS. MAYES: Your Honor, does the witness have
20 permission to break the seal?

21 THE COURT: Very well.

22 Q State's 133 being unsealed. Do you recognize what is
23 depicted in State's 133?

24 A I do. These are the cartridge casings I collected from
25 the scene.

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1 Q The same casings depicted in each of these photographs
2 that I called out, 88 through 94?

3 A Yes.

4 MS. MAYES: Your Honor, at this time, 88 and 94 for
5 evidence, as well as seven fired casing being State's 133.

6 THE COURT: Is that 88 through 94?

7 MS. MAYES: Yes, Your Honor.

8 MS. POPOWSKI: No objection.

9 THE COURT: State's Exhibits 88, 89, 90, 91, 92, 93,
10 and 94 admitted into evidence. Madam Solicitor, you said 133
11 as well?

12 MS. MAYES: 133, Your Honor.

13 THE COURT: Very well. 133 as well.

14 Q And do you have with you your notes reflecting exactly
15 what each of these items are?

16 A I do.

17 Q Looking here at State's 69 in evidence. I realize this
18 is very fine print. 1-2-5-6-8-11-12. Do those markers
19 account for the seven fire cartridge cases found at the
20 scene?

21 A That's correct.

22 Q All nine millimeter?

23 A Yes.

24 Q And where are we looking at the location you collected
25 those items here on the diagram? In other words, looking at

1 the diagram, are you marking them where you find them?

2 A That's correct.

3 Q Looking here, can you take us through those markers, 1,
4 2, 5, 6, 8, 11, 12, and tell us where you found those fired
5 cartridge cases, all nine millimeter?

6 A Markers 1, 2, 8, 5, and 6 were cartridge cases I
7 located on the front porch.

8 Q Let me stop you right there. So the five that you found
9 on the front porch, does your training and CSI work also
10 include some experience not only using firearms, but
11 recovering firearms evidence?

12 A That's correct.

13 Q What can you tell us about the ejection pattern?

14 A If someone is shooting a semi-automatic pistol, the
15 cartridge cases will typically be ejected from that firearm
16 within close proximity to where the shot was fired.

17 Q All right. So five of them are found on the actual
18 porch?

19 A Correct.

20 Q What about the other two, 11 and 12?

21 A 11 was located adjacent to the front porch, just
22 outside of the handrail next to the tree, and then 12 was
23 located further out into the front yard.

24 Q And were you aware that the vehicle also had an
25 indication or that there was damage to the back window of

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1 that vehicle?

2 A Yes, I did.

3 Q Somewhat in proximity to the fired casing found which
4 you labeled as 12?

5 A Yes.

6 Q Walking through these, looking at the actual head
7 stamp. Do you photograph the head stamp which reflects it's
8 nine millimeter?

9 A I do.

10 Q And was that done on 88, which is marker 1, 89 which is
11 marker 2, 90 which is marker 5, 91 which is marker 6, 92
12 which is marker 8, 93 which is marker 11, and 94 which is
13 marker 12?

14 A Yes, I photographed them.

15 Q And you indicated all nine millimeters?

16 A That's correct.

17 Q Looking here is 12 and 11, noted to be FC maker model?

18 A Yes.

19 Q I'm going to let you look at 6 close up. What was the
20 maker model of that ammunition noted here in State's 91,
21 that marker?

22 A The head stamp is indicated WIN nine millimeter Luger,
23 which would be Winchester. 90 is FC? 89 also FC? Then 88,
24 I'll let you to take another look at that.

25 A This is also depicting WIN nine millimeter Luger.

1 Q Another Winchester?

2 A Correct.

3 Q Now, I want to show you some photograph depicting the
4 grill that you told us about before. This is State's 161.
5 132, which is a series of three photographs. And then 162,
6 another photograph of the grill. What are we looking at in
7 the grill? What type of work have you done here?

8 A I located two bullet defects, or bullet holes in the
9 grill. I documented those by sticking what we call
10 trajectory rods through the holes to show the angles of the
11 bullets impact.

12 Q So looking at 162, that series of photographs, 132 and
13 161. Do all of these reflect that work that you told us
14 about before for shooting reconstruction using a trajectory
15 rod?

16 A Yes, they do.

17 Q Does that help show or depict the path of a flying
18 bullet?

19 A Yes.

20 Q And the angle at which a gun is being fired?

21 A That's correct.

22 MS. MAYES: All for evidence at the time, Your Honor.
23 162, 161, and 132.

24 THE COURT: Without objection?

25 MS. POPOWSKI: No Objection, Your Honor.

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1 THE COURT: State's Exhibits 161, 163, and 132 are
2 admitted.

3 Q Going back to this grill that we see here, across the
4 way from that door and that front door. First of all, right
5 here in this photograph, State's 37, who took that
6 photograph?

7 A I did.

8 Q You took the photograph. Right here we see the door
9 open. But having worked this crime scene, what can you tell
10 us? How did the door come to be open?

11 A I was advised that fire service forced the door to gain
12 access to the interior.

13 Q And in fact, were you able to find evidence that the
14 entire lock surrounding that door had been broken by fire
15 services?

16 A Yes.

17 Q Would that all be part of an attempt to put a fire out?

18 A Yes, it would.

19 MS. MAYES: State's 163.

20 MS. POPOWSKI: No objection.

21 THE COURT: State's 163 is admitted into evidence.

22 Q I'm just going to show you one photograph and ask you
23 one question. Can you tell us whether or not 163 depicts
24 where first responders would have broken the lock?

25 A Yes, it does.

- 1 Q And then looking at 37 we see the door open?
- 2 A Yes.
- 3 Q That again, is open by first responders?
- 4 A That's correct.
- 5 Q You didn't initially -- let me just rephrase that.
- 6 Looking here, obviously you're photographing the scene after
- 7 first responders have worked the scene?
- 8 A Yes, that's correct.
- 9 Q And secured the scene?
- 10 A Yes.
- 11 Q Now where that grill is located, and we see the front
- 12 door now opened. You indicated before shown here in State's
- 13 74 you saw evidence of blood in front of that grill?
- 14 A Yes.
- 15 Q I'm going to back up just a little bit. If you can,
- 16 show us where the grill is in relation to that blood
- 17 pattern.
- 18 A The grill is located along the left side of the
- 19 photograph here, with the blood just in front of it.
- 20 Q Now, 132, 161, and 162, all in evidence. Did you find
- 21 bullet defects in the grill itself?
- 22 A I did.
- 23 Q What are we looking at here in State's 132?
- 24 A That is a photograph of the front of the grill. There
- 25 was a bullet defect, or bullet hole, in the handle of the

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1 grill. That is an image of a trajectory rod that I placed
2 through the bullet holes to help me show the angle that the
3 shot was fired.

4 Q All right. Tell us more about that please.

5 A Looking at the trajectory rod, you can see that it was
6 fired at a downward angle, and slightly angled to the right
7 side of the grill.

8 Q So the shot is coming, from where we see the top, the
9 shot is coming from the top downward?

10 A That's correct. It would have had to been fired above
11 the grill.

12 Q Can you tell us whether or not that would be consistent
13 with a shooter who is standing?

14 A To me, it would indicate that a shooter or the firearm
15 was positioned above the deck railing, located here.

16 Q And looking at the deck railing, or show us here where
17 that deck railing would be.

18 A You can slightly see it right here, but it's basically
19 just below the level of the grill shelf.

20 Q And having been at that scene, would it be possible for
21 someone to stand behind the deck railing and fire over the
22 deck railing?

23 A Yes, it would be.

24 Q Can you tell us whether or not a standing shooter
25 firing over the deck railing would produce that downward

- 1 angle?
- 2 A Yes.
- 3 Q So that's at least one defect that you see to the grill
- 4 in a downward angle?
- 5 A That's correct.
- 6 Q Did you see one or more than one?
- 7 A I located two.
- 8 Q Now I'm going to show you State's 162. What are we
- 9 looking at here?
- 10 A This is an image of the right side of the grill.
- 11 Again, another trajectory rod that I placed through a bullet
- 12 hole, showing a downward angle, and this time it's slightly
- 13 to the left.
- 14 Q Can you tell us whether or not that would also be
- 15 consistent with a shooter who is standing?
- 16 A Yes, it would be.
- 17 Q Standing where?
- 18 A Above the level of the grill or the handrail.
- 19 Q That would be behind the railing and firing downward?
- 20 A Yes.
- 21 Q Can you tell us whether or not a shooter standing
- 22 behind that railing and firing downward could produce
- 23 casings being ejected onto the porch?
- 24 A If they were within close enough proximity to the
- 25 porch, then yes.

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1 Q You found five casings on the porch itself?

2 A That's correct.

3 Q So having worked this scene as a whole, including the
4 trajectory rodding, including photographing, and documenting
5 the location of bloodletting, what if anything can you tell
6 us about whether or not it appears a shooter was firing over
7 the railing?

8 A I believe they were.

9 Q How so?

10 A To me, just looking at the trajectory rods, it would
11 indicate that somebody was shooting downward at something
12 located on the porch.

13 Q Something located downward on the porch. Looking at 74.
14 Do you have evidence someone was losing blood, or suffering
15 blood loss in this location here?

16 A Yes.

17 Q Looking at that location, directly in front of that
18 doormat and in front of that grill, would these photographs
19 State's 162 and 132 be consistent with someone firing at a
20 victim who is down?

21 A I believe it would.

22 Q Also part of 132. We see these attachments. Page two of
23 132. Does this show both of your roddings together?

24 A Yes, it does.

25 Q Both of your roddings from 162 and 161 where someone is

1 firing downward through that grill?

2 A That's correct.

3 Q Based upon your work at this crime scene, in your
4 opinion, standing behind the railing, firing downward?

5 A I believe it's consistent with that.

6 Q All in the area of where we saw that blood loss in
7 front of the door?

8 A Yes.

9 Q Now the final page, once again depicting the green rod.
10 In addition to those seven fired casings, what else did you
11 observe about any property around the area? Specifically,
12 I'm asking about a white Nissan Maxima.

13 A There was a white Nissan sedan or Maxima. I was told
14 that it had been moved, previously located along the fence
15 in front of the camper and had been moved to the other side
16 of the driveway.

17 Q And is that accounted for on your diagram?

18 A Yes, it is.

19 Q I'm going to go back to State's 69 and if you can show
20 us where you accounted for what you believe to be the
21 original position of that vehicle and where you actually
22 found it once it had been moved.

23 A When I arrived on scene, the vehicle was located on the
24 other side of the driveway. After speaking with
25 investigators, looking at body cam video, I did see that it

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1 was actually located just to the right of the gate.

2 Q And you indicated that, in addition to the five fired
3 nine millimeter casings on the porch, you also found one
4 fired casing just off the porch area, and then another in
5 that location where the car had originally been?

6 A That's correct.

7 Q We're going to take a look at some of these car
8 photographs. State's 95, 99, 98, 96, and 97. Did you
9 thoroughly search that car?

10 A I did.

11 Q Was there any evidence of a firearm inside that car?

12 A No. There was not.

13 Q Or ammunition inside that car?

14 A No.

15 Q But you saw evidence that the car had been fired upon?

16 A That's correct.

17 MS. MAYES: All for evidence at this time, Your Honor.

18 THE COURT: 95, 96, 97 -- did I leave one out?

19 MS. MAYES: I will call them out, Your Honor.

20 MS. POPOWSKI: No objection, Your Honor.

21 THE COURT: So admitted. If you would please just call
22 the numbers out.

23 MS. MAYES: 97, 96, 98, 99, and 95.

24 THE COURT: So admitted. Thank you.

25 Q Now, upon arriving at the scene, did you become aware

1 from first responders that there did appear to be bullet
2 damage to that vehicle?

3 A Yes.

4 Q Did you process that vehicle to explore that further?

5 A I did.

6 Q Did you find evidence that it had, in fact, sustained
7 gun fire?

8 A Yes, I did.

9 Q Looking here at 95, what do we see?

10 A That's a photograph of a bullet hole to the rear window
11 glass of the sedan on the left side, the driver's side.

12 Q And looking here at 99, which has an attachment being a
13 close up. What do we see here?

14 A That's a photograph of a bullet fragment that I located
15 on the rear passenger side floor board.

16 Q Looking here at 98 which also has attachments. What
17 are we looking at?

18 A That's an image of an additional fragment that I
19 located.

20 Q Bullet fragments inside the car?

21 A That's correct.

22 Q Would that all be consistent with that one fired round
23 into the vehicle through that back windshield?

24 A Yes.

25 Q Now what other damage did you observe to the vehicle?

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1 A On the rear shelf, just inside the backseat area, there
2 was a another bullet hole where a speaker had been hit.
3 There was also two, what appeared to be slashed tires, on
4 the passenger side of the vehicle.

5 Q All right, so that one bullet can create significant
6 damage?

7 A Yes.

8 Q By moving around inside a closed space, such as a
9 vehicle?

10 A Yes, it can.

11 Q And then looking here at 97. What is depicted?

12 A That's an image of the rear passenger side tire.

13 Q The attachment to 97. What are we seeing here?

14 A That's an image of a cut to the rear passenger side
15 tire.

16 Q And when you say cut, was it apparent to you, as a CSI
17 investigator, that some type of tool or sharp instrument was
18 used to create this damage?

19 A I believe so. It didn't look like normal road damage.

20 Q And it's cut completely along the wall of the tire?

21 A Correct.

22 Q 96 and the close up of 96. Who is taking these
23 photographs?

24 A I am.

25 Q What do we see here?

1 A That's a close up, close up image of another cut to the
2 front passenger side tire.

3 Q Does the cut appear to be -- to extend from here all
4 the way downward?

5 A Correct, even out to the limits of the image.

6 Q So over seven millimeters in length?

7 A Yes.

8 Q Again, does that appear consistent to you with the use
9 of some type of sharp instrument?

10 A Yes, I believe so.

11 Q Based upon you are processing that scene, does that
12 appear to be the only vehicle in the immediate area of that
13 camper which could have been used for the victim to leave or
14 escape?

15 A Yes.

16 Q The only vehicle there?

17 A That's the only one that I observed.

18 Q And again, you searched that car. No firearm and no
19 ammunition in that car?

20 A That's correct.

21 Q Now, what about the camper itself? Did you have an
22 opportunity to not only search the area around the grill and
23 the porch, but the camper itself?

24 A I did search the inside of the camper.

25 Q Was there any evidence of a firearm inside the camper?

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1 A I did not locate any.

2 Q Or ammunition inside the camper?

3 A No.

4 Q So in addition to the multiple rounds fired in the area
5 of the porch, which struck the victim, was there evidence of
6 rounds that either went through the victim into the camper
7 or ---

8 MS. POPOWSKI: Objection, Your Honor. She's leading the
9 witness.

10 MS. MAYES: I'll rephrase.

11 THE COURT: Very well.

12 Q Did you have any evidence that -- first of all, let me
13 ask you, did the victim sustain any what's known as a
14 through-and-through type injury, meaning the bullet leaves
15 the body?

16 A As far as I know, he had multiple.

17 Q Exit wounds?

18 A Yes.

19 Q And how did you go about recovering projectiles, fired
20 bullets that came out of that gun for at least seven rounds
21 that would have been fired?

22 A I did search the front porch area and did locate
23 bullets and bullet fragments.

24 Q Are those also depicted in your diagram?

25 A Yes, they are. Those are going to be the light blue

1 shaded objects.

2 Q All right, I'm going to get up a little bit closer on
3 that and ask you please to walk us through those markers and
4 how you have accounted for them in terms of where you found
5 those fire projectiles or fragments.

6 A Marker three was located just to the left of a washing
7 machine on the front porch. There was another fragment just
8 in front of the front door. Marker four is another
9 projectile located near the blood stain. Marker 16 is
10 another fragment. Seven is an additional fragment that the
11 other fragments are accounted for in the vehicle.

12 Q The ones you already walked us through and told us when
13 we saw those previous photographs?

14 A Yes, ma'am.

15 Q What was recovered inside the vehicle? And again, all
16 of those fragments you recovered inside the vehicle, based
17 upon your experience with CSI work, can one fired round
18 produce the multiple fragments?

19 A Yes.

20 Q And then looking here at the scene, can one fired round
21 produce multiple fragments?

22 A Yes, they can.

23 Q Why is that?

24 A If it strikes a hard object, it can split into multiple
25 pieces.

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1 Q Can you tell us, having worked hundreds of crime
2 scenes, if that's common or uncommon?

3 A It's fairly common.

4 Q Do you find projectile fragments in addition to a whole
5 projectile?

6 A Yes.

7 Q Here you find a projectile three and a projectile four,
8 and they're located right here. Is that in the general area
9 where we also saw that bloodletting in front of the grill?

10 A Yes, it is.

11 Q So in front of the grill, three and four, both being
12 fire projectiles.

13 A Yes.

14 Q Seven being a projectile fragment located down here?

15 A Correct.

16 Q 13 and 15 being projectiles?

17 A Yes, those are located inside the camper.

18 Q Okay, and did you have evidence from working this scene
19 that any of the fired bullet actually went through any
20 object into the camper?

21 A Yes.

22 Q What did you observe?

23 A There were two bullet holes to the exterior of the
24 camper, just above the washing machine. They went through
25 multiple objects inside the camper, and I was able to locate

1 two fired projectiles inside.

2 Q I'm going to show you what is marked State's 102.

3 MS. POPOWSKI: No objection.

4 Q And finally, I want to ask you about the damage that
5 you saw, indicating some of the fired bullets actually went
6 into the camper. Could you walk us through this, Agent
7 Ward? What are we looking at with 102.

8 THE COURT: That's 102 and what else?

9 MS. MAYES: It's all 102, Your Honor. There are six
10 photograph exhibits.

11 THE COURT: Admitted without objection.

12 A This is an image of two bullet holes with trajectory
13 rods to the front of the camper and the washing machine.

14 Q And as a point of reference, I'll take you back to 37
15 already in evidence. Where do we see those appliances, such
16 as the washing machine?

17 A Those are going to be located just to the right of the
18 front door.

19 Q Right around here?

20 A Correct. I believe the washing machine is located
21 right here.

22 Q Can you tell us whether or not you found evidence that
23 some fired bullets actually went through the wall or
24 appliances into the camper itself?

25 A Yes.

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1 Q Is all of that depicted in State's 102?

2 A Yes, it is.

3 Q All right. So first, did you do some rodding right here
4 in State's 102?

5 A Yes.

6 Q Show us where your rods are placed to determine the
7 trajectory or path of those bullets.

8 A One rod is located here to the front of the washing
9 machine and the side of the camper. Another is located just
10 to the right of the front door.

11 Q So someone is firing from which direction; into the
12 camper, or away from the camper?

13 A Into the camper.

14 Q You see a green rod and a -- hard to see, but that's a
15 red rod there?

16 A Yes.

17 Q Would that indicate two separate projectiles?

18 A Yes, it would.

19 Q The next page to this exhibit is what?

20 A This is a view of the shower bathtub area on the inside
21 of the camper. But just opposite of this would be the
22 exterior wall where the washing machine was located.

23 Q That same green rod and red rod?

24 A Yes.

25 Q Where did the bullets depicted by that green rod and

1 red rod go next?

2 A They went through another wall, and then there was an
3 actual cabinet here to the left. Both of those entered the
4 cabinet.

5 Q And where next?

6 A This is an image of the front of the cabinet door.
7 There were some linens inside the closet, but this is
8 basically going through a curtain here, separating the main
9 living room area of the camper and the shower bathroom area.

10 Q And finally?

11 A It's another image of the cabinet with the door open.
12 The pink or red rod continues through into the back side of
13 this hutch on the wall. The green rod terminated inside the
14 cabinet here.

15 Q These projectiles were also collected by you?

16 A That's correct.

17 Q I'm going to show you what is 134 and 140, and ask you
18 whether or not you recognize these items.

19 A I do.

20 Q I'm going to show you what is 134 and 140 and ask you
21 whether or not you recognize these items.

22 A I do.

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

24 Q Now, as to the fired casing that you found that are
25 shown right here.

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1 MS. MAYES: Just to confirm, Your Honor, already in
2 evidence, State's 133?

3 THE COURT: Yes, ma'am.

4 MS. MAYES: And then we're offering for evidence 140 and
5 134. 140 being fired projectiles and 134 being fragments.

6 THE COURT: That's without objection, Ms. Popowski?

7 MS. POPOWSKI: No objection, Your Honor.

8 THE COURT: State's 134 and 140 into evidence.

9 Q Those seven fired shell casings, the seven nine
10 millimeter rounds that you recovered from that scene, five
11 from the porch and then two outside the porch? Can you tell
12 us whether or not you swabbed these fired casings to
13 potentially get DNA?

14 A I did.

15 Q And is that something you did out of the abundance of
16 caution?

17 A Yes, it was.

18 Q And did you properly seal those DNA swabs?

19 A I did.

20 Q To submit to the State Law Enforcement Division for
21 further analysis?

22 A Yes, that's correct.

23 Q And again, all fired casings were nine millimeter.

24 A Yes.

25 Q Going back to 74. You saw that evidence of

1 bloodletting in front of the grill. Can you tell us whether
2 or not your reconstruction and the rodding you conducted,
3 looking at 172, 162, and 161. Does this indicate someone is
4 firing from the camper porch out, or from outside into the
5 camper porch?

6 A To me, it would indicate firing from the outside in.

7 Q And at a downward angle?

8 A That's correct.

9 Q Towards the direction of where you see bloodletting?

10 A Yes.

11 MS. MAYES: Beg the Court's indulgence. I believe 130
12 and 131 are already in.

13 Q Where you spoke about three and four. Do you see three
14 and four up there on that overhead? And, if not there,
15 here?

16 A Yes, I do see.

17 Q I'm going to show you what is 195, 196, 197, 198, 199,
18 and 201. Do all of those depict fired projectiles?

19 A Yes, they do.

20 Q Recovered from this crime scene?

21 A Yes.

22 MS. POPOWSKI: No objection, Your Honor.

23 THE COURT: For evidence?

24 MS. MAYES: For evidence, Your Honor.

25 THE COURT: Without objection, 195, 196, 197, 198, 199,

Patrick Ward: Cross-Examination

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1 and 201 admitted.

2 MS. MAYES: That's correct, Your Honor.

3 Q Where you saw projectile four, and projectile three,
4 and that area of bloodletting right next to projectile four?

5 A Yes.

6 Q Is this four?

7 A Yes, it is.

8 Q And is this three, being a fired projectile?

9 A Yes.

10 Q 199, marker 15, being a fired projectile?

11 A Yes.

12 Q And 198 showing marker 13, also a fired projectile?

13 A Yes.

14 Q All of that damage consistent with those five fired
15 casings that you found there on the porch?

16 A Yes, it was.

17 MS. MAYES: Nothing further, Your Honor.

18 THE COURT: Could y'all approach real quick?

19 (Sidebar outside of the hearing of the jury.)

20 THE COURT: Cross-examination.

21 MS. POPOWSKI: Thank you, Your Honor. Beg the Court's
22 indulgence.

23 MS. MAYES: 163, Your Honor, was offered as evidence. I
24 just wanted to confirm that 163 has been admitted.

25 THE COURT: I show it as admitted. I have a check mark

1 beside it.

2 CROSS-EXAMINATION

3 BY MS. POPOWSKI:

4 Q Agent Ward, you wrote a report in this case. Is that
5 correct?

6 A That's correct.

7 Q And you documented everything in that report that you
8 found that you've testified here about today?

9 A Yes.

10 Q And in your report, you documented that there were, and
11 I quote, multiple surveillance cameras that were observed
12 mounted to trees.

13 A Yes, there were.

14 Q Okay, but those weren't actually recording? They were
15 just live feed cameras?

16 A I was told they were either live feed or not working,
17 inactive.

18 Q Okay. And so there's no video of this incident?

19 A That's correct.

20 Q And you did swabs from the fired cartridge casings or
21 from the fired ones?

22 A Yes.

23 Q And, and you took swabs for the purpose of collecting
24 DNA, is that right?

25 A That's correct.

Patrick Ward: Redirect Examination

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1 Q And no DNA was found in this case?

2 A As far as I'm aware. No.

3 Q And there were no fingerprints found in this case?

4 A I did dust for fingerprints on the vehicle, but I did
5 not locate any.

6 Q Thank you. And no firearm, and I think you've already
7 testified to this, but just to be clear, no firearm was
8 found in this case?

9 A That's correct.

10 Q And no firearm matching the projectiles or the spent
11 casings was ever recovered?

12 A To my knowledge, no.

13 Q And I don't know where the -- here we go. On your
14 diagram here, there are two -- and you've already testified
15 to this, but there are two different locations of shell
16 casings that are outside in the yard?

17 A That's correct.

18 Q And you included in your report, and you testified here
19 today, that there was blood spots found on the stairs?

20 A Correct.

21 Q And you can't tell by your observation of the scene
22 what -- in what order the shots were fired?

23 A No. To my knowledge, I'm not able to do that.

24 Q So these are just for your note taking purposes?

25 A Correct.

1 Q So the this isn't necessarily the first shot that was
2 fired, this first shell casing?

3 A I basically mark items of evidence as I find these.

4 Q So for note taking purposes or documenting?

5 A That's correct.

6 Q But that's not the order that those casings necessarily
7 fell in?

8 A Correct.

9 Q And this right here, you say the approximate location
10 of this vehicle, because you arrived on scene at 9 a.m.
11 after it was moved. Is that correct?

12 A That's correct.

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

14 THE COURT: Redirect.

15 MS. MAYES: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. MAYES:

18 Q So just to clarify, in addition to checking this
19 location for video recordings or video surveillance, you
20 also would have checked with neighbors to see if they may
21 have any active video surveillance?

22 A I personally would not have, but other investigators
23 would have been on scene to check the area.

24 Q And to your knowledge, there is no actual recording of
25 any video surveillance that depicts the shooting?

1 A That's correct.

2 Q And the blood stains that we were talking about, I
3 think you had indicated that your report noted that there
4 may have also been blood right there along the steps. And
5 I'm going to ask you a question about that. What is shown
6 right here?

7 A That's an image of a rug right there at the steps.

8 Q But that is the steps that I just pointed to?

9 A That's correct.

10 Q I'm going to show you State's 28. Are you aware that
11 the victim was ultimately moved over here, as depicted on
12 your diagram?

13 A Yes.

14 Q He is removed from the porch to be placed on this lid?

15 A That's correct.

16 Q Being used as a slide to move him to that other
17 location?

18 A Yes.

19 Q So going back here. Was it significant blood that you
20 noted on the steps, or just a smaller amount?

21 A A small amount.

22 Q Can you tell us whether or not that could be consistent
23 with moving the victim from this location where you observed
24 the bloodletting onto that slide to get him off the porch?

25 A That's possible. Yes.

1 Q Because whoever was located and bleeding here was
2 removed from the porch?

3 A Yes.

4 Q So the moving -- so whoever is here is bleeding?

5 A That's correct.

6 Q All right. And so the act of moving a bleeding person
7 from this location off the porch can result in transfer
8 blood?

9 A Yes, it can.

10 Q But given your experience with blood pattern -- going
11 back here to 37. One more I need, 36. You're experienced
12 with blood pooling and blood patterns. Looking here at 37.
13 That blood stain there depicted right along here and a close
14 up being here in 36. Can you tell us whether or not that's
15 indicative of sustained blood loss?

16 A To me, that would indicate that a individual was
17 stationary for a longer period of time in that location.

18 Q And actively bleeding?

19 A Correct.

20 Q I'm going to ask you the same question here about 74.
21 Is that also consistent with sustained or significant blood
22 loss at that location?

23 A Yes.

24 MS. MAYES: Thank you. Nothing further, Agent Ward.

25 THE COURT: Any recross?

1 MS. POPOWSKI: Yes. Just briefly, Your Honor.

2 RECROSS-EXAMINATION

3 BY MS. POPOWSKI:

4 Q I just want to go back to my question about the blood
5 that was located on the steps of the camper. In your
6 report, you indicate that the blood that you located there
7 was blood dripping. Is that correct?

8 A Yes. A small drip of blood.

9 Q Small drip of blood. And then you indicated that
10 additional suspected blood drips and transfer were observed
11 on the surface of the porch?

12 A That's correct.

13 MS. POPOWSKI: No further questions.

14 THE COURT: All right. The witness is excused.

15 MS. MAYES: Your Honor, we ask that Agent Ward be
16 excused to return back to the State Law Enforcement
17 Division.

18 THE COURT: Without objection?

19 MS. POPOWSKI: No objection, Your Honor.

20 THE COURT: Thank you. Counsel approach.

21 (Sidebar held outside of the hearing of the jury.)

22 THE COURT: Ladies gentlemen, we are recessing for the
23 day. Be in the jury room no later than 9:30. We'll see you
24 tomorrow morning. Please don't discuss the case or do any
25 independent research about the case or anything you've heard

P R O C E E D I N G S

THE COURT: State ready to call its next witness?

MS. MAYES: The State is ready, Your Honor. I want to go ahead and put on the record that the next witness would be James Abraham. James Abraham is a law enforcement officer who was injured in the line of duty on Saturday. He was hospitalized. He has been released from the hospital, but is currently on medical leave as a result of his injuries.

As discussed yesterday, the State would offer his testimony, his prior sworn testimony, which was subject to cross-examination pursuant to 804(a)(4) as a hearsay exception due to this witness being unable to testify at the current proceeding because of existing physical illness or infirmity pursuant to the rule.

Again, this would be the prior sworn testimony subject to cross-examination. This will be presented to the jury by Jordan Cox from the solicitor's office to read that testimony into the record in the form of a question and then an answer.

THE COURT: You'll read the question and he'll read the answer or he'll read both?

MS. MAYES: He'll read both, Your Honor.

THE COURT: Okay.

MS. MAYES: For direct examination.

1 THE COURT: For direct.

2 Did you even ask him --

3 MR. POPOWSKI: I didn't have any questions the first
4 time. I don't anticipate having any this time.

5 THE COURT: So I'll just inform the jury that the next
6 witness will be publishing testimony from prior sworn
7 testimony of a witness who is currently unavailable to be
8 here at trial.

9 Is that satisfactory?

10 MS. POPOWSKI: Yes, Your Honor.

11 THE COURT: All right. Is the Defense otherwise ready
12 to bring the jury in?

13 MS. POPOWSKI: Yes, Your Honor.

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

15 (WHEREUPON, the jury enters the courtroom at 9:49 a.m.)

16 THE COURT: Okay. Ladies and gentlemen, please be
17 seated. Madam Forelady, ladies and gentlemen, welcome back.
18 I hope you had a nice evening. We're going to pick up where
19 we left off yesterday with the next one in the State's case
20 in chief.

21 Call your next witness.

22 MS. MAYES: Your Honor, at this time, the State calls
23 Assistant Solicitor Jordan Cox in lieu of Officer James
24 Abraham.

25 THE COURT: Mr. Cox, come on up.

1 Ladies and gentlemen, you're now going to hear
2 testimony from a -- prior testimony from a witness who is
3 not available to be here at trial at this time.
4 Therefore, we're reading his prior testimony to you as it
5 was priorly transcribed.

6 Mr. Cox, you raise your right hand.

7 Do you swear or affirm that the testimony you're going
8 to publish to this Court and read to the Court is accurate
9 to the best of your knowledge?

10 MR. COX: I do.

11 (WHEREUPON, the transcript of James Abraham was read
12 into the record by Assistant Solicitor Jordan Cox.)

13 THE COURT: Thank you.

14 MS. MAYES: Your Honor, if we could mark this at this
15 time as an exhibit. This would be a Court's Exhibit at this
16 time.

17 THE COURT: Yes, ma'am.

18 (WHEREUPON, Court's Exhibit No. 11 was marked for
19 identification.)

20 MS. MAYES: Court's Exhibit No. 11, Your Honor.

21 THE COURT: Very well. State may call their next
22 witness.

23 MS. OPPENHEIMER: The State calls Master Trooper Tyler
24 Hazel.

25 THE CLERK: Please raise your right hand and put your

~~Tyler Hazel - Direct by Ms. Oppenheimer~~

1 left hand on the Bible.

2 MASTER TROOPER TYLER HAZEL,

3 after being duly sworn, testified as follows:

4 THE WITNESS: I do.

5 THE CLERK: Thank you. Please take a seat in the
6 witness stand. State your full name and spell your last.

7 THE WITNESS: My full name is Richard Tyler Hazel.
8 Last name, H-A-Z-E-L.

9 DIRECT EXAMINATION

10 BY MS. OPPENHEIMER:

11 Q Good morning, Trooper Hazel.

12 A Good morning.

13 Q Can you tell us where you're currently employed?

14 A South Carolina Highway Patrol.

15 Q And about how long have you been there?

16 A A little over a year.

17 Q Where were you employed prior to the Highway Patrol?

18 A I worked at Richland County Sheriff's Department for
19 about 12 years.

20 Q For how long?

21 A About 12 years.

22 Q All right. So were you working at the Richland County
23 Sheriff's Department back in November and December of 2021?

24 A Yes, ma'am.

25 Q Do you recall being called out to a location on Thrush

—Tyler Hazel - Direct by Ms. Oppenheimer—

1 Street on December 2nd of 2021?

2 A Yes, ma'am.

3 Q And was that in reference to this Defendant, Mark
4 Scheibler?

5 A Yes, ma'am.

6 MS. OPPENHEIMER: Your Honor, if I may approach the
7 witness?

8 THE COURT: Yes, ma'am.

9 BY MS. OPPENHEIMER:

10 Q Showing you what's been marked as State's Exhibit 85.
11 Can you tell me if you recognize this photograph?

12 A Yes, I do.

13 Q And what is it?

14 A That is the location that we detained the Defendant
15 that night, December 2nd.

16 Q Okay. Do you recall the address?

17 A 132 Thrush Street.

18 Q Okay. And is it a fair and accurate representation of
19 the location, 132 Thrush Street?

20 A Yes, ma'am.

21 Q Has it been altered in any way?

22 A No, ma'am.

23 MS. OPPENHEIMER: Your Honor, at this time, I'd move
24 State's Exhibit No. 85 into evidence.

25 MS. POPOWSKI: No objection, Your Honor.

1 THE COURT: State's Exhibit No. 85 is admitted into
2 evidence.

3 (WHEREUPON, State's Exhibit No. 85 was admitted into
4 evidence.)

5 MS. OPPENHEIMER: Permission to publish, Your Honor.

6 THE COURT: Very well.

7 BY MS. OPPENHEIMER:

8 Q So this is that location in Richland County that you
9 were called out to?

10 A Yes, ma'am.

11 Q I believe you told us that eventually the Defendant,
12 Mark Scheibler, was detained at that location; is that
13 correct?

14 A That's correct.

15 Q Can you tell us whether or not you saw him with
16 anything in his hands at that location?

17 A I do remember seeing him with a cellphone in his hand.

18 MS. OPPENHEIMER: Beg the Court's indulgence.

19 BY MS. OPPENHEIMER:

20 Q Showing you what's been marked as State's Exhibit No.
21 139. If you could take a look at this item. You can open
22 the envelope and see if you recognize that item.

23 A Yes, ma'am. That looks like it.

24 Q When you say it looks like it, what do you mean?

25 A Excuse me, the cellphone that the Defendant had in his

—Tyler Hazel - Direct by Ms. Oppenheimer—

1 hand.

2 Q It looks like the cellphone that the Defendant had in
3 his hand on December 2nd of 2021?

4 A Yes ma'am.

5 Q All right. And what, if anything, happened to that
6 cellphone on December 2nd of 2021?

7 A I'm sorry, say that again.

8 Q Did it remain in the Defendant's hands the entire
9 evening of December 2nd, 2021?

10 A So after I saw it in his hands after he was detained --
11 he did drop it and we recovered it next to where he was
12 detained at.

13 Q So he dropped it. Where did he drop it?

14 A It was in the front yard where he was detained at.

15 Q And how close would that phone have been to his person
16 when he dropped it?

17 A Right next to him.

18 Q And after the Defendant dropped that cellphone, what,
19 if anything, did you do with the cellphone?

20 A So after I recovered it, I picked it up and I gave it
21 to Investigator Short.

22 MS. OPPENHEIMER: Beg the Court's indulgence.

23 (Pause.)

24 MS. OPPENHEIMER: Thank you, Trooper Hazel. I have no
25 further questions at this time.

Clay Short - Direct by Ms. Mayes

1 THE COURT: Cross-examination?

2 MS. POPOWSKI: Thank you, Your Honor. I don't have any
3 questions for this witness.

4 THE COURT: Very well. The witness is excused.

5 Call your next witness.

6 MS. MAYES: Your Honor, the State calls Clay Short.

7 CLAY SHORT,

8 after being duly sworn, testified as follows:

9 THE WITNESS: Yes, ma'am, I do.

10 THE CLERK: Thank you. Please take a seat in the
11 witness stand. State your full name and spell your last for
12 the record.

13 THE WITNESS: Clay Short, S-H-O-R-T.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q Good morning. Tell us a little bit about yourself.

17 Where are you currently employed?

18 A I'm currently employed at Geico.

19 Q Okay. And what do you do with Geico?

20 A I'm an investigator.

21 Q Prior to being an investigator with a private
22 corporation, what type of work were you working in the field
23 of investigations with?

24 A I was an investigator with the Richland County
25 Sheriff's Department.

1 Q All right. I'm going to need you to pull the
2 microphone up just a little bit closer to you.

3 A (Witness complies.)

4 Q You were an investigator with the Richland County
5 Sheriff's Department?

6 A Yes, ma'am.

7 Q And how long were you in investigations there prior to
8 going into work with a private firm?

9 A In total, I was at the sheriff's department for 12 and
10 a half years.

11 Q And during that time, how long were you employed as an
12 investigator?

13 A Just about eight years.

14 Q Okay. So eight years as an investigator. Were you
15 working in that capacity back in November of 2021?

16 A Yes, ma'am, I was.

17 Q Now, the Defendant in this case, Mark Scheibler, do you
18 have information with you as to the street address where he
19 was, ultimately, detained in this case?

20 A Yes, it was on Thrush Street, which is in Richland
21 County.

22 Q I'm going to ask you to take a look at State's Exhibit
23 No. 85 on the overhead and ask you whether or not you're
24 familiar with that location?

25 A Yes, ma'am.

1 Q And were you physically out there along with Tyler
2 Hazel, who just testified previously, when the Defendant in
3 this case was detained?

4 A Yes, I was.

5 Q And what was that date again?

6 A I don't have that specifically in front of me. It
7 would have been December -- December 2nd.

8 Q Do you have a copy of your materials?

9 A Yes, I do.

10 Q Okay. December 2nd. And would that have been 2021?

11 A Sorry, yes, 2021.

12 Q That would have been detained at, does 132 Thrush
13 Street sound accurate?

14 A Yes, ma'am, it does.

15 Q Now, when he was detained, and I know you've indicated
16 you were out there, do you recall whether or not a cellphone
17 was retrieved from Mr. Scheibler as evidence in this case?

18 A Yes, ma'am, it was.

19 Q I'm going to show you State's Exhibit No. 139. And you
20 may unseal this and take a look.

21 A Okay.

22 Q Here are gloves if you need them.

23 A Okay. Thank you.

24 Q Looking now at State's Exhibit No. 139, what type of
25 item is this?

1 A It's a cellphone. It's a Samsung cellphone.

2 Q All right. And its color?

3 A Black.

4 Q And can you tell us what the IMEI number is for this
5 cellphone? And if you could take your time and read that
6 into the record.

7 A Yes ma'am. The IMEI number is 350207632463649.

8 Q And is that IMEI number known as a unique number to
9 cellphones?

10 A Yes, that number is unique to that specific cellphone.

11 Q Similar to a serial number?

12 A Yes ma'am.

13 Q And you indicated that this is a Samsung?

14 A Yes, ma'am.

15 Q Now, once this item was retrieved from Tyler Hazel out
16 at the scene, who did Tyler Hazel give that phone to next?

17 A He gave it to me, and he physically gave it to me.

18 Q All right. And what did you do with the phone upon
19 receiving it?

20 A I took it with me to our headquarters on Two Notch
21 Road.

22 Q All right. And what did you do with it there?

23 A After taking it to headquarters before putting it in an
24 evidence locker, I then spoke with Mr. Scheibler and got him
25 to -- where I explained and then got him to read and sign a

1 consent to search for this phone.

2 Q Okay. And I'll talk with you about that in a little
3 more detail shortly. Once you did retrieve this phone, you
4 indicated that you took it to headquarters and you put it in
5 a locker.

6 A Yes, ma'am.

7 Q Tell us how that is done and a little bit about your
8 evidence lockers at the sheriff's department.

9 A There are evidence lockers that are at the sheriff's
10 department that are specific for cellphones or electronic
11 items. And what that means is there are charging cables
12 inside each evidence locker. So I would have put the phone
13 in a Richland County evidence bag that was not sealed
14 because you can't charge it through a sealed bag. But I
15 would have put it in a sealed bag with the consent to search
16 and with a request form for our tech services department to
17 download the phone. And then it was put in an evidence
18 locker and then locked. And then only the evidence
19 technician or a supervisor would have the ability to unlock
20 the locker. So once I put it in there, I cannot get back in
21 there to manipulate it or do anything with it.

22 Q So it remains charged in an evidence locker. And are
23 the evidence lockers secure at the Richland County Sheriff's
24 Department?

25 A Yes. The other thing I forgot to mention was it would

1 have been put in airplane mode so that it can't be remotely
2 tampered with or reset or altered.

3 Q And is that common procedure among law enforcement
4 officers when a cellphone is seized?

5 A Yes, ma'am, it is.

6 Q And so putting it in airplane mode prevents any
7 tampering or alteration of evidence?

8 A Yes, ma'am.

9 Q Including remote tampering or alteration of evidence
10 with the cellphone?

11 A Yes, ma'am, specifically remote.

12 Q So no one could access it physically or remotely?

13 A Yes, ma'am.

14 Q And while it was in your custody, did anyone ever
15 tamper with or alter that phone in any way?

16 A No, ma'am.

17 Q And it would have gone next to who within the sheriff's
18 department and for what purpose?

19 A Then the next person that would have physically touched
20 the phone would have been Brian Metz, who was an
21 investigator at the sheriff's department and who was the
22 person in charge of physically downloading the information
23 from the phone.

24 Q All right. So Brian Metz was employed at the Richland
25 County Sheriff's Department for the purpose of conducting

1 cellphone extractions?

2 A Specifically, yes, ma'am.

3 Q And he would have been the next person to access the
4 phone and conduct a cellphone extraction on it?

5 A Yes, ma'am.

6 Q And following that, where was it placed?

7 A Once Investigator Metz completed the download of the
8 phone, he then puts it back in one of the cellphone lockers
9 and it is again plugged in so that it stays charged or stays
10 on and then he would have locked it, and then notified me
11 that he had put it back in the locker. And then it stayed
12 there until I unlocked it several days later or got it
13 unlocked so that I could give it to Investigator Baum with
14 Lexington County Sheriff's Department.

15 Q And did it remain in that locker prior to transfer to
16 the Lexington County Sheriff's Department investigator?

17 A Yes, it stayed there again to further prevent anybody
18 tampering with it or messing with it.

19 Q And, again, in airplane mode?

20 A Yep, yes, ma'am.

21 Q And, again, in a secure location?

22 A Yes, ma'am.

23 Q So I want to go back to this night of December 2nd,
24 2021 when the Defendant, Mark Scheibler, was detained there
25 at Thrush Street. After he's detained at Thrush Street, did

1 you have a chance to meet with him in a formal setting?

2 A Yes.

3 Q And once you met with him at -- would that have been at
4 headquarters?

5 A Yes, I -- like I took custody of the phone, also, had
6 Mr. Scheibler in the car with me. And I physically drove
7 him from Thrush Street to the Sheriff's Department
8 headquarters.

9 Q And is that for the purpose of, potentially, as you
10 said, getting consent to access the phone?

11 A Yes, ma'am.

12 Q And prior to getting even discussing with him consent
13 to access the phone, was he advised of his Miranda warnings
14 or rights?

15 A Yes, ma'am, he was.

16 Q I'm going to show you State's Exhibit No. 5 and State's
17 Exhibit No. 4. Looking here at State's Exhibit No. 5, do
18 you have a copy of that with you?

19 A Yes, ma'am, I do.

20 Q And do you recognize your own signature on this form?

21 A Yes, ma'am, I do.

22 Q And do you recognize the date and time?

23 A Yes ma'am.

24 Q What is the date and time?

25 A It is December 2nd, 2021 at 8:00 p.m.

1 Q All right.

2 MS. MAYES: And this would be State's Exhibit No. 5 for
3 evidence at this time, Your Honor.

4 MS. POPOWSKI: No objection.

5 THE COURT: State's Exhibit No. 5 is admitted into
6 evidence.

7 (WHEREUPON, State's Exhibit No. 5 was admitted into
8 evidence.)

9 BY MS. MAYES:

10 Q And looking at State's Exhibit No. 4, can you tell us
11 whether or not he did give consent to search that cellphone,
12 which is State's Exhibit No. 139?

13 A Yes, he did. And he went so far as to read and then
14 sign the form and then he drew the pattern that you would --
15 that only the person who owns the phone would know to get
16 into the phone.

17 Q Essentially, a pass code?

18 A Yes.

19 Q And was that in your presence?

20 A Yes, it was.

21 Q And did he appear to be of sound mind when this
22 occurred?

23 A Yes.

24 Q Did he appear to understand the questions that were
25 posed to him regarding consent for the cellphone?

1 A Yes ma'am.

2 Q Did his waiver appear to be freely and voluntarily
3 given?

4 A Yes, ma'am, it did.

5 MS. MAYES: State's Exhibit No. 4 for evidence at this
6 time.

7 MS. POPOWSKI: No objection.

8 THE COURT: All right. State's Exhibit No. 4 is
9 admitted into evidence.

10 (WHEREUPON, State's Exhibit No. 4 was admitted into
11 evidence.)

12 BY MS. MAYES:

13 Q During the process of advising him of his Miranda
14 rights, did he freely and voluntarily waive those rights and
15 agree to speak with you?

16 A Yes, ma'am, he did.

17 Q Was he threatened or coerced by you in any way in order
18 to provide this information regarding the cellphone?

19 A No, ma'am, he was not.

20 Q Was he promised anything in exchange for providing you
21 the information on his cellphone?

22 A No, ma'am, he was not.

23 Q And again, did he appear to understand the
24 communications between the two of you?

25 A Yes, ma'am, certainly.

Clay Short - Direct by Ms. Mayes

1 Q Looking here at the top, we see the date, 12/2/21,
2 being December 2nd, 2021. Could you read into the record
3 this information that is contained on this consent to search
4 form?

5 A Yes, ma'am. This is Richland County Sheriff's
6 Department consent to search form. The date was December
7 2nd, 2021. The location was our Richland County
8 headquarters. And it says I, Mark Scheibler, do hereby
9 consent to search of my premise and/or automobile and/or
10 cellphone without a search warrant by Investigator Short,
11 which is me, and tech services, which would be Investigator
12 Metz, officers of the Richard County Sheriff's Department.
13 These officers are afforded by me, authorized by me to take
14 from my premises and/or automobile and/or cellphone letters,
15 papers, materials or other property, which they may desire.
16 The description of the property to be searched is a Galaxy
17 8, which is a cellphone.

18 And then Mr. Scheibler then drew the pattern that is
19 used to unlock the cellphone. This is a form that's used
20 for searching many things. That's why cellphone
21 specifically was searched because that's the specific thing
22 I was asking for consent to search.

23 Q All right. And you have witnessed this yourself?

24 A Yes, ma'am.

25 Q Are those your initials?

1 A Yes, ma'am.

2 Q And whose signature is here?

3 A That's Mr. Scheibler's.

4 Q So again, this is an agreement to provide the pass code
5 to that, State's Exhibit No. 139, being that Galaxy Samsung
6 device?

7 A Yes, ma'am.

8 Q And this being the pass code that one would use a
9 finger to swipe on the phone and then access it?

10 A Yes, ma'am.

11 Q Now, in addition to your work here, retrieving the
12 cellphone from the scene, putting it into evidence and
13 making it available for a cellphone extraction, during these
14 communications with Mr. Scheibler, did you have an
15 opportunity to observe his voice?

16 A Yes, ma'am.

17 Q You're interacting with him one-on-one?

18 A Yes, ma'am. There was just the two of us.

19 Q During this entire time that you are communicating with
20 him, not only about his Miranda rights, but, also, about
21 accessing the cellphone?

22 A Yes, ma'am.

23 Q Have you had an opportunity to, also, listen to
24 recordings in State's Exhibit No. 172 and State's Exhibit
25 No. 173?

1 A Yes, ma'am, I have.

2 Q Do you recognize whether or not there is a male voice
3 in those recordings?

4 A Yes, ma'am, there is a male voice.

5 Q And do you recognize whose voice that is?

6 A It is Mr. Scheibler's voice.

7 Q The Defendant in this case?

8 A Yes, ma'am.

9 MS. MAYES: State's Exhibit Nos. 172 and 173 for ID at
10 this time --

11 BY MS. MAYES:

12 Q Do these recordings, also, contain your signature?

13 A Yes, ma'am, they do.

14 Q Showing that you have listened to the both of them for
15 the purpose of identifying the voice of Mark Scheibler?

16 A Yes, ma'am.

17 MS. MAYES: For ID only at this time, Your Honor,
18 State's Exhibit Nos. 172 and 173.

19 THE COURT: Very well.

20 (WHEREUPON, State's Exhibit Nos. 172 and 173 were
21 marked for identification.)

22 MS. MAYES: Nothing further of the witness at this
23 time, Your Honor.

24 THE COURT: Cross-examination.

25 MS. POPOWSKI: Yes, Your Honor. Beg the Court's

1 indulgence.

2 THE COURT: Very well.

3 (Pause.)

4 CROSS-EXAMINATION

5 BY MS. POPOWSKI:

6 Q Good morning.

7 A Good morning.

8 Q You testified about the Thrush Street location; is that
9 correct?

10 A Yes, ma'am.

11 Q Okay. And you're aware that my client did not live at
12 that location?

13 A Yes, ma'am.

14 Q And that other people lived there?

15 A Yes, ma'am.

16 Q Casey Jeffords?

17 A Are you asking me if Casey Jeffords lives there?

18 Q Yes.

19 A I do believe she does live there, or she did at the
20 time.

21 Q And there were no firearms found at the execution of
22 that search warrant; is that correct?

23 A Correct.

24 Q And there were no firearms on my client at the time of
25 his arrest?

1 A Correct.

2 Q And you are familiar with Alvin S. Glenn, the Richland
3 County Detention Center, correct?

4 A Yes, ma'am, I am.

5 Q Are you aware of the lawsuits and the fact that the U.
6 S. Justice Department found that the safety conditions at
7 Alvin S. Glenn violate the Constitution?

8 A What's your question?

9 Q Are you aware of the lawsuit?

10 A I am aware of the lawsuit. I believe that took place
11 after 2021, but, yes.

12 Q Okay. And you're aware that the Justice Department has
13 found that the safety conditions in Alvin S. Glenn violate
14 the Constitution?

15 A Yes.

16 Q And that's because the jail fails to protect
17 incarcerated people from serious harm and death by physical
18 violence from other incarcerated people?

19 A Is that their statement?

20 Q That was sort of the basis. Basically, they're saying
21 you're violating -- the safety conditions at Alvin S. Glenn
22 are violating the Constitution because you don't protect
23 there?

24 MS. MAYES: I object at this time, Your Honor. The
25 witness has made clear he does not know the underlying facts

1 of the lawsuit.

2 THE COURT: I do have one question.

3 (WHEREUPON, a bench conference was held in the presence
4 of the jury, but outside the hearing of the jury.)

5 THE COURT: Any other questions, Ms. Popowski?

6 MS. POPOWSKI: No, sir.

7 THE COURT: Any redirect?

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q I believe you got a question about whether or not a
11 search warrant was executed at that residence, 132 Thrush
12 Street. Are you aware of whether or not a search warrant
13 was executed that night when Mr. Scheibler was detained?

14 A Yes, ma'am, there was one executed.

15 Q And who is Michael Beeler with the Richland County
16 Sheriff's Department?

17 A He's an investigator with the sheriff's department.

18 Q Did he, also, assist with the execution of the search
19 warrant at that residence there?

20 A Yes, he did.

21 Q And I believe you indicated that the actual homeowner
22 is a female, Casey Jeffords?

23 A Yes, ma'am.

24 Q And the Defendant himself, Mark Scheibler, was found
25 inside that residence?

1 A Yes, ma'am, he was.

2 Q And at the time he was detained, was he alone in that
3 residence?

4 A Yes, he was.

5 Q So he's alone in that residence. I believe the
6 question was whether or not any firearms were recovered.
7 Let me ask you this, was any ammunition recovered?

8 A Yes, ma'am, there was.

9 Q And did that include nine millimeter ammunition?

10 A Yes, ma'am, it did.

11 MS. MAYES: Thank you. Nothing further.

12 THE COURT: Any recross?

13 MS. POPOWSKI: No, Your Honor.

14 THE COURT: All right. The witness may step down.

15 MS. POPOWSKI: I do, actually, have one question. I
16 apologize.

17 THE COURT: Yes, ma'am.

18 RECROSS-EXAMINATION

19 BY MS. POPOWSKI:

20 Q So you mentioned nine millimeter ammunition was found
21 at the location?

22 A Yes, ma'am.

23 Q Were there any fingerprints taken from those bullets?

24 A Not that I'm aware of.

25 MS. POPOWSKI: Thank you. No further questions.

1 THE COURT: All right. You're excused.

2 MS. MAYES: Your Honor, may we approach?

3 THE COURT: Yes, ma'am.

4 (WHEREUPON, a bench conference was held in the presence
5 of the jury, but outside the hearing of the jury.)

6 THE COURT: Ladies and gentlemen, let's take a short
7 break before our next witness. Head on back to the jury
8 room. Refresh yourselves. Please don't discuss the case or
9 anyone involved in the case. We'll see you shortly.

10 (WHEREUPON, the jury exits the courtroom at 10:21 a.m.)

11 THE COURT: All right. We'll take a short recess.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: Are we ready to proceed?

14 MS. MAYES: The State is ready, Your Honor.

15 MS. POPOWSKI: Yes, Your Honor.

16 THE COURT: Bring them in.

17 (WHEREUPON, the jury enters the courtroom at 10:41
18 a.m.)

19 THE COURT: We will now proceed with our next witness.

20 MS. OPPENHEIMER: The State calls Investigator Brian
21 Metz.

22 BRIAN METZ,

23 after being duly sworn, testified as follows:

24 THE WITNESS: I do.

25 THE CLERK: Thank you. Please take a seat in the

Brian Metz - Direct by Ms. Oppenheimer

1 witness stand. State your full name and spell your last for
2 the record.

3 THE WITNESS: It's Brian Metz, M-E-T-Z.

4 DIRECT EXAMINATION

5 BY MS. OPPENHEIMER:

6 Q Good morning, Investigator Metz.

7 A Good morning.

8 Q Can you tell us where you're presently employed?

9 A I'm presently employed at the Richland County Sheriff's
10 Department.

11 Q And how long have you been employed there?

12 A The end of this month will be 43 years.

13 Q 43 years?

14 A Yes, ma'am.

15 Q And what unit are you employed in?

16 A I'm assigned to the technical services unit, which is a
17 division of criminal investigation division.

18 Q Can you explain what your duties and responsibilities
19 are in the technical services unit?

20 A We have a lot of things that we do. The main things
21 that we do now is cellphone forensics. We, also, do video,
22 which takes a lot of our time. Do some computer forensics
23 and other electronic devices.

24 Q Can you tell us what you mean by cellphone and computer
25 forensics?

1 A So the cellphone forensics, you have all different
2 types of cellphones. So we take training and use special
3 software that will enable us to download information off of
4 the cellphone for the investigators to use.

5 Q And do you receive any specialized training in order to
6 perform these downloads of cellphones and computers and the
7 like?

8 A We do. I've gone through numerous courses. Some are
9 specific to software or hardware that we use and some of
10 them are general courses on mobile forensics.

11 Q Specifically as to cellphone forensics, can you tell us
12 about some of the training that you, yourself, have
13 received?

14 A I've been through numerous courses, several -- the
15 longest one was 152-hour course. That was taught at the
16 Secret Services in Alabama. That was on advanced cellphone
17 forensics and extractions. I've been through courses that
18 have been, you know, 30 to 40 hours that was specifically on
19 cellphones, the makeup of cellphones, the way to extract the
20 databases.

21 Q Do you continuously go through this training so you
22 stay up to date on the current technologies?

23 A We do, both in-house training and at facilities.

24 Q And in your capacity as an investigator in the
25 technical services unit in Richland County, have you had the

1 opportunity to perform what's called a cellphone extraction?

2 A I have.

3 Q Do you know approximately how many you have performed?

4 A Don't keep numbers on it, but it's been over a
5 thousand.

6 Q Over a thousand?

7 A Correct.

8 Q And have you ever been qualified as an expert before in
9 the courts of this state?

10 A On two previous occasions.

11 MS. OPPENHEIMER: Your Honor, at this time, I would
12 offer Investigator Metz as an expert in digital and
13 cellphone forensics and extractions.

14 THE COURT: Any voir dire from the Defense?

15 MR. STORY: No, Your Honor.

16 THE COURT: All right. Ladies and gentlemen, this
17 witness will be qualified in the area of digital and
18 cellphone forensics and extractions and may give opinion
19 testimony in that area. It doesn't mean you have to accept
20 the opinion, but it's evidence for you to use in any way you
21 see fit.

22 BY MS. OPPENHEIMER:

23 Q Investigator Metz, I'm handing you what's been marked
24 as State's Exhibit No. 139. If you could open that up and
25 let me know if you recognize that item?

1 A I do.

2 Q How do you recognize it?

3 A This is a cellphone that was sent to me by Investigator
4 Short at the sheriff's department for me to do a download.

5 Q And where would you have received that cellphone from?

6 A We have the process at the sheriff's department that
7 when an investigator or officer gets a phone, in order to
8 keep it secure and it's, also, important to keep the phone
9 under power, that they do paperwork for us and then they put
10 the phone into a locker box. So when I would come in in the
11 morning, if I hadn't gotten an e-mail saying it needed to be
12 done, then we would go check the boxes and see what was in
13 there. I retrieved it from one of those boxes.

14 Q And who has access to these boxes or lockers?

15 A So the people in technical services unit have access.
16 The investigators can give access to a supervisor if they
17 need to retrieve a phone.

18 Q Can anyone from the general public access these
19 lockers?

20 A No. The lockers are locked. They are inside the
21 criminal investigative division's office area, which is not
22 open to the public.

23 Q And do you recall when you went to retrieve this
24 particular cellphone how it was packaged?

25 A So we have an evidence bag. It was in an evidence bag

1 with the paperwork from Investigator Short. It was on the
2 charger. It had been placed in airplane mode, which is a
3 secure mode. It was in the condition that we would accept
4 it to do the examination.

5 Q And once you retrieved it from the locker, where do you
6 take the cellphone?

7 A We take it back to the technical services office, which
8 is not at the main sheriff's department, and process it
9 there.

10 Q Who has access to the technical services office?

11 A Just the people in technical services.

12 Q Just the people in technical services?

13 A There may be, like, the chief or supervisor who has
14 keys to call CID, but no other investigators or anybody has
15 keys to technical services.

16 Q And once you get it back to your office, would you then
17 perform an extraction on it?

18 A That's correct.

19 Q When you got it back to your office, did this cellphone
20 appear to have been tampered with in any way?

21 A It did not.

22 Q Was it appropriately packaged so that you could perform
23 an extraction?

24 A It was.

25 Q If it had been tampered in any way, would you have

1 performed an extraction on it?

2 A That would have been a decision made at the time. If I
3 had seen anything like that, then I would have noted that it
4 was and I would have been contacting Investigator Short
5 about the condition.

6 Q Did you make any such notes in this instance?

7 A No, ma'am.

8 Q So there was no evidence that it had been tampered
9 with?

10 A There was not.

11 MS. OPPENHEIMER: Your Honor, at this time, I would
12 move State's Exhibit No. 139 into evidence.

13 THE COURT: Without objection?

14 MR. STORY: Without objection.

15 THE COURT: All right. State's Exhibit No. 139 is
16 admitted.

17 (WHEREUPON, State's Exhibit No. 139 was admitted into
18 evidence.)

19 BY MS. OPPENHEIMER:

20 Q Now, Investigator Metz, we've heard some testimony
21 about an IMEI number. Can you read the IMEI number on the
22 back of that cellphone for us, please? And I believe it's
23 small.

24 A It's very small. I can read it. I would rather --

25 Q Would you like to read from your report or your notes?

1 A I can read from the notes, too. But it is very small.

2 Q Yes, sir.

3 MS. OPPENHEIMER: Your Honor, may he read from his
4 notes?

5 THE COURT: Sure.

6 THE WITNESS: I can take a photograph of it and read
7 from the photograph.

8 BY MS. OPPENHEIMER:

9 Q How about let's do it this way, I'm going to show you
10 State's Exhibit No. 145 and tell me if you recognize this?

11 A I do.

12 Q And what is that?

13 A When you do the extraction report, one section of it is
14 called the device report. And this is a page of the device
15 report.

16 Q So from the raw data, you're able to create smaller
17 reports; is that fair to say?

18 A It's all one report, but you can section off a page or
19 a section at the time.

20 Q And the device report gives you what type of
21 information?

22 A So it gives you the information, like, what type phone
23 it is, make, model. It will give you -- depending on the
24 phone and depending on the software, it can give you serial
25 numbers. It can give you other numbers that are pertinent.

~~Brian Metz - Direct by Ms. Oppenheimer~~

1 Q And is this a fair and accurate representation of the
2 device report from the extraction that you did back in
3 December of 2021?

4 A It is.

5 MS. OPPENHEIMER: Your Honor, at this time, I would
6 move State's Exhibit No. 145 into evidence. And I'll show
7 it to Mr. Story.

8 MR. STORY: Without objection, Your Honor.

9 THE COURT: State's Exhibit No. 145 is admitted.

10 (WHEREUPON, State's Exhibit No. 145 was admitted into
11 evidence.)

12 MS. OPPENHEIMER: Permission to publish, Your Honor.

13 THE COURT: Very well.

14 BY MS. OPPENHEIMER:

15 Q So we see a bunch of different numbers here. Starting
16 with the IMSI number, do you see that number?

17 A I cannot read it from here.

18 Q Can you read it now?

19 A The IMSI number?

20 Q Correct, down there at the bottom?

21 A 311480675435456.

22 Q All right. What is an IMSI number?

23 A That is the mobile subscriber identification number.

24 It's an international mobile subscriber identification
25 number. That's the number that identifies a subscriber on

1 the network. It's done for a lot of reasons. It's unique
2 to the phone. And it, also, is part of the number that they
3 determine credit card and billing information, usage
4 information, that sort of stuff.

5 Q So the IMSI number is unique to this particular phone;
6 is that correct?

7 A Correct.

8 Q What about an IMEI number, is that unique as well?

9 A It is.

10 Q And I believe the IMEI number is on that envelope in
11 front of you on State's Exhibit No. 139. Are you able to
12 read that?

13 A I can.

14 Q Can you read that for us, please?

15 A It is the same that's on the phone, 350207632463649.

16 Q And that is a unique number to this particular phone;
17 is that correct?

18 A Right, it is. So the IMEI number is a mobile equipment
19 identifier number that is unique to that cellphone.

20 Q Are there any other unique numbers to cellphones?

21 A Yes. Most cellphones have an actual serial number that
22 is the serial number to that piece of hardware.

23 Q Is that the same thing as a factory number?

24 A Yes.

25 Q Do you see that at the bottom of the screen there?

~~Brian Metz - Direct by Ms. Oppenheimer~~

- 1 A I do.
- 2 Q Can you read that for us, please?
- 3 A Not from there, but I have it written on my notes.
- 4 Q Can you please read it from your notes for us?
- 5 A It's R9PR90YEZQN. The last part is not part of the
- 6 serial number.
- 7 Q All right. This part 20211006 is not part of the
- 8 serial number?
- 9 A That's not part of the serial number.
- 10 Q And when you were doing this extraction, what, if
- 11 anything, tells you the particular phone number assigned to
- 12 this phone?
- 13 A It should be listed up there, the MSISDN number.
- 14 Q The MSISDN number; is that what you said?
- 15 A That's right.
- 16 Q Can you read that number for us?
- 17 A Little bit bigger, please.
- 18 Q All right.
- 19 A It's (803) 312-1170.
- 20 Q So (803) 312-1170 is the phone number associated --
- 21 A That's the phone number for that phone.
- 22 Q Now, when you went to perform your cellphone extraction
- 23 on this phone, can you tell us, did you have the swipe code
- 24 that Investigator Short obtained in this case?
- 25 A Correct. So on his paperwork, he had drawn out the

1 dots showing me what the swipe code was.

2 Q And did you have any information as to who this
3 cellphone belonged to?

4 A Yes, it was listed belonging to Mark Scheibler.

5 Q Do you see that swipe code right there?

6 A That's correct.

7 Q What, if anything, did you do with that swipe code when
8 you performed your extraction?

9 A So in order to do the extraction, you'll often need to
10 remove that code. If you just activate that code and open
11 the phone, it can reestablish itself, turn the phone off or
12 turn the phone to closed and then it can interfere with the
13 software. So in this case, I removed that and took it off
14 the phone in order to be able to access the phone and do the
15 extraction.

16 Q Did removing the swipe code affect any of the data on
17 the phone whatsoever?

18 A No. Removing that does not extract the user data on
19 the phone.

20 Q So any of the call logs or text messages, would that
21 have been affected at all by removing the swipe code?

22 A It would not.

23 Q And after -- well, let me ask you this. You testified
24 earlier that the phone was in airplane mode when you
25 received it?

1 A Correct.

2 Q Can you tell us whether or not you ever take it out of
3 airplane mode?

4 A I would not.

5 Q And why is that?

6 A Taking a phone out of airplane mode, if somebody wanted
7 to do a remote swipe, they could do it. They would be able
8 to access the phone remotely. Anybody that wanted to try
9 and enter the phone would be able to do it if it's not in
10 airplane mode.

11 Q And after you were done with your extraction of this
12 cellphone, what, if anything, did you do with it?

13 A I was contacted -- so when we do the report -- or do
14 the extraction, I then let the investigator know about the
15 extraction and, basically, what else do you want me to do.
16 Investigator Short informed me that I needed to return it to
17 him and he was going to pass it on to someone else. So I
18 took it back to the office and then informed him that it was
19 ready for him to pick up.

20 Q Would you have placed it in a secure location at that
21 point?

22 A In one of the boxes at CID.

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

24 (Pause.)

25 MS. OPPENHEIMER: Thank you, Investigator Metz. Please

Herbert Crocker - Direct by Ms. Mayes

1 answer any questions that Mr. Story may have for you.

2 THE COURT: Cross-examination.

3 MR. STORY: No questions for this witness.

4 THE COURT: Very well. The witness may step down.

5 Thank you, sir.

6 MS. MAYES: The State calls Herbert Crocker.

7 And, Your Honor, if Investigator Metz could be excused
8 to return to work?

9 THE COURT: Without objection?

10 MR. STORY: Without objection.

11 THE COURT: All right. He's excused.

12 HERBERT CROCKER,

13 after being duly sworn, testified as follows:

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Thank you. Please take a seat in the
16 witness stand. State your full name and spell your last for
17 the record.

18 THE WITNESS: Herbert Crocker.

19 DIRECT EXAMINATION

20 BY MS. MAYES:

21 Q Good morning, Mr. Crocker.

22 A Good morning.

23 Q Could you state your full name for the record.

24 A Herbert Crocker.

25 Q I'm going to ask you to pull the microphone a little

Herbert Crocker - Direct by Ms. Mayes

1 bit closer to you, sir.

2 A (Witness complies.)

3 Q Now, are you here voluntarily or are you here under a
4 subpoena?

5 A Subpoena.

6 Q All right. How is it that you know the Defendant in
7 this case, Mark Scheibler?

8 A We used to work together.

9 Q And back in 2021, were y'all, I use the term
10 acquaintances, but y'all knew each other?

11 A Yes, ma'am.

12 Q Knew each other pretty well?

13 A Yes, ma'am.

14 Q And was there, also, a former girlfriend of Mr.
15 Scheibler's that you had met before?

16 A Yes, ma'am.

17 Q And was her name Ashton?

18 A Yes, ma'am.

19 Q Do you remember Ashton's last name?

20 A Strickland.

21 MS. POPOWSKI: Objection, Your Honor. May we approach?

22 THE COURT: Yes.

23 (WHEREUPON, a bench conference was held in the presence
24 of the jury, but outside the hearing of the jury.)

25 BY MS. MAYES:

1 Q Okay. So the Defendant in this case, Mark Scheibler,
2 you said y'all worked together?

3 A Yes, ma'am.

4 Q You had been coworkers together?

5 A Yes, ma'am.

6 Q And you said you had met his former girlfriend?

7 A Yes, ma'am.

8 Q And what was her name?

9 A Ashton.

10 Q Ashton, okay.

11 MS. POPOWSKI: Objection, Your Honor.

12 THE COURT: Subject to previous objection, overruled.

13 BY MS. MAYES:

14 Q Now, back on November 27th of 2021 through December 2nd
15 of 2021, by that point in time, was Ashton deceased?

16 A Yes, ma'am.

17 Q So Ashton is deceased. Are you still in communication
18 or friends with Mark Scheibler?

19 A Yes, ma'am.

20 Q All right. I'm going to ask you some questions about
21 your communications with him. Now, you said y'all used to
22 work together?

23 A Yes, ma'am.

24 Q And by working together, would you sometimes talk on
25 the phone?

- 1 A Yes, ma'am.
- 2 Q Sometimes communicate by phone?
- 3 A Yes, ma'am.
- 4 Q Did that include phone messages?
- 5 A Yes, ma'am.
- 6 Q And, also, Facebook?
- 7 A Yes, ma'am.
- 8 Q I'm going to start by asking you about Facebook. I'm
- 9 going to show you what is State's Exhibit No. 149, and ask
- 10 you who you were communicating with on that account in
- 11 Ashton's name?
- 12 A Mark.
- 13 Q You were communicating with Mark?
- 14 A Yes, ma'am.
- 15 Q So after Ashton is deceased, how would you normally
- 16 communicate with Mark?
- 17 A Text message and Facebook.
- 18 Q So text message and Facebook is how you would
- 19 communicate with him?
- 20 A Yes, ma'am.
- 21 Q And looking here at State's Exhibit No. 149, that
- 22 account in Ashton's name, did you know who you were
- 23 communicating with on this date back in November of 2021?
- 24 A Yes, ma'am.
- 25 Q And who was that?

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1 A Mark.

2 MS. MAYES: So at this time, Your Honor, State's
3 Exhibit No. 149 for evidence.

4 THE COURT: Subject to previous objection?

5 MS. POPOWSKI: Yes, Your Honor.

6 THE COURT: So admitted.

7 (WHEREUPON, State's Exhibit No. 149 was admitted into
8 evidence.)

9 BY MS. MAYES:

10 Q I'm going to ask you a few questions about these
11 communications on State's Exhibit No. 149, Mr. Crocker. If
12 you want to take a minute to take a look at it.

13 A Okay.

14 Q You recognize your own Facebook account as well?

15 A Yes, ma'am.

16 Q Looking here at State's Exhibit No. 149 --

17 MS. MAYES: And, again, Your Honor, the State filed a
18 notice of evidence pursuant to Code Section 19-5-520.

19 THE COURT: Very well.

20 BY MS. MAYES:

21 Q So looking here, do you recognize this as a Facebook
22 communication?

23 A Yes, ma'am.

24 Q Whose Facebook account is this right here, Mr. Crocker?

25 A That's mine.

Herbert Crocker - Direct by Ms. Mayes

1 Q That's yours?

2 A Yes, ma'am.

3 Q And then when we see a Facebook in Ashton's name and a
4 communication in November of 2021, your testimony was you
5 knew you were communicating with Mark?

6 A Yes, ma'am.

7 Q So you get a message November 20th, 2021 from who you
8 said was Mark. What does he say to you?

9 A Yo, what's up.

10 Q Yo, what's up?

11 A Yes, ma'am.

12 Q Again, that's going to be November 20th, 2021. And
13 what does he say next? That first communication, Yo, what's
14 up had been at 11:51. That next communication, what does he
15 say to you?

16 A Send me your number.

17 Q Send me your phone number?

18 A Right.

19 Q And then is there a way to get calls on Facebook?

20 A Through video.

21 Q So you can use Facebook for calls?

22 A Yes, ma'am.

23 Q All right. Next, Mr. Crocker, it looks like you missed
24 a call. Next, on that same day, it looks like you missed a
25 call from that account that you've said is Mark. And then

1 after those missed calls, did you respond back to his
2 request for your phone number?

3 A Yes, ma'am.

4 Q Did you provide him your phone number?

5 A Yes, ma'am.

6 Q And can you read into the record what phone number you
7 had back in November of 2021?

8 A (803) 465-7576.

9 Q All right. So you provided him that phone number on
10 November 21st, 2021, roughly, about ten days before December
11 2nd of 2021. I'm going to show you another communication.
12 You said that sometimes you'd communicate by Facebook and
13 then sometimes you'd communicate how else?

14 A Text.

15 Q Text?

16 A Yes, ma'am.

17 Q I'm going to show you what is State's Exhibit No. 151
18 and ask you whether or not you recognize what is depicted
19 there in State's Exhibit No. 151? Do you recognize the
20 phone number that that is sent to?

21 A 465-7576.

22 Q Was that your phone number back then?

23 A Yes, ma'am.

24 Q So you recognize that is a text sent to you?

25 A Yes, ma'am.

1 Q That text was sent to you at that same number that you
2 had provided to him about ten days earlier?

3 A Yes, ma'am.

4 Q So this text is sent to you on December 2nd, 2021?

5 A Yes, ma'am.

6 Q And you recognize that that is your phone number it was
7 sent to?

8 A Yes, ma'am.

9 MS. MAYES: For evidence at this time, Your Honor,
10 State's Exhibit No. 151.

11 MS. POPOWSKI: No objection, Your Honor.

12 THE COURT: State's Exhibit No. 151 admitted into
13 evidence.

14 (WHEREUPON, State's Exhibit No. 151 was admitted into
15 evidence.)

16 BY MS. MAYES:

17 Q All right. Now, State's Exhibit No. 151 now in
18 evidence, I'm just going to ask you a couple of questions.
19 Is this a text message?

20 A Yes, ma'am.

21 Q And this text message, does it reference Ashton?

22 A Yes, ma'am.

23 Q Does it reference something being stolen from Ashton?

24 A Yes, ma'am.

25 Q What does it say was stolen from Ashton?

1 A Her sock.

2 Q So stole from Ashton her sock?

3 A Yes, ma'am.

4 Q That she had on when she died?

5 A Yes, ma'am.

6 Q And some other personal --

7 MS. POPOWSKI: Objection, Your Honor, she's leading the
8 witness.

9 MS. MAYES: I can rephrase.

10 THE COURT: Very well.

11 BY MS. MAYES:

12 Q So you see a reference to some stolen items, yes or no?

13 A Yes, ma'am.

14 Q And at the point in time that you received this text
15 message, did you know what he was talking about?

16 A No, ma'am. Her sock, that's it.

17 Q All right. You didn't know everything he was talking
18 about when he sent you this message on December 2nd?

19 A No, ma'am.

20 Q But you know now?

21 A Yes, ma'am.

22 MS. MAYES: Nothing further of the witness at this
23 time.

24 THE COURT: Cross-examination.

25 MS. POPOWSKI: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. POPOWSKI:

Q Mr. Crocker, I just have one question.

A Yes, ma'am.

Q You don't know how many people have access to that account?

A No, ma'am.

Q And when you received a message from that account, the person, Ashton Strickland, had already passed away; is that correct?

A Yes, ma'am.

Q And again, you have no idea how many people had access to that account?

A No, ma'am.

MS. POPOWSKI: Thank you. No further questions.

THE COURT: Redirect?

MS. MAYES: Yes, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Q That text message didn't come from a Facebook account.
It came to your phone, didn't it?

A Yes, ma'am.

Q So that's a text message that you were just talking about?

A Yes, ma'am.

1 Q A text message from Mark?

2 A Yes, ma'am.

3 MS. MAYES: Thank you. Nothing further.

4 THE COURT: Recross?

5 MS. POPOWSKI: No, thank you.

6 THE COURT: All right. The witness is excused.

7 Are we ready for our next witness?

8 MS. MAYES: He's sequestered, Your Honor.

9 THE COURT: Oh, I didn't hear the name. Did you call
10 it?

11 MS. MAYES: He's getting the next witness, Your Honor.

12 THE COURT: Okay. Who's the witness?

13 MS. MAYES: The State calls Van Williams.

14 VAN WILLIAMS,

15 after being duly sworn, testified as follows:

16 THE WITNESS: That's correct.

17 THE CLERK: Have a seat in the witness stand. Once
18 you're seated, state your full name and spell your last for
19 the record.

20 THE WITNESS: My name is Christopher Van Williams,
21 spelled W-I-L-L-I-A-M-S.

22 DIRECT EXAMINATION

23 BY MS. MAYES:

24 Q Good morning, Mr. Williams. Tell us a little bit about
25 yourself. Where are you currently employed?

1 A I work at the Fritz Pet Resort & Spa on Ermine Road.

2 Q Okay. You said that really fast, so I'm going to back
3 up and ask you. If you can just take a breath and talk a
4 little bit slower.

5 A Okay. I work at the Fritz Pet Resort. It's a dog
6 boarding place, dog haircuts, dog baths. We take care of
7 dogs.

8 Q Okay.

9 MS. MAYES: Your Honor, if I may approach the witness?

10 THE COURT: Yes, ma'am.

11 BY MS. MAYES:

12 Q Mr. Williams, I'm going to move this up just a little
13 bit closer to you. Now, I'm going to show you State's
14 Exhibit No. 15 already in evidence. Do you see your
15 residence on this photograph? Take your time to orient
16 yourself.

17 A Over there.

18 Q Okay. And then do you, also, see a camper that Jimmy
19 Johnson lived in, known as J.J.?

20 A Yes, right there.

21 Q Okay. I'm going to put this up on the overhead. So
22 you recognize this residence as the camper that Jimmy
23 Johnson lived in?

24 A Yes.

25 Q Okay. And then you said you, also, lived nearby?

1 A Yes.

2 Q Do you have a laser pointer up there with you?

3 A Yes.

4 Q Can you show up where you lived?

5 A Right there.

6 Q Okay. How old are you today, Mr. Williams?

7 A 20 years old.

8 Q So back in 2021, November of 2021, about how old were
9 you then? 16 or 17?

10 A Yeah, around there.

11 Q So you're a teenager living there at that address near
12 Jimmy Johnson, the victim in this case?

13 A Correct.

14 Q Do you recall back in November of 2021 whether or not a
15 U-Haul had been brought in the area around your residence at
16 any point?

17 A I remember getting a glimpse of it.

18 Q So you do remember seeing a U-Haul?

19 A Correct.

20 Q Do you know who brought that U-Haul around the
21 property?

22 A I don't know for sure, but I've heard statements.

23 Q Well, let me ask you this, who did you see on your
24 property around the time that that U-Haul appeared?

25 A Mark.

1 Q And when you say Mark, can you tell us whether or not
2 you see Mark in the courtroom today?

3 A Yes, I do.

4 Q And can you tell us what color of shirt he's wearing?

5 A Black.

6 MS. MAYES: Your Honor, if the record may reflect he's
7 identified the Defendant.

8 THE COURT: Very well.

9 BY MS. MAYES:

10 Q Now, tell us about this memory that you have of a
11 U-Haul being there and you having interaction with someone
12 that you know as Mark?

13 A I got home. I saw a U-Haul. I was just doing my
14 everyday daily life. And the first time meeting Mark, he
15 came up, he was very flustered. He was very upset. He was
16 talking to me about how this U-Haul was stolen from them.
17 And pretty much, he was explaining to me how he had
18 something very personal to him in it and he was very upset
19 about it. Then that's the first interaction with him.

20 Q So I'm going to ask you a few questions about that.

21 A Yes, ma'am.

22 Q So you said you had never Mark before until that night?

23 A That's correct.

24 Q How close in time was that to -- did you become aware
25 later that Jimmy Johnson, who lived over here in the camper,

1 had been killed?

2 A I'm sorry, could you repeat that?

3 Q Did you become aware that Jimmy Johnson --

4 MS. POPOWSKI: Your Honor, I would object to this.

5 This is a leading question.

6 THE COURT: I think she's frankly trying to word it in
7 a way he can understand.

8 So you can ask the question.

9 Objection overruled.

10 BY MS. MAYES:

11 Q Can you tell us whether or not you became aware that
12 Jimmy Johnson was killed?

13 A Yes, I got a call saying that he was shot.

14 Q So you learned at some point in time that Jimmy Johnson
15 was killed on November 27th of 2021?

16 A Yes, ma'am.

17 Q So the time that you're talking about a U-Haul being on
18 your property and you meeting Mark, the Defendant, for the
19 first time, can you tell us approximately how close in time
20 this would have been to when you learned Jimmy Johnson had
21 been shot and killed?

22 A About three days.

23 Q So it was several days earlier?

24 A Yes, ma'am.

25 Q So who is it in your family that Mark knew?

- 1 A My father.
- 2 Q And your father's name is what?
- 3 A Christopher Williams.
- 4 Q So your father, Christopher Williams, knew Mark?
- 5 A Yes.
- 6 Q And did they appear to know each other pretty well?
- 7 A Yes.
- 8 Q On a first name basis?
- 9 A Yes.
- 10 Q And when Mark came and brought the U-Haul, who was he
11 bringing it over there for?
- 12 A I don't know. I never got an answer on that.
- 13 Q Was it for you?
- 14 A No.
- 15 Q Did he appear to be in communication with your father
16 about the U-Haul?
- 17 A Yes.
- 18 Q So the U-Haul appears on the property?
- 19 A Yes.
- 20 Q Mark knows your father?
- 21 A Yes.
- 22 Q How is it that Mark met you?
- 23 A He walked up the stairs to the second story and I saw
24 him.
- 25 Q So he came up to the second story at your dad's and had

1 a conversation with you?

2 A Correct.

3 Q Mr. Williams, you told us a little bit about his
4 demeanor or mood when he was having this conversation with
5 you. Again, is this the first time you ever met him?

6 A Correct.

7 Q What, if anything, caught you off guard about his mood
8 or demeanor as he's speaking with you?

9 A He was hurt. Not physically, but you could tell he was
10 in a lot of discomfort. He was very upset, frustrated,
11 angry. He was just really upset. He was talking to me
12 about the situation. He was hard to understand. Like I
13 said, he was upset and, you know, it's hard to understand
14 someone that's that frustrated. But he just said that he
15 was upset and he thought he knew who did it.

16 Q He thought what?

17 A He thought he knew who stole it from him.

18 Q All right. So I'm going to ask you a few questions
19 about that.

20 A Yes, ma'am.

21 Q You mentioned a couple of things, very upset, angry?

22 A Yes, ma'am.

23 Q And that at times, it was hard to understand?

24 A Correct.

25 Q Is he talking fast?

1 A Back and forth.

2 Q When you say hard to understand, did you wonder why he
3 was telling you all of this?

4 MS. POPOWSKI: Objection, Your Honor, leading.

5 MS. MAYES: I can rephrase.

6 THE COURT: Rephrase.

7 BY MS. MAYES:

8 Q What were your thoughts when this conversation was
9 going on?

10 A I was like, you know, I'm meeting someone for the first
11 time and they're very upset and it's, you know, odd, you
12 know.

13 Q You said he thought he knew who did it and you, also,
14 said he's angry. What is he angry about? Did he tell you
15 that?

16 A He told me that he thought Mr. Johnson stole his
17 property and he was trying to talk to my father.

18 Q So he thought that Mr. Johnson, who lived here in the
19 camper, had stolen his property from where?

20 A From wherever the U-Haul was, like, right there.

21 Q So somewhere between your property and that camper of
22 Jimmy Johnson?

23 A Correct.

24 Q And his belief is that Mr. Johnson had stolen property
25 out of that U-Haul?

1 A Correct.

2 Q And is he telling you about that property? Did he tell
3 you -- what did he tell you about the property?

4 A Very little bit about it. He just said it was his
5 deceased significant other's possession.

6 Q So he said in the U-Haul was his deceased significant
7 other's possessions?

8 A Correct.

9 Q And by deceased significant other, who are you
10 referring to?

11 A His girlfriend.

12 Q Now, did you know Ashton yourself?

13 A No.

14 Q So this is the first you're hearing about a deceased
15 girlfriend and some belongings in the U-Haul?

16 A Whenever he told me, correct. Yes.

17 Q The first you're hearing of anything?

18 A Yes, ma'am. I didn't know who Ashton was until he said
19 the name.

20 Q So he's the one that said her name and that he believed
21 her belongings had been stolen out of the U-Haul?

22 A Let me rephrase, you said the name Ashton.

23 Q So he told you that it belonged to someone else and he
24 was upset about it?

25 A Correct.

1 Q Did he tell you who he thought took the items?

2 A Correct.

3 Q Who did he say?

4 A Jimmy Johnson.

5 Q And you said he was angry?

6 A Yes, ma'am.

7 Q What did you do in response to that?

8 A I tried to communicate and deescalate things.

9 Q How so?

10 A You know, I was talking to him, you know, this is
11 crazy. Like, you need to leave, basically. Then I told him
12 that -- I always recommend the law if there's anything I can
13 to do that, but I was trying my best to calm the situation
14 down.

15 Q At that point, you're 16 or 17?

16 A Yes, ma'am.

17 Q And you're talking to an adult?

18 A Yes, ma'am.

19 Q What was it he said that caused you concern and made
20 you ask him to leave?

21 A He was upset and he said he was going to make a crime
22 scene in regards to this situation, which was the main thing
23 that really got me anxious about it and worried me.

24 Q So he's angry and says he's going to make a crime
25 scene?

1 A Yes.

2 Q And your response to that was what?

3 A You've got to leave. You can't do this. Basically,
4 like, leave.

5 Q Do you feel like you were getting through to him at
6 all?

7 A In all honesty, he calmed down. I mean, he was
8 coherent. My dad took over talking to him and I went the
9 other way. He was calming down and making sense.

10 Q All right. And you think this would have been several
11 days before Jimmy is killed on November 27th?

12 A That's correct.

13 Q When he made a reference to "I'm going to make a crime
14 scene", who was he angry towards?

15 A He was angry at the person who he thought stole the
16 possessions, which would be Jimmy.

17 MS. MAYES: I don't have anything further, Mr.
18 Williams, at this time.

19 THE COURT: Cross-examination.

20 MS. POPOWSKI: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. POPOWSKI:

23 Q Good morning.

24 A Good morning. How are you?

25 Q I'm doing all right. How are you?

1 A Doing good.

2 Q All right. You've testified that your father lived
3 next to the victim in this case?

4 A Yes.

5 Q And you're father's nickname is Snoop?

6 A Correct.

7 Q And I'm sure you remember being interviewed by
8 Detective Baum in this case on December 1st?

9 A So-so. It's been a while, but, yeah.

10 Q And he interviewed you in his patrol car?

11 A Correct.

12 Q And during that interview, you first told him that your
13 dad wasn't home at the time of the shooting; is that right?

14 A I believe so.

15 Q And then Detective Baum started to lean on you and tell
16 you he needed you to be forthcoming with him; is that right?

17 A Yeah.

18 Q He told you I need you to be completely honest with me?

19 A Yeah.

20 Q Because I'm trying to keep your daddy out of prison for
21 murder?

22 A Correct.

23 Q And at that point, your story changed and you added
24 some stuff to it?

25 A Correct.

1 Q Including the statement that my client said he was
2 going to make a crime scene?

3 A Correct.

4 Q And you never saw my client with a gun?

5 A No, ma'am, I did not.

6 Q And you didn't see anybody shoot J.J.?

7 A No, ma'am.

8 Q And you didn't see anyone leaving the scene?

9 A No, ma'am.

10 Q You didn't see anything?

11 A Yeah, I was leaving. I heard the scream. I was
12 leaving to go to work and I saw a lot of ambulances and
13 police cars.

14 Q But you didn't see the shooting?

15 A No, ma'am.

16 MS. POPOWSKI: Thank you. No further questions.

17 THE COURT: Any redirect?

18 MS. MAYES: Yes, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. MAYES:

21 Q I want to ask you a few more questions about that, Van?

22 A Yes, ma'am.

23 Q Do you trust the police?

24 A I -- yes, at this current moment.

25 Q At this current moment?

1 A Yes. I went to school and I started doing a lot of
2 work with police from all over the country, so I got along
3 with them over a span of time.

4 Q So going back to that particular time when you were
5 sitting in a patrol car at 16 or 17, do you know what the
6 word snitch means?

7 A Yes, ma'am, I do.

8 Q How does that word make you feel?

9 A It worried me. Yeah, I know what it means and it
10 worried me. I didn't want to get involved. I wanted to
11 stay away from all of this.

12 Q So at 16 or 17, was the thought of being a snitch in
13 your mind?

14 A Yes, ma'am.

15 Q You said you didn't want to get involved in all this?

16 A Yes, ma'am.

17 Q Are you here voluntarily or by a subpoena?

18 A A subpoena.

19 Q Can you tell us whether or not if it were up to you
20 that you might have just stayed quiet?

21 A In that time, if I had a choice, yeah, I would have
22 stayed quiet. I wouldn't have said anything at that time.

23 Q And, ultimately, while you were in that patrol car, did
24 you -- can you tell us whether or not you told what you
25 heard?

1 A I told the truth and nothing but the truth.

2 Q And is that the same today?

3 A Yes, ma'am.

4 Q Any doubt in your mind who made those statements to you
5 that night about making a crime scene?

6 A I have no doubt who said it.

7 MS. MAYES: Thank you.

8 THE COURT: Recross.

9 MS. POPOWSKI: Just briefly.

10 RECROSS-EXAMINATION

11 BY MS. POPOWSKI:

12 Q You knew you didn't have to speak with Detective Baum
13 that evening; isn't that right?

14 A No, ma'am.

15 Q So you thought you had to speak with him?

16 A Yeah, he put me in the squad car. He said I have to
17 talk to him or my dad could go to jail.

18 MS. POPOWSKI: Thank you. No further questions.

19 THE COURT: All right. The witness may step down.

20 MS. MAYES: Your Honor, we ask that he be excused.

21 THE COURT: Without objection, the witness is excused.

22 MS. MAYES: May we approach?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, a bench conference was held in the presence
25 of the jury, but outside the hearing of the jury.)

1 jury, welcome back. We will take up with the next witness
2 in the State's case in chief.

3 MS. MAYES: The State calls Michael Beeler.

4 MICHAEL BEELER,

5 after being duly sworn, testified as follows:

6 THE WITNESS: I do.

7 THE CLERK: Thank you. Please take a seat in the
8 witness stand. Once you're seated, state your full name and
9 spell your last for the record.

10 THE WITNESS: Michael Beeler, B-E-E-L-E-R.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q Good afternoon. Tell us a little bit about yourself.
14 Where are you employed?

15 A I'm employed with the Richland County Sheriff's
16 Department in the forensic lab services.

17 Q I need you to speak up a little bit louder. You said
18 forensic lab services?

19 A Yes, ma'am.

20 Q Does that, also, include photography?

21 A Yes, ma'am.

22 Q And does that include accompanying law enforcement at
23 the execution of search warrants for the purpose of
24 photograph?

25 A Yes, ma'am.

1 Q I want to take you back to December 2nd of 2021. Do
2 you have with you notes in regards to the execution of a
3 search warrant on that date?

4 A I do, ma'am.

5 Q Where was that search warrant executed on December 2nd
6 of 2021?

7 A At 132 Thrush Street, Lot 1 in Richland County.

8 MS. MAYES: Looking for State's Exhibit No. 85, Your
9 Honor. Your Honor, we may need to replace that exhibit,
10 State's Exhibit No. 85. It may have been misplaced.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury, but outside the hearing of the jury.)

13 THE COURT: All right.

14 BY MS. MAYES:

15 Q Now, Investigator Beeler, we're going to replace
16 State's Exhibit No. 85, and I'm going to keep going.
17 State's Exhibit No. 85 would have been the execution of the
18 search warrant at what location?

19 A 132 Thrush Street in Richland County.

20 Q All right. And you were present for the execution of
21 that search warrant?

22 A Yes, ma'am.

23 Q And during the search warrant, can you tell us whether
24 or not any evidence was retrieved?

25 A Yes, ma'am, unfired nine millimeter cartridges were

1 found, as well as a night vision monocular.

2 Q So I'm going to ask you a few questions about those
3 exhibits -- or that evidence. Do you recognize what is
4 marked as State's Exhibit No 141? And if you need to unseal
5 that --

6 MS. MAYES: Your Honor, we would ask permission that he
7 be allowed to unseal that evidence?

8 THE COURT: Very well.

9 THE WITNESS: Yes, ma'am. This is 21 unfired nine
10 millimeter cartridges that I collected.

11 BY MS. MAYES:

12 Q All right. And these unfired rounds, you said were
13 nine millimeters?

14 A Unfired cartridges, yes, ma'am.

15 Q And they're retrieved from this address on Thrush
16 Street on December 2nd, 2021; is that accurate?

17 A My apologies. Yes, ma'am, December 2nd, 2021.

18 Q I'm going to show you some photographs and ask you
19 whether or not you recognize them. Beginning with State's
20 Exhibit No. 10?

21 A Yes ma'am.

22 Q State's Exhibit No. 48?

23 A Yes, ma'am.

24 Q State's Exhibit No. 43?

25 A Yes, ma'am.

1 Q State's Exhibit No. 44?

2 A Yes, ma'am.

3 Q State's Exhibit No. 45 and State's Exhibit No. 47?

4 A Yes, ma'am.

5 Q Who took all of these photos?

6 A I took all of the photos.

7 Q And does this reflect the evidence that was recovered
8 inside that residence on Thrush Street on December 2nd,
9 2021?

10 A Yes ma'am.

11 MS. MAYES: Your Honor, this document would replace the
12 previous State's Exhibit No. 85.

13 THE COURT: Very well.

14 BY MS. MAYES:

15 Q Is this the residence here on Thrush Street where that
16 search warrant was executed?

17 A Yes, ma'am.

18 MS. MAYES: And at this time, Your Honor, the State
19 offers State's Exhibit Nos. 10, 48, 44, 45, and 47 as
20 evidence. State's Exhibit No. 43 was for ID only to refresh
21 the recollection of the witness.

22 THE COURT: Okay. Without objection, Ms. Popowski?

23 MS. POPOWSKI: Yes, Your Honor.

24 THE COURT: State's Exhibit Nos. 10, 48, 44, 45 and 47
25 are admitted without objection.

~~Michael Beeler - Direct by Ms. Mayes~~

1 (WHEREUPON, State's Exhibit Nos. 10, 44, 45, 47 and 48
2 were admitted into evidence.)

3 BY MS. MAYES:

4 Q Now, you're taking photographs inside the residence
5 there on Thrush Street. Is that after the Defendant, Mark
6 Scheibler, had been detained?

7 A There was nobody there other than investigators. I
8 don't know the total timeline for that. This was only my
9 portion of the investigation.

10 Q So when you entered, the Defendant was not present
11 inside as you're taking photographs?

12 A Correct, ma'am.

13 Q And looking here at State's Exhibit No. 10, what room
14 within that mobile home is this?

15 A That would be the living room.

16 Q You said the scope of the search warrant was to recover
17 ammunition and any potential firearms?

18 A I beg the indulgence. Let me look at the search
19 warrant again. Yes, ma'am.

20 Q Was a firearm recovered from inside that residence?

21 A No, ma'am.

22 Q Was ammunition recovered from inside that residence?

23 A Yes, ma'am.

24 Q And looking here at State's Exhibit No. 10, what is
25 being photographed there on the living room couch?

1 A This would be a photograph of the living room with the
2 couch, and then there is a backpack on the couch.

3 Q And once the backpack is photographed in this position
4 here in the living room, do you then take part in actually
5 photographing the contents of the backpack?

6 A Yes, ma'am.

7 Q And as a result, are some of those items collected as
8 evidence in this case?

9 A Yes, ma'am.

10 Q Including the ammunition?

11 A Yes, ma'am.

12 Q State's Exhibit No. 48, does this depict that same
13 backpack that you photographed sitting atop the living room
14 couch in State's Exhibit No. 10?

15 A It does, ma'am.

16 Q And now it's showing the contents of that backpack?

17 A Correct.

18 Q State's Exhibit No. 47, does this, also, show the
19 contents of that backpack?

20 A Yes, ma'am.

21 Q What are we looking at here within that backpack in
22 State's Exhibit No. 47?

23 A A green and black night vision monocular.

24 Q So a night vision monocular?

25 A Yes, ma'am.

Michael Beeler - Direct by Ms. Mayes

1 Q Does this allow someone to see better during nighttime?

2 A Yes, ma'am.

3 Q It's your understanding of that item?

4 A Yes, ma'am.

5 Q Was this collected as evidence?

6 A No, ma'am. It was photographed.

7 Q Photographed by yourself?

8 A Yes, ma'am.

9 Q And found in that backpack?

10 A Yes, ma'am.

11 Q State's Exhibit No. 44, what are we looking at here?

12 A That is the night vision monocular that was in the
13 backpack.

14 Q Now, you, also, mentioned that ammunition was recovered
15 from that backpack?

16 A Yes, ma'am.

17 Q And was the ammunition actually collected as evidence
18 in this case?

19 A Yes, ma'am.

20 Q And what number is assigned to that ammunition?

21 A State's Exhibit No. 141.

22 Q And that State's Exhibit No. 141 were collected by
23 yourself?

24 A Yes, ma'am.

25 Q From this backpack?

1 A Yes, ma'am.

2 Q Now, was it in a box or was it loose?

3 A It was loose inside the backpack in a side pocket.

4 Q Did you account for all of the ammunition in that
5 backpack?

6 A Yes, ma'am.

7 Q I'm going to take a look here at State's Exhibit No.
8 45. What are we looking at here?

9 A We're looking at 21 unfired nine millimeter cartridges
10 that I laid out on craft paper at the scene and
11 photographed.

12 Q So once removed loose from the backpack, you lay it out
13 on paper in order to photograph it?

14 A Yes, ma'am.

15 Q And then who made this notation here at the top?

16 A That would be me.

17 Q And what is that notation?

18 A When I write it, I put in parentheses what it is, nine
19 millimeter cartridges, unfired cartridges. And then as I
20 count it, I would write that on there to assist with
21 photograph.

22 Q So the UFC represents those were unfired cartridges?

23 A Yes, ma'am.

24 Q Also, known as unfired bullets?

25 A In layman's terms, yes, ma'am.

Michael Beeler - Direct by Ms. Mayes

1 Q And nine millimeter reflects what?

2 A Nine millimeter is the caliber of the cartridge of the
3 projectile.

4 Q And were all of these the same caliber?

5 A Yes, ma'am.

6 Q And in total, how many were found loose in that
7 backpack?

8 A 21.

9 Q So again, you have no nine millimeter firearm, but you
10 do have loose 21 unfired rounds?

11 A Nine millimeter cartridges, yes, ma'am.

12 Q And that is your State's Exhibit No. 141?

13 A Yes, ma'am.

14 Q You've had an opportunity to unseal that?

15 A I can unseal it right now.

16 Q Now, do these unfired rounds, also, have a head stamp
17 affixed to them which would depict the make and model of
18 each ammunition round?

19 A The manufacturer, yes, ma'am.

20 Q And looking here at these, Investigator Beeler, do they
21 all bear the same head stamp or is there an assortment of
22 head stamps?

23 A There's an assortment, ma'am.

24 Q So more than one make and model among this collection
25 of 21 unfired nine millimeter rounds?

1 A More than one manufacturer, yes, ma'am.

2 Q I'm going to ask you about these two rounds
3 specifically. For example, in the back, were there any
4 Winchester nine millimeter rounds?

5 A Yes, ma'am.

6 Q Is that what we're looking at right here, part of
7 State's Exhibit No. 141?

8 A Nine millimeter, unfired cartridge, yes, ma'am. 141,
9 yes, ma'am.

10 Q Part of State's Exhibit No. 141?

11 A Yes, ma'am.

12 Q You indicated that the head stamp on this nine
13 millimeter, unfired round is what?

14 A W-I-N, which is short for Winchester.

15 Q Looking at it with the naked eye, you could observe
16 that head stamp spelling out W-I-N for Winchester?

17 A Yes, ma'am.

18 Q And nine millimeter?

19 A Yes, ma'am.

20 Q Luger?

21 A Yes, ma'am.

22 Q I'm going to ask you about another round here in
23 State's Exhibit No. 141, being this item. Find any
24 containing a head stamp FC nine millimeter Luger?

25 A Yes, ma'am. FC stands for federal cartridge.

Michael Beeler - Direct by Ms. Mayes

1 Q Nine millimeter FC, federal cartridge, unfired round,
2 also?

3 A Yes, ma'am.

4 Q Also, with that bag marked State's Exhibit No. 141?

5 A Yes, ma'am.

6 Q Did you find one of these or more than one of these?

7 A There are several federal cartridge, FCs.

8 Q From where you are, do you see that FC notation on the
9 head stamp?

10 A Yes, ma'am.

11 Q Once again, another round, FC?

12 A Yes, ma'am.

13 Q Nine millimeter Luger?

14 A Yes, ma'am.

15 Q From where you're seated, do you see that marking, FC?

16 A Yes, ma'am. Nickel primer brass case.

17 Q With the nickel primer. Now, the Winchester that you
18 spoke about, do you observe one of those or more than one of
19 those?

20 A Multiple.

21 Q What, if anything, can you tell us about the coating on
22 this being darker in color?

23 MS. POPOWSKI: Objection, Your Honor. May we approach?

24 THE COURT: Yes, ma'am.

25 (WHEREUPON, a bench conference was held in the presence

1 of the jury, but outside the hearing of the jury.)

2 BY MS. MAYES:

3 Q And you indicated there were multiple rounds marked
4 Winchester with the W-I-N?

5 A Yes ma'am.

6 Q And based upon your observations, just your normal
7 everyday observations, does that appear to be darker in
8 color than the FCs?

9 A Yes ma'am.

10 Q So looking here at State's Exhibit No. 45, this is that
11 full assortment of ammo that you photographed coming from
12 that backpack on the living room couch there at Thrush
13 Street?

14 A Yes, ma'am.

15 Q That contains these Winchester rounds that you said
16 appear to be darker than the others, which are more of a
17 brass?

18 A I'm not sure what the -- I don't have my magnet on me.
19 I'm not sure what the cartridge is made out of, but they do
20 appear darker.

21 Q And then it, also, contains those FCs that you
22 previously identified with the nickel primer?

23 A Yes, ma'am.

24 Q Now, I'm going to ask you to refer to materials that
25 you have with you --

1 A Yes, ma'am.

2 Q -- up there on the stand. Do you have with you a
3 briefing report?

4 A Yes, ma'am.

5 Q All right. And can you tell us what time it is that
6 there are notes about 132 Thrush Street? When did those
7 notes begin? I'm going to ask you to refer to the incident
8 briefing.

9 A At 9:50 on December 2nd, 2021.

10 Q All right. And 9:50 being a.m. or p.m.?

11 A 2150 is 9:50 p.m.

12 Q All right. I'm going to ask you to take a look,
13 please, at all of the briefing.

14 A Okay.

15 Q Just take a moment.

16 A Yes, ma'am.

17 Q Do you have with you any information as to what time
18 that initial detachment at 132 Thrush Street occurred?

19 A I began my report at 9:50.

20 Q Are you aware of the time that initial officers were
21 initially at the scene?

22 A Oh, no, ma'am. I only played a small portion in this
23 incident.

24 Q So you're coming in well after their initial
25 involvement there at the scene?

1 Q Did you find any?

2 A I did not.

3 Q And did you look for DNA on these bullets?

4 A I swabbed for DNA, and then the DNA swabs were
5 submitted to our evidence and property room.

6 Q Do you know what the results of those were?

7 A I do not know if they were ran or what the results
8 were.

9 MS. POPOWSKI: Okay. Thank you. No further questions.

10 THE COURT: Any redirect?

11 MS. MAYES: No, redirect, Your Honor. We do ask that
12 Investigator Beeler be allowed to return to Richland County.

13 MS. POPOWSKI: No objection.

14 THE COURT: All right. The witness is excused.
15 Thank you.

16 MS. MAYES: The State calls Casey Jeffords.

17 THE CLERK: Raise your right hand, please your left
18 hand on the Bible.

19 CASEY JEFFORDS,

20 after being duly sworn, testified as follows:

21 THE WITNESS: Yes.

22 THE CLERK: Thank you. Please take a seat in the
23 witness stand. State your full name and spell your last for
24 the record.

25 THE WITNESS: Hi, my name is Frances Casey Jeffords.

Q And were you still friends and in communication with

1 the Defendant, in this case, Mark Scheibler?

2 A Yes.

3 Q As a result of being a friend with the Defendant, Mark
4 Scheibler, did you sometimes text one another?

5 A Yes.

6 Q And I want to take you to the date of December 2nd,
7 2021. Specifically, this residence. I'll give you a chance
8 to look at these before we put them on the overhead.
9 State's Exhibit No. 85, State's Exhibit No. 10, State's
10 Exhibit No. 45. Do you recognize that residence?

11 A Yes.

12 Q How so?

13 A It's my home.

14 Q This is your home that's seen here in State's Exhibit
15 No. 85 as it appeared on December 2nd, 2021?

16 A Yes.

17 Q That address being 132 Thrush Street?

18 A Yes.

19 Q You indicated that sometimes you would communicate by
20 text?

21 A Yes.

22 Q I'm going to show you a text, which is State's Exhibit
23 No. 203, and I'm going to ask you about this text dated
24 December 2nd, 2021. If you'll take a moment to look at it
25 yourself?

1 A (Witness complies.)

2 Q Do you recognize this text, Ms. Jeffords?

3 A Yes.

4 Q And did you, yourself, respond to this text?

5 A Yes.

6 Q I'm going to need you to speak up a little bit more
7 directly into the microphone.

8 A Okay.

9 Q Who did you receive this text message from?

10 A From Mark.

11 Q From Mark. And you're referring to who, Mark?

12 A Scheibler.

13 Q The Defendant in this case?

14 A Yes.

15 Q And when you responded, who were you responding back
16 to?

17 A Mark.

18 MS. MAYES: State's Exhibit No. 203 for evidence.

19 MS. POPOWSKI: No objection, Your Honor.

20 THE COURT: State's Exhibit No. 203 is admitted into
21 evidence.

22 (WHEREUPON, State's Exhibit No. 203 was admitted into
23 evidence.)

24 BY MS. MAYES:

25 Q So looking here at this text message, whose number was

1 this at the time that ends in 8222?

2 A That's my number.

3 MS. MAYES: Your Honor, may I approach the witness?

4 THE COURT: Yes, ma'am.

5 BY MS. MAYES:

6 Q That was your phone number?

7 A Yes.

8 Q And looking here on December 2nd, 2021, at 3:08 p.m.,
9 you get a text message that says what?

10 A Are you at your house?

11 Q Are you at your house? And that's a reference to 132
12 Thrush Street?

13 A Yes.

14 Q Did you respond back to that text message?

15 A Yes.

16 Q What did it say?

17 A No, I haven't made it back that way yet.

18 Q And you're referring to this residence here shown in
19 State's Exhibit No. 85?

20 A Yes.

21 Q And, ultimately, you're aware that the Defendant, Mark
22 Scheibler, was detained on that same date, December 2nd,
23 2021, by law enforcement?

24 A Yes.

25 Q And when law enforcement arrived on the scene for his

1 initial detainment, were you there?

2 A No.

3 Q So he was in the house alone?

4 A Yeah.

5 Q At this point in time, Ms. Jeffords, was anyone else
6 living with you?

7 A No, not regularly.

8 Q Looking here --

9 MS. MAYES: Beg the Court's indulgence.

10 (Pause.)

11 BY MS. MAYES:

12 Q Looking here at State's Exhibit No. 10, when you left
13 your house that day, was anyone else at your residence when
14 you left out?

15 A No.

16 Q And then you get a text from who?

17 A Mark.

18 Q And then you next learn that who is at your house?

19 A Mark was there.

20 Q Looking here at State's Exhibit No. 10, is that your
21 backpack on that couch?

22 A No.

23 Q Is that your ammunition in that backpack on that couch?

24 A No.

25 MS. MAYES: Thank you, Ms. Jeffords. Nothing further.

1 Jeffords. That's the exact question that I'm asking you.

2 So Mark Scheibler is a longtime friend of yours? And you
3 know that Facebook records have been retrieved in this case?
4 Yes or no?

5 A Yes.

6 Q Showing very frequent communications between the two of
7 you?

8 A Yes.

9 Q In fact, there were times when you would ask Mr.
10 Scheibler what his cash app was?

11 MS. POPOWSKI: Objection, Your Honor. May we approach?

12 (WHEREUPON, a bench conference was held in the presence
13 of the jury, but outside the hearing of the jury.)

14 BY MS. MAYES:

15 Q All right. Ms. Jeffords, you're aware that Facebook
16 records were retrieved in this case?

17 A Yes.

18 Q And after Ashton passed away, you communicated with
19 Mark most frequently how?

20 A On Ashton's Facebook.

21 Q And then, also, as we saw just a few moments by text
22 message, correct?

23 A Yes.

24 Q Now, you were testifying under a -- you're testifying
25 today that when you left that house, no one was there; is

1 that correct?

2 A Yes.

3 Q And that backpack on the living room couch does not
4 belong to you?

5 A Right.

6 Q And when you come back to your house, who's present
7 inside your house?

8 A Nobody was when I got back to it.

9 Q Well, I don't mean actually went inside, but when you
10 were summoned back to the house by law enforcement?

11 A Mark was.

12 Q Mark had been inside your house?

13 A Yes.

14 Q And now you're bringing up the name of Snoop or
15 Christopher Williams. You're not insinuating, are you, that
16 Snoop had been in your house with you that morning just
17 prior to you leaving?

18 A No.

19 Q It was Mark?

20 A He wasn't there when I left, no.

21 Q But it was Mark in your house when you came back?

22 A Yes.

23 Q And that's not your backpack and not your ammo?

24 A No.

25 Q And you don't know who it belongs to --

1 MS. POPOWSKI: Asked and answered, Your Honor.

2 MS. MAYES: I haven't asked that question.

3 THE COURT: Proceed.

4 MS. MAYES: Thank you, Your Honor.

5 BY MS. MAYES:

6 Q You don't know who it belongs to?

7 A No.

8 Q But you know he was in your house when you returned on
9 the night of December 2nd?

10 A Yes.

11 MS. MAYES: Nothing further.

12 THE COURT: Recross?

13 MS. POPOWSKI: Beg the Court's indulgence.

14 (Pause.)

15 MS. POPOWSKI: No further questions, Your Honor.

16 THE COURT: Very well.

17 The witness is excused.

18 MS. MAYES: We ask that she be excused, Your Honor.

19 THE COURT: Very well.

20 MS. MAYES: We have one more matter, Your Honor, if we
21 could approach briefly.

22 (WHEREUPON, a bench conference was held in the presence
23 of the jury, but outside the hearing of the jury.)

24 THE COURT: All right, short break before our next
25 witness. Head on back, refresh yourselves. We'll get you

—Virginia Richards, M.D. - Direct by Ms. Mayes—

1 (WHEREUPON, the jury enters the courtroom at 2:18 p.m.)

2 THE COURT: Next witness.

3 MS. MAYES: The State calls Dr. Virginia Richards.

4 VIRGINIA RICHARDS, M.D.,

5 after being duly sworn, testified as follows:

6 THE WITNESS: I do.

7 THE CLERK: Thank you. Please take a seat in the
8 witness stand. State your full name and spell your last for
9 the record.

10 THE WITNESS: Hello, I'm Dr. Virginia Richards,
11 R-I-C-H-A-R-D-S.

12 DIRECT EXAMINATION

13 BY MS. MAYES:

14 Q Tell us a little bit about yourself, Doctor. Where are
15 currently employed?

16 A I am a forensic pathologist, employed by the Medical
17 University of South Carolina.

18 Q All right. When you say forensic pathologist, what do
19 you mean by that term?

20 A I'm a medical doctor who has been trained to recognize
21 disease and injury and make the distinction between those
22 two things.

23 Q How long have you been a forensic pathologist?

24 A Since 2011.

25 Q What can you tell us about your educational background

1 and training that led you to work as a forensic pathologist?

2 A I was a pre-med major at the College of William & Mary.
3 I got my Master's in Criminal Justice Forensic Science at
4 Virginia Commonwealth University. I then got my medical
5 degree from the Medical University of South Carolina. I
6 completed a four-year pathology residency at New York
7 University. I then completed a one-year forensic pathology
8 fellowship at the Office of the Chief Medical Examiner of
9 Virginia.

10 Q And do you hold any board certifications?

11 A Yes, ma'am.

12 Q And, specifically, what is your board certification?

13 A Through the American Board of Pathology, I'm tripled
14 boarded in anatomic pathology, clinical pathology, and
15 forensic pathology.

16 Q Doctor, have you testified previously as an expert in
17 the courts of this state regarding autopsy findings?

18 A Yes, ma'am.

19 Q As a forensic pathologist?

20 A Yes.

21 Q And does that include homicide cases?

22 A Yes.

23 Q Does that include cases where the homicide occurred by
24 gunshot wounds?

25 A Yes.

1 MS. MAYES: Your Honor, at this time, the State offers
2 Dr. Virginia Richards as an expert in the field of forensic
3 pathology.

4 THE COURT: Any voir dire from the Defense?

5 MR. MANGOLD: Without objection.

6 THE COURT: All right. Ladies and gentlemen, this
7 witness will be qualified in the area of forensic pathology
8 to give opinion and testimony in that area. It doesn't mean
9 you have to accept the opinion, but it's evidence for you to
10 use in any way you see fit.

11 BY MS. MAYES:

12 Q Doctor, is it possible to estimate how many autopsies
13 you have conducted in the course of your career as a
14 forensic pathologist?

15 A Yes.

16 Q How many?

17 A 2,500.

18 Q All right. Who conducted the autopsy of the victim in
19 this case, Jimmy Johnson, Jr.?

20 A I did, along with Dr. Stefanie Grewe.

21 Q And where was that autopsy conducted?

22 A In the autopsy suite at the Medical University of South
23 Carolina in Charleston.

24 Q Doctor, during the course of that autopsy, what can you
25 tell us in regards to Jimmy Johnson? Take us through the

1 autopsy and what your initial findings were.

2 A Okay. So with any autopsy, I first make an external
3 examination, making note of clothing, any medical,
4 therapeutic intervention that may have happened to the body,
5 and then removing the clothing to get a better view of any
6 injuries.

7 Q And what injuries did you observe as it pertains to
8 Jimmy Johnson, Jr.?

9 A There were multiple gunshot wounds on several surfaces
10 of his body.

11 Q And when you say multiple, do you have with you a
12 report?

13 A Yes, ma'am.

14 Q And does the report document all of your autopsy
15 findings?

16 A Yes, ma'am.

17 Q How many total gunshot wounds did Jimmy Johnson
18 sustain?

19 A Mr. Johnson was shot five times.

20 Q So those are five separate gunshot wounds?

21 A Yes, ma'am.

22 Q Now, doctor, are you able to determine which wound
23 happens first? Is that something that you can do?

24 A No.

25 Q Tell us about that.

1 A So at autopsy, I'm just seeing the deceased patient
2 lying on an autopsy table. There really is no way to get an
3 idea of the order in which five shots happened.

4 Q So without knowing the order that they actually
5 happened in, how do you go about documenting each gunshot
6 wound in your report?

7 A I, in this case, labeled on a body diagram just letters
8 A to Z if he had 26 injuries, which he did not.
9 But that was just at my discretion as I'm mapping things out
10 on his body diagram.

11 Q And so as you're labeling them, A, for example, doesn't
12 necessarily mean that's the first gunshot wound?

13 A That's correct.

14 Q You're just assigning an arbitrary order to him?

15 A It was arbitrary.

16 Q So I want to ask you to please take us through those
17 injuries as their notated in your report?

18 A Okay. So there was one that entered the back, labeled
19 I, and it injured not very much of significance in his chest
20 before exiting the front of his chest. That was one injury.

21 Another injury was on his left thigh, entering the left
22 thigh on the side a little bit towards the front, angling
23 downward. And that one just injured muscle, soft tissue,
24 nothing vital.

25 Then there were two very closely spaced on his left

1 side or left flank. Those traveled upward and across his
2 body a little bit from the back towards the front as one
3 exited his right shoulder area. And the other one, the
4 bullet did not exit, so I actually recovered that bullet.
5 Those two wounds injured abdominal organs, such as the
6 intestines and stomach.

7 And then lastly, because that was four injuries so far,
8 the fifth injury was one that entered the right side,
9 injuring his liver, his heart, the muscle that separates the
10 chest from the abdomen. And that one exited the front of
11 his chest.

12 Q So the way you have described, at least, four of those
13 are what we call through-and-through injuries with an entry
14 and an exit wound?

15 A Yes, ma'am.

16 Q And you described that -- the final wound you described
17 doesn't mean it's the final shot. The final one you
18 described, you noted that there were multiple organs
19 affected?

20 A Yes.

21 Q And once again, which body -- bodily organs were
22 impacted by the path of that bullet?

23 A The heart, liver, and those were the two organs.

24 Q Would that gunshot wound be potentially fatal?

25 A Yes.

1 Q Did you observe any other gunshot wounds that in your
2 opinion as a medical expert would possibly be potentially
3 failed?

4 A Yes.

5 Q How many?

6 A The two that were on the left side of his body.

7 Q Why did you consider those to, also, be potentially
8 fatal?

9 A They injured the spleen as well as the intestines. And
10 intestines have a decent amount of vasculature with them, so
11 there can be some bleeding that would need to be surgically
12 corrected. You just can't recover from that.

13 Q So, at least, three of the gunshot wounds, would be
14 fatal, in your opinion?

15 A Yes.

16 Q And ultimately, what did you determine in this case,
17 Doctor, to be the cause of death for Jimmy Johnson, Jr.?

18 A Gunshot wounds of the torso.

19 Q And what did you determine to be the manner of death of
20 Jimmy Johnson, Jr.?

21 A Homicide.

22 Q Now, as you're noting these various injuries, you
23 indicated that you have a diagram that you work on as part
24 of your own paperwork?

25 A Yes.

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1 Q Did you, also, receive a request in this case to use a
2 forensic mannequin to document each of these gunshot wounds?

3 A Yes.

4 Q Including the path of the bullet as it enters and exits
5 the body?

6 A Yes.

7 Q I'm going to show you two photographs, Doctor, that are
8 State's Exhibit Nos. 57 and 58.

9 MS. POPOWSKI: No objection.

10 BY MS. MAYES:

11 Q Do you recognize those photos?

12 A Yes, these photos are of me placing the rods,
13 trajectory rods in the mannequin.

14 MS. MAYES: State's Exhibit Nos. 57 and 58 for
15 evidence, Your Honor.

16 THE COURT: So admitted.

17 (WHEREUPON, State's Exhibit Nos. 57 and 58 were
18 admitted into evidence.)

19 BY MS. MAYES:

20 Q So Doctor, I believe you said the autopsy was conducted
21 where?

22 A At the Medical University in Charleston.

23 Q At the Medical University in Charleston. And was your
24 work with the forensic mannequin, also, done at your
25 department there at the Medical University of Charleston at

1 a later date?

2 A Yes, ma'am.

3 Q Now, looking here at this photo, were you able to
4 document the path or trajectory for each of the gunshot
5 wounds that Jimmy Johnson sustained, all five?

6 A Yes.

7 Q And is this the forensic mannequin that you used for
8 that purpose?

9 A Yes.

10 MS. MAYES: And, Your Honor, may we as a demonstrative
11 aid bring the mannequin forward for the witness?

12 THE COURT: Very well.

13 MS MAYES: And, Your Honor, with your permission, if
14 she may step down from the stand.

15 THE COURT: Yes.

16 Doctor, please just make sure if you're speaking, the
17 court reporter can hear what you're saying.

18 BY MS. MAYES:

19 Q Now, Doctor, however you wish to address each of the
20 gunshot wounds, if you could, I'm going to ask you to begin
21 with the gunshot wound that we see to the back. And do you
22 necessarily know the order that these gunshot wounds
23 occurred to Mr. Johnson?

24 A I do not.

25 Q But looking here at a gunshot wound to the back, where

1 does this gunshot wound enter and where does it exit?

2 A So this injury enters his back just to the right of his
3 midline. It went from back to front, slightly upward
4 exiting the front of his chest.

5 Q So this is going to be the entry wound here into the
6 back?

7 A Yes.

8 Q And this is the exit wound here coming out of the
9 chest?

10 A This one right here.

11 Q Now, given the point of entry and exit, Doctor, is it
12 possible that Mr. Johnson was standing when this gunshot
13 wound into his back occurred?

14 A It is possible.

15 Q And then where can you tell us -- I'm going to ask you
16 to go through each one. Where can you tell us the point of
17 entry and exit is for each of the remaining four gunshot
18 wounds?

19 A So this one here is on his right side, a little bit
20 more to the back than to the front. It's traveled back to
21 front upward. And that one exited right here on the left
22 side of his chest.

23 These two entered very close together on his left flank
24 just above his left hip, traveling slightly upward and left
25 to right. One exited his right upper arm, shoulder area and

1 the other one did not exit and was, actually, a bullet I
2 recovered in this area of his body. So these are what I'm
3 characterizing as his gunshot wounds in his torso.

4 But in addition, he had another injury entering his
5 left thigh, a little bit to the left of the front of his leg
6 and traveling left to right downward, exiting the inside of
7 his thigh.

8 Q Now, Doctor, you mentioned previously that, at least,
9 three of the wounds were potentially fatal. Can you show us
10 which gunshot wounds you noted were potentially fatal?

11 A So this one entering here, the right back side, exiting
12 here. Also, these two entering the left side.

13 Q So these two here were potentially fatal, and this
14 one -- is this the one that you spoke of before that
15 traveled up through the heart?

16 A Yes, ma'am.

17 Q Now, you've taken a look at the mannequin as if the
18 mannequin is in a standing position. I'm going to ask if
19 you would take a look at the mannequin from a downward
20 position.

21 MS. MAYES: And, Your Honor, the jury may stand if
22 needed?

23 THE COURT: That will be fine.

24 BY MS. MAYES:

25 Q Now, looking at the mannequin from a downward position,

1 what, if any, indications do you have that the victim may
2 have been moving?

3 A Regardless of how the mannequin's positioned, the fact
4 that the decedent had injuries on multiple surfaces of his
5 body tells me that either he was moving, the shooter was
6 moving, they were both moving or there was more than one
7 shooter.

8 So in this case, some of these injuries could have been
9 inflicted with him standing, some of them could have been
10 with him in this position.

11 Q You know that -- or let me ask again, you're seeing
12 multiple points of injury across areas of the body?

13 A That's correct.

14 Q Different angles of entry across various planes of the
15 body?

16 A Yes.

17 Q And looking here while the mannequin is placed on the
18 ground, what, if anything, indicates shooting in a downward
19 position?

20 A So the injuries to his left side, if he was in this
21 position, could have been shot in a downward position.

22 Q Do both of these -- and this being the entry wound for
23 both. Do both of these appear to occur, if he's down, at a
24 downward angle?

25 A Yes.

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1 MS. MAYES: Beg the Court's indulgence.

2 (Pause.)

3 MS. MAYES: Your Honor, the witness may return to the
4 witness stand.

5 THE COURT: Very well.

6 BY MS. MAYES:

7 Q All right. And you mentioned that for all of those
8 gunshot wounds, four of them had an actual point of exit,
9 meaning the projectile left the body and continued to
10 travel?

11 A Yes.

12 Q And did any of those five have a bullet that remained
13 in the body?

14 A Yes.

15 Q So one of those does not have a point of exit?

16 A That's correct.

17 Q And the bullet remained in the body and was removed by
18 who?

19 A Removed by me.

20 Q All right. I'm going to show you an exhibit and ask
21 you whether or not that bullet that was removed, as I
22 believe you said, from the shoulder was, in fact, maintained
23 as evidence in this case?

24 A Yes.

25 Q And at the point that it is removed by you in the

1 autopsy process, is it sealed as evidence?

2 A Yes.

3 Q And you're present and observing as it's sealed?

4 A Yes.

5 Q And it's then provided to law enforcement to be
6 maintained as evidence in this case?

7 A Yes.

8 Q All right. Thank you, Doctor.

9 MS. MAYES: This would be State's Exhibit No. 204, Your
10 Honor, being the bullet retrieved by Dr. Richards in this
11 case.

12 THE COURT: Without objection?

13 MR. MANGOLD: Without objection.

14 THE COURT: So admitted.

15 (WHEREUPON, State's Exhibit No. 204 was admitted into
16 evidence.)

17 MS. MAYES: Nothing further, Dr. Richards at this time.

18 THE COURT: Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. MANGOLD:

21 Q Good afternoon, Dr. Richards.

22 A Hello.

23 Q And while we have him down here, you actually don't
24 know what position Jimmy Johnson was in when he was being
25 shot?

Virginia Richards, M.D. - Cross by Mr. Mangold

- 1 A No, sir.
- 2 Q Or at the time that he died?
- 3 A No, sir.
- 4 Q Thank you, Doctor.
- 5 MR. MANGOLD: Do you mind if I pick this up? Is that
- 6 all right, Your Honor?
- 7 THE COURT: I think it's okay.
- 8 BY MR. MANGOLD:
- 9 Q So just to kind of refresh my memory, this particular
- 10 wound came in from the front; is that correct?
- 11 A To the left side of his thigh there.
- 12 Q So like this way right here? But still in the front,
- 13 not in the back?
- 14 A Yes.
- 15 Q Or didn't come up from the other side?
- 16 A Correct.
- 17 Q Thank you, Doctor. And you did mention you couldn't
- 18 tell the order in which the bullets hit Jimmy Johnson?
- 19 A That's correct.
- 20 Q I had a question about this one right here, which I
- 21 think is this back has been labeled and the front, I
- 22 believe, as B; is that correct?
- 23 A Yes, sir.
- 24 Q Now, that could have, also, come in through the front?
- 25 A Except that it didn't.

1 Q Except that it did not. Was there any other of these
2 injuries that could have come through the front area except
3 for this leg injury?

4 A Could they have, but they did not. Gunshot wounds have
5 characteristic findings on them to tell you whether they're
6 an entrance wound or an exit wound.

7 Q I'm sorry, Doctor. Thank you very much for reiterating
8 that. So this gunshot number one could have occurred while
9 Jimmy Johnson was on the ground facing down?

10 A When you say gunshot wound number one, what are you
11 referring to?

12 Q I'm talking about this guy right here, that same one I
13 just discussed with you.

14 A I'm sorry, so you're asking?

15 Q So it would be I on the back. And then is it possible
16 that Jimmy Johnson could have been down on the ground when
17 this happened?

18 A It is possible.

19 Q And additionally, in your report, you mentioned a
20 remote retained bullet?

21 A Yes, sir.

22 Q And where was that located?

23 MS. MAYES: Objection.

24 (WHEREUPON, a bench conference was held in the presence
25 of the jury, but outside the hearing of the jury.)

1 Q Multiple angles involved?

2 A Yes, ma'am.

3 MS. MAYES: Thank you. Nothing further.

4 THE COURT: Any recross?

5 MR. MANGOLD: No, Your Honor. Thank you.

6 THE COURT: Very well.

7 The witness is excused.

8 Thank you, Doctor.

9 MS. MAYES: May we approach?

10 (WHEREUPON, a bench conference was held in the presence
11 of the jury, but outside the hearing of the jury.)

12 THE COURT: All right. Ladies and gentlemen, we'll
13 take a short break before this next witness. We'll get you
14 back in here as soon as I can. Please don't discuss the
15 case while you're in the jury room. Appreciate it.

16 (WHEREUPON, the jury exits the courtroom at 2:57 p.m.)

17 THE COURT: Okay. All right. We'll take a short
18 break.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: Okay. Are you ready to proceed?

21 MS. MAYES: The State is ready, Your Honor, although we
22 do have several matters to address in-camera. We probably
23 want to take these up one by one.

24 THE COURT: Okay.

25 MS. MAYES: Your Honor, I'll begin by stating that in

1 this case, the phone records for Verizon were to cover the
2 period of the entire month of November up until the date
3 that the Defendant was apprehended, December 2nd. So they
4 would have began on November 1st through December 2nd.
5 However, we don't see phone activity in the Verizon records
6 until around November 20.

7 And that is significant because that is the date that
8 this phone that is at issue in this case. This is (803)
9 312-1170. Where this phone is concerned, Judge, this phone
10 was activated and began use after that crime in Richland
11 County had already occurred. That crime occurred November
12 19th. And based on information in that file, being the
13 shooting of Rachel Coe, we know that the Defendant used a
14 phone to communicate with people who were related to Rachel
15 Coe about that case. And it was a different phone number
16 that we used.

17 And so after she is shot, we know that this phone is
18 acquired and being used by the Defendant. This is the same
19 phone that is going to be on his person when he exits that
20 house on December 2nd and is seized by law enforcement. The
21 same phone that he is going to draw a pass code to. And for
22 each of the dates of the Verizon records, Your Honor, we can
23 show that for each of those days, that phone is used to
24 communicate to close acquaintances and relatives of the
25 Defendant.

1 So we spoke earlier, Your Honor, about evidence of
2 flight. And there is a motion regarding evidence of flight
3 being that when he was apprehended December 2nd, he knew
4 that he was being wanted in this case because he had
5 abandoned his car and he's now using a new phone that has
6 been factory reset three different times, including around
7 9:45 a.m. on the morning of November 27th, less than three
8 hours after the shooting of Jimmy Johnson.

9 So that phone is factory reset, meaning it's wiped and
10 there's no longer any evidence recoverable from it. Not
11 text messages, not call logs. Nothing on that phone can be
12 recovered after a factory reset. And that's going to occur
13 for the first time at 9:45 a.m. on November 27th.

14 We know from the phone records from Verizon, he is in
15 continual contact, whether by calling or texting numerous
16 individuals each day on the 27th, on the 28th, on the 29th,
17 on November 30th, and on December 1st, all the way up until
18 he is apprehended on November 2nd. We know that he factory
19 resets that phone twice on November 27th, again, following
20 the murder, and then he's going to factory reset that phone
21 again on December 1st, 2021, the day before he's
22 apprehended. He's factory resetting that phone to
23 eliminate, conceal, destroy evidence of all of these
24 communications that are going on with others.

25 So, Your Honor, as we spoke earlier about flight,

1 flight may pertain to one of the proposed text messages, but
2 the remaining text messages deal with the concealment and
3 destruction of evidence, which is a completely separate
4 issue than flight. It's not tied into the case law on
5 flight or a certain nexus associated with evidence of
6 flight. That is its own legal issue and, Your Honor, has
7 been held repeatedly admissible.

8 Most recently, Your Honor may be familiar with the case
9 that was tried down in Horry County, but it was a case that
10 received wide media coverage. It had to do with the
11 kidnapping where two individuals were charged. They were a
12 husband and wife, Sidney Moore and Tammy Moore. They were
13 both charged with the kidnapping of a female acquaintance of
14 them both. And in that case, it dealt directly with
15 tampering and destruction of evidence on a cellphone and
16 that evidence was found to be admissible. It's admissible
17 because it goes to consciousness of guilt.

18 I'm going to pass up some of the case law. This is not
19 the only case. We have numerous other cases. But this was
20 one of the most recent cases. So as I take up each of these
21 proposed exhibits, Your Honor, these exhibits are being
22 offered for the purpose of establishing proof of destruction
23 of evidence. Deleting evidence on that cellphone that he is
24 found in possession of on December 2nd.

25 First, Your Honor, we have a communication, that is

1 State's Exhibit No. 179, and that communication is to
2 another acquaintance. And it says, It's cool, just trying
3 to survive another day. We're not offering that at this
4 time. That is for ID only. But the reason this text is
5 relevant is if it's going to be challenged who was using
6 this phone and who was communicating, clearly, the person
7 using this phone appears to be someone in flight. So that
8 is State's Exhibit No. 179. That is only for ID, Your
9 Honor. And that is only if the use of this phone were to be
10 challenged. So I'm going to set that one aside for this
11 time.

12 Next, Your Honor, we have a text sent on December 2nd.
13 That is the very day that he is apprehended. This is one
14 day after he has already conducted three other factory
15 resets on that phone, wiping or destroying any evidence that
16 is physically present on the phone, although we can see in
17 the Verizon records there were multiple communications
18 occurring.

19 Here, from the phone sent on December 2nd, and this is
20 going to be around 2:51 p.m. So Judge, this is maybe an
21 hour before he sends the text message to Casey Jeffords
22 asking if she's home. He sends a message that says -- and
23 we know who this message goes to, it goes to Abby Kirby, a
24 known acquaintance and niece of his. He says, Here's my
25 chance. I'm leaving now, headed to Myrtle Beach. Delete

1 this.

2 And, Your Honor, that message that he is planning to
3 leave and ends with delete this, the fact that he is
4 instructing others to delete this, Your Honor, that is
5 directly relevant to establish that that phone was why --
6 and was factory reset to potentially conceal and destroy any
7 communications about this crime involving Jimmy Johnson.

8 And, Your Honor, there is a good faith basis to believe
9 that he was in communication with others about this crime
10 because we are going to have testimony from both Stacy
11 Fidler and Jeffrey Davidock that he communicated with them
12 about why he was not going to return that car. And that
13 included, at least, one message, that is, you don't want
14 this car back. You don't want the car back because the car
15 had been used in the murder.

16 And so, Your Honor, the fact that he's communicating
17 with others about the murder, then deleting evidence and
18 instructing other people to delete evidence is directly
19 relevant to show consciousness of guilt.

20 Then, Your Honor, he is going to, also, send a text
21 while he is at Thrush Street once law enforcement. And
22 we're not getting into the details of the standoff, the
23 details that this standoff happened over the course of three
24 hours or four hours or whatever it may be. But what is
25 significant to us is that in State's Exhibit No. 183, he is

1 going to send a message, once again, to that same niece that
2 says, They got me, phone killed me. Your Honor, that
3 statement, Phone killed me, is a direct admission of the
4 Defendant showing consciousness of guilt, that the phone he
5 used to trace him.

6 The reason that is essential and probative in this
7 case, which as of now, Your Honor, is a circumstantial
8 evidence case, completely circumstantial to establish
9 whether the Defendant was at the crime scene and whether the
10 Defendant is the shooter in this case.

11 There will be testimony from Brannon Marthers that that
12 phone is in use prior to the shooting and within an hour and
13 27 minutes after the shooting, give or take. But it is not
14 able to connect to any cell tower during the time of the
15 shooting. And that indicates, Your Honor, that that phone
16 is deactivated and it is off and that's because it can be
17 traced.

18 So the State -- it has great probative value to the
19 State to establish that he has knowledge in advance that by
20 deactivating that phone, it can't be traced. He knows that
21 phone can be traced because he admits it on December 2nd
22 when he sees law enforcement outside, Phone got me. And
23 again, this is the phone used during the timeframe of the
24 murder of Jimmy Johnson. This is not a phone that was used
25 during the timeframe of the shooting in Richland County.

1 And so, Your Honor, that has great probative value,
2 especially looking at the circumstantial evidence that the
3 phone is going to be deactivated during the time of the
4 murder and then factory reset three times following the
5 murder of Jimmy Johnson.

6 So those, Your Honor, are certainly relevant and
7 probative to the State's case, a circumstantial evidence
8 case.

9 And then finally, Your Honor, I mentioned his niece,
10 Abby Kirby. What we know in this case is that the Defendant
11 used a vehicle to get to the scene to commit this murder.
12 There will be testimony from Jeffrey Davidock and Stacie
13 Fidler that they rented a car. He's going to disappear in
14 that car and then refuse to return it back saying, You don't
15 want this car back. An incriminating statement or
16 admission. And then they never see that car again.

17 Ultimately, Your Honor, we know that that car is
18 ditched somewhere beyond Lexington County in an area of
19 Aiken County near Wagener. There is a cell tower that
20 covers that area called the Kyzer Mill Road cell tower.
21 And we know that he is going to immediately after the murder
22 when the phone comes back on around 8:42 a.m., he is going
23 to hit that cell tower at Kyzer Mill Road.

24 Within that close proximity, Your Honor, and we believe
25 in close proximity to that cell tower is the residence of

1 Abby Kirby, his niece. The Defendant is going to abandon
2 the vehicle, and that's the State's case, that the Defendant
3 abandons the vehicle. But from there, he has to have other
4 rides. He's abandoned the vehicle used in the murder and is
5 relying on other people to give him rides wherever he goes
6 from there. So in helping to create a timeline and the
7 required chain of circumstances, chain of events to
8 establish circumstantial evidence, he's going to end up on
9 Thrush Street on December 2nd.

10 Well, we know that he's getting rides and assistance
11 from other people, and that's important and relevant because
12 he no longer has the car that was used to commit the murder.
13 He doesn't have it because it's been abandoned. And that's
14 an essential fact of the case that the State intends to
15 prove.

16 So he sends a message again on December 2nd to his
17 niece, Abby Kirby, and this is in the morning. He says,
18 Thank you for everything. You still going to give me a
19 lift? Again, asking for a ride and thank you for everything
20 indicates that there's already been some type of assistance
21 we see. Again, we're trying to establish that he no longer
22 has the vehicle used to create this crime because it has
23 been abandoned.

24 All three of these, Your Honor, are offered to show
25 consciousness of guilt, guilty knowledge, consistent with

1 State V. Moorer (ph), consistent with State V. Gentry,
2 consistent with State V. Aneisha Shaire Young, State V.
3 Wright, all dealing with evidence being admissible, Your
4 Honor, when it pertains to the concealment of evidence.

5 I'm, also, going to go back, Your Honor, to an old case
6 that I remember well, but probably before the time of many
7 in this courtroom, and that's State V. Beckham. That was a
8 case that occurred and was tried in 1999 dealing with a
9 murder where the destruction of evidence --

10 THE COURT: You're referring to Newberry County?

11 MS. MAYES: Yes, Your Honor.

12 THE COURT: I'm familiar with it.

13 MS. MAYES: Yes, sir.

14 THE COURT: I didn't mean to cut you off. I'm sorry.

15 MS. MAYES: In there, the destruction of evidence
16 indicated that it was admissible -- or the destruction of
17 evidence was found to be admissible and relevant evidence.

18 Also, State V. Lynch, a 2015 case where the Court held
19 that the Defendant abandoned the vehicle used to commit the
20 crime and stripped its plates was admissible as evidence of
21 guilt because it was evidence of destruction of evidence.

22 I'm going to, also, pass up State V. Beckham at this time.

23 I'm going to pass up all three of these exhibits,
24 State's Exhibit Nos. 183, 181, 180 marking for ID only, Your
25 Honor, the other one that says, It's cool, just trying to

1 survive another day. Again, that would just go to who's
2 possessing and using the cellphone, which at this time would
3 not be offered.

4 THE COURT: Mr. Story.

5 MR. STORY: Yes, sir. So thank you, Your Honor. I
6 think issues got a little confused here. I am not objecting
7 to their expert, assuming he's qualified and they lay the
8 proper foundation to factory reset, none whatsoever. So,
9 the solicitor says, you know, evidence of flight or
10 admissions by the Defendant could come in. I agree,
11 certainly, Ms. Fidler, if she comes up and says he made
12 these admissions about the car and he used my car on this
13 day, et cetera. Again, assuming the proper foundation is
14 laid, there would be an objection to that because it would
15 be an admission by my client. She would be there to talk
16 about the proper context and how she understood and things
17 like that.

18 Part of the problem is these statements are just coming
19 off of a cellphone. We don't know exactly what these refer
20 to. The State may believe that they refer to his flight
21 from the murder of Jimmy Johnson on November 27th, but that
22 is mere speculation. He was arrested in Richland County.
23 He was, also, under arrest for the shooting that the State
24 described.

25 And, of course, we object under 404 to anything coming

1 in about Richland County, Your Honor.

2 THE COURT: I don't think they indicated they intend to
3 do that.

4 MR. STORY: Well, I believe they did because they are
5 trying to introduce these text messages, which could be
6 about the Richland County incident.

7 THE COURT: But there's nothing in the text that
8 reference the Richland County case.

9 MR. STORY: You're right, Your Honor. There's nothing
10 in the text that referenced the Lexington County incident
11 either. You're taking it completely out of context, lifted
12 off of a cellphone. And that's, you know, part of the
13 problem, Your Honor.

14 THE COURT: We can agree that the texts were subsequent
15 to the Lexington County incident?

16 MR. STORY: We can agree on the dates of them, yes,
17 Your Honor, that they were subsequent to the Lexington and
18 the Richland County incident. They were around the time he
19 was arrested in Richland County, which, Your Honor, I want
20 to point the State's -- the Court's attention to State V.
21 Pagan, 369 South Carolina 201, which stood for -- and Your
22 Honor, we heard it earlier in pretrial -- when there's a
23 flight, there's got to be a nexus between the flight and the
24 incident for which they're on trial. In that one, it was
25 dealing with failure to stop for a blue light.

1 So, Your Honor, first, I would object under 402. This
2 is irrelevant to this incident because, as I said before, it
3 does not reference anything to do with the shooting of Jimmy
4 Johnson or anything that has been testified to here today.
5 Under 404, it references other bad acts. Even if he's in
6 flight or -- I mean, we don't know. That's the problem.
7 It's lifted off -- we don't know what he's talking about,
8 Your Honor.

9 If somebody asks me, how are you doing, and I say
10 surviving, it's not because I'm running from anything, Your
11 Honor. It's just a response. We don't know the context of,
12 you know, why he was trying to survive another day. We
13 understand the State's theory, Your Honor, but we don't have
14 somebody here to testify as to what he said, the context
15 surrounding it, et cetera.

16 So, Your Honor -- and then, of course, under 403, it is
17 -- the probative value does not greatly outweigh -- excuse
18 me, the prejudice is not greatly outweighed by the probative
19 value in this case. I think they have very little probative
20 value, Your Honor. If they have other witnesses saying he
21 was going to flee or anything like that, they can get it in
22 that way. This muddies the issue. This will confuse the
23 jury because we do not know what he is referring to

24 And, Your Honor, I would object. It's a violation of
25 his right to a fair trial, the Fifth, Sixth, Fourteenth

1 Amendments to the United States Constitution, a violation of
2 due process under Article 1, Section 3 of the South Carolina
3 Constitution and, of course, the right to a fair trial under
4 Article 1, Section 14 of the South Carolina Constitution.

5 And then finally, I -- you know, I appreciate the State
6 giving us a copy of State v. Moorner. I'm looking over it,
7 Your Honor, and I don't see how this case addresses flight
8 or messages from a cellphone. There was a note on venue,
9 there was an issue about that. There was a directed verdict
10 motion that the Judge denied. It has a whole list of
11 evidence. Some of them were text messages, but I don't know
12 the context, et cetera. Then, of course, expert testimony.
13 Apparently, the attorney did not object to the person who
14 testified as being qualified as an expert.

15 So, Your Honor, I don't think that is directly on point
16 by any means. So, yes, Your Honor, I would object.

17 THE COURT: Brief response, Ms. Mayes?

18 MS. MAYES: Yes, Your Honor, briefly. So in Moorner,
19 one of the most recent decisions, it was admissible that the
20 cellphone had been tampered with, that an SD card had been
21 removed. And that the victim had, also, deleted information
22 from a phone.

23 And again, that has nothing to do with flight. And the
24 message where he is instructing someone else to delete this
25 has nothing to do with flight. It has everything to do with

1 his state of mind, guilty knowledge and intent when he has
2 complete factory reset the phone.

3 For example, in the last trial, the suggestion was made
4 to the witness who testified about the factory reset that he
5 could have been resetting the phone to sell it. During the
6 last trial, there was cross-examination about the fact that
7 the phone of the Defendant was deactivated during the time
8 of the crime that the phone's battery may have died. That
9 is something that can be asked. And the fair question,
10 could the battery simply have died during this window of
11 time that the victim was murdered? But we know the phone is
12 back up and running an hour and a half later. And we know
13 that he is factory resetting the phone and then instructing
14 someone to that he is factoring someone to delete this,
15 which goes directly to the issue of whether this is
16 intentional deletion or whether there's just some other
17 alternative explanation.

18 The State has the burden in this case, Your Honor, a
19 circumstantial evidence case to establish exactly why
20 information has been deleted from that phone and is not
21 available for the jury, exactly why the phone may have been
22 deactivated during the period of time that the homicide
23 occurred. So those statements, "delete this", and the
24 follow-up statement, "phone killed me", again, not offered
25 for flight and not connected to flight, but it's connected

1 to his knowledge that law enforcement can trace that phone
2 and did trace that phone, which is the exact reason he
3 instructed another witness to quote, delete this.

4 And finally, Your Honor, about the message on December
5 2nd asking for a lift, he needs a lift, he needs a ride
6 because he no longer has the vehicle that he used to commit
7 the crime with, and that is another essential fact of this
8 case.

9 Thank you, Your Honor.

10 THE COURT: Very well.

11 Yes, sir, Mr. Story.

12 MR. STORY: Your Honor, if they've got a witness that
13 can establish all those circumstances, then we'll revisit it
14 then. My objection is it's taken off the phone, totally out
15 of context.

16 Your Honor, as far as Moorer, I mean, I am not -- last
17 time, I did not object to him talking about the factory
18 reset, et cetera, any of that, so I don't know why they
19 think I would object to that, Your Honor.

20 So again, I think Moorer is irrelevant to this issue.
21 The problem is those text messages are prejudicial and
22 they're, also, irrelevant without any further explanation,
23 Your Honor, without any further content.

24 THE COURT: All right, Mr. Story. Thank you.

25 All right. These are objections prior to the testimony

1 being submitted. I'm overruling the objections. Obviously,
2 if something comes up in testimony between now and then,
3 we'll cross that bridge. But I intend to admit them over
4 objection. I think they're relevant. I don't think they
5 will confuse the jury. They may be prejudicial. I don't
6 find they are unfairly prejudicial. I don't find they are
7 substantially prejudicial in light of Rule 403.

8 I think you can certainly address it on the cross, but
9 I think there's certainly an argument that the -- based off
10 the time the text messages were sent, I think they can
11 provide clarity to the jury instead of confusion. But
12 again, I haven't heard all the questions. So as of now, I
13 intend to admit them subject to objection.

14 MS. MAYES: The State is ready to proceed, Your Honor.

15 THE COURT: Ready to proceed?

16 MR. STORY: Ready to proceed, Your Honor.

17 THE COURT: Let's bring them in.

18 (WHEREUPON, the jury enters the courtroom at 4:25 p.m.)

19 THE COURT: All right, ladies and gentlemen, we'll
20 proceed on with our next witness.

21 MS. OPPENHEIMER: The State calls Mike Phipps.

22 MICHAEL PHIPPS,

23 after being duly sworn, testified as follows:

24 THE WITNESS: I do.

25 THE CLERK: Thank you. Please take a seat in the

1 witness stand. State your full name and spell your last for
2 the record.

3 THE WITNESS: Michael Stuart Phipps, P-H-I-P-P-S.

4 DIRECT EXAMINATION

5 BY MS. OPPENHEIMER:

6 Q Good afternoon, Analyst Phipps. Can you move that
7 microphone just a little bit closer to you.

8 A Closer?

9 Q Yes, sir.

10 A (Witness complies.)

11 Q Thank you. Can you tell us a little bit about
12 yourself? Where are you presently employed?

13 A Currently, I work for the United States Secret Service.

14 Q And what do you do for the United States Secret
15 Service?

16 A I conduct forensic examinations on digital evidence.

17 Q And how long have you been with the Secret Service?

18 A Just over a year and a half now.

19 Q And where were you employed before then?

20 A Before that, I worked for the Lexington County
21 Sheriff's Department for 26 years.

22 Q For 26 years?

23 A That's correct.

24 Q And then what capacity did you work there?

25 A Like most people, I started on the road, and then went

1 into the crime scene unit. While I was in the crime scene
2 unit, I started working in the area of digital forensics.
3 So that's how I kind of got into that line of work.

4 Q In what year did you begin your work in digital
5 forensics?

6 A First course I ever took, I think, was 2005.

7 Q What training have you had associated with digital
8 forensics?

9 A While I was employed with the sheriff's department, I
10 became a task force officer with the Secret Service, and
11 that allowed us to go to training that they offer in Hoover,
12 Alabama. Most of our training came through the National
13 Computer Forensic Institute down there. In total, I've had
14 about 800 hours of forensic training in digital forensics.

15 Q And more specifically, what types of digital forensics
16 are you trained in?

17 A Obviously, cellphones, computers, info-entertainment
18 systems, so the systems that are in your vehicles. Also, to
19 some degree, DVR systems, like surveillance video systems.

20 Q And with cellphones, are you trained in any specific
21 programs that help you digitally analyze cellphones?

22 A Yes. So there's two primary forensic tools we use.
23 One's a product from a company called Cellebrite. Another
24 is a company called Axiom. They both produce similar tools
25 that we utilize for digital forensics.

Michael Phipps - Direct by Ms. Oppenheimer

1 Q What do both of those programs, I guess, allow you to
2 do with a cellphone?

3 A Obviously, when you get digital evidence off of a
4 platform, it's usually in a form that's not too
5 human-readable. So we have to ingest it in what's called
6 parsing. It analyzes the evidence, tells us what category
7 it fits in, makes it human-readable, and presents it to us.

8 Q And how many analyses would you say you've done on
9 cellphone throughout your career?

10 A It's hard to say. I don't really keep track of it.
11 But I would say probably between 900 and 1,000.

12 Q Between 900 and 1,000 since 2005?

13 A That's correct.

14 Q Have you ever been qualified as an expert in this
15 state?

16 A I have, yes, ma'am.

17 Q Have you ever been qualified as an expert in federal
18 court?

19 A Not in digital forensics, but I have in other areas.

20 MS. OPPENHEIMER: Your Honor, at this time, I would
21 offer Analyst Mike Phipps as an expert in digital forensics
22 and cellphone extractions.

23 MR. STORY: Very briefly.

24 THE COURT: All right.

25 VOIR DIRE

1 BY MR. STOREY:

2 Q Agent Phipps, you said you've never been qualified as
3 an expert in federal court in digital forensics?

4 A That's correct.

5 Q You have been qualified as an expert in state court in
6 digital forensics?

7 A I have, yes, sir.

8 MR. STORY: No further questions, Your Honor. No
9 objection.

10 THE COURT: All right. That's digital forensics and
11 cellphone?

12 MS. OPPENHEIMER: Extractions.

13 THE COURT: Yes, sorry.

14 All right. Ladies and gentlemen, this witness will be
15 qualified in the area of digital forensics and cellphone
16 extractions and will give opinion testimony in that area.
17 It doesn't mean you have to accept the opinion, but it's
18 evidence for you to use in any way you see fit.

19 BY MS. OPPENHEIMER:

20 Q And Analyst Phipps, I might have forgotten to ask you
21 this, how many times have you been qualified in the state
22 court as an expert?

23 A I believe it's 34 times now.

24 Q 34 including today?

25 A I think not including today.

1 Q So now, 35?

2 A Yes, ma'am.

3 Q Can you tell us whether or not you were asked to
4 extract a cellphone in this case?

5 A I was, yes, ma'am.

6 Q I'm handing you what's already been admitted as State's
7 Exhibit No. 139. You can open that up and tell us if you
8 recognize that item.

9 A Yes, ma'am, I do.

10 Q Is that the cellphone that you performed an extraction
11 on in this case?

12 A It is.

13 Q And what program did you use to perform that
14 extraction?

15 A The acquisition and analysis was a tool from
16 Cellebrite.

17 Q And Cellebrite just takes raw data and puts it in a
18 readable form; is that correct?

19 A It's two separate platforms. So the first one's a
20 device, a dedicated piece of hardware that actually pulls
21 the data off of the cellphone. And then we load that data
22 into a software program. It parses it out and makes it
23 human-readable.

24 Q I'm showing you State's Exhibit No. 154 for ID only.
25 If you will take a look at this and let me know what that

1 is.

2 A This would be the extraction report for this cellphone.

3 Q That you conducted on this cellphone?

4 A Yes, ma'am.

5 Q And is that the full extraction of this cellphone?

6 A It's the report from the full extraction.

7 Q So when we talk about report versus extraction, what is
8 the difference?

9 A So when we extract the data, that's sort of raw data.
10 It's not really -- again, it's not human-readable. So you
11 have to post-process it in another tool. So we usually
12 archive the original raw data that's obtained, and then we
13 generate a report based on that that anyone can look at.

14 Q And is it possible to create smaller reports from your
15 larger extraction report that would have been contained in
16 State's Exhibit No. 154?

17 A Yes.

18 Q I'm going to show you a series of exhibits. Analyst
19 Phipps, I'm going to hand you State's Exhibits Nos. 146,
20 153, 148, and 175. If you can take a look at these and tell
21 me if you recognize all of those?

22 A I do, yes ma'am.

23 Q All right. Starting with State's Exhibit No. 146, what
24 is this?

25 A They're a series of photographs of the evidence when I

1 received it.

2 Q The evidence being State's Exhibit No. 139, the
3 cellphone in this case?

4 A That's correct.

5 Q And why did you take photographs of this cellphone?

6 A It's common to photograph the evidence as it comes into
7 the lab to document the condition it's in, whether it was
8 sealed or not sealed, whether there was damage to the phone,
9 just overall documentation.

10 Q Was there any damage to this phone?

11 A Yes, the screen was cracked.

12 Q Just a small crack to the screen?

13 A I have to refresh my memory, actually. I would
14 categorize it as just a little bit more than a small crack.
15 There were some shattered areas in two corners, it appears.

16 Q But that would not affect the actual data on the phone,
17 would it?

18 A It did not. It powered on. It functioned normally.

19 Q And those photographs are the same as the ones you took
20 back in 2021 when you performed your extraction?

21 A Yes, ma'am.

22 Q Now, looking at State's Exhibit No. 148, what is that
23 piece of evidence?

24 A It's a sub-report from the overall extraction report.
25 It list the phone number that's assigned on the SIM card

1 within the phone.

2 Q And would that have been, basically, a smaller report
3 from your overall extraction report?

4 A Yes, ma'am.

5 Q Does it appear to have been altered in any way other
6 than just making it a small, more readable format?

7 A That's correct, it's just as it came off the phone.

8 Q And looking at State's Exhibit No. 153, can you tell us
9 what that is?

10 A So when the overall report is generated, there's like a
11 cover sheet that goes with it that documents the summary of
12 the extraction itself, the evidence files that were used and
13 processed within the tool. So this is that cover sheet that
14 kind of gives a summary there.

15 Q And what are some of the -- some of the data that is
16 reflected in that device report?

17 A The date and time that the extraction was made, the
18 fact that I was the one that performed it, the evidence
19 number, the case number, evidence number, the two files that
20 were extracted from the phone, some summaries of what it
21 carves out as far as unique identifiers for the phone, the
22 IMEI, various things like the carrier, things like that.

23 Q And that would have been a smaller report generated
24 from the overall extraction report, correct?

25 A Yes, ma'am.

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1 Q Now, looking at State's Exhibit No. 175, do you
2 recognize this?

3 A I do.

4 Q And what is that?

5 A It's just a table summary of a sequence of events that
6 the tool carved out as far as whether the phone was factory
7 reset.

8 Q And is that an even more simplified chart, if you will,
9 of a smaller extraction report?

10 A It is.

11 Q Did that information come directly from the phone that
12 you performed the extraction on?

13 A It did.

14 Q Is the data reflected in State's Exhibit No. 175
15 accurate based on the extraction that you performed?

16 A It is.

17 MS. OPPENHEIMER: Your Honor, at this time, I would
18 move State's Exhibit Nos. 146, 148, 153, and 175 into
19 evidence.

20 MR. STORY: So, Your Honor, I would not object to
21 State's Exhibit Nos. 153 and 146, 148. State's Exhibit No.
22 175, Your Honor, the witness has not explained what those
23 are. So I would object to that one, Your Honor.

24 THE COURT: Well, just as to State's Exhibit Nos. 146,
25 148, 153 is admitted without objection. State's Exhibit No.

1 175 is, again, what?

2 MS. OPPENHEIMER: It is a more simplified data table
3 from State's Exhibit No. 153.

4 THE COURT: I'll admit that over objection.

5 (WHEREUPON, State's Exhibit Nos. 146, 148, 153 and 175
6 was admitted into evidence.)

7 MS. OPPENHEIMER: Permission to publish, Your Honor?

8 THE COURT: Very well.

9 BY MS. OPPENHEIMER:

10 Q All right, Analyst Phipps, looking at State's Exhibit
11 No. 146, is that the cellphone that you were talking about
12 that you performed the extraction on?

13 A Yes, ma'am.

14 Q What is this cellphone described as? What model is it?

15 A Samsung Galaxy A02S, I believe, is the designation.

16 Q And what color is it?

17 A Black.

18 Q And this is a series of five photos, I believe; is that
19 correct?

20 A Correct. The one we're looking at there is the phone
21 outside of the -- there was two levels of packaging. You
22 have the inner clear bag that the phone was actually in, and
23 then that was placed within the manilla envelope.

24 Q Gotcha. And looking right here, we're looking at the
25 back of the phone, correct?

1 A That's correct.

2 Q What is this white sticker-looking thing on the back of
3 the phone?

4 A It's a label applied by the manufacturers. Some phones
5 have labels like that, some don't. I don't know if this was
6 a remanufactured phone or not either. We'll have to look at
7 that label a little closer.

8 Q Did you take a picture of just that sticker?

9 A I did.

10 Q Looking at the second photograph, would this just be
11 the front side of the phone?

12 A Yes, that would be prior to removing it from the clear
13 bag.

14 Q Photograph three, same thing, just outside of the bag?

15 A That's correct.

16 Q I believe this is photograph four. Can you read that
17 IMEI number from where you're sitting?

18 A I can. It's 350207632463649.

19 Q And we heard a little bit of testimony about an IMEI
20 number. Are those unique to cellphones?

21 A Well, mobile devices. Other types of platforms can
22 have an IMEI number.

23 Q Can two cellphones have the same IMEI number?

24 A They cannot.

25 Q I believe this is photograph five. Photograph five

1 depicts what?

2 A It's a SIM card tray. So not as common as it used to
3 be, but removable SIM cards, there's a little ejection tray
4 that you can pull out that holds the SIM card, which is the
5 little white item to the right of that darker tray. But the
6 tray, also, has the ability to put a micro SD card in it.
7 So we photograph it that way to document the fact that there
8 was only a SIM card and not an SD card.

9 Q Analyst Phipps, can you tell us what is meant by UTC
10 time?

11 A Universal Time Coordinate or Universal Coordinated
12 Time. It's just the international agreed-upon standard when
13 most computer systems will log their time based off UTC. So
14 it doesn't matter whether you're in California or Germany,
15 you know, 1:00 p.m. UTC time is the same across the entire
16 globe.

17 Q And us being in South Carolina, in Lexington, South
18 Carolina, what time zone are we in?

19 A Eastern Standard Time.

20 Q So if an event happens in November, do we have to
21 adjust the phone times on an extraction report to reflect
22 our time zone?

23 A Yeah, so because the phone keeps time in UTC and this
24 phone was operating in Eastern Standard Time, the time
25 offset is a minus five hours from UTC to convert back to

1 Eastern Standard Time. And then during the summer, it's
2 minus four because you have the one hour spring head, fall
3 back.

4 Q And looking at State's Exhibit No. 153, this is the
5 preliminary device report; is that correct?

6 A Yes.

7 Q Do you see that same IMEI number?

8 A I do, yes ma'am.

9 Q And I believe there's, also, an IMSI number?

10 A Correct.

11 Q Are those, also, unique to mobile devices?

12 A They can be. We, typically, use -- the IMEI is what
13 the service provider uses to identify the hardware on their
14 network.

15 Q All right. And I want to ask you about three specific
16 events on this phone. There seems to be three factory
17 resets. Can you tell us what a factory reset is?

18 A So if you have a phone and either it's acting up and
19 you need to reset it to get it operating correctly again, or
20 you're going to sell it or trade it in, whatever the case
21 may be, most phones are capable of going through a series of
22 button pushes. Sometimes just going into the menu and
23 selecting factory reset to remove all the user data from the
24 phone. It doesn't completely remove all data, but all the
25 user's data is removed from the phone.

1 Q And you were, also, able to obtain a phone number
2 associated with this phone; is that correct?

3 A That is correct.

4 Q I'm showing you State's Exhibit No. 148, can you read
5 that?

6 A I can. Probably have it -- in reference to the phone
7 number itself?

8 Q Yes, sir.

9 A So the phone number was area code (803) 312-1170?

10 Q All right. Hold on. Can you give it to me again?

11 A Yes, ma'am. Area code (803) 312-1170.

12 Q And that was the phone number associated with this
13 phone?

14 A It was.

15 Q And you were able to determine there were three factory
16 reset events on this phone for this phone number; is that
17 correct?

18 A That is correct.

19 Q Showing you State's Exhibit No. 175. What were the
20 dates and times of those factory resets?

21 A The first being November 27th of 2021 at 9:45 in the
22 morning, then November 27th, same day, 2021, at 9:39 p.m. in
23 the evening, and the third being December 1st of 2021 at
24 11:40 p.m.

25 Q Now, with the factory reset, do you lose all

1 information on a phone?

2 A You lose all the user's data.

3 Q Text messages?

4 A Yes.

5 Q Phone calls?

6 A Yes.

7 Q Incoming and outgoing phone calls?

8 A That's correct.

9 Q Contacts?

10 A Yes, ma'am.

11 Q What about if I use my phone for Facebook or anything
12 like that?

13 A Yes.

14 Q E-mail?

15 A Yes.

16 Q Photographs?

17 A Yes.

18 Q Do I lose location data?

19 A Yes.

20 Q So anything I could be using this phone for is
21 absolutely wiped clean as if I never did it; is that fair to
22 say?

23 A Yes. Obviously, the operating system has its own
24 unique area. That's why we were able to see that it was
25 actually factory reset. So in essence, it's as though it

1 came out of the box when you purchased it new, but there's
2 some trace data we're able to access that gives us the
3 ability to see those prior factory resets.

4 Q So because the last factory reset on this phone for the
5 phone number ending in 1170 is 11:40 p.m. on December 1st,
6 2021, is that why we only have information from December 2nd
7 of 2021 if the phone was seized by law enforcement that same
8 day?

9 A The only data that I saw that I could attribute to a
10 user interacting with the phone was December 2nd, started on
11 December 2nd, 2021.

12 Q I'm going to show you State's Exhibit No. 179, 180,
13 181, 183, 151. And I believe there's one more.

14 Beg the Court's indulgence.

15 (Pause.)

16 MS. MAYES: Your Honor, may we approach?

17 THE COURT: Sure.

18 (WHEREUPON, a bench conference was held in the presence
19 of the jury, but outside the hearing of the jury.)

20 THE COURT: Real quick, ladies and gentlemen, let's
21 just stand up and reach those arms up. Move the body around
22 a little bit. Get that blood flowing. I wouldn't recommend
23 any jumping jacks.

24 (WHEREUPON, jury stood.)

25 THE COURT: All right. You can have a seat.

1 BY MS. OPPENHEIMER:

2 Q Analyst Phipps, I'm going to show you State's Exhibit
3 Nos. 203, 151, both of those are already in evidence, I
4 believe, 183, 181, 180, and 179. If you can look at these
5 and let me know if you recognize them?

6 A Yes, ma'am, I do.

7 Q All right. And are all of those smaller extraction
8 reports -- or I guess, what are they?

9 A They're excerpts from a series of chats that were
10 parsed off of the report.

11 Q Chats being, also, text messages; is that fair?

12 A Yes.

13 Q And that came from the extraction report that you
14 yourself performed on this cell phone; is that correct?

15 A That's correct.

16 Q And do the majority of them appear to be from the owner
17 of the phone?

18 A Yes, they're all indicating just the owner or
19 operators, whoever's in control of the phone, sending an
20 outgoing texts.

21 Q And do they appear to have been altered in any way?

22 A They do not.

23 MS. OPPENHEIMER: Your Honor, at this time, I move
24 State's Exhibit Nos. 183, 181 and 180 into evidence, and 179
25 for ID only at this time.

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1 THE COURT: And State's Exhibit No. 151?

2 MS. OPPENHEIMER: State's Exhibit No. 151 is already
3 in, Your Honor, as well as 203.

4 THE COURT: All right. Subject to objection.

5 MR. STORY: They're for ID only at this point?

6 THE COURT: No, no, no, State's Exhibit No. 180, 181
7 and 183, correct?

8 MS. OPPENHEIMER: Correct.

9 MR. STORY: Yes, Your Honor, I raise my previous
10 objection.

11 THE COURT: Very well.

12 State's Exhibit Nos. 180, 181 and 183 are admitted into
13 evidence subject to objection.

14 (WHEREUPON, State's Exhibit Nos. 180, 181 and 183 were
15 admitted into evidence.)

16 (WHEREUPON, State's Exhibit No. 179 was marked for
17 identification.)

18 BY MS. OPPENHEIMER:

19 Q And I apologize, I have a couple more things I should
20 have brought up. Analyst Phipps, I show you, also, State's
21 Exhibit Nos. 150, 159, and 160. If you could look at these
22 and tell me if you recognize those?

23 A Yes, ma'am, I do.

24 Q And can you tell us what State's Exhibit No. 150 is?

25 A State's Exhibit No. 150 is an excerpt from the call log

1 showing two phone calls.

2 Q Two phone calls. And is there a specific phone number
3 associated with that?

4 A Yes, both of them are outgoing phone calls to the same
5 number, which is (803) 465-7576.

6 Q And again, that's a smaller report from your larger
7 extraction report that you did on this phone; is that
8 correct?

9 A Yes, ma'am.

10 Q All right. And how about State's Exhibit Nos. 159 and
11 160?

12 A State's Exhibit No. 159 is a sub-report listing one
13 item found in the user dictionary. So cellphones are able
14 to parse out what you type in various fields. Like, if
15 you're Google searching, you may have things listed there.
16 In this instance, this is one entry that was physically
17 typed into the cellphone.

18 Q And what about State's Exhibit No. 160?

19 A It's, also, what we call the user dictionary listing
20 three items that were typed into the phone at some point in
21 time.

22 Q And those are all smaller reports from your larger
23 extraction report?

24 A Yes, ma'am.

25 MS. OPPENHEIMER: Your Honor, at this time, I move

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1 State's Exhibit Nos. 150, 159, and 160 into evidence.

2 MR. STORY: Your Honor, renew the previous objection
3 under 403. It was actually raised --

4 THE COURT: As to these exhibits?

5 MR. STORY: Yes, Your Honor. As to --

6 THE COURT: I'll tell you what, let's go ahead and take
7 that break now.

8 Ladies and gentlemen, head on back to your jury room,
9 refresh yourselves. Please let the bailiff know as soon as
10 you're ready to come out. Please don't discuss the case.

11 (WHEREUPON, the jury exits the courtroom at 4:12 p.m.)

12 THE COURT: Mr. Story, the jury was asking for a break.
13 I had kind of gone on for another two minutes trying to find
14 a breaking point in the testimony.

15 So anyway, the last exhibit, Ms. Oppenheimer were
16 State's Exhibit?

17 MS. OPPENHEIMER: State's Exhibit No. 150, the call log
18 report.

19 THE COURT: State's Exhibit No. 159?

20 MS. OPPENHEIMER: State's Exhibit Nos. 159 and 160.

21 THE COURT: And Mr. Story, is your objection to those
22 or the previous one you made to State's Exhibit No. 180, 181
23 and 183?

24 MR. STORY: So different grounds, Your Honor. I think
25 those are associated with the Facebook page. Yeah, Your

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1 Honor, I would object under relevance at this point, Your
2 Honor.

3 THE COURT: Can y'all approach real quick just so I can
4 look at them?

5 (WHEREUPON, a bench conference was held.)

6 THE COURT: All right, counsel, y'all refresh
7 yourselves.

8 (WHEREUPON, a short break was taken.)

9 THE COURT: All right. Let's bring them in.

10 (WHEREUPON, the jury enters the courtroom at 4:25 p.m.)

11 THE COURT: All right. We'll continue with the State's
12 witness.

13 MS. OPPENHEIMER: Your Honor, I believe before the jury
14 took its break, I moved State's Exhibit Nos. 150 and 159
15 into evidence.

16 MR. STORY: No objection.

17 THE COURT: All right. State's Exhibit Nos. 150 and
18 150 are admitted.

19 (WHEREUPON, State's Exhibit Nos. 150 and 159 were
20 admitted into evidence.)

21 (WHEREUPON, State's Exhibit No. 160 was marked for
22 identification.)

23 BY MS. OPPENHEIMER:

24 Q Analyst Phipps, I show you State's Exhibit No. 150.
25 You said this was a call log. Now, these are outgoing

1 calls; is that correct?

2 A That is correct.

3 Q These are calls being made by that 1170 phone number;
4 is that correct?

5 A Yes, ma'am.

6 Q And what is the phone number that is being called?

7 A I have to get a little closer or blow it up. My eyes
8 aren't quite good enough.

9 Q Yes, sir.

10 A (803) 465-7576.

11 Q And do you see the date and time of those calls?

12 A Yes, both in December -- on December 2nd of 2021.

13 Q And at what time?

14 A First being at 4:25:41 p.m. It's an outgoing call to
15 that number. It is not answered. The second being at
16 4:32:21. And it's a call that was answered and lasted for
17 two minutes and four seconds.

18 Q I believe that's 4:23, do I need to zoom in a little
19 bit more?

20 A I'm sorry, did I say something? 4:23 and 21 seconds.

21 Q And that is an answered phone call, correct?

22 A That is correct.

23 Q Now, State's Exhibit No. 159, I believe you testified
24 that this is from the user dictionary of this phone. What
25 is the user dictionary?

1 A It's a little confusing, so user dictionary is a term
2 that the software uses to try to compartmentalize or
3 pigeonhole artifacts. So instead of having separate entries
4 for Google searches and for web searches and other things,
5 it categorizes everything under a user dictionary, things
6 that the user may have manually inputted into a field on the
7 phone.

8 And in this instance, to the right, you see source
9 extraction. And there's a path there, So that's where that
10 data came from. And you can think of that like when you
11 look on your computer and you go into File Explorer and you
12 look at the C drive, and then you go into the documents
13 folder, and then within the documents folder, you may have a
14 subfolder for your taxes. That file tree that kind of steps
15 down, that's what that is showing there.

16 And in this instance, it's a, I think it says honey
17 board, I'd have to probably come down to point to it
18 exactly.

19 Q Please do.

20 MS. OPPENHEIMER: Your Honor, may he step off the
21 witness stand?

22 THE COURT: Yes, ma'am.

23 THE WITNESS: So right here where you see the
24 Samsung.android.honeyboard. The honeyboard app is unique to
25 Samsung, it's a baked in application specifically for

1 Samsung phone. It's the keyboard app on the Samsung phone.
2 So when you type things into that key app, sometimes it
3 maintains them. You will see it sometimes when it
4 pre-populates things it thinks you're going to type out or
5 it saves it so that you can use it later. There's a
6 database for that keyboard app that retains what is
7 physically typed into the cellphone.

8 BY MS. OPPENHEIMER:

9 Q So if I type in the word cellphone into my cellphone,
10 this app will track that?

11 A Yes. On the Samsung, if you do it in the keyboard app,
12 it maintains that in its database.

13 Q And what is the word that was typed in to this phone
14 that we are showing here?

15 A Kingscheib@gmail.com.

16 Q Kingscheib@gmail.com?

17 A Yes, K-I-N-G-S-C-H-E-I-B@gmail.com.

18 Q All right. And Analyst Phipps, if you'll actually stay
19 right there. We're going to go through that series of text
20 messages that we talked about earlier. And if you'll just
21 keep your voice up and face the jury.

22 We're going to start with State's Exhibit No. 203.
23 This is a two-page exhibit. What does the green indicate in
24 this exhibit?

25 A It gives a visual representation everything to the

1 right that's in green is outgoing what the user is typing on
2 their phone.

3 Q And if there were something on the left, would that be
4 in a different color?

5 A It would and would be the response from whoever is
6 receiving the message.

7 Q So what is the message that we see here?

8 A It's an outgoing text message or SMS message and it's
9 to the phone number of (803) 447-8222, and that was on
10 December 2nd, 2021, at 3:08 p.m. It's an outgoing message
11 that says, Are you -- are -- you're at your house.

12 Q Looking at Page 2, would this indicate that there is a
13 response from that 8222 number?

14 A That is correct.

15 Q And what is the response?

16 A The response is, No, I haven't made it back that way
17 yet.

18 Q Showing you State's Exhibit No. 180. You can tell us
19 what is depicted in this message?

20 A Another outgoing text message to (803) 528-9460 on
21 December 2nd, 2021, at 10:31 in the morning. And it reads,
22 Well, I'm still hanging in there. Buying as much time as
23 possible. Thank you for everything. You still going to
24 give me a lift.

25 Q And that would be an outgoing text message from that

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1 1170 phone number; is that correct?

2 A That's correct.

3 Q State's Exhibit No. 181. Can you tell us what this is
4 depicting?

5 A Outgoing text message to the 9467 number, December 2nd,
6 2021, at 2:51 p.m. It reads, Well, here's my chance. I'm
7 leaving now, headed to Myrtle Beach. Love y'all. Delete
8 this.

9 Q So there's an instruction from the 1170 number to
10 delete this?

11 A That is correct.

12 Q This being this text message?

13 A That's, typically, how I interpret that.

14 Q And it's to that same 9467; is that correct?

15 A That's correct.

16 Q State's Exhibit No. 183?

17 A Again, an outgoing text message to the 9467 phone
18 number, December 2nd, 2021 at 3:30 p.m. It reads, They got
19 me. Phone killed me.

20 Q Analyst Phipps, in your profession, are you aware that
21 phones are able to be tracked by law enforcement?

22 A They are.

23 Q And this is an outgoing text message from that 1170
24 number; is that correct?

25 A That's correct.

1 Q To that 9467 number?

2 A Yes, ma'am.

3 Q Again, indicating that the phone killed me; is that
4 correct?

5 A That's correct.

6 Q And finally, State's Exhibit No. 151. It's a lengthy
7 one, so take your time.

8 A It's an outgoing text message to (803) 465-7576,
9 December 2nd, 2021 at 10:30 a.m. It reads, Yo, man, holler
10 at me, I ain't crazy or nothing. Dude stole some, spelled
11 S-H-U-T, that had sentimental value to it. Ashton's socks
12 she had on when she died, some personal things, pictures of
13 me and her, a few tools. But I give him two days to get
14 right. I'm howl like a wolf, but I was serious. So he paid
15 me back, probably not worth it to him, but hey, we only get
16 so many chances to give back what's not ours.

17 Q Analyst Phipps, you can return to the witness stand.
18 I'm going to ask a few followup questions. We've heard
19 testimony in this case in reference to some personal
20 belongings. Do you see a reference to that in this text
21 message in State's Exhibit No. 151?

22 A I do.

23 Q Can you tell us whether or not you see a reference to
24 an Ashton?

25 A Yes.

1 Q And that person presumably being deceased?

2 A Correct.

3 Q Do you see a reference to a time limit to give those
4 items back?

5 A Yes, I do.

6 Q What was that time limit?

7 A Two days.

8 Q And again, this is an outgoing message from that 1170
9 number?

10 A It is, yes.

11 Q Can you tell whether or not the individual with the
12 phone number ending in 1170 ever received Ashton's sock back
13 based on this text message?

14 MR. STORY: Objection, calls for speculation.

15 THE COURT: What was the question again?

16 MS. OPPENHEIMER: Based on the context, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: Based on the context, it appears he did
19 not.

20 BY MS. OPPENHEIMER:

21 Q Can you tell us whether or not the person who allegedly
22 had those items, ultimately, paid with something?

23 A It appears so, yes.

24 Q Analyst Phipps, finally, returning to State's Exhibit
25 No. 175, those factory resets, we've heard testimony in this

1 case that the first 911 call was placed at 7:14 a.m. on
2 November 27th, 2021. Approximately how long after that
3 first 911 call was the first factory reset of this phone?

4 A The first one was that same day at 9:45 a.m.

5 MS. OPPENHEIMER: Thank you, Analyst Phipps. Please
6 answer any questions that Mr. Story may have for you.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY MR. STORY:

10 Q Agent Phipps, I'm going to show you -- well, it's
11 already on the projector, what's been marked as State's
12 Exhibit No. 175. You said this was a sub-report from your
13 original Cellebrite report?

14 A I wouldn't call it a sub-report, it's an exhibit
15 showing data from the Cellebrite data that was recovered
16 from that phone.

17 Q And you prepared this table?

18 A I did not. I was shown it and it correlated with the
19 data that was in my report.

20 Q So who showed you this report?

21 A Well, again, it's not a report, it's an exhibit.

22 Q And who showed you this exhibit?

23 A The solicitor.

24 Q So you did not prepare this exhibit?

25 A I did not type that exhibit, no.

1 Q You don't know who prepared this exhibit?

2 A I do not.

3 Q Agent Phipps, I'm going to show you what's been marked
4 as State's Exhibit No. 146. You recall that, right?

5 A Yes, sir.

6 Q Those are pictures of the cellphone that you took,
7 correct?

8 A I did.

9 Q You said there was a little bit of shattering on the
10 screen, correct?

11 A Correct.

12 Q In your experience, do phones often shatter when
13 they're dropped?

14 A They do.

15 Q They can, right?

16 A Yes.

17 Q Well, let me approach again. Other than that, it looks
18 like a phone in pretty good condition, correct?

19 A Yes, sir.

20 Q You would describe it as being in pretty good
21 condition?

22 A It was a clean phone. We see a lot of dirty phones,
23 yes, sir.

24 MR. STORY: No further questions, Your Honor.

25 THE COURT: Redirect?

1 MS. OPPENHEIMER: None, Your Honor.

2 THE COURT: The witness is excused.

3 (WHEREUPON, a bench conference was held in the presence
4 of the jury, but outside the hearing of the jury.)

5 THE COURT: All right. Ladies and gentlemen, we're
6 going to recess for the day. I'd like you back in the jury
7 room so we can start at 9:30. Please don't research this
8 case. Don't do any looking around about people who are
9 involved or anything like that. Don't discuss the case with
10 anyone else. We'll come back tomorrow and have more
11 evidence from the witness stand. Have a good evening.

12 (WHEREUPON, the jury exits the courtroom at 4:43 p.m.)

13 THE COURT: All right. Anything else for the record
14 today?

15 MS. MAYES: Your Honor, we have State's Exhibit No. 154
16 that was for ID, and then two other items that have been for
17 ID, those being State's Exhibit Nos. 172 and 173. We would
18 ask permission, they're just for ID at this time, to hold
19 onto these items until they're offered.

20 MR. STORY: No objection, Your Honor.

21 THE COURT: All right. We'll get back to it tomorrow
22 morning.

23 (WHEREUPON, court was adjourned for the day to
24 reconvene on Thursday, June 19, 2025.

25

1 THURSDAY, JUNE 19, 2025

2 THE COURT: Are y'all ready to proceed?

3 MS. OPPENHEIMER: Yes, Your Honor.

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

5 (WHEREUPON, the jury enters the courtroom at 10:00
6 a.m.)

7 THE COURT: Madam Forelady, ladies and gentlemen of the
8 jury, welcome back. We'll pick up where we left off with
9 the next witness in the State's case in chief.

10 MS. OPPENHEIMER: The State calls Lieutenant Paula
11 Hare.

12 PAULA HARE,

13 after being duly sworn, testified as follows:

14 THE WITNESS: I do.

15 THE CLERK: Thank you. Please be seated in the witness
16 stand. State your full name and spell your last for the
17 record.

18 THE WITNESS: My name is Lieutenant Paula Hare, last
19 name H-A-R-E.

20 DIRECT EXAMINATION

21 BY MS. OPPENHEIMER:

22 Q Good morning, Lieutenant Hare. Can you tell us where
23 you're presently employed?

24 A I'm currently employed with the Lexington County
25 Sheriff's Department at the detention bureau.

1 Q At the detention bureau?

2 A Yes, ma'am.

3 Q And if you could move that microphone a little bit
4 closer to your mouth and speak up a little bit for us.

5 A Okay.

6 Q How long have you been working there?

7 A 21 years.

8 Q And can you tell us some of your duties and
9 responsibilities at the detention center of Lexington
10 County?

11 A Yes, I'm currently the grievance coordinator. I'm,
12 also, over inmate record. I'm, also, a classification
13 supervisor and I do a plethora of other things that will
14 take a little while to list.

15 Q You're pretty busy over there, aren't you?

16 A Yes, ma'am.

17 Q And is one of your duties as the lieutenant over the
18 detention center keeping track of visitor's logs of all
19 inmates at the detention center?

20 A Correct.

21 Q And do you keep track of all visitors?

22 A Yes.

23 Q And what kind of information of visitors of inmates do
24 you keep records of?

25 A So we keep records of their names, keep records of

1 their address, phone numbers, e-mail address, who they're
2 visiting, what relationship they are to that inmate.

3 MS. OPPENHEIMER: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes, ma'am.

6 BY MS. OPPENHEIMER:

7 Q I'm showing you what's been marked as State's Exhibit
8 No. 205. If you can look at this and let me know if you
9 recognize this document?

10 A Yes, I do.

11 Q And what is it?

12 A It's a book-in detail of the inmate's visitation log.

13 Q And whose visitation log specifically is it?

14 A Mark Scheibler.

15 Q Mark Scheibler, the Defendant in this case?

16 A Yes, ma'am.

17 Q And does it reflect a particular individual?

18 A The visitor?

19 Q Yes, ma'am.

20 A Yes, ma'am, it does.

21 Q And does it appear to have been altered in any way?

22 A No, ma'am.

23 Q And do you keep that visitor log in the ordinary course
24 of your business?

25 A Yes, ma'am.

Paula Hare - Direct by Ms. Oppenheimer

1 MS. OPPENHEIMER: Your Honor, at this time, I would
2 move State's Exhibit No. 205 into evidence.

3 THE COURT: Without objection?

4 MS. POPOWSKI: No objection, Your Honor.

5 THE COURT: State's Exhibit No. 205 is admitted into
6 evidence.

7 (WHEREUPON, State's Exhibit No. 205 was admitted into
8 evidence.)

9 MS. OPPENHEIMER: Permission to publish, Your Honor?

10 THE COURT: Very well.

11 BY MS. OPPENHEIMER:

12 Q All right, Lieutenant Hare, we are talking about Mark
13 Scheibler, correct?

14 A Yes, ma'am.

15 Q And you said this was for a particular individual. Do
16 you see the name of that individual on this document, I
17 believe it's Page 2?

18 A Yes, ma'am.

19 Q And who is that individual?

20 A Doshia April Folden.

21 Q And what is the relationship to the Defendant in this
22 case?

23 A Niece.

24 Q And would that be something that she reported to y'all
25 when she came to visit?

1 A Yes. When she made up her account to actually visit an
2 inmate, that question is asked and she typed it in herself.

3 Q And on Page 3 of this document, you said that every
4 visitor has to provide certain personal information. Did
5 she provide a phone number to y'all?

6 A Yes, ma'am.

7 Q And do you see that phone number?

8 A Yes, ma'am.

9 Q Can you please read us the phone number that she
10 provided to y'all when she came to visit the Defendant?

11 A (803) 457-5606.

12 MS. OPPENHEIMER: Thank you, Lieutenant Hare. I don't
13 have any further questions. Please answer any questions
14 that Ms. Popowski may have for you.

15 MS. POPOWSKI: Beg the Court's indulgence.

16 (Pause.)

17 CROSS-EXAMINATION

18 BY MS. POPOWSKI:

19 Q Lieutenant Hare, good morning.

20 A Good morning.

21 Q Just one question, when inmates make phone calls from a
22 detention facility -- you've been involved in the detention
23 facility for 21 years, when they make those phone calls, are
24 they in private?

25 A No, ma'am.

Michael Layland - Direct by Ms. Oppenheimer

1 MS. POPOWSKI: Thank you. No further questions.

2 THE COURT: Any redirect?

3 MS. OPPENHEIMER: None, Your Honor.

4 THE COURT: Thank you. The witness is excused. Thank
5 you.

6 MS. OPPENHEIMER: We ask that she be allowed to return
7 to the detention center.

8 THE COURT: Without objection, she's excused.

9 MS. OPPENHEIMER: Thank you, Your Honor.

10 The State calls Michael Layland.

11 THE CLERK: Raise your right hand and place your left
12 hand on the Bible.

13 MICHAEL LAYLAND,

14 after being duly sworn, testified as follows:

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Have a seat in the witness stand. State
17 your full name and spell your last for the record.

18 DIRECT EXAMINATION

19 BY MS. OPPENHEIMER:

20 Q If you'll tell us your name and spell your last name,
21 sir.

22 A My name is Michael Layland, L-A-Y-L-A-N-D.

23 Q Good morning, Mr. Layland. Can you tell us where
24 you're employed?

25 A I'm employed by AmTel.

1 Q And in what capacity?

2 A I serve as the president of the company.

3 Q And what is AmTel?

4 A AmTel is an inmate telephone business. We provide
5 communication for the residents inside the facility.

6 Q And when you say facility, what do you mean?

7 A County jail.

8 Q And is that county jails all over the country?

9 A We service 60.

10 Q And do you keep those jail -- are those jail calls
11 recorded?

12 A Yes, ma'am.

13 Q And is there a warning prior to every jail call before
14 the call actually goes through?

15 A There's an audio warning that is heard when the call
16 begins and there's, also, a placard placed on the telephone
17 itself that says that.

18 Q All right. And does AmTel keep these recorded calls in
19 the ordinary course of its business?

20 A We keep them, we retain them for five years.

21 Q For five years?

22 A Yes.

23 Q And is AmTel able to pull these calls from a database
24 or a website or anything if they're requested?

25 A That's correct, we can.

1 Q What about the facility itself?

2 A The warden determines who has access for that process.

3 Q So the warden has access and whoever the warden assigns
4 access to?

5 A Correct.

6 Q Now, were you asked to pull a specific jail call in
7 this case assigned to one, Mark Scheibler?

8 A Yes, ma'am.

9 Q And I'm showing you what's been marked as State's
10 Exhibit No. 156 for ID only. If you can take a look at that
11 and tell me if you recognize that?

12 A Yes, I created this.

13 Q And what is it?

14 A This is a recording of a telephone call made by this
15 particular individual.

16 Q And what name is on it?

17 A The name is Mark Scheibler.

18 Q And is there any other unique identifiers to Mark
19 Scheibler?

20 A His pin number is on here, too, which is unique.

21 Q What pin number is assigned to Mark Scheibler in your
22 system?

23 A His pin is 620971.

24 Q And is there a date associated with this specific call?

25 A The date of this call is 12/03/21.

Michael Layland - Direct by Ms. Oppenheimer

1 Q And I'm showing you what's been marked as State's
2 Exhibit No. 60. If you can take a look at this document and
3 let me know if you recognize it?

4 A I do.

5 Q And what is it?

6 A It's an affidavit certifying that that is a correct and
7 complete call at this date and time.

8 Q And did you prepare this document?

9 A I did.

10 Q And you signed it?

11 A Correct.

12 Q As the custodian of records for AmTel?

13 A That's right.

14 Q And you did not alter any of the contents of the call;
15 is that correct?

16 A That's correct.

17 Q Do you or anyone else have the ability to alter the
18 contents of the call?

19 A No.

20 Q And this document itself, has it been altered in any
21 way?

22 A No.

23 MS. OPPENHEIMER: Your Honor, at this time, I would
24 move State's Exhibit No. 60 into evidence. It's an
25 affidavit from AmTel Consignment Communications.

Michael Layland - Direct by Ms. Oppenheimer

1 MS. POPOWSKI: No objection, Your Honor.

2 THE COURT: So admitted.

3 (WHEREUPON, State's Exhibit No. 60 was admitted into
4 evidence.)

5 BY MS. OPPENHEIMER:

6 Q Now, Mr. Layland, when you or the facility pull a
7 specific call, are you able to determine any other
8 information from the call itself?

9 A Yes. I know the date and time, the pin number that
10 made the call, the telephone in the jail it was made from,
11 the duration of the call and how the call was paid for.

12 Q Were you able to do that in this case?

13 A Yes.

14 Q Showing you State's Exhibit No. 59. If you could take
15 a look at this and let me know if you recognize this
16 document?

17 A I do. This is a surge from our website for this
18 particular call. It includes the information we just
19 discussed.

20 Q And that call being from December 3rd of 2021?

21 A That's correct.

22 Q And who made this call?

23 A A gentleman by the name of Mark Scheibler.

24 Q Does the call information appear to have been altered
25 in any way?

1 A No, it doesn't.

2 Q And is this information stored in your database in the
3 ordinary course of your business?

4 A Yes, ma'am.

5 Q Is it a true and accurate reflection of the details of
6 the call that you were asked to pull?

7 A Yes.

8 MS. OPPENHEIMER: Your Honor, at this time, I would
9 move State's Exhibit No. 59 into evidence.

10 MS. POPOWSKI: No objection, Your Honor.

11 THE COURT: State's Exhibit No. 59 is admitted.

12 (WHEREUPON, State's Exhibit No. 59 was admitted into
13 evidence.)

14 MS. OPPENHEIMER: Permission to publish, Your Honor?

15 THE COURT: Yes, ma'am.

16 BY MS. OPPENHEIMER:

17 Q Do you see the call date on this document?

18 A The date is 12/03/2021.

19 Q 12/03/2021. And what is the time of this call?

20 A 15:39:47.

21 Q So is that 3:39 p.m.?

22 A Correct.

23 Q And who is the caller?

24 A Mark Scheibler.

25 Q And again, that pin number is 620971?

1 A That's right.

2 Q And that is a unique identifier to Mark Scheibler; is
3 that correct?

4 A Yes, ma'am.

5 Q And have you read us the destination number?

6 A That's the number he dialed.

7 Q And what number is that?

8 A (803) 457-5606.

9 Q (803) 457-5606?

10 A Correct.

11 Q And that would be the party that he called?

12 A That's correct.

13 Q And again, neither you nor any facility have the
14 ability to alter the contents of these calls in any way?

15 A That's correct, they cannot be altered.

16 MS. OPPENHEIMER: Thank you, Mr. Layland. I don't have
17 any further questions. If you'll answer any questions that
18 Ms. Popowski may have for you.

19 THE COURT: Cross-examination?

20 MS. POPOWSKI: Yes, just briefly, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. POPOWSKI:

23 Q Mr. Layland, looking at State's Exhibit No. 59, right
24 here, duration?

25 A It was a 900-second call.

1 Q 900 seconds, okay. And you testified that there is a
2 recording at the beginning that tells you you are being
3 recorded?

4 A Yes.

5 Q Nothing in that recording says that -- he's not under
6 oath? The caller is not under oath?

7 A It doesn't say that. It just says it will be recorded.

8 Q And the caller is not being interviewed by law
9 enforcement?

10 A No.

11 Q To your knowledge, there's no other way for someone
12 that is an inmate to call anyone on the outside?

13 A No.

14 MS. POPOWSKI: Thank you. No further questions.

15 THE COURT: Any redirect?

16 MS. OPPENHEIMER: None, Your Honor.

17 THE COURT: The witness is excused.

18 Thank you, sir.

19 THE WITNESS: Thank you.

20 MS. OPPENHEIMER: The State calls Kennedy Conatser,
21 formerly Kennedy Ring.

22 THE CLERK: Place your left hand on the Bible and raise
23 your right.

24 KENNEDY CONATSER,

25 after being duly sworn, testified as follows:

Kennedy Conatser - Direct by Ms. Oppenheimer

1 THE WITNESS: I do.

2 THE CLERK: Please take a seat in the witness stand.
3 State your full name and spell your last for the record.

4 THE WITNESS: My name is Kennedy, K-E-N-N-E-D-Y,
5 Conatser, C-O-N-A-T-S-E-R.

6 DIRECT EXAMINATION

7 BY MS. OPPENHEIMER:

8 Q Good morning, Ms. Conatser.

9 A Good morning.

10 Q Can you tell us where you're presently employed?

11 A Yes, I work for ROCIC, which is the Regional Organized
12 Crime Information Center in Nashville, Tennessee.

13 Q And what do you do for ROCIC?

14 A I'm an audio/video specialist.

15 Q And do you have any specialized training or education
16 in that field?

17 A Yes. So I have a Master's Degree in criminal justice.
18 I, also, have a little bit over 250 hours of training for
19 audio and video. And I am a certified forensic video
20 specialist.

21 Q Are there any specific courses for audio and video that
22 you've taken that are relevant to your field now?

23 A So for our AV training, which is what we do to get our
24 certification, I would have to do both levels one and two
25 and pass and, also, have a year of employment. In

1 conjunction with that, we have to pass an oral, written and
2 practical. We, also, have separate audio training for
3 specifically audio courses and then further audio training
4 from the National Center of Media Forensics.

5 Q And as part of -- or how long have you worked at ROCIC?

6 A I've been at ROCIC since July of 2021 and I have worked
7 as an AV specialist since October of 2021.

8 Q And in your work at ROCIC, do law enforcement agencies
9 and solicitors' offices across the country, do they send you
10 different forms of media and digital evidence and things
11 like that to get enhanced?

12 A Yes. So it's -- well, it just depends on the request.
13 It could be a conversion request. It could be a video
14 enhancement. It could be audio enhancement or DVR
15 extractions.

16 Q And how many requests do you think you have received in
17 your time at ROCIC?

18 A Conservatively, I've probably completed around 500
19 cases.

20 Q You've completed about 500 cases?

21 A Yes, ma'am.

22 Q Have you ever been offered as an expert before in the
23 field of audio and video enhancements?

24 A Yes, I have.

25 Q Approximately, how many times?

1 A I believe four.

2 MS. OPPENHEIMER: Your Honor, at this time, I would
3 offer Ms. Conatser as an expert in the field of audio and
4 video enhancements.

5 THE COURT: Any voir dire?

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

7 THE COURT: All right. This witness will be qualified
8 in the area of audio and video enhancements and may give
9 opinion testimony in that area. It doesn't mean you must
10 accept the opinion, it is evidence for you to use in any way
11 you see fit.

12 BY MS. OPPENHEIMER:

13 Q All right. Were you sent a specific call in this case
14 to work with from our office?

15 A Yes, I was.

16 Q And was that a jail call?

17 A I believe that's what I was told.

18 Q And did you perform several audio enhancements to that
19 call?

20 A Yes, I did.

21 Q Can you walk us through your process a little bit?

22 A Yes. When we receive the request and receive the media
23 from the requesting officer, the first thing we do is make a
24 forensic copy of the media to ensure that nothing is changed
25 from the original media that is sent. Then we do a hatch

1 (ph) comparison, which is a digital fingerprint to make sure
2 that there has been no changes from the original versus the
3 copy. Then we proceed with a copy of the evidence. And for
4 audio enhancement, that could be one or two or both of our
5 softwares or one or the other.

6 Q Okay. And you did that in this case?

7 A Yes, I did.

8 Q And then after you did that, what was your next step?

9 A So once it's imported into the audio software, so for
10 this case, I used both Adobe Audition and the Izotope RX 10.
11 The process includes declicking, which is getting rid of a
12 lot of amplitude variations like clicks and pops, that kind
13 of stuff. The primary goal is to level the audio.

14 So after getting rid of -- or trying to reduce the
15 clicks and pops, I want to level the volume of the audio.
16 What that's going to do is going to increase the really
17 quiet parts of the audio and it's going to decrease the
18 volume of the real loud parts to try to make it more even
19 across the board.

20 And then there's an AQ process for this as well to
21 where lower frequencies, kind of like the deeper parts of
22 someone's voice, those frequencies were attenuated or
23 decreased in volume slightly and then higher frequencies,
24 those were increased slightly.

25 Q Okay. You just gave us a lot of information, so let's

1 break that down a little bit. So I think you first
2 mentioned RX 10. What is that?

3 A So Izotope RX 10 is just an audio software that we use.

4 Q And then you mentioned Adobe Audition, I believe?

5 A Yes.

6 Q And what is that?

7 A That's another audio software that we use.

8 Q What is the difference between those two softwares?

9 A They, essentially, provide the same options for audio
10 enhancement or clarification. It's just two different
11 softwares. One software may take, like, the average -- or
12 scale what the average volume of something is a little bit
13 different than the other one will, but, essentially, they
14 provide the same tools and enhancement service. Sometimes
15 we'll do both.

16 Q And then you talked about declicking. Why did you go
17 through that process with this particular call?

18 A So when we are wanting to level out volume variations,
19 you can have clicks and pops. Sometimes, it can be from
20 external factors, sometimes it can be from speaking. You
21 will get a lot of tall peaks in the volume. So to declick,
22 you want to reduce those, so when it comes to leveling the
23 volume, you will have less random variations in the volume.
24 So it gives a little more even tone.

25 Q And, ultimately, is all these edits that you're doing,

1 you're not actually changing the content of the call,
2 correct?

3 A That's correct, it does not change the content.

4 Q And what is the ultimate goal of these declicking,
5 leveling enhancements that you're doing?

6 A So the purpose is to improve the intelligibility, which
7 is how easily it is to understand what someone is saying if
8 it's dialogue. But, also, listening ability is a really big
9 part of that, so how easy it is to listen to. If everything
10 in the background is too distracting, then you may want to
11 turn down so that we can focus on whatever primary goal or
12 subject is in the audio.

13 Q So, ultimately, you're trying to make it easier to
14 understand what the individuals are saying in that call?

15 A Yes.

16 Q I'm going to show you what's been marked as State's
17 Exhibit No. 158 for ID only at this time, State's Exhibit
18 No. 171 for ID only at this time, State's Exhibit No. 172
19 for ID only at this time and State's Exhibit No. 173 for ID
20 only at this time. Please take a look at those and let me
21 know if you recognize them?

22 A Yes, I do.

23 Q And what are they?

24 A So this one is the full audio enhanced call.

25 Q That being State's Exhibit No. 158?

1 A Yes. And then State's Exhibit Nos. 171, 172 and 173
2 are clips from the enhanced audio call.

3 Q So State's Exhibit No. 158 is the full enhanced call
4 that you've performed all your edits to, and then State's
5 Exhibit Nos. 171, 172 and 173 are just smaller portions of
6 that larger enhanced call?

7 A Yes, ma'am.

8 Q And none of the content was changed whatsoever; is that
9 correct?

10 A That's correct.

11 MS. OPPENHEIMER: Ms. Conatser, I have no further
12 questions for you at this time. If you'll answer any
13 questions that Ms. Popowski may have for you.

14 THE COURT: Cross-examination.

15 MS. POPOWSKI: Thank you.

16 CROSS-EXAMINATION

17 BY MS. POPOWSKI:

18 Q So you were contacted by the solicitor's office to
19 clarify this call; is that correct?

20 A Yes, ma'am.

21 Q And that is for a lot of reasons that you've testified
22 to, but one of the reasons was is because there was a bunch
23 of background noise; is that correct?

24 A That's what the request form said, yes.

25 Q Was to get rid of the background noise in the call?

~~Kevin McCullough - Direct by Ms. Oppenheimer~~

1 A Yes. And to clarify for court presentation.

2 MS. POPOWSKI: Thank you. No further questions.

3 THE COURT: Any redirect?

4 MS. OPPENHEIMER: None, Your Honor.

5 THE COURT: Thank you. The witness is excused.

6 MS. OPPENHEIMER: The State calls Lieutenant Kevin
7 McCullough.

8 THE CLERK: Place your left hand on the Bible and raise
9 your right.

10 KEVIN MCCULLOUGH,

11 after being duly sworn, testified as follows:

12 THE WITNESS: Yes, I do.

13 THE CLERK: Please take a seat in the witness stand and
14 state your full name and spell your last for the record.

15 THE WITNESS: My first name is Kevin and my last name
16 is McCullough.

17 MS. OPPENHEIMER: Your Honor, if Defense counsel and I
18 may briefly approach?

19 THE COURT: Very well.

20 (WHEREUPON, a bench conference was held in the presence
21 of the jury, but outside the hearing of the jury.)

22 DIRECT EXAMINATION

23 BY MS. OPPENHEIMER:

24 Q Good morning, Lieutenant McCullough.

25 A Good morning.

1 Q Where are you presently employed?

2 A The Alvin S. Glenn Detention Center.

3 Q And how long have you been employed with the Alvin S.
4 Glenn Detention Center?

5 A 15 years and four months.

6 Q And what are some of your duties and responsibilities
7 at the detention center there?

8 A Currently, I am the investigator there, so I
9 investigate critical incidents.

10 Q Do you, also, have access to recorded jail calls?

11 A Yes, ma'am.

12 Q And are you able to pull recorded jail calls that are
13 kept in the ordinary course of business at Alvin S. Glenn?

14 A Yes, ma'am.

15 Q And are you familiar with AmTel?

16 A Yes, ma'am.

17 Q And was AmTel the service provider for the recorded
18 jail calls of Alvin S. Glenn in 2021?

19 A Yes, ma'am.

20 Q And are you familiar with that system?

21 A Yes, ma'am.

22 Q And have you had the opportunity to review one
23 particular call related to the Defendant in this case, Mark
24 Scheibler, from December 3rd of 2021 in this case?

25 A Yes, ma'am.

~~Kevin McCullough - Direct by Ms. Oppenheimer~~

1 MS. OPPENHEIMER: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 BY MS. OPPENHEIMER:

5 Q Showing you State's Exhibit No. 156 for ID only,
6 State's Exhibit Nos. 171, 172 and 173. If you can take a
7 look at these and let me know if you recognize them?

8 A Yes, ma'am.

9 Q And what are they?

10 A These are phone calls.

11 Q That phone call being from December 3rd, 2021 made by
12 Mark Scheibler, the Defendant in this case?

13 A Yes, ma'am.

14 Q And did you listen to that call?

15 A Yes, ma'am.

16 Q Is it a fair and accurate reflection of the call made
17 on December 3rd, 2021 by the Defendant, Mark Scheibler?

18 A Yes, ma'am.

19 Q And you, as the custodian of records at Alvin S. Glenn
20 for these recorded jail calls do not have the ability to
21 alter the content of these jail calls, do you?

22 A That is correct.

23 Q And did you initial all of these disks?

24 A Yes, ma'am.

25 Q And date them?

1 A Yes, ma'am.

2 MS. OPPENHEIMER: Your Honor, at this time, I would
3 move State's Exhibit Nos. 171, 172 and 173 into evidence.

4 THE COURT: Subject to previous objection, right?

5 MS. POPOWSKI: Yes, Your Honor.

6 THE COURT: All right. That's State's Exhibit No. 171,
7 172 and 173 admitted into evidence.

8 (WHEREUPON, State's Exhibit Nos. 171, 172 and 173 were
9 admitted into evidence.)

10 BY MS. OPPENHEIMER:

11 Q Briefly, Lieutenant McCullough, you are aware that you
12 can pull specific information about these calls; is that
13 correct?

14 A Yes, ma'am.

15 Q Looking up here at the board, this call, again, was
16 made by the Defendant, Mark Scheibler; is that correct?

17 A Yes, ma'am.

18 Q And by this pin number, do you see that?

19 A Yes, ma'am.

20 Q Can you read that for us, please?

21 A 620971.

22 Q And is that a unique identifier to the Defendant, Mark
23 Scheibler?

24 A Yes, ma'am.

25 Q And the location, can you tell us what that means?

1 A BY stands for the unit that he was in when the call was
2 actually made and it would have been on phone three.

3 Q And the call date and time; is that correct?

4 A Yes, ma'am.

5 Q Being December 3rd, 2021?

6 A Yes, ma'am.

7 Q At 1539?

8 A Yes, ma'am.

9 Q And is that 3:39 p.m.?

10 A Yes, ma'am.

11 Q And what is the called number?

12 A (803) 457-5606.

13 MS. OPPENHEIMER: Thank you, Lieutenant McCullough. I
14 don't have any further questions for you. If you would
15 answer any questions Ms. Popowski may have for you.

16 THE COURT: Cross-examination.

17 MS. POPOWSKI: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. POPOWSKI:

20 Q So you work at Alvin S. Glenn?

21 A Yes, ma'am.

22 Q So you're familiar with the area where inmates make
23 phone calls?

24 A Yes.

25 Q Or the different areas? I'm sure there are different

1 areas in each pod.

2 A Correct.

3 Q And when they make these phone calls, they are not
4 alone?

5 A They are out on rec.

6 Q Right, and they're not alone?

7 A Correct.

8 Q And they're surrounded by other inmates?

9 A I wouldn't say they are surrounded, but they're not the
10 only person in the area.

11 Q There are other inmates around them?

12 A Inside of the pod, yes.

13 MS. POPOWSKI: Thank you. No further questions.

14 THE COURT: Any redirect?

15 MS. OPPENHEIMER: Very briefly.

16 REDIRECT EXAMINATION

17 BY MS. OPPENHEIMER:

18 Q You can't say that there are other inmates around for
19 this specific call, can you?

20 A That is correct.

21 MS. OPPENHEIMER: Thank you, Lieutenant McCullough. I
22 have no further questions.

23 THE COURT: Any recross?

24 MS. POPOWSKI: Beg the Court's indulgence.

25 (Pause.)

RECROSS-EXAMINATION

BY MS. POPOWSKI:

Q You testified that you pulled this call in the normal course of business; is that correct?

A Did I pull that specific call?

Q Uh-huh.

A I'm not sure. I pull so many calls, I'm not sure. It was either I pulled it or Lieutenant Williams.

Q So the calls that were just moved into evidence based on a business records exception, you're saying that you did not pull those calls in the normal course of business?

A They would have been downloaded from the actual site.

Q So you didn't listen to these calls?

A Yes, I just listened to them before I came.

Q You just listened to them. So you can recognize that there was background noise in these calls?

A Was there background noise, yes. There will be background noise in every call.

Q Okay. And you may or may not know the answer to this, but you listened to the clarified versions of the call?

A I can't --

MS. POPOWSKI: I figured you might not know the answer to that. Thank you.

THE COURT: All right. The witness may step down.

MS. MAYES: Your Honor, may we approach?

1 (WHEREUPON, a bench conference was held in the presence
2 of the jury, but outside the hearing of the jury.)

3 THE COURT: Ladies and gentlemen, witnesses have lives,
4 too. They have car trouble. They have issues getting to
5 and from sometimes. So we're at a point now where I can't
6 get another witness up for a little bit. So I'm just going
7 to go ahead and give you brunch again. We will start back
8 at 12:30 and finish out the day.

9 Please don't discuss the case while you're out. Be
10 ready to go in your jury room at 12:30. Please don't do any
11 independent research about anything you've heard in this
12 trial. We'll see you at 12:30. Thank you.

13 (WHEREUPON, the jury exits the courtroom at 10:41 a.m.)

14 THE COURT: Lieutenant McCullough, would you mind just
15 coming back up on the stand? Counsel asked if she could
16 proffer a few more questions for the record regarding
17 Justice Department lawsuits. I directed counsel not to go
18 down that road on cross-examination, but I will allow her to
19 proffer the testimony.

20 MS. POPOWSKI: Thank you, Your Honor.

21 PROFFER

22 BY MS. POPOWSKI:

23 Q Are you aware that the United States Justice Department
24 in January of this year found the safety conditions at Alvin
25 S. Glenn unconstitutional?

1 A I heard.

2 Q Okay. And you're aware that that's because of inmates
3 -- the safety conditions were such that inmates were not
4 protected?

5 A From the violence.

6 Q From the violence. Thank you.

7 THE COURT: Any questions from the State?

8 PROFFER

9 BY MS. OPPENHEIMER:

10 Q Lieutenant McCullough, to your knowledge, the lawsuit
11 that Defense counsel just asked you about does not involve
12 this Defendant?

13 A That is correct.

14 Q And it actually involves activity from after 2021; is
15 that correct?

16 A That is correct.

17 MS. OPPENHEIMER: No further questions.

18 THE COURT: Anything further, Ms. Popowski?

19 MS. POPOWSKI: Sure.

20 PROFFER

21 BY MS. POPOWSKI:

22 Q What is the timeframe? Because I'm not aware of it.
23 What is the timeframe for the Department of Justice's
24 ruling?

25 A The cases that I had to pull was from 2022, 2023.

1 Q So you can definitively rule out --

2 A No, ma'am --

3 Q -- December of 2021 as being included in that
4 Department of Justice --

5 A There was no case that I sent to the Department of
6 Justice --

7 Q Specifically to him?

8 A Correct.

9 Q But you can't rule out that Department of Justice
10 finding excluded December of 2021?

11 A I can't say definitively.

12 MS. POPOWSKI: Thank you.

13 THE COURT: You can step down now, sir.

14 The witness is excused.

15 We'll see you back at 12:30. Thank you.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: State ready to proceed with their next
18 witness?

19 MS. MAYES: Yes, Your Honor.

20 THE COURT: Defense ready?

21 MS. POPOWSKI: Yes, Your Honor.

22 THE COURT: Bring the jury in.

23 (WHEREUPON, the jury enters the courtroom at 12:40
24 p.m.)

25 THE COURT: Okay, please be seated. Welcome back.

Stacie Fidler - Direct by Ms. Mayes

1 Let's pick up with our next witness in the State's case in
2 chief.

3 MS. MAYES: May it please the Court, Your Honor. The
4 State calls Stacie Fidler.

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

7 STACIE FIDLER,

8 after being duly sworn, testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Please take a seat in the
11 witness stand. State your full name and spell your last for
12 the record.

13 THE WITNESS: Stacie Lee Fidler, last name F-I-D-L-E-R.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q Good afternoon, Ms. Fidler. First, I'd like to ask a
17 few questions about you. What can you tell us about where
18 you currently reside?

19 A Where I live?

20 Q Yes.

21 A I live on Harbison Boulevard.

22 MS. MAYES: And Your Honor, if I may approach the
23 witness?

24 THE COURT: Yes, ma'am.

25 BY MS. MAYES:

1 Q You said you currently reside on Harbison Boulevard?

2 A I do.

3 Q And is that in a house or an apartment?

4 A It's an apartment.

5 Q And in that apartment complex, how long have you lived
6 there?

7 A Seven years.

8 Q During the seven years that you have lived there, can
9 you tell us whether or not you have shared the residence
10 with any other person?

11 A Yes.

12 Q Who is that?

13 A Jeff Davidock.

14 Q Jeff Davidock. Now, what type of work do you do, Ms.
15 Fidler?

16 A Commercial, residential cleanup is what I do.

17 Q And I'm going to ask you specifically, when you say
18 commercial or residential cleanup, what kind of residences
19 are these?

20 A These are Airbnb. I work for a doctor.

21 Q So, for example, if an Airbnb is rented out, somebody
22 would have to clean that up after it's been rented?

23 A That's right.

24 Q And how long have you done that type of work?

25 A Four years. I guess, four years now.

1 Q And in addition to that, what other work have you done?

2 A I was a massage therapist. I cut hair for about 23
3 years.

4 Q And what is Millennial Flooring?

5 A That is the business Jeff owned.

6 Q Do you have a vehicle of your own?

7 A Yes.

8 Q I'm going to take you back to November 27th of 2021?

9 You told us that you lived in the apartments in Harbison.

10 And I'm going to ask you specifically what's the street
11 address to your Harbison apartment?

12 A 405-B Harbison Boulevard.

13 Q So 405 Harbison Boulevard would be the actual street
14 address?

15 A That's correct.

16 Q Were you living in that residence back on November 27th
17 of 2021?

18 A Yes, I was.

19 Q Was Mr. Davidock, Jeffrey Davidock, also, living in
20 that residence on that day?

21 A Yes, he was.

22 Q What type of work was Mr. Davidock doing back then?

23 A Flooring, basically. I think he did some odd jobs,
24 too, like renovation, that type of thing.

25 Q Basically, like indoor construction type work?

1 A Yeah.

2 Q And I asked you if you had a car of your own. In that
3 timeframe of November of 2021, what kind of issues do you
4 recall going on with your own personal vehicle?

5 A I had brake problems. I had alternator problems. They
6 kind of varied. It was an older car.

7 Q Did there come a point in time in November of 2021 in
8 which you needed a rental car?

9 A Yes.

10 Q And did you, in fact, obtain a rental car?

11 A I did.

12 Q Can you tell us the date which you obtained that rental
13 car? If you need to take a moment, that's fine?

14 A The Wednesday before Thanksgiving that year.

15 Q The Wednesday before Thanksgiving?

16 A Uh-huh.

17 Q And you're talking about what month, Ms. Fidler?

18 A November.

19 Q Let me show you what is State's Exhibit No. 194, being
20 a map for November -- I'm sorry, a calendar for November.
21 Looking here at this calendar, do you recognize the date in
22 which you would have obtained a rental car?

23 A Yes, that was the 24th, on Wednesday.

24 Q All right. I'm going to put this on the overhead.

25 MS. MAYES: Any objection to State's Exhibit No. 194?

1 MS. POPOWSKI: No, Your Honor.

2 THE COURT: State's Exhibit No. 194 is admitted.

3 (WHEREUPON, State's Exhibit No. 194 was admitted into
4 evidence.)

5 BY MS. MAYES:

6 Q So looking here at this calender, Wednesday, the 24th,
7 would be the date in November in which you obtained that
8 rental car?

9 A That's right.

10 Q And Thanksgiving would have been what day?

11 A The day after, the 25th.

12 Q Thursday, the 25th?

13 A Yes.

14 Q Now, around this same point in time that you obtained
15 that rental car on November 24th, what, if anything, do you
16 remember about Jeffrey having a work friend?

17 A I didn't know until I got home from work there was
18 someone there.

19 Q So you would have gone to work as normal on the 24th?

20 A Uh-huh.

21 Q You took care of getting a rental car at some point
22 that day?

23 A Uh-huh.

24 Q What do you remember about when you returned home to
25 your apartment in Harbison on the evening of the 24th?

1 A Jeff's friend was there.

2 Q You said Jeff's friend.

3 A Well, I guess, colleague.

4 Q All right. So I want to ask you a few questions. What
5 type of work do you understand him to have been doing along
6 with this co-worker?

7 A I'm not sure. I really don't know.

8 Q Something about remodeling?

9 A Right, right.

10 Q And was this individual in your home?

11 A Yes.

12 Q What was his name?

13 A Mark.

14 Q His name was Mark?

15 A Mark.

16 Q And had you ever met Mark prior to that night on
17 November 24th?

18 A Never.

19 Q So this is the first time you've seen him?

20 A Yes.

21 Q What did you understand the relationship between this
22 individual named Mark and Jeffrey Davidock to be?

23 A An employee, kind of friendship, I guess.

24 Q So they worked together?

25 A Uh-huh.

1 Q And when he's in your home, what was the understanding
2 about his sleeping arrangements for that night on into the
3 rest of the week?

4 A Jeff said that he needed to get some rest. I don't --
5 I don't think he stayed. If he did, I slept -- do you want
6 me to take you through what happened on Wednesday?

7 Q Yes.

8 A On Wednesday evening, when I got home from work, I was
9 tired. He was there. I have an open apartment, so when I
10 came in -- you can hear everything in the apartment. They
11 were upstairs and I was downstairs. And some comment was
12 made about what -- he was mad about something, mad about
13 someone that took his girlfriend's belongings that was
14 deceased, said that he was going to kill him. And go to his
15 house and shoot him when he came out. That's what I heard.
16 This hadn't happened, so, you know, I'm a little bit
17 freaking out --

18 Q Ms. Fidler, I'm going to stop you there.

19 A Okay.

20 Q You said you had never met this individual before, but
21 you learned his name?

22 A Yes.

23 Q Would you recognize this individual if you saw him
24 again?

25 A Yes.

1 Q Ms. Fidler, do you recognize this individual that you
2 knew as Mark?

3 A Yes.

4 Q In the courtroom today?

5 A Yes.

6 Q Where is he sitting?

7 A Right there.

8 MS. MAYES: Your Honor, if the record may reflect she's
9 identified the Defendant, Mark Scheibler.

10 THE COURT: Very well.

11 BY MS. MAYES:

12 Q So you hear his statement. I'm going to ask you what
13 tone of voice he's using when he's making this statement?

14 A He's angry. He's very angry.

15 Q That was apparent to you?

16 A Uh-huh. Loud, angry.

17 Q Did he say the name of the person that he was angry at?

18 A Yes.

19 Q What was that person's name?

20 A J.J.

21 Q What did you understand Mark to be angry about?

22 A He was angry because the man would not give him back
23 his girlfriend's belongings that was deceased.

24 Q You heard that directly from who?

25 A Him, Mark.

—Stacie Fidler - Direct by Ms. Mayes—

1 Q Is he speaking softly or loudly? What can you tell us
2 about his demeanor or mood as he's talking about this topic?

3 A He's mad. He's very upset, angry.

4 Q And when he said that about J.J., what did you hear him
5 specifically say that he would do?

6 A He was going to kill him. He said he was going to go
7 to his house and wait until he came out and then shoot him.

8 Q Go to his house?

9 A Uh-huh.

10 Q Wait till he came out?

11 A Uh-huh.

12 Q And shoot him?

13 A Uh-huh.

14 Q And as he said that, again, for that specific
15 statement, what was mood --

16 MS. POPOWSKI: Objection, Your Honor, asked and
17 answered.

18 MS. MAYES: I'm asking for this particular statement
19 she just testified to.

20 THE COURT: Very well. She may answer your question.

21 BY MS. MAYES:

22 Q That statement about shooting him when he came out,
23 what was his mood and demeanor then?

24 A Angry. I mean, he said he was -- that's what he was
25 going to do.

1 Q Now, what do you remember -- that's going to be the
2 night of the 24th.

3 A What do I remember?

4 Q You said that statement was made the night of the 24th?

5 A Yes, it was.

6 Q What do you remember about the following day, which
7 would have been Thursday?

8 A I slept all day Thursday. I was sick.

9 Q Do you remember any communication by Mark regarding
10 Thanksgiving?

11 A On Wednesday night, he called, I guess, some family
12 members or friends, I guess, making plans for Thanksgiving,
13 I don't know.

14 Q You could hear him making plans with friends or family
15 for Thanksgiving?

16 A Right.

17 Q So he had access to a phone?

18 A Uh-huh.

19 Q The rental car that you rented.

20 A Uh-huh.

21 Q I'm going to show you what is -- I'm going to show you
22 what is State's Exhibit No. 206. And ask you whether or not
23 you recognize this document?

24 A Yes, I do.

25 Q Where did you go to obtain the rental car?

1 A Two Notch Road.

2 Q I'm going to show you, again, this document, State's
3 Exhibit No. 206. Looking at this document, whose signature
4 is on this rental car agreement?

5 A That is mine.

6 Q And whose initials are for each feature and agreement
7 for the rental car?

8 A They are mine.

9 Q Who paid the money for the rental car?

10 A I did.

11 Q Who provided the information as to when the car would
12 be obtained and when it would be returned?

13 A I did.

14 Q What is the date and time in which you rented this car
15 on November 24th?

16 A It was in the evening.

17 Q Take your time, Ms. Fidler.

18 A 5:43.

19 Q 5:43 p.m. on the evening of November 24th?

20 A Uh-huh.

21 Q And according to the agreement, when did you agree to
22 return that vehicle?

23 A On Saturday at the same time.

24 Q Saturday would be what date?

25 A The 27th.

Stacie Fidler - Direct by Ms. Mayes

1 Q So Saturday, the 27th, was the agreement for when the
2 vehicle would be returned?

3 A That's right.

4 Q And you said it was supposed to be returned at the same
5 time, which was 5:43?

6 A Yes.

7 Q And is this rental agreement in your name?

8 A Yes.

9 Q With your address?

10 A Yes.

11 Q Does it bear the license plate tag and the VIN number
12 for this vehicle?

13 A Yes.

14 Q And does it indicate the make of the vehicle?

15 A Yes.

16 Q What is that?

17 A A 2017 Hyundai Elantra.

18 Q And what was the color of the vehicle?

19 A White.

20 Q And again, whose signature is on this document?

21 A It is mine.

22 Q And this is, in fact, your rental car agreement?

23 A That's right.

24 Q For this vehicle?

25 A Yes.

1 MS. MAYES: State's Exhibit No. 206 for evidence, Your
2 Honor.

3 MS. POPOWSKI: No objection, Your Honor.

4 THE COURT: State's Exhibit No. 206 is --

5 MS. POPOWSKI: Subject to my prior objections.

6 THE COURT: Subject to previous objections, State's
7 Exhibit No. 206 is admitted.

8 (WHEREUPON, State's Exhibit No. 206 was admitted into
9 evidence.)

10 BY MS. MAYES:

11 Q Now, before I put this on the big screen, because I
12 realize that the writing is small, I'm going to ask you if
13 you have a copy of this as well? Do you have a copy that
14 you can see it with your own eyes?

15 A Yes.

16 Q Are you able to read the print?

17 A Yes.

18 Q And is that an exact copy of State's Exhibit No. 206,
19 that page?

20 A Yes.

21 Q And looking here at State's Exhibit No. 206, again,
22 does it indicate where that rental car was rented from?

23 A Yes.

24 Q And what was that address?

25 A I'm looking for it. 5317 Two Notch Road.

1 Q And you went there yourself in order to obtain the
2 rental car?

3 A Yeah, I did.

4 Q And you indicated that the vehicle was white?

5 A Yes.

6 Q A Hyundai Elantra?

7 A Yes.

8 Q Ms. Fidler, what was the license plate tag number for
9 that vehicle?

10 A HCJ9276. I guess that's the license number.

11 Q And what was the VIN number, or what's referred to as a
12 unique VIN number for that vehicle?

13 A 5NPD84LF8HH169943.

14 Q Now, after you rented that vehicle, where did you take
15 it next?

16 A Took it back home.

17 Q Back to the apartment complex in Harbison?

18 A That's right.

19 Q And what, if any, difficulty did you have with the car
20 shortly after renting it?

21 A One of the tires had a slow leak in it. I had to pull
22 over and put air in it.

23 Q So you pulled over and put air in it yourself?

24 A Yes.

25 Q At the point that you did that, how much of a leak was

1 present or how flat was the tire?

2 A It was gone. It was going flat pretty fast, you know.

3 The air in it was going to keep getting worse, so.

4 Q It was obvious to you that you had a flat tire?

5 A Yes.

6 Q But you did put air in it enough to get you through to
7 make it home?

8 A Yes.

9 Q Now, did you ever actually change the tire out
10 yourself?

11 A No.

12 Q But you knew it to have that leak in it?

13 A Yes.

14 Q You mentioned that on Thursday, which would have been
15 Thanksgiving, did you stay home that day?

16 A I did.

17 Q That would be the 25th. What, if anything, Ms. Fidler,
18 do you recall about Friday, the 26th, into the early morning
19 hours of November 27th?

20 A The car was gone.

21 Q When you say the car was gone, had you given anyone
22 permission to take that car?

23 A No, absolutely not.

24 Q Had you given Mark Scheibler permission to drive or
25 take that car?

1 A No.

2 Q And when you noticed the car gone, who else was home
3 with you?

4 A Jeff.

5 Q So you're home, Jeff is home, where was Mark?

6 A I don't know.

7 Q So who disappeared at the same time as the car?

8 A Mark.

9 Q What efforts did you and Jeff make to obtain or
10 retrieve that rental car back?

11 A I called several times, a lot, texted his phone to get
12 the car back. And that was on Saturday that I made the
13 attempt to get my car.

14 Q When that car disappeared from your residence in
15 Harbison, was it ever returned back to you?

16 A No, it was not. I never saw it.

17 Q Did Mark himself ever return back to your apartment?

18 A No.

19 Q So by Friday, Mark and the car are gone. And you said
20 you started making calls and texts to retrieve that vehicle?

21 A Yes.

22 Q I'm going to show you something for identification at
23 this time. Identification only, I show you what is State's
24 Exhibit No. 167. What was your phone number back in 2021,
25 Ms. Fidler?

—Stacie Fidler - Direct by Ms. Mayes—

1 A (803) 757-3957.

2 Q And what was the phone number of Mark Scheibler?

3 A That was (803) 312-1170.

4 Q I'm going to show you here in State's Exhibit No. 167
5 some communications and ask you whether or not you recognize
6 those communications.

7 A All right. Yeah, I do.

8 Q Did you make attempts to call Mark Scheibler looking
9 for that vehicle?

10 A Yes.

11 Q Did you make attempts to text Mark Scheibler looking
12 for that vehicle?

13 A Yes.

14 Q Did Mark Scheibler return texts to you regarding that
15 vehicle?

16 A Yes.

17 Q Are these phone communications, being both text
18 messages and phone calls, shown in State's Exhibit No. 167 a
19 fair and accurate representation of your communications with
20 Mr. Scheibler and/or your attempts to communicate with him?

21 A Yes.

22 MS. MAYES: State's Exhibit No. 167 for evidence.

23 MS. POPOWSKI: No objection, Your Honor.

24 THE COURT: State's Exhibit No. 167 is admitted.

25 (WHEREUPON, State's Exhibit No. 167 was admitted into

1 evidence.)

2 BY MS. MAYES:

3 Q So Ms. Fidler, based on your recollection, the car is
4 going to first disappear when?

5 A I never saw it after Wednesday night, but I guess
6 Friday would be a more accurate.

7 Q By Friday, you knew the vehicle was gone?

8 A Yes.

9 Q And that Mr. Scheibler was gone as well?

10 A Yes.

11 Q And on Saturday, did you make attempts to find him and
12 the vehicle?

13 A Yes.

14 Q I'm going to show you State's Exhibit No. 167 now.
15 Talking about Saturday, November 27th, at 9:25 a.m., what
16 did you attempt to do regarding Mark Scheibler?

17 A I called him, got a voicemail, then I texted him at
18 9:27.

19 Q At 9:27?

20 A Uh-huh.

21 Q What happened at 9:29?

22 A He told me I didn't want the car back.

23 Q And I'm going to ask you about that. Were there some
24 text messages that he actually returned back to you, meaning
25 his number is returning those texts to you?

1 A Yes.

2 Q I want to go through these slowly. In your
3 communications to him, 9:25, a call that went to voicemail.
4 9:29, a call that went to voicemail. 9:27, you sent a text
5 to him?

6 A Yeah, that's right.

7 Q When you sent a text to him, what is the subject of
8 your text? Why are you texting him?

9 A The car. I want the car back.

10 Q And you get a response at 9:41 from the number (803)
11 312-1170 to your phone?

12 A Yeah, that's right.

13 Q What was that response back to you?

14 A He said I didn't want the car back. That's what he
15 said.

16 Q He said you don't want the car back?

17 A Right.

18 Q What did you take that to mean?

19 A I don't think it hit me until Sunday.

20 Q I'm going to ask you a few more questions about that.

21 A Okay.

22 Q What happened on Sunday? What did you learn about on
23 Sunday regarding J.J.?

24 A That he was dead.

25 Q So going back to that Saturday morning, you get a text

1 back that says you don't want this car back. Did you
2 attempt to call again at 9:43?

3 A Yes.

4 Q Was it answered or did it go to voicemail?

5 A Voicemail.

6 Q Did you text again at 11:07?

7 A Yes.

8 Q Did you receive one more text around 11:15?

9 A Yes.

10 Q Again, did you get any agreement to return that car?

11 A No.

12 Q What did he say?

13 MS. POPOWSKI: Objection, Your Honor.

14 THE WITNESS: Same thing. I don't want it back.

15 MS. MAYES: This is a separate text, Your Honor, second
16 text.

17 THE COURT: Okay.

18 BY MS. MAYES:

19 Q Regarding the second text?

20 A It's the same thing. Same response. I didn't want it.

21 Q Then 11:26 and 1839, which would be 6:39. Again, why
22 do you continue trying to text him?

23 A Because I think that he's going to return the car.
24 Even though he said that, it hasn't registered.

25 Q And then 7:47, you call once again. What happened?

Stacie Fidler - Direct by Ms. Mayes

1 A Voicemail.

2 Q And then early morning, 6:51 a.m., 6:51 a.m. on Sunday,
3 the 28th, did you again attempt to reach him by phone?

4 A Yes.

5 Q And what happened?

6 A Voicemail. I mean, I was really hoping he would return
7 the car.

8 Q Again, the agreement set forth that the vehicle rented
9 on November 24th at 5:43 would be returned on what date?

10 A Saturday, the same time.

11 Q The 27th. And by Sunday, the 28th at 6:51 a.m., are
12 you past that deadline?

13 A Yes.

14 Q Now, when you said that it didn't register when he said
15 you don't want this car back, you said you learned something
16 later about --

17 A It was the news. The news came on. And I learned.

18 Q And you can't repeat what anyone else said, but did you
19 learn something about J.J. or Jimmy Johnson?

20 A Yes, that he had been shot.

21 Q All right. Then what?

22 A Then I took it upon myself to call Crime Stoppers.
23 Because I felt --

24 MS. POPOWSKI: Objection, Your Honor.

25 THE COURT: Y'all approach.

1 (WHEREUPON, a bench conference was held in the presence
2 of the jury, but outside the hearing of the jury.)

3 BY MS. MAYES:

4 Q So at this time, Ms. Fidler, I don't want to get into
5 any of the details about -- you mentioned Crime Stoppers. I
6 don't want to get into any of the details about what was
7 said, but I'm going to ask you this, did you make an
8 anonymous report?

9 A Yes.

10 Q And that was to what organization?

11 A Crime Stoppers.

12 Q And what is the date you first contacted Crime
13 Stoppers?

14 A Two days after.

15 Q So that would be on the 29th?

16 A That's correct.

17 Q On the 29th. And this is after you have seen the news
18 and learned about J.J.?

19 A Yes.

20 Q And again, did you ever -- other than those attempts to
21 reach Mark Scheibler by phone, did you ever see or hear from
22 him again after those last two texts?

23 A No.

24 Q And was that vehicle ever returned back to you?

25 A Never.

—Stacie Fidler - Direct by Ms. Mayes—

1 Q So, ultimately, you have a vehicle that was due on the
2 27th, and you don't have it to return?

3 A Right.

4 Q What action did you take regarding a report to law
5 enforcement about the whereabouts of that vehicle?

6 A Well, I had to report it.

7 Q And did you do that?

8 A I did.

9 Q And when you reported it, did you give them the name
10 Mark Scheibler?

11 A No, I did not.

12 Q Why is that?

13 A I was scared for my life, for one.

14 Q And whose name had to go on that police report about
15 the car no longer being in your possession? Whose name had
16 to be on it?

17 A Mine.

18 Q So that police report had to have your name on it?

19 A Yes.

20 Q Knowing that it had to have your name on it, did you or
21 did you not tell them you took the car?

22 A I did not. I did not.

23 Q When you say you were scared for your life --

24 A Yeah.

25 Q -- did you want your name to be on a document that

Stacie Fidler - Direct by Ms. Mayes

1 implicated Mark Scheibler?

2 A No.

3 Q And again, where Crime Stoppers was concerned, not
4 getting into the details, but where Crime Stoppers was
5 concerned, was that a completely separate report?

6 A Yes.

7 Q And that would allow you to be anonymous?

8 A Yes.

9 Q Where your name wouldn't be attached?

10 A That's right.

11 Q Now, in addition to being unable to return that rental
12 car back to this company -- I think you indicated that it
13 was rented from Two Notch Road. And at the top, we see
14 MTNRD Auto Rental. I show you a document for
15 identification, State's Exhibit No. 207. All of these
16 factors set forth in that rental agreement about
17 responsibility for damage to the vehicle, who signed and
18 agreed to be responsible for that vehicle?

19 A Me.

20 Q And ultimately, who was responsible for that vehicle?

21 A I'm still responsible for that vehicle. I have to pay
22 it.

23 Q And have you been notified that you are, in fact,
24 responsible for that payment?

25 A Yes, I have.

1 Q In what amount?

2 A \$18,897.

3 Q Finally, I want to ask you, you said that when you
4 reported the car stolen, you didn't want your name to be on
5 a document where you implicated him. Why or why not?

6 A Because he's dangerous. He's already --

7 MS. POPOWSKI: Objection, Your Honor.

8 THE WITNESS. Yes. I mean --

9 THE COURT: You can stop answering when there's an
10 objection.

11 Ms. Mayes, any response to the objection?

12 MS. MAYES: Yes, Your Honor, I'll clarify the question.

13 THE COURT: Very well.

14 BY MS. MAYES:

15 Q You heard a threat made against who?

16 A J.J.

17 Q And then you learned who was hurt?

18 A J.J.

19 MS. MAYES: Thank you. Nothing further.

20 THE COURT: Cross-examination.

21 MS. POPOWSKI: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. POPOWSKI:

24 Q Ms. Fidler, you testified that you live on Harbison
25 Boulevard; is that correct?

1 A That's correct.

2 Q Right near Columbiana Center; is that correct?

3 A That's correct.

4 Q And your testimony here today in front of this jury is
5 that you rented a car for \$544 to go Black Friday shopping?

6 A That's right.

7 Q All right. Let me get this straight, Black Friday
8 shopping is the type of shopping you do when you're trying
9 to save some money, right?

10 A Yes, that's right.

11 Q Okay. And you had a vehicle, a 2009 Toyota Camry; is
12 that correct?

13 A That's right.

14 Q All right. And you were having problems with it is
15 your testimony here today?

16 A That's right.

17 Q All right. So \$544 would have gone a long way in
18 fixing that car, wouldn't it?

19 A It sure would have.

20 Q You gave a statement that you slept for over a day
21 during that time?

22 A Yep.

23 Q Is that correct?

24 A That's right.

25 Q So by my calculation, that's \$181 per day if you paid

1 \$544 for the car. So sleeping over 24 hours means that you
2 would have lost \$181 for that car?

3 A Yeah.

4 Q And on November 28th, you filed a police report. You
5 testified about that, right?

6 A That's right.

7 Q And you told them -- let me get that calendar out. All
8 right. So you told them that the rental car, that you had
9 left it on Bluff Road on this night?

10 A That's right.

11 Q The 27th?

12 A That's right. That's a false statement because I was
13 scared for my life. That's why --

14 Q And you told them --

15 THE COURT: Just a minute. Just a minute now.
16 She's -- hold on, hold on, hold on a minute, ma'am. The
17 lawyer is going to ask you questions. She'll give you a
18 chance to answer.

19 Okay, so ask the question. Let's wait on her response.

20 MS. POPOWSKI: There was a pause, so I thought she was
21 done.

22 THE COURT: Okay.

23 MS. MAYES: Your Honor, again, she was answering a
24 question and she did not get to finish that answer.

25 THE COURT: We will allow that now.

1 Yes, ma'am.

2 THE WITNESS: Repeat it.

3 BY MS. POPOWSKI:

4 Q The question was that you filed a police report that
5 you had left the rental car on Bluff Road on the night of
6 the 27th?

7 A That's right.

8 Q And that you'd left it there with a flat tire?

9 A That's right.

10 Q And that is during the time that you told Detective
11 Hart just about two weeks ago that you were asleep?

12 A I don't know. I cannot remember. All I know is I
13 didn't murder anybody. And I can tell you this. I'm
14 responsible -- I have a \$20,000 bill I have to pay for.

15 Q That's a lot of money.

16 A It sure is. It sure is.

17 Q So then you told police in this false police report
18 that you went back to look for the vehicle?

19 A I didn't want my name on any of that.

20 Q On the 28th?

21 A That's right.

22 Q And you, also, told the police that you were in touch
23 with the rental car company?

24 A Yes.

25 Q And that wasn't true either.

1 A Oh, yes, it was.

2 Q So your testimony here today is that when the rental
3 car company tried to get in touch with you through repeated
4 phone calls, that you were in touch with them?

5 A Yeah, I did. I answered the phone.

6 Q In your police report, you told them that you had
7 rented the car from A-Plus Rental. Do you remember that?

8 A I couldn't remember if it was Rental Rack or A-plus.
9 There was three businesses there at that address.

10 Q Yeah, you testified today that you got it from Rental
11 Rack. And in the police report, it said it was A-Plus?

12 A It was four years ago.

13 Q And I looked at the address and it's actually Best
14 Rent-A-Car, so which one of those three is it?

15 A I couldn't tell you because there was three different
16 businesses in there, all at one counter.

17 MS. POPOWSKI: Your Honor, I don't have any further
18 questions for this witness.

19 THE COURT: Redirect?

20 MS. MAYES: Yes, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. MAYES:

23 Q The date of that police report that you were just asked
24 about to Richland County, what was that date?

25 A It was on -- let me see, it was on --

1 Q Take your time.

2 A I want to say it was Sunday or Monday.

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

4 THE COURT: Yes, ma'am.

5 BY MS. MAYES:

6 Q So that report was made on what date?

7 A On 11/28/2021.

8 Q Can you tell us whether or not that is after he had
9 spoken to you by text and said you don't want this car back?

10 A It was after.

11 Q You told the Defense that you didn't want to leave your
12 name?

13 A That's correct.

14 Q But you did give your name on that paperwork?

15 A Uh-huh.

16 Q You knew your name had to go on that report?

17 A That's right.

18 Q And knowing that your name had to go on that report,
19 how much did you feel comfortable actually telling them?

20 A I mean, I felt comfortable telling them because --

21 Q How much do you feel comfortable telling the police
22 about Mark?

23 A He's scary.

24 Q Okay.

25 MS. POPOWSKI: Objection, Your Honor.

1 THE WITNESS: He's scary.

2 BY MS. MAYES:

3 Q I'm just going to ask you this.

4 THE COURT: Sustained as to the characterization.

5 MS. MAYES: Yes, Your Honor.

6 MS. POPOWSKI: Move to strike.

7 MS. MAYES: Your Honor, that's --

8 THE COURT: Overruled.

9 Counsel, real quick.

10 (WHEREUPON, a bench conference was held in the presence
11 of the jury, but outside the hearing of the jury.)

12 THE COURT: Ladies and gentlemen, I sustained the
13 previous objection to the witness's response. I am going to
14 strike those words from the record. So do not consider that
15 instance of testimony in any way, shape or form.

16 Next question.

17 MS. MAYES: Yes, Your Honor.

18 BY MS. MAYES:

19 Q Those text message responses that you got from the
20 phone that you've indicated you knew to be the phone number
21 for Mark Scheibler?

22 A Yes.

23 Q Those text messages were what time in the morning?

24 A Early.

25 Q 9:41?

1 A Yes.

2 Q And 11:15?

3 A Yes.

4 Q Did that occur before you made that report to the
5 police where he told you you don't want this car back?

6 A The report was after. It was after that.

7 Q That was my question?

8 A Yes.

9 Q And when you made that report, did you feel like you
10 need to make a report about the car being stolen?

11 A Yes.

12 Q And why?

13 A Because that's what you do. There was loss of life.

14 Q And when you said that you knew you had to make a
15 report, did you, also, tell them that you had been the one
16 that rented the car?

17 A No.

18 Q When you told the police, that police report about the
19 car being taken --

20 A No.

21 Q I'm asking about the car being taken.

22 A Okay. Okay.

23 Q About the car being taken, did you tell them that you
24 had rented the car?

25 A No.

1 Q So when you reported the car being taken, what Ms.
2 Popowski was just asking you about, she was asking you about
3 the location that it was rented from?

4 A Right.

5 Q So did you tell them that you had rented the car?

6 A Yes.

7 Q Okay. And that the car had been taken?

8 A Yes.

9 Q What is the part that you didn't tell them?

10 A That Mark had taken the car.

11 Q Okay. That's what I was trying to ask.

12 A I'm sorry.

13 Q Just take your time.

14 A Okay.

15 Q So you told them that you had rented the car and that
16 the car had been stolen?

17 A Yes.

18 Q But the part you left out was about who?

19 A Mark.

20 Q That he was the on who took it?

21 A Uh-huh.

22 Q So she said the report was false. What was false about
23 it?

24 A Because I wasn't honest as to who took the car because
25 I had a good idea who took the car.

1 Q And in that report, is your name on it?

2 A Yes.

3 Q Knowing that your name is on that report, did you feel
4 comfortable naming Mark Scheibler as the person who took the
5 car?

6 A No, I did not.

7 Q As stated on direct, what format did make you feel
8 comfortable?

9 A Protecting my anonymity.

10 Q Your anonymity?

11 A That's right.

12 Q A report where you could remain anonymous?

13 A Right.

14 Q Did you do that?

15 A I did.

16 Q To where?

17 A Crime Stoppers.

18 MS. MAYES: Beg the Court's indulgence.

19 (Pause.)

20 MS. MAYES: Your Honor, may we approach?

21 THE COURT: Yes, ma'am.

22 (WHEREUPON, a bench conference was held in the presence
23 of the jury, but outside the hearing of the jury.)

24 BY MS. MAYES:

25 Q My last question, so you made an anonymous report to

1 Crime Stoppers on what day?

2 A On Monday, the 29th.

3 MS. MAYES: Thank you.

4 THE COURT: Recross?

5 MS. POPOWSKI: Beg the Court's indulgence.

6 THE COURT: Very well.

7 (Pause.)

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

9 THE COURT: Very well. The witness is excused.
10 Counsel.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury, but outside the hearing of the jury.)

13 THE COURT: Ladies and gentlemen, let's take a short
14 break. We've been going about an hour and ten minutes.
15 Head on back and refresh yourselves. Let the bailiffs know
16 when everybody's ready to come back out.

17 Thank you.

18 (WHEREUPON, the jury exits the courtroom at 1:39 p.m.)

19 THE COURT: All right. Let's refresh ourselves quickly
20 and we'll move on to our next witness.

21 (WHEREUPON, a short break was taken.)

22 THE COURT: All right, let's bring in the jury, please.

23 (WHEREUPON, the jury enters the courtroom at 1:55 p.m.)

24 THE COURT: All right. Ladies and gentlemen, we'll
25 pick up our next witness in the State's case in chief.

Jeffrey Davidock - Direct by Ms. Mayes

1 MS. MAYES: The State calls Jeffrey Davidock.

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

4 JEFFREY DAVIDOCK,

5 after being duly sworn, testified as follows:

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Thank you. Please take a seat in the
8 witness stand. State your full name and spell your last for
9 the record.

10 THE WITNESS: My name is Jeffrey John Davidock.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q I'm just going to pull that microphone up a little bit
14 closer to you.

15 A Yes, ma'am.

16 Q And, again, your full name for the record?

17 A Jeffrey John Davidock.

18 Q And do you currently have a neck injury?

19 A Yes, ma'am.

20 Q All right. You just move the microphone however you
21 need to move it for your neck. Now, Mr. Davidock, where
22 were you living back in November of 2021?

23 A 405 Harbison Boulevard, Apartment 523, Columbia, South
24 Carolina, 29212.

25 Q And while living at that apartment complex at 405

1 Harbison Boulevard, what type of work were you doing back in
2 November of 2021?

3 A I was working with Mark repairing trailers.

4 Q You say you were working with an individual named Mark?

5 A Yes, ma'am.

6 Q And what type of work was this?

7 A Maintenance on trailers.

8 Q All right. Maintenance or repairing trailers?

9 A Yes, ma'am.

10 Q And did that allow you to have frequent contact with
11 the individual that you knew was Mark?

12 A Yes, ma'am.

13 Q And you say you were working with him or were you
14 working for him?

15 A He was paying me, so I was working for him.

16 Q So he was actually paying the money for you to help
17 with the job?

18 A Yes, ma'am.

19 Q And during this timeframe of November of 2021, was
20 there ever a time that Mr. Scheibler came to your residence
21 at 405 Harbison Boulevard?

22 A Yes, ma'am.

23 Q And I want to ask you specifically about that. Looking
24 here at a calendar for November of 2021, if Thursday, the
25 25th, is Thanksgiving, I want to ask you about the day

1 before Thanksgiving.

2 A Yes, ma'am.

3 Q I'm going to show you what is State's Exhibit No. 206,
4 a rental car agreement.

5 A Yes, ma'am.

6 Q Who did you share your apartment with at 405 Harbison?

7 A My girlfriend, Stacie Fidler.

8 Q All right. And was she living there in November, on
9 November 24th of 2021?

10 A Yes, ma'am.

11 Q And did she rent a car on November 24th, 2021?

12 A Yes, ma'am.

13 Q Did you see that car?

14 A Yes, ma'am.

15 Q How would you describe that car?

16 A Small white car.

17 Q A small white car?

18 A Yes, ma'am.

19 Q And when she rented that car, where was it kept parked?

20 A Right outside the front door.

21 Q All right. Of that apartment?

22 A Yes, ma'am.

23 Q Now, the individual that you knew as Mark, do you see
24 him in this courtroom today, sir?

25 A Yes, ma'am.

1 Q Where is he seated?

2 A Right over there.

3 MS. MAYES: Your Honor, if the record may reflect, he
4 has identified the Defendant, Mark Scheibler.

5 THE COURT: Very well.

6 BY MS. MAYES:

7 Q While you are living at that apartment, 405 Harbison,
8 November 24th, 2021, the day that rental car was obtained,
9 what contact did you have with Mark on that day?

10 A Mark called me and said he needed a place to sleep. He
11 was in rough shape.

12 Q All right. He needed a place to sleep?

13 A Yes.

14 Q Were you willing to give him a place to sleep?

15 A Yes, ma'am.

16 Q And where was that?

17 A At our apartment.

18 Q And did he, in fact, come to your apartment?

19 A Yes ma'am.

20 Q While he was at your apartment -- and would this be the
21 same day as the rental car being obtained?

22 A I don't remember that stuff down to the very date, but
23 it's around about the time for sure.

24 Q And when he was at your apartment, how would you
25 describe his mood or his demeanor?

- 1 A He seemed like he was paranoid and agitated.
- 2 Q You said agitated?
- 3 A Yes ma'am.
- 4 Q Did you hear him make any statements?
- 5 A He made a statement about somebody stealing his
- 6 deceased girlfriend's belongings, and how he wanted them
- 7 back.
- 8 Q So he said someone had stolen his deceased girlfriend's
- 9 belongings?
- 10 A Yes, ma'am.
- 11 Q And he wanted them back?
- 12 A Yes, ma'am.
- 13 Q And when he spoke specifically about that, where was
- 14 he?
- 15 A He was inside the apartment.
- 16 Q In your apartment?
- 17 A Yes, ma'am.
- 18 Q Did you remember him calling the name of the
- 19 girlfriend?
- 20 A I mean, I knew the girl was named Ashton.
- 21 Q All right.
- 22 A Yes, ma'am.
- 23 Q And when he said that, did he say who he was angry at?
- 24 A Yeah, he said two people, J.J. and Snoop.
- 25 Q Do you recall him saying the name J.J.?

- 1 A Yes, ma'am.
- 2 Q Did he say anything specifically about J.J.?
- 3 A He said J.J. had his girlfriend's belongings and he
- 4 wanted them back.
- 5 Q All right. What, if anything, did he say about J.J.?
- 6 A He actually walked out on the balcony and made a call
- 7 to J.J. or Snoop, one of the two, and when he came back in
- 8 from the balcony, he was more agitated.
- 9 Q More agitated?
- 10 A Yes, ma'am.
- 11 Q What did he say?
- 12 A He said he couldn't believe that that guy just told him
- 13 that he ain't getting the effing back.
- 14 Q What happened next?
- 15 A He said he was going to show him, that he was going to
- 16 go out to his place, and when he came out of his place, he
- 17 was going to shoot him. Simple as that.
- 18 Q He was going to go to his place?
- 19 A Yes, ma'am.
- 20 Q And when he came out, shoot him?
- 21 A Yes, ma'am.
- 22 Q And when he made that statement, who did you understand
- 23 him to be talking about?
- 24 A J.J.
- 25 Q Did he remain in that mood for the rest of the night?

1 A Yes, ma'am.

2 Q And then did he remain at your apartment -- did you
3 allow him to remain at your apartment because he had said he
4 needed a place to stay?

5 A Yes, ma'am. He went to sleep.

6 Q And sometime after Thanksgiving, tell me what happened
7 regarding the car.

8 A We all went to sleep eventually and when we woke up,
9 the car was gone. He was gone.

10 Q He had been at your apartment?

11 A Yes, ma'am.

12 Q When you woke up, he's gone?

13 A And the car.

14 Q Had you given him permission to take that rental car?

15 A No, ma'am.

16 Q The small white car?

17 A No, ma'am.

18 Q Over that time period of Friday, into Saturday, what
19 efforts did you make to try to get this car back?

20 A Repeatedly called him, called him, called him. Called
21 his brother, called what I thought could be his sister,
22 possibly.

23 Q For what reason?

24 A To get the car.

25 Q Did you know that that car was due back to the rental

1 company on Saturday, the 27th?

2 A Yes, ma'am.

3 Q Was that car returned back to you or Stacie to go back
4 to the rental company?

5 A No, ma'am.

6 Q Did you ever see Mark Scheibler return back to your
7 apartment after you woke up and he was gone?

8 A No, ma'am.

9 Q Was that car ever returned back to you or the apartment
10 after you woke up and it was gone?

11 A No, ma'am.

12 Q I'm going to show you a calendar for November of 2021.
13 If you'll take a moment and look at that.

14 A (Witness complies.)

15 Q And I'm going to show you State's Exhibit No. 170.
16 What phone number did you have back in November of 2021?

17 A (803) 205-5532.

18 Q All right. You said that really quick.

19 Let me ask the court reporter, were you able to get
20 that?

21 THE COURT REPORTER: Yes.

22 BY MS. MAYES:

23 Q And then did you have a number for Mark Scheibler
24 himself, him having been a co-worker of yours?

25 A Yes, definitely.

1 Q What number did you know him to be using?

2 A (803) 312-1170.

3 Q So this would have been the number he was using on
4 November 27th, 2021?

5 A Yes, ma'am.

6 Q November 27th being that Saturday?

7 A Yes, ma'am.

8 Q Saturday morning?

9 A Yes, ma'am.

10 Q How long do you think the car might have been gone or
11 missing before Saturday morning, if you know.

12 MS. POPOWSKI: Objection, Your Honor, calls for
13 speculation.

14 MS. MAYES: I'm asking if he knows.

15 THE COURT: Can you tell me the question again?

16 BY MS. MAYES:

17 Q Do you know whether the car was taken on Friday or
18 Saturday?

19 A It was taken on Friday.

20 Q All right. And then early Saturday, what efforts, what
21 communications did you have?

22 A I tried everything I could to get in touch with him.

23 Q Okay. To get in touch with him, meaning who?

24 A Mark.

25 Q All right. I'm going to show you State's Exhibit No.

1 170. You've identified your phone number. You've
2 identified the number that you had for Mark. Looking at
3 State's Exhibit No. 170, can you tell us whether or not you
4 had communications with him on November 27th?

5 A Yes, ma'am.

6 Q Attempting to call him?

7 A I mean, I texted him, called him, and never got a
8 response.

9 Q Okay. I'm going to show you November 28th as well?
10 Did you make efforts to reach him?

11 A Yeah, it was non-stop from the time the car was missing
12 to.

13 Q All right. And then eventually, can you tell us
14 whether or not he did -- you were able to get him on the
15 phone, he was able to make contact back with you?

16 A Yes, ma'am. We talked to, I guess, I thought was his
17 sister. Once we hung up the phone, he called me within a
18 minute.

19 Q All right. Did you recognize the voice of the
20 individual that you were speaking with?

21 A Yes, ma'am, definitely.

22 Q Who was that?

23 A Mark.

24 MS. MAYES: State's Exhibit No. 170 for evidence at
25 this time, Your Honor?

1 MS. POPOWSKI: No objection.

2 THE COURT: State's Exhibit No. 170 is admitted.

3 (WHEREUPON, State's Exhibit No. 170 was admitted into
4 evidence.)

5 BY MS. MAYES:

6 Q Take a look here. Are you able to see this from where
7 you are?

8 A Yeah, I can see it over here.

9 Q So you believed the car had been missing since Friday,
10 the 26th?

11 A Yes, ma'am.

12 Q As well as Mark?

13 A Yes, ma'am.

14 Q Then Saturday morning, November 27th at 8:37 a.m.,
15 November 27th at 10:37 a.m., November 27th at 2:00 p.m., did
16 you have actual communications with Mr. Scheibler?

17 A Yes, ma'am.

18 Q You said you were able to recognize his voice?

19 A Definitely.

20 Q Had you made it clear why you had been calling him?

21 A I'm pretty much sure he knew why I was calling.

22 Q What do you recall Mark telling you on the phone?

23 A Like I said, once I got contact with his brother and
24 got contact with his sister on the phone, he called me
25 within a minute. And he said it would be smart of me not to

1 keep calling his family.

2 Q He said it would be smart of you to not keep calling
3 his family?

4 A Yes, ma'am.

5 Q What, if anything, did he say about the car?

6 A I told him we need the car back. He said, Jeff, you
7 don't want the car back. I said, Mark, we need the car
8 back. He said, Jeff, listen to me, you don't want the car
9 back.

10 Q Listen to me, you don't want the car back?

11 A Yes, ma'am.

12 Q And after those communications that were 81 seconds, 37
13 seconds and 40 seconds in length, what happened at every
14 call that you made to try and get ahold of Mark?

15 A I never got in contact with him again.

16 Q Those calls were going to voicemail?

17 A Yes, ma'am.

18 Q Did you continue to try and text him, looking here at
19 12:49 on the 27th?

20 A I definitely tried to text him. Call him, texted them,
21 do whatever I can.

22 Q 4:02 p.m. on the 27th?

23 A Until I saw the car on the news report.

24 Q 6:12 on November 27th?

25 A Yes, ma'am.

1 Q 7:31 on the 27th?

2 A Yes, ma'am.

3 Q 10:42 -- I'm sorry, 8:42 p.m. on the 27th?

4 A Yes, ma'am.

5 Q Did he ever return any of those texts?

6 A I never talked to him again.

7 Q And you never saw the car again?

8 A Never.

9 Q Now, during this timeframe of November of 2021, you
10 were working with him on a regular basis?

11 A For about a month.

12 Q You were able to observe him as well as possessions
13 that he had?

14 A Yes, ma'am.

15 Q Can you tell us whether or not during that timeframe
16 you knew him to have a firearm?

17 A I would say it wasn't very far from him at any time.

18 Q How did that firearm appear to you?

19 A It looked like a nine millimeter or a .45.

20 Q You can say that by looking at it?

21 A Yeah, I was in the Marine Corp. I know what they look
22 like.

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

24 (Pause.)

25 MS. MAYES: Nothing further of the witness at this

1 time.

2 THE COURT: Cross-examination?

3 MS. POPOWSKI: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. POPOWSKI:

6 Q Mr. Davidock; is that correct?

7 A Yes. You got it.

8 Q Stacie has a car?

9 A That's right.

10 Q A 2009 Toyota Camry?

11 A No. She's got a Jeep.

12 Q Okay. But back in 2021?

13 A She had a Jeep, that's for sure.

14 Q And you first talked to law enforcement about this case
15 about two weeks ago when Detective Hart came and found you
16 at the storage units?

17 A No, I actually talked to them the first time it came
18 around.

19 Q The first time they came around?

20 A First trial.

21 MS. POPOWSKI: Objection, Your Honor. May we approach?

22 THE COURT: Sure.

23 (WHEREUPON, a bench conference was held in the presence
24 of the jury, but outside the hearing of the jury.)

25 THE COURT: Let's take a quick break, ladies and

1 gentlemen. I'll get you back in here as soon as possible.

2 (WHEREUPON, the jury exits the courtroom at 2:16 p.m.)

3 THE COURT: First things first, Mr. Davidock. So
4 during your examination now, you responded to a question
5 about, I think, when you had first spoken with someone. And
6 I paraphrase, I think you mentioned after the first time or
7 the first trial. Is that --

8 THE WITNESS: Yeah.

9 THE COURT: Okay. Well, I'm going to instruct you not
10 to mention the word first trial or previous case, or
11 anything because we're not discussing that in front of the
12 jury.

13 THE WITNESS: Well, I mean, she asked me the first time
14 I talked to him, and that's the first time.

15 THE COURT: Okay. Well, I'm just telling you, when
16 moving forward with the questions, do not mention anything
17 about a first trial or a previous case. Does that make
18 sense?

19 THE WITNESS: All right. So I'm supposed to lie?

20 THE COURT: I'm not asking you to -- actually, you're
21 going to follow my instructions. You're not going to
22 mention a previous trial.

23 THE WITNESS: All right.

24 THE COURT: Do we have a problem with that?

25 THE WITNESS: No, not at all.

1 THE COURT: Good.

2 So Ms. Mayes, I think we just discussed we could
3 explore a little bit more about that here outside the
4 presence of the jury as far as who we talk to and where.

5 Ms. Popowski, you can the lead on it if you would like.

6 PROFFER

7 BY MS. POPOWSKI:

8 Q Right now, since the jury's not in here, I'm going to
9 ask you some other questions.

10 A All right.

11 Q All right. So you just said that you talked to
12 somebody before the first trial?

13 A Yes, ma'am.

14 Q Who did you talk to?

15 A The investigators who came to Harbison where I lived.

16 Q Investigators, meaning plural?

17 A Yeah, a couple of them.

18 Q All right. Tell me who they were. Do you remember
19 their names?

20 A I can't remember their names.

21 Q Okay. And how many times did they come out?

22 A One time.

23 Q One time? Were there two or more?

24 A Just two investigators, one time.

25 Q Two investigators, one time. And do you remember what

1 they looked like?

2 A No, not really.

3 Q Okay.

4 A I don't remember exactly. Two white guys.

5 Q Okay. And did you --

6 A You want to know what they asked me?

7 Q I'm sorry?

8 A You want to know what they asked me?

9 Q Yes, sure. What did they ask you?

10 A I opened my front door, they were standing there. And
11 they said they were investigating a murder trial and they
12 had phone records between me and Mark, and they wanted to
13 know what I meant when I said, You might as well go ahead
14 and kill me now.

15 Q That what?

16 A They wanted to know what I meant by you might as well
17 go ahead and kill me now.

18 Q I can't understand you, I'm sorry.

19 A They asked me --

20 Q Yeah.

21 A -- because they had a readout in front of them --

22 Q Yeah.

23 A -- of our conversations. And they asked me what I
24 meant by when I said, you might as well go ahead and kill me
25 now.

1 Q You might as well go ahead and kill me now?

2 A Yeah.

3 Q Okay. And so they had a readout of your conversation?

4 A That's what they acted like.

5 Q So like a transcript, like, they had been listening to
6 your conversations?

7 A Or text messages.

8 Q Oh, text messages. Okay. So you're not implying that
9 somebody had a wiretap on your phone?

10 A No, ma'am.

11 Q Okay. And what did you say?

12 A I meant that if you're not going to bring that rental
13 car back, you might as well go ahead and kill me now.

14 Q Okay. So you reported the rental car being stolen at
15 that time?

16 A No, I did not. I actually pushed it away. That's the
17 only way it was one time. Because I ended up telling them
18 that he owed me money. I was working for him. And they
19 left, and they never came back.

20 THE COURT: Ms. Mayes.

21 PROFFER

22 BY MS. MAYES:

23 Q So Mr. Davidock, that questioning about the phone
24 records, was that about a month or so ago?

25 A What?

1 Q The time you're talking about, was that amount a month
2 or so ago?

3 A No, this was a long time ago.

4 Q You think it was longer than a month ago?

5 A I mean, they came back about a month ago, yes, but this
6 was a long, long time ago.

7 Q Okay. So when you said they came back about a month
8 ago, now, they asked you about phone records, right?

9 A Yes, ma'am.

10 Q Okay. Do you remember if they were wearing a suit or
11 plain clothes or a police uniform?

12 A No, they were dressed nice.

13 Q Okay.

14 A Dressed like police, though.

15 THE COURT: Y'all want to approach?

16 (WHEREUPON, a bench conference was held.)

17 THE COURT: Mr. Davidock, we'll be right back.

18 THE WITNESS: Yes, sir.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: We've had an opportunity to proffer
21 additional testimony.

22 Mr. Davidock, I'm just going to ask, when the jury
23 comes back in here and your examination continues that you
24 not make any reference to a prior trial.

25 THE WITNESS: Yes, sir.

1 THE COURT: Prior hearing or something like that.

2 THE WITNESS: Yes, sir.

3 THE COURT: Ms. Popowski will continue to ask the
4 questions and we'll go from there, okay?

5 THE WITNESS: Yes, sir.

6 THE COURT: Let's bring him back in, please.

7 (WHEREUPON, the jury enters the courtroom at 2:30 p.m.)

8 THE COURT: All right. Please be seated. And we'll
9 pick up where we left off.

10 Ms. Popowski.

11 MS. POPOWSKI: Thank you, Your Honor.

12 CONTINUED CROSS-EXAMINATION

13 BY MS. POPOWSKI:

14 Q One follow-up question on what we were talking about
15 before, and that is, it's your testimony that you talked to
16 law enforcement two years ago at your apartment?

17 A Yes, ma'am.

18 Q And two weeks ago, Detective Hart came to see you at
19 the storage units?

20 A Yes, ma'am.

21 Q And that's at 1709 Lake Murray Boulevard?

22 A Yes, ma'am.

23 Q Is that correct?

24 A That's right.

25 Q Okay. And at that time, you gave a statement?

1 A Yes, ma'am.

2 Q And in your statement, you said that you had done
3 internet research about this case.

4 A I don't remember saying that.

5 Q So you don't remember telling Detective Hart that you
6 had looked on the internet about this case?

7 MS. MAYES: Your Honor, may we approach?

8 THE WITNESS: Yes.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury, but outside the hearing of the jury.)

11 BY MS. POPOWSKI:

12 Q But you know that the murder of Jimmy Johnson was
13 widely reported, didn't you?

14 A Yes, ma'am.

15 Q Okay. I just have a few more questions, primarily
16 about your lengthy criminal history. So I want to ask you
17 about the most recent convictions that you have.

18 A Yes, ma'am.

19 Q You've got a 2022 habitual traffic offender; is that
20 correct?

21 A I don't think so.

22 Q We're going to find your DMV references and that may
23 refresh your recollection about the habitual traffic
24 offender.

25 A Okay.

1 Q In addition to that, you have a 2023 receiving stolen
2 goods conviction?

3 A Yes, ma'am.

4 Q Receiving stolen goods in between 2,000 and \$10,000?

5 A That's right.

6 Q So you're a convicted felon?

7 A Yes, ma'am.

8 MS. POPOWSKI: Beg the Court's indulgence.

9 (Pause.)

10 BY MS. POPOWSKI:

11 Q Well, we're going to move on. In addition to what
12 we've already talked about, you, also, have two convictions
13 for possession of methamphetamine; is that correct?

14 A That's right.

15 MS. POPOWSKI: Thank you. No further questions.

16 THE COURT: Redirect?

17 MS. MAYES: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. MAYES:

20 Q The Defense was asking you about some of your past
21 history?

22 A Yes, ma'am.

23 Q You have substance abuse issues?

24 A For sure.

25 Q Does that in any way change what you saw and heard back

1 in November of 2021?

2 A Definitely not.

3 Q Who was in your house on November 24th, 2021?

4 A Mark. Mark Scheibler.

5 Q Who did you see agitated?

6 A Mark Scheibler.

7 Q That phone call at 8:37 a.m., 8:37 a.m., a little over
8 an hour after 7:14 a.m., whose voice was on the other end of
9 that call at 8:37 on November 27th?

10 A Mark Scheibler.

11 Q Who got your car?

12 A Mark Scheibler.

13 Q And who refused to return that car?

14 A Mark Scheibler.

15 MS. MAYES: Thank you. Nothing further.

16 THE COURT: Any recross?

17 MS. POPOWSKI: No, Your Honor.

18 THE COURT: Witness is excused --

19 MS. POPOWSKI: Actually --

20 THE COURT: Excuse me.

21 RE CROSS-EXAMINATION

22 BY MS. POPOWSKI:

23 Q I'm going to show you your driving record, which I've
24 just finally located. And I will let you look through this
25 to help refresh your recollection that you have a conviction

Travis Miller - Direct by Ms. Oppenheimer

1 for habitual traffic offender?

2 A This wasn't two years ago.

3 Q What's that?

4 A It just wasn't two years ago.

5 Q Oh, okay, I understand.

6 MS. POPOWSKI: No further questions.

7 THE COURT: All right. Witness is excused. Thank you.

8 Next witness.

9 MS. OPPENHEIMER: The State calls Travis Miller.

10 THE CLERK: Place your left hand on the Bible and raise
11 your right.

12 TRAVIS MILLER,

13 after being duly sworn, testified as follows:

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Take a seat in the witness stand. State
16 your full name and spell your last for the record.

17 THE WITNESS: Miller, M-I-L-L-E-R.

18 DIRECT EXAMINATION

19 BY MS. OPPENHEIMER:

20 Q Mr. Miller, can you pull that microphone closer and
21 speak up for us, please?

22 A Okay.

23 Q All right, Mr. Miller, can you tell us a little bit
24 about yourself? Where do you live?

25 A Currently, I live in Cayce, West Columbia.

1 Wagener is where I married into.

2 Q Okay, you married into Wagener?

3 A I married into Wagener on Fairview, that area.

4 Q Okay. So you're married. How long have you been
5 married?

6 A 35 years.

7 Q 35 years. What's your wife's name?

8 A Paula.

9 Q Paula. Keep your voice up for me, please. Where's
10 Paula originally from?

11 A Wagener.

12 Q Does her family own some property out in Wagener?

13 A Yes, they do.

14 Q I'm going to show you State's Exhibit 208 and ask you
15 if you recognize this?

16 A Yes, ma'am. That is one of the properties in Wagener,
17 outside of Wagener.

18 Q One of the properties outside of Wagener?

19 A Correct.

20 Q That your wife's family owns?

21 A Correct.

22 Q All right. And is this a map of that area?

23 A Correct.

24 Q And is it an accurate reflection of that area of
25 property that your wife's family owns?

1 A It is.

2 Q And are you very familiar with that area?

3 A Very familiar.

4 Q How familiar are you?

5 A The Seivern, Seivern is where we've been to church,
6 active at church for 36 years.

7 Q Okay. So you're active in this area of town, you go to
8 church in Seivern. About how many acres of land would you
9 say your wife's family owns down in there?

10 A Here in this?

11 Q Yes, sir.

12 A That's about 150 acres.

13 Q About 150 acres. All right. And that being just a
14 closer view of the property?

15 A That is the front side of the property, yes.

16 Q All right. And what is your wife's maiden name?

17 A Gantt.

18 Q Gantt. So when we say Gantt property, that's what that
19 means?

20 A Correct.

21 MS. POPOWSKI: No objection.

22 MS. OPPENHEIMER: Your Honor, at this time, I would
23 move State's Exhibit No. 208 into evidence.

24 THE COURT: State's Exhibit No. 208 is admitted into
25 evidence.

1 (WHEREUPON, State's Exhibit No. 208 was admitted into
2 evidence.)

3 BY MS. OPPENHEIMER:

4 Q All right. Mr. Miller, can you see this from up there?

5 A Yes.

6 Q So this is what you call the Fairview area; is that
7 fair to say?

8 A Yes.

9 Q And you were talking about your wife's maiden name is
10 Gantt; is that correct?

11 A Yes.

12 Q Is this Gantt property down in Wagener, down at the
13 bottom of this map?

14 A Yes, outside of Wagener, yes.

15 Q And what road is that property off of?

16 A That dirt road is Wagontong Road.

17 Q Wagontong Road, all right. Back in December of 2021,
18 do you recall anything unusual being found on that property?

19 A Yes.

20 Q And what did you find -- or what did your family find
21 on that property?

22 A The family found a vehicle out in the middle of that
23 set of pines.

24 Q All right. So you said a set of pines. Can you
25 describe the property for me a little bit?

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1 A That set of pines is pretty clean. When I say pines,
2 they bale pine straw on that acreage. So it's pretty open,
3 but not like dense forest. It's planted pines.

4 Q They're planted pine trees?

5 A Correct.

6 Q All right. And how many acres are these pine trees on?

7 A It's around 50 acres. It's not half the property.
8 There's another field in the back that's not planted.

9 Q Would that be at the property there on Wagontong Road?

10 A Yes.

11 Q Do you recall if you, yourself, went out to look at
12 this abandoned vehicle?

13 A Yes.

14 Q And what did it look like?

15 A It was a white car. Looked pretty nice. Looked pretty
16 newish, nice.

17 Q I'm going to look back at this map. So this is -- did
18 you take any photographs of that vehicle?

19 A I did.

20 Q I'm showing you State's Exhibit Nos. 164, 165, and 166.
21 Can you take a look at those and tell me if you recognize
22 them?

23 A Yes, yes, and yes.

24 Q You do recognize those?

25 A Yes.

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1 Q And what are they?

2 A That's the three pictures I took.

3 Q Do they appear to be an accurate reflection of the
4 vehicle that you saw abandoned on your wife's family
5 property?

6 A Yes.

7 Q Have they been altered in any way?

8 A No, ma'am.

9 MS. POPOWSKI: No objection, Your Honor.

10 MS. OPPENHEIMER: Your Honor, at this time, I move
11 State's Exhibit Nos. 164, 165, and 166 into evidence.

12 THE COURT: All right, so admitted.

13 (WHEREUPON, State's Exhibit Nos. 164, 165 and 166 were
14 admitted into evidence.)

15 BY MS. OPPENHEIMER:

16 Q Looking at State's Exhibit No. 164, what is a picture
17 of, Mr. Miller?

18 A That is the tag that was on that car.

19 Q And can you read the tag number for us?

20 A HCJ9276.

21 Q All right. I'm going to ask you to keep your voice up.
22 I'm sorry. HCJ9276?

23 A Yes.

24 Q And that's a North Carolina tag?

25 A Yes.

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1 Q And I think you can see the color of the vehicle a
2 little bit right here?

3 A Yes.

4 Q It being white?

5 A It was white.

6 Q And State's Exhibit No. 165, what is this a photograph
7 of?

8 A That's the VIN number behind the windshield.

9 Q Can you read that VIN number for us, please?

10 A 5NPD84LF8HH169943.

11 Q All right. And you took that photograph and that was
12 the VIN on that white, small car?

13 A I did.

14 Q What is this emblem right here, do you know?

15 A I'm not familiar with car makes and models. I was just
16 trying to identify the car that was on their land.

17 Q How about this picture, does that help you identify
18 what kind of car that was?

19 A Yes, it does. It's a Hyundai.

20 Q It's a Hyundai?

21 A Yes.

22 Q And does it show you what color car that was?

23 A It was white.

24 Q And State's Exhibit No. 166, where was -- what part of
25 the vehicle is this?

1 A That was in the door.

2 Q This is where you saw that abandoned Hyundai, that
3 small, white car?

4 A Yes.

5 Q On your wife's family property out in Wagener, correct?

6 A Yes.

7 Q Do you remember seeing anything else inside of the car?

8 A It was disheveled. Just a normal car with pieces,
9 paper, stuff everywhere, but on the right side of the car
10 was, I'm not sure if it was in the envelope or laying on the
11 seat, but it was a rental agreement.

12 Q So you remember seeing a rental agreement?

13 A Yes, it was a rental agreement.

14 Q Do you have knowledge whether or not anyone in your
15 family reported this abandoned vehicle to law enforcement?

16 A Yes.

17 Q Who reported it to law enforcement?

18 A My mother-in-law.

19 Q And how old is your mother-in-law?

20 A This year, she's 89.

21 Q She's 89 years old?

22 A Yes.

23 Q And she reported it to what law enforcement?

24 A Aiken County Sheriff's Department.

25 Q So Wagener is in Aiken County?

Travis Miller - Direct by Ms. Oppenheimer

1 A That property is about two to three miles past the
2 Lexington line. Yes, it is Aiken.

3 Q Now, you said that when you first saw the car it was in
4 pretty good condition. Did you ever see the car later?

5 A Yes.

6 Q All right. And did the condition of that car change?

7 A Drastically.

8 Q How so?

9 A It was -- a lot of parts was removed?

10 Q A lot of parts were removed. Do you know by whom?

11 A No. That was the next weekend.

12 Q The next weekend?

13 A Yeah, when I seen it. We go to church every Sunday,
14 and after church, we rode down to the property. Grandma,
15 Everybody went back down there, and the car was...

16 Q What about today, is that car still on your property?

17 A No, ma'am.

18 Q It's been removed?

19 A It has been removed.

20 Q Do you know by whom?

21 A No, we don't know who removed it.

22 MS. OPPENHEIMER: Beg the Court's indulgence.

23 (Pause.)

24 MS. OPPENHEIMER: Thank you, Mr. Miller. Please answer
25 any questions that Ms. Popowski has for you.

1 THE COURT: Cross-examination?

2 MS. POPOWSKI: No questions, Your Honor.

3 THE COURT: Very well. The witness is excused.

4 Thank you, sir.

5 MS. MAYES: The State calls Sergeant Brannon Marthers.

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

8 BRANNON MARTHERS,

9 after being duly sworn, testified as follows:

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Please take a seat in the witness stand.
12 State your full name and spell your last for the record.

13 THE WITNESS: Brandon Marthers, M-A-R-T-H-E-R-S.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q Good afternoon. Tell us a little bit about yourself,
17 sir. Where are you currently employed?

18 A Currently, I'm employed with the Lexington County
19 Sheriff's Department as the sergeant over the criminal
20 intelligence unit.

21 Q I'm going to ask you to pull the microphone a little
22 closer to you. You said sergeant of the criminal
23 intelligence unit?

24 A Yes, ma'am.

25 Q And how long have you been an investigator with the

1 document and ask you whether or not you recognize it?

2 A Yes, ma'am, I do.

3 Q And what is the date affiliated with this mapping?

4 A November 23rd, 2021.

5 Q And if I put this map on the overhead, would you be
6 able to work from it from here, or would you need to step
7 down?

8 A I should be able to do it from here.

9 MS. MAYES: State's Exhibit No. 209 for evidence.

10 MR. STORY: No objection.

11 THE COURT: So admitted.

12 Before we start looking at that, ladies and gentlemen,
13 let's just stand up real quick and stretch our arms out a
14 little bit.

15 (WHEREUPON, the jury stood.)

16 (WHEREUPON, State's Exhibit No. 209 was admitted into
17 evidence.)

18 BY MS. MAYES:

19 Q Again, we're talking about Tuesday, November 23rd.
20 What time period specifically were you mapping for these
21 records?

22 A This time period in particular was 7:07 p.m. to 10:43
23 p.m.

24 Q Covers that entire time period of 7:07 through 10:43?

25 A Yes, ma'am, p.m.

1 Q During that time, can you tell us whether or not that
2 device that ends in 1170, the device of interest in this
3 case, can you tell us whether or not that device was within
4 the area of 333 Mack Circle?

5 A Yes, ma'am. I was able to ascertain during that
6 timeframe two cell phone towers were used by that device
7 during that specific timeframe.

8 Q I'm going to ask you to take your laser. What are we
9 looking at here on the first page of State's Exhibit No.
10 209?

11 A So the orange house-looking thing would be 333 Mack
12 Circle. This first blue wedge on the left would be the
13 cellphone tower that's in Red Bank, and it's right near
14 Walmart. And the wedge is facing to the right, which means
15 it's the antenna that's rightward facing. On the right-hand
16 side, you see the other cell tower, which I believe is on
17 the East Steele Road side, and it's utilizing the left-hand
18 side antenna of that cell tower.

19 Q How many phone calls did you account for where you were
20 able to obtain locations data during that time period of
21 7:07 through 10:43?

22 A During that time period, there were five phone calls.
23 Three of them were using the Platt Springs Tower, and then
24 two were using the East Steele Tower.

25 Q Both of those towers cover that location of 333 Mack

1 Circle?

2 A Yes, ma'am, they service that area.

3 Q And was there anything that indicated to you that there
4 may be some movement of the person holding the device during
5 this course of time?

6 A So as the time progressed, you do see the cellphone
7 tower switching. So it starts on one tower, switches to
8 another, and then it goes back throughout that period.

9 Q And what does that indicate to you?

10 A The device is in motion.

11 Q Showing you now 7:07, which tower?

12 A That would be the left-hand one over in Red Bank.

13 Q That covers 333 Mack Circle?

14 A That area.

15 Q 7:13?

16 A It should be the same tower on the Red Bank side.

17 Q Again, covering 333 Mack Circle?

18 A Yes ma'am.

19 Q 7:15?

20 A So here's where it switches over to the right-hand East
21 Steele Road tower.

22 Q Does that indicate some type of movement or traveling
23 by the person with the device?

24 A The device would have moved for it to switch to that
25 antenna or that tower.

1 Q Still indicating it was within the area of 333 Mack
2 Circle?

3 A Yes ma'am, that would be the most reasonable tower for
4 it to connect to.

5 Q Now, the next time after 7:15 is what time?

6 A 10:32 p.m.

7 Q So there was no way to track the movement between 7:15
8 and 10:32?

9 A I had no records to give me timeframes during that.

10 Q So there may have been a movement outside of the area
11 during that timeframe?

12 A There could be.

13 Q But as of 10:32, once again, does the phone appear to
14 be within that area of 333 Mack Circle?

15 A It was back on the Red Bank Tower.

16 Q At 10:32?

17 A Yes, ma'am.

18 Q And then at 10:43?

19 A It's over on the East Steele Tower.

20 Q Again, what does that indicate to you?

21 A The device had movement.

22 Q Now, this being November 23rd, you were aware of the
23 homicide that occurred on November 27th, 2021 at the
24 location of 333 Mack Circle?

25 A Yes, ma'am, I was aware of it.

1 Q How does law enforcement go about trying to determine
2 location data based on these phone records for that time
3 period?

4 A As far as the time period of the incident?

5 Q Specifically, 7:14 a.m.?

6 A So what I did, what I normally do, would utilize the
7 phone records to find the first activity after that
8 timeframe and the last activity before that timeframe and
9 then look at everything that's in between there.

10 Q So you are specifically attempting to obtain some type
11 of cellphone location data for the time period November
12 22nd?

13 A Yes, ma'am.

14 Q Specifically at 7:14 a.m.?

15 A There were no records for that specific timeframe, for
16 that time.

17 Q I'm going to show you what is State's Exhibit Nos. 168
18 and 169 and ask you whether or not you recognize these?

19 A Yes, ma'am.

20 Q And again, having the original set of Verizon records
21 with you, State's Exhibit No. 189, are these documents based
22 entirely from those records?

23 A The data was obtained from those records.

24 Q State's Exhibit Nos. 168 and 169?

25 A Yes, ma'am.

1 Q Does this reflect the activity on this phone between
2 November 26, 2021 at 3:46 p.m. through November 27th, 2021
3 at 8:46 a.m. as to SMS messages?

4 A Yes, ma'am.

5 Q Does it contain the data -- does this document, State's
6 Exhibit No. 168, contain the information between November
7 26th at 3:53 p.m. through November 27th at 8:37 a.m.?

8 A Yes, ma'am.

9 MS. MAYES: State's Exhibit Nos. 168 and 169 for
10 evidence.

11 MR. STORY: No objection.

12 THE COURT: So admitted.

13 (WHEREUPON, State's Exhibit Nos. 168 and 169 were
14 admitted into evidence.)

15 BY MS. MAYES:

16 Q So your next work with the Criminal Intelligence
17 Division is to determine whether or not those records
18 contain location data for this time period, including 7:14
19 a.m.?

20 A Yes, ma'am.

21 Q On November 27th at 7:14 a.m., were you able to obtain
22 any cell tower location data for this phone?

23 A At that particular time, no, ma'am.

24 Q Looking here at State's Exhibit No. 168, can you tell
25 us about this call log, meaning incoming calls, outgoing

1 calls that covers the time period of 7:14 a.m. on the date
2 of the Jimmy Johnson murder?

3 A Yes, ma'am. So if you look at the first column on the
4 left that's in orange, I created that column based off of
5 the world time or UTC time, which here is listed as GMT, to
6 convert it into Eastern Standard Time so it's understandable
7 for us. Then I went through and found the appropriate
8 cellphone tower that each record associates with, which is
9 given to me from the ENID, ENBID column, and then put the
10 street address for that specific tower right beside it.

11 In between that, you can see a whole bunch of fields
12 that say NA. Activity was happening on the records, but for
13 some reason, the device wasn't connected to the network to
14 register its location.

15 Q So you do have a cell tower for November 26th at 3:53
16 p.m., that being Friday?

17 A Yes, ma'am.

18 Q And then, ultimately, on Sunday morning at 8:37 a.m.,
19 you, also, have location data from the phone?

20 A Yes, ma'am.

21 Q But in between, including 7:14 a.m., you have no
22 location data?

23 A That is correct.

24 Q What does NA mean?

25 A Not available, not applicable. The system just didn't

1 have the information to capture and report.

2 Q Not available. I have my cellphone and it's on and I
3 leave this courthouse and I go to Mack Circle, phone records
4 show movement?

5 A If there is activity with an actual network, so it's
6 communicating to and from the phone, the records will report
7 that.

8 Q Including cell tower location?

9 A Yes, ma'am.

10 Q But if I take my phone and I completely cut it off, I
11 can't call, I can't text and I can't receive calls and I
12 can't receive texts, is there going to be cell tower
13 location data for me?

14 A If the network can't find the phone to associate a
15 location with it, it wouldn't report anything.

16 Q And if I were to do that, completely cut my phone off,
17 how would you expect that to be reflected in the records?

18 A So as you see here, where you see this column that says
19 DIR, it's a direction, it's the direction of the call. When
20 it goes to MT and MF, that's a mobile terminating, so a call
21 coming in, and then it gets forwarded out, the mobile
22 forwarding. So what that means, phone call's coming in,
23 nobody's answering it, or it's not able to be answered, and
24 it gets forwarded to voicemail.

25 Q So based upon this information, is that consistent with

1 that phone and device being cut off?

2 A Yes, ma'am.

3 Q If it's cut off, can any location that that travels to
4 be tracked by law enforcement?

5 A No, ma'am.

6 Q Is that, also, consistent with what you observed in
7 State's Exhibit No. 169 being the text message records?

8 A So with text message records, they are a little bit
9 more unique. They actually don't always have direction or
10 location information, but you do see that there's activity,
11 whether it's incoming or outgoing. In this particular case,
12 you can see that a message was sent at 8:46 a.m. on the
13 27th, but prior to that, the only message that was received
14 was on the 26th at 3:46 p.m.

15 Q So the phone appears to be in working condition on
16 November 26th prior to 3:53 p.m.?

17 A Yes ma'am.

18 Q And once again on November 27th at 8:37 a.m.?

19 A Yes, ma'am.

20 Q 8:37 being roughly an hour and 22 minutes after the
21 9-1-1 call at 7:14 a.m.?

22 A Yes, ma'am.

23 Q I want to ask you a few more questions about some of
24 the mapping in this case. Let me go to this date, the date
25 of November 24th. Let me show you two documents, State's

1 Exhibit No. 210 and State's Exhibit No. 187. Did you have
2 an opportunity to review these records to see whether or not
3 that device appeared within the area of 405 Harbison
4 Boulevard?

5 A Yes, ma'am, I did have that opportunity.

6 Q And was your mapping based entirely on your records
7 from State's Exhibit No. 189, the original Verizon records?

8 A Yes, ma'am.

9 MS. MAYES: State's Exhibit Nos. 210 and 187 for
10 evidence.

11 MR. STORY: No objection.

12 THE COURT: State's Exhibit Nos. 187 and 210 are
13 admitted.

14 (WHEREUPON, State's Exhibit Nos. 187 and 210 were
15 admitted into evidence.)

16 BY MS. MAYES:

17 Q November 24th, 2021, a Wednesday, taking a look here,
18 the address 405 Harbison Boulevard, many cell towers in that
19 area?

20 A Yes, ma'am.

21 Q That device being the device that ends in 1170, looking
22 here at State's Exhibit No. 187, can you tell us whether or
23 not that device appears in the area of 405 Harbison
24 Boulevard apartments during the time period of 4:01 through
25 7:06?

1 A Yes ma'am, it does.

2 Q These call logs already in evidence, State's Exhibit
3 No. 170 and State's Exhibit No. 167, did you have the
4 opportunity to review numerous records from the time period
5 of November 27th to November 28th concerning a phone number
6 ending in 3957 and that device that ends in 1170?

7 A Yes, ma'am.

8 Q How many calls made by the number 3957 to the number
9 ending in 1170 were actually answered?

10 A None.

11 Q What happened to all of those calls made by this number
12 to this number?

13 A Records indicate those phone calls were forwarded to
14 voicemail.

15 Q All those calls going to voicemail?

16 A Yes, ma'am.

17 Q And text messages sent from that number, 3957, to this
18 number ending in 1170, how many of those text messages were
19 sent?

20 A 3957 sent four text messages.

21 Q Four text messages to 1170?

22 A Yes, ma'am.

23 Q And how many texts were actually returned back from
24 1170 to 3957?

25 A Two.

1 Q And what were the times of those text messages that
2 were sent by that device back to the device of Stacie
3 Fidler?

4 A So the first message was sent from 1170 on November
5 27th, 2021, at 9:41 a.m. And then the second message was,
6 also, on the 27th at 11:15 a.m.

7 Q And you've, also, had the opportunity to review the
8 records regarding phone calls made to a Mr. Davidock, number
9 ending in 5532?

10 A Yes, ma'am.

11 Q All in correspondence with a number ending in 1170?

12 A Yes, ma'am.

13 Q Looking at the first series of calls, among those first
14 series of calls, what indicates that those first series of
15 calls were actually answered?

16 A The duration.

17 Q What can you tell us about that very first call at 8:37
18 a.m.?

19 A It lasted 81 seconds. It was from 1170 calling Mr.
20 Davidock.

21 Q Let's stop right there. So on November 27th at 8:37
22 a.m., there is a call to Mr. Davidock. And what does it
23 appear the duration of that call is?

24 A 81 seconds.

25 Q It was over one minute in length?

1 A Yes, ma'am.

2 Q That call at 8:37 a.m. to Mr. Davidock, is that the
3 first call made from that device after the time of the
4 homicide at 7:14 a.m.?

5 A Yes, ma'am.

6 Q So the very first call made from that device was to
7 Jeffrey Davidock?

8 A Yes, ma'am.

9 Q From there, a series of additional calls, here, they
10 are answered or not answered?

11 A The second phone call was answered. The third phone
12 call to Mr. Davidock was answered. And then after that,
13 they were all forwarded to voicemail.

14 Q So there's three calls of duration indicating they were
15 answered, 81 seconds, 37 seconds, and 40 seconds?

16 A Yes, ma'am.

17 Q As well as a text that appears to be sent at 12:49?

18 A Whether it was answered, I'm not certain, but it was
19 sent.

20 Q A text sent at what time?

21 A That one would have been 12:49 p.m. on the 27th.

22 Q Sent from Mr. Davidock to that 1170 number?

23 A Yes, ma'am.

24 Q And then from there, every other calls appears to what?

25 A Forward to voicemail.

1 Q Every other text is going from who to who?

2 A Mr. Davidock to 1170.

3 Q So numerous texts sent from Mr. Davidock to 1170, does
4 it appear any of those text messages were answered?

5 A No, ma'am.

6 Q After that last communication, which was 40 seconds at
7 2:00 p.m.?

8 A That's correct.

9 Q Finally, I want to ask you about a location over just
10 across the county line, an area known as the Gantt property?
11 I'm showing you what is State's Exhibit No. 186 and ask you
12 whether or not you recognize this exhibit?

13 A Yes, ma'am, I do.

14 Q I'm going to let you look at it with the naked eye for
15 a moment. Now, this particular area, can you tell us
16 whether or not you did see activity affiliated with this
17 location in those records, State's Exhibit No. 189 for ID?

18 A Yes, ma'am. So there's a cellphone site on Kyzer Mill
19 Road that I saw activity off of.

20 Q Okay. I'm going to ask you a few questions about that.
21 Is that reflected in State's Exhibit No. 186?

22 A It is.

23 MS. MAYES: State's Exhibit No. 186 for evidence.

24 MR. STORY: No objection, Your Honor.

25 THE COURT: State's Exhibit No. 186 is admitted.

1 (WHEREUPON, State's Exhibit No. 186 was admitted into
2 evidence.)

3 BY MS. MAYES:

4 Q All right. Now I want to go back to the day of the
5 homicide being investigated by Lexington County, it's your
6 agency; is that correct?

7 A Yes, ma'am.

8 Q 7:14 a.m., you've testified there was no cellphone
9 activity?

10 A Correct.

11 Q And then the first activity is at 8:37 a.m.?

12 A Yes, ma'am.

13 Q Looking here at this location on what's called Gantt
14 property in Wagener and then the big map, where do you see
15 Gantt property Wagner on this big map?

16 A It's down towards the bottom.

17 Q Right here?

18 A Yes, ma'am.

19 Q Are you familiar with whether or not that is the
20 location the suspect vehicle was recovered?

21 A I was advised it was.

22 Q That first call after the homicide, 8:37 a.m., that
23 call, what tower was hit when that call was made?

24 A That phone call associated with the Ben Franklin Road
25 cellphone tower.

1 Q Ben Franklin Road cellphone tower in Leesville?

2 A Yes, ma'am.

3 Q Just off I-20?

4 A Right off of I-20.

5 Q And then what is the next activity you see looking here
6 at State's Exhibit No. 186 after that call at 8:37 a.m.?

7 A At 8:42 a.m., the cellphone site for Kyzer Mill Road
8 was utilized by the device.

9 Q The fact that you see a cellphone -- or a cell tower
10 hit here at 8:37 and another cell tower hit here at 8:42
11 indicates what?

12 A The device is in motion.

13 Q It was moving?

14 A Yes, ma'am.

15 Q You indicated that 8:37 phone call is hitting the cell
16 tower just off I-20 in Leesville?

17 A Yes, ma'am.

18 Q Wagener, that whole area of Wagener there, is that
19 Aiken County or Lexington County?

20 A You cross the county lines into Aiken there.

21 Q Back here, Ben Franklin coming from Leesville, you
22 going towards Lexington or coming from Lexington to make it
23 here?

24 A You would be leaving Lexington.

25 Q Leaving Lexington and headed towards?

1 A Aiken.

2 Q So 8:37 hitting that Ben Franklin Road Leesville tower,
3 the next tower you said about five minutes later at 8:42?

4 A Yes, ma'am, 8:42 a.m.

5 Q What is that tower?

6 A It is located at 211 Kyzer Mill Road.

7 Q 211 Kyzer Mill Road?

8 A Yes ma'am.

9 Q Now, if I'm standing right here, standing right here,
10 that location, Gantt property where that abandoned car was
11 recovered, what's the closest tower if I'm standing right
12 there?

13 A Based on the population density, the closest cellphone
14 tower to the vehicle site would have been the Kyzer Mill
15 Road tower.

16 Q Is that Kyzer Mill Road?

17 A Yes, ma'am.

18 Q It's going to hit that tower, you said at 8:42 a.m.?

19 A Yes, ma'am, that's the first time.

20 Q How long does it continue to hit that tower?

21 A Between 8:42 a.m. and 9:39 a.m.

22 Q This location, closest cell tower is going to be 211
23 Kyzer Mill Road?

24 A Yes, ma'am.

25 Q Does this map reflect the time period in which you

1 depict that cellphone for 1170 hitting that tower
2 consistently?

3 A Yes, ma'am.

4 Q How many calls are made and continues to hit that tower
5 on November 27th, 2021, the date of the homicide?

6 A Seven.

7 Q Seven calls?

8 A Yes, ma'am.

9 Q What are the times for those calls?

10 A 8:42 a.m., 8:43 a.m., 8:47 a.m., 9:03 a.m., 9:08 a.m.,
11 9:17 a.m., and 9:39 a.m.

12 Q So numerous calls made between that period of 8:42 and
13 9:39?

14 A Yes, ma'am.

15 Q Although you indicated the phone can't even connect
16 with the network during the time of the murder?

17 A Correct.

18 Q But it's working again by 8:37 onward?

19 A Yes, ma'am.

20 Q What does this represent right here?

21 A The orange icon that looks like a vehicle is placed on
22 the map by me to symbolize where the vehicle was recovered.

23 Q Suspect vehicle?

24 A Yes, ma'am.

25 Q Found in the woods?

1 A I don't have that information, but in that area.

2 Q That location is covered by the 211 Kyzer Mill Road
3 cell tower?

4 A Yes, ma'am.

5 MS. MAYES: Beg the Court's indulgence.

6 (Pause.)

7 MS. MAYES: Nothing further, Sergeant Marthers.

8 At this time, Your Honor, the full Verizon records we
9 mark for ID only.

10 THE COURT: Very well.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION

13 BY MS. STORY:

14 Q So a phone doesn't always connect to the absolute
15 geographically closest tower, does it?

16 A That is what it tries to do. In the event of, say, an
17 abnormality, like, a large structure, it will connect to a
18 further tower if it needs to, but it's looking for the best
19 signal.

20 Q And that was what I was getting to. Cellphones often
21 search for the best signal, correct?

22 A Yes, sir.

23 Q So, I mean, the phone in my pocket, it's not going to
24 connect to a tower in Atlanta, right?

25 A I would hope not.

1 MS. MAYES: Your Honor, the State calls Sergeant Joe
2 Hart.

3 THE CLERK: Place your left hand on the Bible and raise
4 your right.

5 JOE HART,

6 after being duly sworn, testified as follows:

7 THE WITNESS: I do.

8 THE CLERK: Thank you. Please take a seat in the
9 witness stand. State your full name and spell your last for
10 the record.

11 THE WITNESS: Sergeant Joe Hart, H-A-R-T.

12 DIRECT EXAMINATION

13 BY MS. MAYES:

14 Q Good afternoon. Tell us a little bit about yourself.
15 Where are you currently employed?

16 A The Lexington County Sheriff's Department.

17 Q And in what capacity?

18 A I'm a sergeant in the Major Crimes Division in our
19 investigations.

20 Q What can you tell us about your educational background
21 and training that led you to become a sergeant in the
22 Lexington County Sheriff's Department Major Crimes Division?

23 A So I graduated high school. I went to the Marine Corp,
24 got out of the Marine Corp, used the GI Bill, went to
25 college, graduated college. I joined the Lexington County

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1 Sheriff's Department as a patrol deputy, as most do. I did
2 that for a couple years, went to field training officer in
3 patrol, then went to our resident deputy. So I was assigned
4 to the Red Bank area of Lexington County, specifically. And
5 then I moved from there to investigations in 2017.

6 I've been there for eight and a half years. I've been
7 an investigator, a senior investigator, and for the last
8 almost three years a sergeant within the Major Crimes
9 Division. And I've attended several trainings on body
10 language reception, interview interrogation, homicide
11 investigation, child abuse, death investigation, all sorts
12 of investigative-related courses.

13 Q All right. And regarding this particular case, a
14 homicide which occurred on November 27th, 2021 at 333 Mack
15 Circle, and for the record, is that incident location within
16 the jurisdiction of Lexington County?

17 A Yes, ma'am, it is.

18 Q As well as the Lexington County Sheriff's Department?

19 A Yes, ma'am, it is.

20 Q The original investigator on this case was who?

21 A Detective Baum, Kevin Baum.

22 Q And eventually, did he leave your agency for another
23 agency?

24 A He did, yes, ma'am.

25 Q What agency did he transfer to?

1 A The South Carolina Attorney General's Office.

2 Q And his sergeant at that time in major crimes was who?

3 A Sergeant Adam Preach.

4 Q And can you tell us whether or not he, also, left your
5 agency for another agency?

6 A He did, yes, ma'am. He, also, went to the Attorney
7 General's Office.

8 Q So with the departure of the original investigator and
9 his sergeant, have you, also, taken on a role in this case?

10 A Yes, ma'am. I was his Detective Baum's last supervisor
11 before he left, so I inherited this case from him, you could
12 say.

13 Q So I want to go back to November of 2021 and ask you a
14 few questions, really, relating to the timeline of events in
15 this case. First, I want to ask you about the date in which
16 a young man, 16, 17 years of age at the time back in 2021,
17 what is the date in which Van Williams was interviewed by
18 Detective Kevin Baum?

19 A Would have been December 1st of 2021.

20 MS. MAYES: Any objection to a calendar for December of
21 2021?

22 MS. POPOWSKI: No objection.

23 MS. MAYES: This would be State's Exhibit No. 211.

24 THE COURT: State's Exhibit No. 211 is admitted into
25 evidence.

Joe Hart - Direct by Ms. Mayes

1 (WHEREUPON, State's Exhibit No. 211 was admitted into
2 evidence.)

3 BY MS. MAYES:

4 Q So the homicide occurring November 27th, did this case
5 continue to be investigated on into December of 2021?

6 A Yes, ma'am, it did.

7 Q And on December 1st, 2021, who was interviewed on that
8 day by Detective Kevin Baum?

9 A Van Williams.

10 Q Is that the young man we heard from earlier this week?

11 A Yes, ma'am.

12 Q Now, following that interview with Van Williams, what,
13 if anything, occurred on December 2nd, 2021 relating to the
14 Defendant himself in this case, Mark Scheibler?

15 A He was detained on December 2nd, 2021.

16 Q By detained, you're referencing the detainment that
17 occurred over at 132 Thrush Street in Richland County?

18 A Yes, ma'am, I am.

19 Q And that's the same day that that cellphone, State's
20 Exhibit No. 139 already in evidence, that cellphone was
21 seized?

22 A Yes, ma'am, it is.

23 Q That cellphone that ends in number 1170?

24 A Yes, ma'am.

25 Q That cellphone that has records that were submitted to

1 Sergeant Brannon Marthers who testified just before you?

2 A Yes, ma'am.

3 Q There's, also, an opportunity, once you receive a
4 cellphone to extract a cellphone; is that correct?

5 A Yes, ma'am.

6 Q And you're familiar with the cellphone extraction in
7 this case of State's Exhibit No. 139?

8 A I am, yes, ma'am.

9 Q That cellphone seized from out there in the yard when
10 Mr. Scheibler was detained on Thrush Street?

11 A Yes, ma'am.

12 Q You're familiar with that phone extraction?

13 A Yes, ma'am.

14 Q You've had an opportunity to review excerpts from that
15 phone extraction?

16 A I have, yes, ma'am.

17 Q As part of your review of that cellphone extraction,
18 are you aware of numerous factory resets on that phone?

19 A I am, yes, ma'am.

20 Q Looking here at State's Exhibit No. 175. So with that
21 cellphone extraction, having data on it, were you able to
22 recover any data prior to December 2nd of 2021?

23 A No, ma'am, all the data began on December 2nd.

24 Q So December 2nd, the day that he was apprehended on
25 Thrush Street is the only day that activity can be found on

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1 that phone?

2 A Yes, ma'am.

3 Q Including text messages?

4 A Yes, ma'am.

5 Q Including call logs?

6 A Yes, ma'am.

7 Q This particular text message, and I'll come back to it
8 a little later, this particular text to the individual known
9 as Herbert Crocker, what is the date and time that this text
10 was actually sent from that phone?

11 A It's December 2nd, 2021 at 10:30 a.m.

12 Q 10:30 a.m.?

13 A Yes, ma'am.

14 Q You're aware of a recorded jail call in this case
15 following the Defendant's detainment in Richland County?

16 A I am, yes, ma'am.

17 Q And as a result, initially located at Alvin S. Glenn on
18 that day, December 2nd through December 3rd?

19 A Yes, ma'am.

20 Q You've had an opportunity to observe State's Exhibit
21 Nos. 171, 172, and 173, all recordings related to that
22 recorded call?

23 A I have, yes, ma'am.

24 Q What is the date of that call?

25 A December 3rd, 2021.

1 Q We'll come back to that in a moment. Now, with the
2 sheriff's department, when there is a homicide, for example,
3 and a suspect is no longer at the scene, has fled the scene,
4 what efforts are sometimes made to release information to
5 the public?

6 A We, typically, get with our PIO or our public
7 information officer and provide him information that would
8 assist us in locating a suspect if we have any and try to
9 limit that information to information that wouldn't hurt our
10 case. So we don't want to give away too much information so
11 when somebody does give us information, we know that it's
12 from them and not from our post to them.

13 Q So you sometimes release the location of an incident?

14 A Yes, ma'am.

15 Q The date of an incident?

16 A Yes, ma'am.

17 Q Perhaps, the name of the victim?

18 A Yes, ma'am.

19 Q Perhaps, a description of suspect vehicle or something
20 along those lines?

21 A If we have it, yes, ma'am.

22 Q Do you normally release information such as the caliber
23 used in a murder that occurs by a shooting?

24 A No, ma'am. I don't know any circumstance when we would
25 use that.

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1 Q Or details regarding the underlying factors or motive
2 behind a murder?

3 A No, ma'am.

4 Q That's information you keep where?

5 A That's information we keep confidential in our case.

6 Q So when we look at that original interview with Van
7 Williams conducted on December 1st, 2021, is that interview
8 recorded?

9 A Yes, ma'am, it was.

10 Q So the sheriff's department has a copy of it?

11 A We do, yes, ma'am.

12 Q You've, also, had an opportunity to review press
13 releases, information released to the media from who you
14 call your PIO?

15 A Yes, ma'am.

16 Q What's a PIO?

17 A The public information officer. His job -- he's the
18 only one in the agency besides the sheriff because he's the
19 boss. He's the only one in the agency who's allowed to have
20 any contact with the media, release any information to them.
21 And he takes requests from the media when they want
22 information.

23 Q And who is your PIO for the sheriff's department?

24 A His name is Captain Adam Myrick.

25 Q So you've had an opportunity to review press releases

1 released by your PIO in regards to the homicide of Jimmy
2 Johnson?

3 A Yes, ma'am, I have.

4 Q At any point in time, did your department release
5 information that there had been an argument over belongings
6 of a girlfriend?

7 A No, ma'am.

8 Q That was not released to the public?

9 A No, ma'am, it was not.

10 Q Was there ever any information released to the public
11 that there was an argument over belongings of a girlfriend
12 named Ashton?

13 A No, ma'am, there was not.

14 Q Or that some of the belongings included a sock of
15 Ashton's?

16 A No, ma'am, it was not.

17 Q Again, prior to that jail call on December 3rd, 2021,
18 had there ever been a release anywhere by your department
19 about any underlying argument over belongings of a
20 girlfriend?

21 A No, ma'am, there had not been.

22 Q Or the name Ashton?

23 A No, ma'am.

24 Q Or an argument over a sock?

25 A No, ma'am.

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1 Q Or that a nine millimeter was used?

2 A No, ma'am.

3 Q The public did not have that information?

4 A No, ma'am.

5 Q So going back to that text sent to Herbert Crocker,
6 10:30 a.m., you're familiar with some of the timeline and
7 movements in this case?

8 A I am, yes, ma'am.

9 Q You, yourself, are now familiar with the recovery of a
10 vehicle, a suspect vehicle in this case, in the area near
11 the Kyzer Mill Road cell tower?

12 A Yes, ma'am, I am.

13 Q And you're familiar with the fact that that phone
14 ending in 1170 appeared to be back in use as of 8:37 a.m.?

15 A Yes, ma'am, I am.

16 Q And based upon phone records for Verizon, have you had
17 an opportunity to review those phone records?

18 A I have, yes, ma'am.

19 Q Did it continue -- based upon your review, did it,
20 also, continue to be in use November 28th?

21 A Yes, ma'am, it did.

22 Q November 29th?

23 A Yes, ma'am.

24 Q November 30th?

25 A Yes, ma'am.

1 Q December 1st?

2 A Yes, ma'am.

3 Q December 2nd?

4 A Yes, ma'am.

5 Q So the phone records indicate it's in use all those
6 days following the homicide from the 27th all the way up
7 until December 2nd on Thrush Street?

8 A Yes, ma'am.

9 Q The phone only had data for what day?

10 A December 2nd.

11 Q As a result of those factory resets?

12 A Yes, ma'am.

13 Q So on December 2nd, around 3:00 p.m., are you familiar
14 with a text in this case to an individual known as Casey
15 Jeffords?

16 A I am, yes ma'am.

17 Q From around 3:00 p.m. on December 2nd, based on the
18 information you have in this case, what were the Defendant's
19 whereabouts from around 3:00 p.m. onward on December 2nd?

20 A We believed him to be at Thrush Street in Richland
21 County.

22 Q Prior to that, did you observe a text message and the
23 content of that text message on December 2nd?

24 A Yes, ma'am.

25 Q And that's coming from that cellphone at Thrush Street

1 when the Defendant came outside?

2 A Yes, ma'am.

3 Q Looking here at the text message, what can you tell us
4 about information contained in this text message that would
5 be unique or confidential in this case, meaning never
6 released to the public?

7 A There's a reference here to some stolen items,
8 sentimental value, Ashton's sock, and then some personal
9 things of me and her, pictures of me and her, a few tools,
10 give him two days to get right and pay me back. And then
11 you only get so many chances to give back what's not ours.

12 In the course of our investigation, we've determined
13 that all those appear to be references to facts that we've
14 been able to line up in the case, that it was over personal
15 items. There was a timeframe given to be able to return the
16 personal items, and that there was a confrontation that
17 reference those personal items, and there was a price paid
18 for not returning them.

19 Q So based on your knowledge of this investigation, what
20 does this text refer to?

21 A Based on my information, the information that I have on
22 this case, this text directly refers to the homicide at 333
23 Mack Circle --

24 MS. POPOWSKI: Objection, Your Honor.

25 (WHEREUPON, a bench conference was held in the presence

1 of the jury, but outside the hearing of the jury.)

2 THE COURT: Overruled.

3 BY MS. MAYES:

4 Q Okay. The text message refers to whose sock?

5 A Ashton's sock.

6 Q Who did you determine Ashton to be?

7 A The Defendant's deceased girlfriend.

8 Q What is her last name?

9 A Strickland.

10 Q That was verified in your investigation?

11 A Yes, ma'am.

12 Q And then when it says "a dude stole". Let me stop you
13 right there. Did Mark Scheibler ever call your department
14 -- go back to around November 23rd, that Tuesday, mapping
15 shows he's in the area of Mack Circle, based upon your
16 investigation, you're aware now of allegations involving
17 some kind of U-Haul?

18 A Yes, ma'am.

19 Q Did Mark Scheibler, the Defendant in this case, ever
20 call your department to report that items had been stolen
21 from a U-Haul?

22 A We have no record of a report of a larceny involving
23 Mr. Scheibler being a victim.

24 Q So to your knowledge, it was never reported?

25 A Correct.

Joe Hart - Direct by Ms. Mayes

1 Q So when it says "dude stole", and makes a reference to
2 Ashton's belongings, we do mention the timeline?

3 A Yes, ma'am.

4 Q I gave two days to get right. And you mentioned that
5 it appears this relates directly to Jimmy Johnson?

6 A Yes, ma'am.

7 Q And that is the day that the Defendant was apprehended
8 on Thrust Street?

9 A Yes, it is.

10 Q This text message would have been sent prior to him
11 ever being in custody or detained by law enforcement?

12 A Yes, ma'am.

13 Q To your knowledge, prior to him entering this mobile
14 home?

15 A Yes, ma'am.

16 Q When, if at all, Sergeant Hart, did you hear again
17 anything in this investigation regarding a sock?

18 A In the recorded jail call.

19 Q Recorded jail call, also, mentions the sock?

20 A Yes, ma'am, it does.

21 Q Does it, also, mention a male individual who he
22 believed had the sock?

23 A Yes, ma'am. Not by name, but it does mention a male.

24 Q Do you have information as to whether or not that jail
25 call mentions a shooting?

1 A Yes, ma'am, it does.

2 Q Over the sock?

3 A Yes, ma'am.

4 MS. MAYES: State's Exhibit No. 171, Your Honor, 172
5 and 173 to be published at this time?

6 THE COURT: Very well.

7 BY MS. MAYES:

8 Q You've had an opportunity to listen to all three
9 recordings, Sergeant Hart?

10 A I have, yes ma'am.

11 Q Are these recordings a fair and accurate representation
12 of the originals that you heard?

13 A Yes, ma'am, they are.

14 Q Now, when a call is made from a facility such as the
15 Lexington County Detention Center, or Alvin S. Glenn
16 Detention Center, what kind of warning is given to any
17 person who was using that phone?

18 A Every -- not just Lexington County and Richland County,
19 every detention center I've ever heard a jail call from,
20 there's always a warning that it's being recorded.

21 (WHEREUPON, audio was played in open court.)

22 BY MS. MAYES:

23 Q So based upon your understanding of how the system
24 works, that person on the other end of the phone hears that
25 warning?

Joe Hart - Direct by Ms. Mayes

1 A Yes, ma'am.

2 Q I'm going to show you what is State's Exhibit No. 205.
3 Through the investigation, was it, also, determined who Mr.
4 Scheibler was interacting with on the other end of that
5 line?

6 A Yes, ma'am, it was.

7 Q And what was her relationship to him?

8 A His niece.

9 Q All right. And first name?

10 A Doshia.

11 Q You said that this recording, in addition to that text
12 message that we just took a look at sent on December 2nd to
13 Herbert Crocker, this recording, also, references a sock?

14 A Yes, ma'am, it does.

15 Q Prior to publishing this, what you hear and what did
16 your investigation determine regarding that sock?

17 A What I could hear in the recording was that boy, he
18 still got that sock. He didn't give me that sock back, so
19 he got -- I'm sorry, there's some expletives. He got his
20 ass fucked up over a sock. He got his ass killed.

21 MS. MAYES: Your Honor, we would request permission to
22 play this at 90 percent speed?

23 MS. POPOWSKI: Your Honor, I object to altering it.

24 THE COURT: How about this, let's do both.

25 MS. MAYES: We will play it first, Your Honor, at a

1 hundred percent speed --

2 THE COURT: This is a clip, correct?

3 MS. MAYES: It is, Your Honor.

4 (WHEREUPON, the audio was played in open court for the
5 jury.)

6 MS. MAYES: Now at 90 percent speed.

7 THE COURT: You can object, Ms. Popowski, but I've
8 played it at normal speed. I'll allow them to play it.

9 (WHEREUPON, audio was played in open court for the
10 jury.)

11 BY MS. MAYES:

12 Q Now, in addition to the statement over the sock,
13 getting his ass killed, what, if anything, else made a
14 reference to something being stolen?

15 A Yes, ma'am. At the end of the phone call, he made a
16 reference. I apologize, more expletives here. But he
17 stated, mother fucker stole something, and I told him he got
18 four hours to give it back, and he didn't want to give it
19 back, so I sure for sure unloaded on him.

20 Q What, if anything, indicated to you that it was in
21 reference to a shooting death as opposed to another form of
22 death?

23 A Unloaded on him, in my experience, refers to unloading
24 a firearm.

25 Q You said there was a deadline to return the sock

Joe Hart - Direct by Ms. Mayes

1 mentioned in the call?

2 A Yes, ma'am.

3 Q What was the deadline?

4 A Four hours.

5 Q Going back to that original text sent on December 2nd,
6 did it, also, mention a deadline to give the sock back?

7 A It did, yes, ma'am.

8 MS. MAYES: So at 100 percent, Your Honor, State's
9 Exhibit No. 173.

10 THE COURT: Very well.

11 (WHEREUPON, State's Exhibit No. 173 was played in open
12 court for the jury.)

13 Q So is that in reference to the statement you just told
14 us about, I unloaded on him?

15 A Yes, ma'am, it is.

16 MS. MAYES: 90 percent.

17 (WHEREUPON, State's Exhibit No. 173 was played in open
18 court for the jury.)

19 BY MS. MAYES:

20 Q Again, in reference to the unloaded on him that you
21 heard?

22 A Yes, ma'am, it is.

23 Q And the other voice that is heard during that call is
24 who?

25 A Appears to be Doshia.

1 Q It's somebody on the other end of the call?

2 A Yes, ma'am.

3 Q Now, this reference, again, to Ashton's sock and other
4 personal things and a few tools that you've indicated wasn't
5 released to the public through December 3rd. To your
6 knowledge, has it ever been released to the public?

7 A No, ma'am, it has not.

8 Q Has it ever been released by yourself or any other
9 person to your knowledge to Stacie Fidler?

10 A No, ma'am, it has not.

11 Q By yourself or any other person to your knowledge to
12 Jeffrey Davidock?

13 A No, ma'am, it has not.

14 Q Now, that location where the car was, ultimately,
15 abandoned, let's take a look at State's Exhibit No. 208
16 already in evidence. You worked this county as an officer
17 for many years?

18 A Yes, ma'am, I have.

19 Q Are you familiar with every corner of this county?

20 A Most of them, yes, ma'am.

21 Q What can you tell us about this area near Fairview
22 Crossroads?

23 A This area is very rural, more so than most in the
24 county. A lot of farmland in this area. It's a lot of open
25 fields, a lot of wooded areas, sparse housing. You don't

Joe Hart - Direct by Ms. Mayes

1 have any housing developments or anything out this way.

2 Q Looking here at this map, if one were coming from
3 Lexington from 333 Mack Circle, how would one most easily
4 get to this location near Fairview Crossroads?

5 A The fastest route from Lexington would be 20 here. But
6 from Mack Circle, you could hop on Two Notch and come up
7 across and then around this way as well.

8 Q Coming from this direction where the cell tower at 2580
9 Ben Franklin Road is located, that 8:37 a.m. call, to get
10 from there to the location where the car was abandoned near
11 the Kyzer Mill Tower, was one going to Lexington or away
12 from Lexington?

13 A Away from Lexington.

14 Q Towards the Aiken County line?

15 A Yes, ma'am.

16 Q Past the line?

17 A Yes, ma'am.

18 Q The investigation determined the cellphone ending in
19 1170 was in the area of 211 Kyzer Mill Road for how long,
20 Sergeant Hart?

21 A Looks like about 57 minutes.

22 Q First call at 8:37 a.m. was how long after that 9-1-1
23 call?

24 A Hour and 23 minutes.

25 Q All right. That first call at 8:37 a.m. was to whom?

1 A Mr. Davidock.

2 Q And, ultimately, looking at the area that the car was
3 recovered, did you work this investigation to, also,
4 determine other phone calls being made by Mr. Scheibler
5 after the phone was back in use at 8:37 a.m.?

6 A Yes, ma'am.

7 Q Who are some of the other individuals that you recall
8 that phone reaching out to or having communication with on
9 November 27th after the homicide?

10 A I know that there was, obviously, Mr. Davidock, Ms.
11 Fidler, and I know there was an Abby Kirby.

12 Q All right. An Abby Kirby?

13 A Yes.

14 Q And where Abby Kirby is concerned, you've had a chance
15 to verify her number?

16 A Yes, ma'am, I have.

17 Q And what is her phone number?

18 A (803) 528-9467.

19 Q What is your understanding, having investigated this
20 case of the relationship between Abby Kirby and the
21 Defendant?

22 A She is married to his nephew, so she would be his
23 niece-in-law, if that's a thing.

24 Q Can you tell us whether or not she, also, would reside
25 in the area of the Kyzer Mill cell tower?

1 A She would, yes, ma'am.

2 Q As part of your investigation, did you investigate
3 whether or not there may have been assistance given to Mr.
4 Scheibler following -- let me rephrase that. Have you
5 investigated whether or not Mr. Scheibler may have received
6 assistance from others after November 27th in terms of
7 transportation?

8 A Yes, ma'am, we did.

9 Q Who did you determine was providing assistance in terms
10 of transportation?

11 A Abby Kirby, for one.

12 Q Does that remain an ongoing investigation as to whether
13 or not Mr. Scheibler may have received assistance for
14 transportation throughout these events?

15 A Yes, ma'am, it does.

16 Q I'm going to show State's Exhibit No. 181 and 183 and
17 ask you who these text messages were sent to on the date of
18 December 2nd, when Mr. Scheibler was taken into -- or
19 detained?

20 A These were sent to Abby Kirby.

21 Q On what date?

22 A On December 2nd, 2021.

23 Q 2:51 p.m., so that would be just prior to his arrival
24 here at Thrush Street?

25 A Yes, ma'am.

1 Q During the course of the investigation, did you make
2 any determinations as to whether or not evidence may have
3 been concealed or deleted?

4 A Yes, ma'am.

5 Q In what regard?

6 A Obviously, the phone deletion is a first indication to
7 us that there was an attempt to destroy evidence, as well as
8 the car being gone. But we, also, were able to locate
9 messages where Mr. Scheibler told his niece to delete this.

10 Q Looking here at this message, I'm leaving now, love
11 y'all, delete this. Is that what you're referring to?

12 A Yes, ma'am, it is.

13 Q Again, that's on December 2nd, the day after the third
14 factory reset?

15 A Yes, ma'am, it is.

16 Q Now, you mentioned that the suspect vehicle in this
17 case was abandoned?

18 A Yes, ma'am.

19 Q There's been instructions to delete messages?

20 A Yes, ma'am.

21 Q The firearm that was used to kill Jimmy Johnson, has
22 your department ever recovered that firearm?

23 A No, ma'am, we have not.

24 Q It remains missing?

25 A Yes, ma'am.

1 Q Even to this day?

2 A Yes, ma'am.

3 Q Now, does law enforcement, also, have the ability not
4 only to use phone records from a phone company like Verizon
5 to actually map location data, do you, also, have the
6 ability to actually retrieve location data from a cellphone?

7 A Yes, ma'am, we do.

8 Q Can that sometimes be done remotely? Let me ask you
9 this, does law enforcement sometimes have the ability to
10 track a phone live?

11 A Yes, ma'am, we have that ability.

12 Q Looking here at the text message sent December 2nd,
13 2021, what, if any, indication did you have in this
14 investigation that Mr. Scheibler had knowledge that his
15 phone locations could be tracked?

16 A Yes, ma'am, we had a text message to, again, Abby that
17 his phone killed him.

18 Q That message is sent at what date and time?

19 A December 2nd, 2021 at 3:30 p.m.

20 Q 3:30 p.m.?

21 A Yes, ma'am.

22 Q So by 3:30 p.m., where is he?

23 A He's on Thrush Street.

24 Q The location where he was apprehended by law
25 enforcement?

1 A Yes, ma'am.

2 Q And, finally, what, if any, indication did you have
3 that after November, after the morning of November 27th,
4 2021, Mr. Scheibler may have been receiving transportation
5 assistance from other individuals?

6 A Yes, ma'am. So we know that the 26th, 27th, we believe
7 he had that car from Ms. Fidler. But after that, he was
8 sending a text to Abby asking for a ride. And, obviously,
9 if he's asking for a ride, he no longer has that car in his
10 possession.

11 Q This text was sent on what day and at what time?

12 A This was December 2nd, 2021 at 10:30 a.m.

13 Q What's the content of the text message?

14 A It says, Well, I'm still hanging in there buying much
15 time as possible. Thank you for everything. You still
16 going to give me a lift?

17 Q Thank you for everything?

18 A Yes, ma'am.

19 Q Still going to give me a lift?

20 A Yes, ma'am.

21 Q That's at 10:31?

22 A It is, yes, ma'am.

23 Q Prior to his arrival here on Thrush Street in Richland
24 County?

25 A Yes, ma'am.

Joe Hart - Cross by Ms. Popowski

1 MS. MAYES: Beg the Court's indulgence.

2 (Pause.)

3 MS. MAYES: Nothing further from Sergeant Hart at this
4 time, Your Honor.

5 THE COURT: Cross-examination?

6 MS. POPOWSKI: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. POPOWSKI:

9 Q All right. So you are the new lead investigator in
10 this case; is that right?

11 A I am, yes, ma'am.

12 Q And you've been sitting here at this table throughout
13 the entire trial all week?

14 A Yes, ma'am.

15 Q And do you know that the bulk of this investigation was
16 done between 2021 and 2023?

17 A Yes, ma'am, I do.

18 Q And you testified a lot about that?

19 A Yes, ma'am.

20 Q And you were in the courtroom today when Mr. Davidock
21 testified that he spoke to law enforcement two years ago; is
22 that right?

23 A I was, yes, ma'am.

24 Q And you are not aware of any documentation in this case
25 against my client of that interview with Mr. Davidock?

1 A The previous interview, no, ma'am, I'm not aware of any
2 interview with our agency of Mr. Davidock.

3 Q And before I forget, I'm curious, when police reports
4 are made, are those public?

5 A Are they --

6 Q Are they public? Are they publicly accessible?

7 A So they can be. Under the Freedom of Information Act,
8 you can go to the sheriff's department, and that's federal
9 law, obviously.

10 Q Right. And the Freedom of Information Act takes months
11 to get those types of records?

12 A It can, yes ma'am.

13 Q But most of the time, the only way you can get a police
14 report is if you're a party to the police report.

15 A Yes ma'am.

16 Q All right. So you have obviously familiarized yourself
17 with the details of Detective Baum's investigation?

18 A Familiar, yes ma'am.

19 Q And you know that he and Detective Gilliam in this
20 case, they interviewed a lot of people?

21 A Yes, ma'am.

22 Q And some of those people we've heard from this week?

23 A Yes, ma'am.

24 Q Deidre?

25 A Yes, ma'am.

- 1 Q And Angela Jeffcoat?
- 2 A Yes, ma'am.
- 3 Q Brian Holliman.
- 4 A Yes, ma'am.
- 5 Q Jason Cooper.
- 6 A Yes, ma'am.
- 7 Q And then there are others that they interviewed that we
- 8 have not heard from; is that right?
- 9 A Yes, ma'am.
- 10 Q So Mindy Hess, who was on scene?
- 11 A Yes, ma'am.
- 12 Q And Joanne Grossman?
- 13 A Yes, ma'am.
- 14 Q And Mindy Hess and Joanne Grossman both gave a
- 15 description of who they saw leaving the scene; is that
- 16 right?
- 17 A Yes, ma'am, they did.
- 18 Q And Sherry Bowers was not here this week?
- 19 A No, ma'am.
- 20 Q And this fellow that everybody keeps talking about
- 21 named Snoop, Christopher Williams?
- 22 A Yes, ma'am. You're the only person who had talked
- 23 about him, but, yes, ma'am.
- 24 Q Okay. Well, his son testified here today?
- 25 A Yes, ma'am, his son did testify.

1 Q And he talked about his dad. And Snoop was, actually,
2 interviewed by Detective Baum while he was in the Lexington
3 County Detention Center; is that correct?

4 A Yes, ma'am.

5 Q Now, you're aware of the news about my client's arrest
6 were widely reported?

7 A Yes, ma'am, we did send out a press release.

8 Q Yes, that's where I was going. So Lexington County
9 Sheriff's Department sent out a press release and then all
10 the news outlets reported the same thing?

11 A Yes, ma'am.

12 Q All right. So let's talk -- I'm going to talk a little
13 bit more about Baum's investigation, then we'll get into
14 what you've done in this case. So Baum did a lot of
15 investigating in this case, but he was not able to locate
16 any sort of DNA evidence?

17 A Well, it wouldn't have been Detective Baum's
18 responsibility to locate DNA evidence. CSI responded to the
19 scene and processed it. But as far as the initial
20 investigation, no, ma'am, there is no DNA evidence.

21 Q So no DNA evidence. No fingerprint evidence?

22 A No, ma'am.

23 Q And as you've testified previously, there's no firearm?

24 A No, ma'am.

25 Q There's no video, obviously, of the incident?

- 1 A No, ma'am.
- 2 Q No eyewitnesses to the actual shooting?
- 3 A Correct, no, ma'am.
- 4 Q And no one identified my client as the shooter in this
- 5 case?
- 6 A So --
- 7 Q If no one witnessed the shooting, then no one --
- 8 A So you're asking if anybody witnessed?
- 9 Q Right. Right.
- 10 A No, ma'am, there's no eyewitness that saw him shooting
- 11 and said he shot him.
- 12 Q That's correct. Okay. Also, there was a search done
- 13 of the front trailer on the property. It's my understanding
- 14 that they retrieved two cellphones from that search; is that
- 15 right?
- 16 A I believe so, yes, ma'am.
- 17 Q And those cellphones belonged to Jimmy Johnson?
- 18 A Yes, ma'am.
- 19 Q But no other buildings on the property were searched?
- 20 A I don't -- I mean, we have to have probable cause for
- 21 every search we do. We have to be able to tie it to the
- 22 specific crime that we're investigating. So I don't think
- 23 they had a reason to tie any other building on the property.
- 24 Q It's yes or no. No other buildings on the property
- 25 were searched?

1 A Like I said, no other buildings.

2 Q Thank you. All right. So I'm not sure when you were
3 brought on to investigate more of this case. I know I
4 started receiving your reports about two weeks ago; is that
5 right?

6 A A couple months ago is when I started meeting with the
7 solicitor.

8 Q And you have just a ton of investigative tools at your
9 disposal, including all sorts of ways to document your
10 investigation; is that right?

11 A We have -- I'm sorry?

12 Q It's not a trick question.

13 A No, I just need you to reword it. What are you
14 referring to?

15 Q So you have a ton of investigative tools at your
16 disposal?

17 A Yes, ma'am.

18 Q Okay. And so you have ways to document your
19 investigation, interviews and things like that?

20 A Yes, ma'am.

21 Q One of those ways might be by wearing body cameras?

22 A Not investigators, but our deputies do wear body
23 cameras, yes, ma'am.

24 Q A body-worn camera is available to you if you wanted to
25 use that in your investigation?

- 1 A It could be available to me, yes, ma'am.
- 2 Q And then you, also, have the ability to audio record
- 3 interviews?
- 4 A Yes, ma'am, I do.
- 5 Q So you found lots of witnesses and went and spoke with
- 6 them about two weeks ago? And if my timeline's incorrect,
- 7 it's because that's when I received the information. But I
- 8 know that once you began reinvestigating the case, you
- 9 talked to a bunch of new people. You talked to Abby Kirby?
- 10 A Yes, ma'am, I did.
- 11 Q And you did an audio recording of that?
- 12 A I did, yes, ma'am.
- 13 Q And you talked to Bill Brady?
- 14 A I did, yes, ma'am.
- 15 Q And you did an audio recording of that interview?
- 16 A I did, yes, ma'am.
- 17 Q And you talked with Todd Epperson (ph)?
- 18 A I did, yes, ma'am.
- 19 Q And Patrick Means?
- 20 A I did, yes, ma'am.
- 21 Q And Thomas Ayes?
- 22 A Yes, ma'am.
- 23 Q And then Stacie Fidler?
- 24 A Yes, ma'am.
- 25 Q Jeffrey Davidock?

1 A Yes, ma'am.

2 Q But you only audio recorded the interviews with Ms.
3 Kirby and Mr. Brady; is that right?

4 A Yes, ma'am.

5 Q Now, Stacie Fidler and Mr. Davidock, they live
6 together; is that right?

7 A They do, yes, ma'am.

8 Q Okay. And you, actually, talked with Ms. Fidler first?

9 A Correct, yes, ma'am.

10 Q At her apartment at 405 Harbison Boulevard; is that
11 right?

12 A Correct.

13 Q And then after you talked to her, and I'm sorry, I
14 don't have the date on here, but I think it was 6/3 that you
15 talked to her the first time, it might have been 6/4. But
16 on that same day after you spoke with her, you left and went
17 and spoke with Mr. Davidock; is that right?

18 A Correct, yes, ma'am.

19 Q Because Stacie told you that he wasn't home. He was at
20 the storage unit?

21 A Yes, ma'am.

22 Q And the storage unit was at 1709 Lake Murray Boulevard?

23 A Yes, ma'am.

24 Q And I Google mapped that and if you were driving from
25 one to the next, depending on traffic, it's about a 15 to

1 20-minute drive; is that accurate?

2 A Honestly, I couldn't tell you. I probably got there a
3 little quicker. I was trying to catch him there.

4 Q And then when you got there, Davidock told you the same
5 story?

6 A Yes, ma'am.

7 Q I want to circle back. When I Google mapped it, it's
8 15 to 20 minutes, depending on traffic. You say you got
9 there a little bit quicker. Did you turn your lights on?

10 A No, ma'am. It was in the evening. I think it was 9:00
11 or 10 o'clock, so there wasn't a lot of traffic.

12 Q So more like 10 or 15 minutes?

13 A That's just what you just said. I think I got there a
14 little quicker than that.

15 Q Do you know how long? You seem to be pretty sure that
16 you were faster --

17 A No, ma'am. I told you that I didn't clock it, but I'm
18 pretty sure I got there before 10 or 15 minutes.

19 Q Okay. I really want you to -- if you know that it was
20 faster than 10 or 15 minutes, I'd like you to tell me how
21 long it took you.

22 A I didn't clock it.

23 Q But it took you, at least, 10 minutes?

24 A I can't say that.

25 Q Once you got there, Davidock is at the storage units.

1 What was he doing there?

2 A I didn't ask him, honestly. My understanding was he
3 was putting some building materials in a unit that he had
4 there.

5 Q Okay. And he told you the same story at that time?

6 A He told me a similar story, yes, ma'am.

7 Q Gave you a written statement?

8 A He did, yes, ma'am.

9 Q And then you went back the next day, and you got one
10 from Stacie?

11 A Yes, ma'am.

12 Q But again, no audio recording?

13 A No, ma'am.

14 Q No body camera?

15 A No, ma'am.

16 Q No dash cam?

17 A I don't have a dash cam, no, ma'am.

18 Q And to your knowledge, neither one of them had come
19 forward to law enforcement with this before, to your
20 knowledge.

21 A No, ma'am, that's incorrect. We had a Crime Stoppers
22 tip on 11-29 from -- we just didn't know at the time that it
23 was Ms. Fidler. But we did on 11-29 get a Crime Stoppers
24 tip from Ms. Fidler.

25 Q Okay. And so let me ask you this, there's been a lot

1 of testimony as to some text messages that were sent back
2 and forth. Did you seize their phones?

3 A No, ma'am, I didn't.

4 Q Okay. And did you request their phone records?

5 A No, ma'am. We didn't get with them until this year, so
6 we wouldn't have had any location data or anything for their
7 phones.

8 Q When Detective Baum was investigating this case, he
9 talked to my client and interviewed him; is that correct?

10 A Yes, ma'am.

11 Q And it was over a 40-minute interview; is that right?

12 A I don't have the time.

13 Q It was a lengthy interview?

14 A Sure.

15 Q And it was on video.

16 A Yes, ma'am.

17 MS. POPOWSKI: Beg the Court's indulgence.

18 (Pause.)

19 MS. POPOWSKI: No further questions, Your Honor.

20 THE COURT: Redirect?

21 MS. MAYES: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. MAYES:

24 Q Just to followup on a couple of questions there.

25 Specifically as to Jeffrey Davidock and Stacie Fidler, how

1 was it determined that they were potential witnesses in this
2 case?

3 A Through the cellphone records from the Defendant's
4 cellphone records.

5 Q All right. Specifically, who was the first call after
6 the phone becomes active again after the murder of Jimmy
7 Johnson at 8:37, who was that call to?

8 A Mr. Davidock.

9 Q You went through those phone records?

10 A Yes, ma'am.

11 Q The determination was made that was the first call to
12 Jeffrey Davidock?

13 A Yes, ma'am.

14 Q And as a result, you reached out to him?

15 A I did, yes, ma'am.

16 Q And then did you, also, see a series of other phone
17 calls when reviewing those records?

18 A Yes, ma'am.

19 Q Series of phone calls beginning at 9:25 on the date of
20 Jimmy Johnson's murder with Stacie Fidler?

21 A Yes, ma'am.

22 Q Had you ever heard the name Stacie Fidler before?

23 A No, ma'am.

24 Q Never heard the name?

25 A At that point, I'd never heard of Davidock either.

1 Q And you see all these calls on the date of the murder?

2 A Correct. Yes, ma'am.

3 Q Many of them coming straight from Fidler and straight
4 from Davidock trying to reach Mark Scheibler?

5 A Yes, ma'am.

6 Q And at this point in time, did you even have
7 information, other than small white car, as to which vehicle
8 had been used in the homicide?

9 A No, ma'am.

10 Q Or even a license plate number?

11 A No, ma'am.

12 Q So you reached out to both of them?

13 A Yes, ma'am.

14 Q One of the questions posed to you by the Defense just
15 moments ago was is that the first time they ever made a
16 statement to law enforcement?

17 A Yes, ma'am, that was the question.

18 Q Your response was that is incorrect?

19 A Yes, ma'am.

20 Q You know now that a Crime Stoppers tip was received on
21 what date?

22 A On November 29th.

23 Q You know now the identity of the person who made that
24 Crime Stoppers tip?

25 A I do, yes, ma'am.

1 Q Who was it?

2 A It was Ms. Fidler.

3 Q And that Crime Stoppers tip, did it relate directly to
4 this case?

5 A Yes, ma'am, it did.

6 Q And in that tip, is the tipster allowed to remain
7 anonymous?

8 A Yes, ma'am, that's the whole purpose of Crime Stoppers,
9 the anonymity.

10 Q What do you mean by that?

11 A In our investigations, a lot of people don't want to be
12 directly involved in an investigation. Just like Van
13 Williams said earlier this week, he didn't want to be
14 referred to as a snitch. That's common. But if Crime
15 Stoppers, an organization like Crime Stoppers, gives people
16 the availability to be anonymous, then you can be a snitch
17 without being a snitch because nobody knows who did it. But
18 you're giving that information over to law enforcement.

19 Now, the problem that we have with it is we can't take
20 that and know who provided it to go follow up with them. If
21 we run across them later in the investigation and they give
22 us similar information, we can address that with them. But
23 at that point, we didn't have that until a couple weeks ago.

24 Q Allows you to obtain information and protect the
25 identity of the tipster?

1 A Correct.

2 Q And as a result, has Crime Stoppers been extremely
3 effective in numerous homicide investigations for your
4 department?

5 A Yes, ma'am, it has.

6 Q And remains an effective tool?

7 A It is, yes, ma'am.

8 Q One of the questions posed to you just moments ago by
9 counsel was about all the different people that were
10 interviewed in this case. And is common to attempt to
11 interview numerous neighbors, numerous persons in phone
12 records?

13 A Yes, ma'am, it is.

14 Q She said no one was able to identify my client as the
15 shooter?

16 A Yes, ma'am, that's what she asked.

17 Q No one identified my client as the shooter?

18 A Yes, ma'am.

19 Q Sergeant Hart, in that jail call that we heard just
20 moments ago, was someone identified as the shooter?

21 A Yes, ma'am, there was.

22 Q Who identified themselves as the shooter?

23 A The Defendant.

24 Q Mark Scheibler?

25 A Yes, ma'am.

1 MS. MAYES: Beg the Court's indulgence.

2 (Pause.)

3 BY MS. MAYES:

4 Q He identified himself?

5 A Yes, ma'am.

6 MS. MAYES: Thank you.

7 THE COURT: Recross?

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

9 THE COURT: The witness may step down.

10 Counsel, approach quickly, please.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury, but outside the hearing of the jury.)

13 THE COURT: All right, ladies and gentlemen, we're
14 recessing for the day. I want to start a little bit earlier
15 tomorrow, so I'm going to ask you to be in your jury at 8:45
16 and we'll continue at 9:00 a.m.

17 Have a good night. Don't discuss the case with anyone
18 or do any independent research about anything you've heard
19 in this trial. See you in the morning.

20 (WHEREUPON, the jury exits the courtroom at 5:37 p.m.)

21 THE COURT: Okay. All right, so the jury's been asked
22 to be back at 8:45. I would like to start the next witness
23 at 9:00 a.m. I'm going to go ahead and send you the draft
24 charge now and the draft verdict form. I know we have to
25 discuss it. Admittedly, I'm flying solo tomorrow, so I

1 wanted to get it out tonight. I'm capable of making
2 additions, if necessary.

3 Anything else for the record at this time? You
4 mentioned a potential stipulation, but we don't have to do
5 that now. We can do that tomorrow.

6 MS. MAYES: Yes, Your Honor. We'll have it drafted.
7 It pertains to the findings of DNA analyst, Adrienne Hefney,
8 that no DNA was recovered from the fired casings at the
9 crime scene. We would, also, request judicial notice on
10 sunrise. We will have that documentation for the Court
11 tomorrow.

12 THE COURT: Anything else?

13 (No response.)

14 THE COURT: See you in the morning.

15 (WHEREUPON, Court was adjourned for the day to be
16 reconvened on Friday, June 20th, 2025.)

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DIRECT EXAMINATION

Thomas Smith - Direct by Ms. Mayes

1 BY MS. MAYES:

2 Q Good morning. Tell us a little bit about yourself,
3 your educational background and training.

4 A I am currently with the Lexington County Sheriff's
5 Department in the crime scene unit. I conduct crime scene
6 investigations for the county as well as the firearms
7 examiner for the county. I have a Master's Degree with Nova
8 Southeastern University with an emphasis in forensic science
9 and law. I think it's forensic technology and legal
10 perspectives I think are the technical terms for it. I
11 currently am enrolled with Oklahoma State University on my
12 Doctorate Degree in forensic science with an emphasis in
13 firearm and tool mark identification.

14 Q How long have you been with the Lexington County
15 Sheriff's Department?

16 A I was with the Lexington County Sheriff's Department
17 from December 2013 until December 2019. I left the
18 sheriff's department and I went and taught at the South
19 Carolina Criminal Justice Academy. I taught there for about
20 a year and a half. So in September of 2022, I left the
21 academy, came back to Lexington County, where I again fell
22 back into the crime scene unit, and began firearms
23 examinations.

24 Q All right. Is it possible for you to estimate how many
25 crime scenes you have worked while with the Lexington County

1 Sheriff's Department?

2 A Give me just a second. I have conducted approximately
3 67 criminal investigations pertaining to firearm exams. And
4 those are criminal investigations, not including suicides
5 and negligent discharges.

6 Q So as a member of the Lexington County Sheriff's
7 Department CSI Division, you actually go to crime scenes and
8 work those scenes yourself?

9 A Yes, ma'am.

10 Q Now, in addition to going to crime scenes and working
11 scenes, what type of work do you do within the laboratory at
12 the Lexington County Sheriff's Department?

13 A So as crime scene investigators, we're responsible for
14 conducting any latent print exams that we have or that is
15 needed on the individual pieces of items that's collected.
16 We'll swab items of evidence in order to get touch DNA for
17 those items, which is then sent to SLED for their
18 examination. I, also, conduct the firearms examinations
19 within the agency.

20 Q All right. So I want to ask you a little bit more
21 about that. When you say you conduct the firearms
22 examinations, what does that entail?

23 A It can be simply identifying what the firearm itself
24 is. The meat and bones of a firearms examination is where
25 we begin to look at bullets and cartridge cases to determine

Thomas Smith - Direct by Ms. Mayes

1 if they come from the same source. It's a big fancy word
2 for saying if they come from the same firearm.

3 Q All right. Who conducted -- within the sheriff's
4 department or SLED, who conducted the examination of the
5 fired shell casings recovered from the crime scene in this
6 case at 333 Mack Circle?

7 A I conducted that exam.

8 Q All right. Now, I ask you in general, when you are
9 conducting an examination, how helpful is it to actually
10 have the firearm that was used in a crime?

11 A Well, without the firearm, we can identify that -- like
12 in this case, all the cartridges came from the same source.
13 I can't identify what that source is because I don't have
14 the firearm to do what's referred to as a one-to-one
15 comparison. If I had the firearm, then I can shoot what's
16 called test fires and then compare those test fires to my
17 scene evidence.

18 In this case, we did not have the firearm. The only
19 thing that we could do is conduct an examination of the
20 evidence internal of themselves, in other words, within
21 themselves. Conducted that exam and determined that they
22 all came from the same source.

23 MR. STORY: Objection, Your Honor, he's making a
24 conclusion.

25 MS. MAYES: Your Honor, I'm laying the foundation for

1 his qualifications.

2 MR. STORY: And, Your Honor, he's talking about what he
3 examined in this case. He's talking about conclusions, not
4 qualifications.

5 THE COURT: Finish your intro and then move on.

6 BY MS. MAYES:

7 Q Do you have experience and training in conducting
8 ballistics examinations of fired shell casings without the
9 firearm?

10 A Yes, I do.

11 Q And is it possible for you to estimate how many firearm
12 examinations you have done throughout your training and,
13 ultimately, as a firearms examiner?

14 A I have conducted thus far 73 firearm examinations.

15 Q All right. And again, that work includes examinations
16 of fired shell casing, even when the gun has been
17 unrecovered?

18 A Correct.

19 Q And finally, in addition to your work working live
20 crime scenes and conducting firearms examinations within the
21 lab, do you, also, have experience and training in the field
22 of what's called CSI reconstruction?

23 A I do. I attended the IPTM crime scene investigation
24 course. It's a week-long course. I've, also, gotten
25 reconstruction training in shooting incident reconstruction

1 as well as blood, blood, BPA, blood, I can't think of that
2 word. Give me just a second. Blood pattern analysis.
3 There we go. So I've had training in all three of those
4 disciplines.

5 Q Now, when it comes to reconstruction of shooting
6 incidents specifically, have you had the experience to
7 actually go to a crime scene or review evidence from a crime
8 scene for the purpose of reconstructing a shooting incident?

9 A I have.

10 Q What are the underlying materials and data necessary
11 for you to reconstruct a crime scene?

12 A So whenever I start looking at crime scene
13 reconstruction, I try to get all the information that's
14 possible and allotted to me. So I've used witness
15 statements. I've used the crime scene reports --

16 Q Let me ask you specifically about the crime scene
17 itself.

18 A Okay.

19 Q The crime scene itself, are you able to review
20 photographs?

21 A I'm able to review photographs. I'm, also, able to
22 review sketches and the written report from the crime scene
23 investigator that went to the scene.

24 Q And who was the crime scene investigator who went to
25 this scene?

1 A That was Patrick Ward.

2 Q Patrick Ward. So you had the ability to review all of
3 his crime scene photos?

4 A Yes, ma'am.

5 Q As well as his diagrams?

6 A Yes, ma'am.

7 Q As well as his report?

8 A Yes, ma'am.

9 Q Even prior to conducting your own firearms examination
10 in this case? Or following it?

11 A No, my firearms examination, I believe, took place
12 prior to me beginning my examination.

13 Q Now, once you have access to all of those materials,
14 have you had experience in actually reconstructing a
15 shooting, including information from the autopsy and the
16 pathologist?

17 A I have, yes, ma'am.

18 Q And in this case, were you familiar with a forensic
19 mannequin that had been utilized by Dr. Virginia Richards at
20 the Medical University of South Carolina?

21 A Yes, I received photographs. First off, I had received
22 the autopsy report, which lays out the trajectory or the
23 path that the bullet traveled through the decedent. And
24 then they, also, provided from the pathologist photographs
25 as they were rodding the mannequin itself.

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1 Q All right. And you, also, had an opportunity to review
2 this forensic mannequin prior to today?

3 A I had.

4 Q Now, have you been qualified previously as an expert in
5 the field of crime scene investigations?

6 A I have.

7 Q Have you been qualified previously as an expert in the
8 field of firearms examination?

9 A I have, seven times.

10 Q Have you been qualified previously as an expert in the
11 field of crime scene reconstruction, to include shooting
12 incidents?

13 A I have, on three occasions.

14 Q Have you been previously qualified and have you
15 testified in court to this date on all of those subjects?

16 A I have.

17 MS. MAYES: Your Honor, at this time, the State offers
18 Tom Smith as an expert in crime scene investigations, to
19 include firearms examination and to include crime scene
20 reconstruction.

21 THE COURT: Any voir dire from the Defense?

22 MR. STORY: No, Your Honor.

23 THE COURT: All right, ladies and gentlemen, this
24 witness will be qualified in the area of crime scene
25 investigation and crime scene reconstruction and firearm

1 examination. I believe that was it.

2 MS. MAYES: Thank you, Your Honor.

3 BY MS. MAYES:

4 Q Now, I believe one of the first topics you were
5 addressing is about how you go about conducting a firearms
6 examination when you have fired shell casings, but you do
7 not actually have the firearm. So in this particular case,
8 State V. Mark Scheibler, was a firearm ever recovered for
9 comparison analysis?

10 A No, a firearm was never submitted to the Lexington
11 County Sheriff's Department's evidence room for comparison.

12 Q And are you familiar with seven fired shell casings
13 recovered from 333 Mack Circle by CSI Officer Patrick Ward?

14 A I am.

15 Q I'm going to show you what is State's Exhibit No. 133
16 and ask you whether or not you're familiar with these?

17 A Yes, I'm familiar with these.

18 Q Did you conduct an examination on those seven fired
19 shell casings?

20 A I did.

21 Q And for what purpose did you conduct an examination?

22 A I was asked to conduct an examination to determine the
23 source of the firearms, to determine how many -- potentially
24 how many firearms were involved in this incident.

25 Q All right. I want to begin by asking you about that

Thomas Smith - Direct by Ms. Mayes

1 item of evidence. And if it's sealed, I would request that
2 you unseal it.

3 A You want all seven of them unsealed?

4 Q Yes. Again, this evidence was recovered from 333 Mack
5 Circle on November 27th.

6 A Yes, ma'am.

7 Q And in total, how many fired shell casings were
8 recovered from that crime scene?

9 A Seven.

10 Q You have them before you at this time?

11 A Yes, ma'am.

12 Q Sir, could you please read into the record the head
13 stamp for each of those fired shell casings?

14 A Yes.

15 Q And what is the head stamp?

16 A All right. Number item eight from the crime scene,
17 which is my item five in my exam, is a Winchester nine
18 millimeter -- or -- yeah, Winchester nine millimeter.

19 Q Could you explain to the Court what is meant by a head
20 stamp?

21 A So the head stamp on the cartridge is the
22 manufacturer's way of doing two things, identifying the size
23 of the cartridge, a/k/a what size the bullet is and what
24 size that cartridge case is. And the other one is just to
25 identify, basically, to give themselves a little bit of

1 recognition. So you'll see -- on nine millimeters, you'll
2 see not only nine millimeter, it's say nine millimeter
3 Luger. Some of them, especially in Europe, will say nine
4 millimeter Parabellum or 9 by 19. But all it is is just the
5 size. And then the manufacturer of it, trying to get their
6 name out and everything like that, will stamp their own
7 signature, their own abbreviation or whatnot on the base of
8 the cartridge case.

9 Q And is that unique to each manufacturer?

10 A Yes, each manufacturer is going to have their own
11 abbreviation, their own special marks to identify them from
12 everybody else. But, basically, all it is, is markings and
13 writing that goes around the primer, which is, in this case,
14 the brass-colored thing in the center. Just around that,
15 that's just a name and cartridge information.

16 Q All right. So if you could, you've name one is a WIN
17 nine millimeter. What was the head stamp on the remaining
18 six fired shell casings from that crime scene?

19 A So we have a FC on the next one. FC stands for Federal
20 Cartridge.

21 Q Anything else?

22 A We have another FC cartridge, but this one's a little
23 different. It's -- instead of a brass casing, it's
24 aluminum. So in order to help identify this as an aluminum
25 cartridge and prevent people from reloading it, on each side

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1 of FC is an N and then an R, for not reloadable.

2 Then we have --

3 Q If you could go back to the previous one, we stopped at
4 number two, which was FC.

5 A Uh-huh.

6 Q All right. So on this one for FC, it, also, notes the
7 caliber?

8 A Correct. Again, it says FC and identifies it as a nine
9 millimeter Luger.

10 Q All right. And then that one that you mentioned?

11 A The third one that I have here is the -- is another
12 Winchester nine millimeter.

13 Q And then you had, also, mentioned one FC NR?

14 A Yes, ma'am, that's the first one that we looked at up
15 here.

16 Q FC NR. And is there a caliber?

17 A Nine millimeter.

18 Q All right. The next one's another FC for Federal
19 Cartridge and, again, a nine millimeter Luger.

20 A That one we've already called out. The next one's a
21 FC, again, for nine millimeter Luger. And then the last one
22 is a WIN, W-I-N, for Winchester, again, in nine millimeter
23 Luger.

24 Q So that accounts for all seven fired shell casings from
25 this crime scene?

1 A Yes, ma'am.

2 Q Tell us what examination you did on these fired shell
3 casings, and how you went about that process.

4 A Of course. I did a comparison of them side-by-side.
5 And the way that works is we use a comparison microscope.
6 It's a very unique microscope because it has two individual
7 stages. Instead of your one stage and all that you're used
8 to from high school biology and everything.

9 So we have two stages. We put one on one side and one
10 on the other side. And instead of having one optical to
11 look through, we have two. So the left optical looks at the
12 left stage and the right optical looks at the right stage.
13 And what that allows us to do is compare them side-by-side
14 to actually turn and attempt to align and to examine the
15 striations that are left on the cartridge case.

16 What happens when these rounds are chambered and
17 ejected is -- nine millimeters, so these all came from a
18 semi-automatic handgun. So when that takes place, that
19 round is -- that slide is pulled to the rear and then let
20 go. And letting go, that chambers the first round into the
21 chamber, but it puts up that first round on the top of the
22 magazine and puts it into the chamber. As that moves and
23 that breech comes to a close, it leaves markings on both the
24 primer itself as well as the head stamp area on the back of
25 that cartridge.

1 When you pull the trigger, that trigger then imposes a
2 specific mark to the primer itself. And then as it's being
3 pulled out of the chamber by the slide from being fired,
4 marks are left on it from both the ejector as well as the
5 extraction.

6 All we do -- since all of those pieces are machined, we
7 know our -- since all those are machined, machining is not
8 perfect, all right, it's going to leave microscopic
9 imperfections in the surface that was machined. Well, those
10 microscopic imperfections are then transferred onto the
11 softer brass material, which allows us to, under a
12 microscope, compare them to determine whether or not they're
13 from the same source.

14 Q And did you do that in this case?

15 A I did.

16 Q What was your conclusion as to whether or not all seven
17 of these fired cartridge cases were fired by the same gun?

18 A They were all fired from the same source, out of the
19 same firearm.

20 Q That being what caliber weapon?

21 A Nine millimeter.

22 Q And were there or were there not unique rifling
23 characteristics about each of these fire casings that
24 allowed you to make that determination?

25 A Well, they're not rifling, simply because rifling deals

1 with the barrel as it spins. But there is significant
2 imperfections left by the firing pin and by the breech block
3 to be able to determine -- and there's imperfections across
4 striata, just microscopic lines. There's enough of these to
5 be able to identify them as all coming from the same source.

6 Q The same gun?

7 A Yes, ma'am.

8 Q Once you made that determination, what other evidence
9 did you review in this case specifically regarding an
10 examination of ammunition that had been recovered from a
11 backpack over at 132 Thrush Street?

12 A There was a number of cartridges, and a cartridge is
13 nothing more than this with the actual bullet.
14 So an unfired bullet, as it's colloquially known, is
15 actually a cartridge. So there was a selection of loose
16 cartridges found in the backpack.

17 Q All right. Looking here at State's Exhibit Nos. 48 and
18 45 reflecting 21 unfired nine millimeter rounds from that
19 backpack, did you visually examine that evidence?

20 A I pulled that evidence, examined it, and I took
21 photographs of it.

22 Q I'm going to show you State's Exhibit No. 212 and ask
23 you what this is?

24 A So this is a photograph that I took of those
25 cartridges. What I did is I put the cartridges into a foam

1 block that holds bullets so that I could photograph them.

2 When I photographed them, I, also, lined them up and grouped
3 them by manufacturer and head stamp.

4 Q All right. Does State's Exhibit No. 212 reflect all 21
5 of those unfired rounds?

6 A Yes, ma'am.

7 MS. MAYES: State's Exhibit No. 212 for evidence.

8 MR. STORY: No objection, Your Honor.

9 THE COURT: State's Exhibit No. 212 is admitted into
10 evidence.

11 (WHEREUPON, State's Exhibit No. 212 was admitted into
12 evidence.)

13 BY MS. MAYES:

14 Q So these unfired rounds from the backpack, you laid out
15 in this format so that the head stamp could be viewed?

16 A Correct, and grouped them.

17 Q In that backpack, did it contain all the same type of
18 head stamps, or was it mixed ammunition?

19 A It was mixed ammunition.

20 Q And from that crime scene, again, all the same head
21 stamps, or mixed ammunition?

22 A No, it was mixed ammunition.

23 Q What similarities did you observe from the head stamps
24 and the fire casings from that crime scene once you examined
25 the unfired rounds from that backpack?