

VOLUME II OF III

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Colleton County

S.C. SUPREME COURT

Honorable Eugene P Warr, Jr, Circuit Court Judge

KENNETH M. CHISOLM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-001385

APPENDIX

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1 (Jury exits courtroom.)

2 THE COURT: Counsel approach.

3 Mrs. Stephens, you are excused from jury
4 service in this case. You have a relative here.
5 Go with this young lady right here. She will
6 take care of you.

7 (Juror exits courtroom.)

8 THE COURT: Juror Ms. Stephens is excused.
9 I was advised by my bailiff that Ms. Stephens
10 the juror had a family emergency. Her sister
11 came here because her husband has been taken to
12 the hospital with chest pains. I advised both
13 the counsel for the state and the Defendant. We
14 have agreed to replace her with Alternate 1.

15 Bring in the jury.

16 (Jury enters courtroom.)

17 THE COURT: Ladies and gentlemen, as I told
18 you, you never know what is going to happen
19 during the trial. This juror had a family
20 emergency.

21 They have taken her relative to the
22 hospital. A member of her family came to pick
23 her up. She was excused from jury service.

24 Alternate 1, you are now part of the jury.
25 Welcome. Happy to have you on the jury.

1 We will now continue with the testimony in
2 the trial of this case.

3 BY MS. LEGETTE:

4 Q. Detective King, we are still watching
5 State's 66, the statement of Mr. Chisolm. You
6 have just watched Mr. Chisolm acknowledge seeing
7 himself in the still photos. Can you describe
8 what still photos we are looking at in State's
9 66?

10 A. This interview right here, those
11 pictures are what I showed Mr. Chisolm. They
12 were captured from the video of him meeting Mr.
13 Philip Miller in the parking lot prior to the
14 homicide at or around 4:00.

15 Also, there are messages that were on the
16 phone. When I showed them to him, he said

17 "That is me in the photos."

18 Q. Do you still have those photos?

19 A. I do.

20 Q. Describe them by the State's Exhibit
21 number.

22 A. State's Exhibit 69 and State's Exhibit
23 68 would be still photos of the video interview.

24 Q. The video taken on May 18, 2017?

25 A. Yes.

1 Q. That is the camera footage from Pak-a-
2 Sak?

3 A. Yes.

4 Q. Handing you State's Exhibits 127 to
5 133, inclusive.

6 Are State's Exhibits 127 through 133 a fair
7 and accurate representation of the still photos
8 from the video recorded interview?

9 A. Yes. This is the Pak-a-Sak video and
10 these are the still photos from that video.

11 Q. Do any of them appear to be changed or
12 altered in any way?

13 A. No, ma'am. They are time stamped.

14 MS. LEGETTE: Move to admit State's
15 Exhibits 127 through 133.

16 THE COURT: Admitted over objection. You
17 may publish.

18 (State's Exhibits 127 to 133 admitted.)

19 THE COURT: Mr. Matthews, you may come
20 around since he is holding the photograph up.

21 MR. MATTHEWS: That is fine, Your Honor. I
22 don't have a problem with that.

23 THE COURT: Proceed.

24 THE WITNESS: 127 is multiple pictures in a
25 picture. This is the still photos of the Pak-a-

1 Sak cameras inside and outside. The bottom
2 right are camera footage of inside the store.
3 This is the bottom left corner panel time
4 stamped 5:38, May 18, 2017. The picture is of
5 La'Shay Aiken's car.

6 Q. That is on May 16, 2017?

7 A. That's correct.

8 Q. Moving forward to State's 128.

9 A. Yes, ma'am. 128 is going to be a still
10 from the video Pak-a-Sak. This is a camera that
11 shows down into the gas station. So basically
12 in the bottom of the building.

13 I can see Ms. Aiken's has pulled up after
14 coming into the parking lot. She is parked in
15 front of the store. I can see the defendant and
16 his girlfriend get out of the car.

17 Q. Is there a time and date stamp on that
18 as well?

19 A. 3:38 and 58 seconds.

20 Q. On the same date?

21 A. Yes. May 16, 2017.

22 Exhibit 129 is going to be an actual
23 picture of the inside, the video from the inside
24 of Pak-a-Sak. I can clearly see there is Mr.
25 Chisolm.

1 Also, I can clearly see he is wearing his
2 necklace with the medallion he says he is
3 wearing on the day that we were talking about in
4 the interview. Black and red pants and what he
5 said he was wearing in the interview and a black
6 shirt.

7 Q. 130.

8 A. Yes, ma'am. State's Exhibit 130 is
9 another photograph of the inside of the store
10 looking to the back of the cash register. I can
11 see Mr. Chisolm coming in with his child's
12 mother, Ms. Cottage. They move around to what I
13 believe was maybe ordering some food.

14 Q. All right.

15 A. That is on the same day as well. That
16 was time stamped at 3:39 ask.

17 Q. State's Exhibit 131 is from inside the
18 camera, inside the store, Pack A Sak. I can see
19 Mr. Chisolm on the camera. He is on the phone.
20 I can see his medallion and the clothing and the
21 shoes that he was wearing.

22 Q. The time and date stamp?

23 A. Time, 3:39:52. Same date, same year.

24 This is Exhibit 132.

25 So Exhibit 132 is a close-up of Mr. Chisolm

1 and his girlfriend and an unknown male. This is
2 taken on the same day. This photo was taken or
3 the video was photographed at 3:40:16.

4 In State's Exhibit 132 I can really see the
5 gold medallion and his face and the chain around
6 his neck. Striped, black-and-red jogging pants
7 and a black shirt and he has dread locks.

8 State's Exhibit 133 is another picture
9 inside the Pack A Sak taken at 3:40 and 28
10 seconds in the afternoon, May 16, 2017.

11 It's a better picture of Mr. Chisholm and
12 his girlfriend, the child's mother, and the gold
13 medallion around his neck.

14 Q. So Detective King, were you also able
15 to pull any video footage from the Ford house?

16 A. Yes, ma'am. After Mr. Chisolm talked
17 to me and he stated that he went to the Ford
18 House, I think he parked around the waterfall
19 area. He had some business there, and we were
20 able to get some video.

21 Q. Did you describe who was in this video
22 as well?

23 A. I did.

24 Q. Was there anyone in regard to this case
25 who was on video?

1 A. Yes, ma'am.

2 Q. Who is that?

3 A. La'Shay Aiken.

4 Q. Was La'Shay Aiken ever arrested?

5 A. She was.

6 Q. Did you talk to Ms. Cottage?

7 A. I did.

8 Q. Thank you, Detective King. I have no
9 further questions. Please answer any questions
10 from Mr. Matthews.

11 THE COURT: Exhibits to the court
12 reporter.

13 Mr. Matthews, cross-examination.

14 ***

15 CROSS-EXAMINATION

16 BY MR. MATTHEWS:

17 Q. Good afternoon.

18 A. Good afternoon, Mr. Matthews.

19 Q. It's 6:00. I think that qualifies as
20 evening.

21 A. Yes.

22 Q. Are there any full-grown adults who
23 don't know what an app is?

24 Q. Offhand, I can't think of anybody?

25 A. I know that most people have smart

1 phones. Most kids know what an app is.

2 Q. Most kids?

3 A. More than adults.

4 Q. Whose phone was it that you collected?

5 A. Which one?

6 Q. Yes.

7 A. I think it was documented in my case
8 file, I don't know exactly whose it was.

9 Q. Go ahead. What was he saying there?

10 A. When he was arrested, he was saying
11 that he wasn't trying to resist.

12 Q. He said, the sun was in my eyes and
13 stuff like that.

14 A. He did say the sun was in my eyes.

15 Q. And did that have to do with his
16 treatment when he was arrested?

17 A. I don't know that that had anything to
18 do with his treatment. It had to do with the
19 approach of the car at this point in time.

20 Q. I understand he was willing to get out
21 of the car if he was treated roughly?

22 A. He was asked to get out of the car
23 multiple times and refused to do so.

24 Q. By?

25 A. By law enforcement.

1 Q. He was thrown to the asphalt?

2 A. I don't know that he was thrown to the
3 asphalt. I know he was placed on the asphalt.
4 My eyesight was to determine if there is a
5 danger of firearms in that car.

6 Q. Is that why you were apologizing to him
7 for how he was treated?

8 A. Sure. I needed to talk to him.

9 Q. Your partner up here, Jason Chapman,
10 was one of your references when you got your
11 job, right?

12 A. I called Mr. Chapman, Jason Chapman,
13 and asked him if I needed an investigator, yes,
14 sir.

15 Q. You got a search warrant to get that
16 phone you found on the porch, is that right?

17 A. Yes, sir.

18 Q. What is the procedure when somebody is
19 booked typically?

20 A. When someone is booked at the County
21 Jail, they are processed, fingerprinted, and
22 they are assigned a jail cell.

23 Q. The jail takes their clothes and puts
24 them in a locker?

25 A. They are not entitled to wear their own

1 clothes at the jail.

2 In this particular situation, you took
3 Mr. Chisolm's clothes without getting a search
4 warrant, correct?

5 A. I did, yes, sir.

6 Q. In fact, you did your part of booking
7 him on film.

8 A. I did the removal of his clothing on
9 film.

10 Q. That could have been done at the jail
11 and not under the embarrassing situation of
12 being on camera.

13 A. My intention was not to embarrass Mr.
14 Chisolm at all. Obviously, with the way I spoke
15 to him during the interview, I never tried to do
16 that. Evidence can be destroyed. I did not
17 want any of that evidence to go to the jail.

18 MR. MATTHEWS: I don't have anything
19 further, Your Honor.

20 THE COURT: Redirect?

21 MS. LEGETTE: Briefly.

22 ***

23 REDIRECT EXAMINATION

24 BY MS. LEGETTE:

25 Q. Detective King, when you were taking

1 Mr. Chisolm's clothes, was that search incident
2 to arrest?

3 A. Yes, ma'am.

4 MS. LEGETTE: Thank you. I don't have
5 anything further.

6 THE COURT: Recross on the limited
7 redirect?

8 ***

9 RECROSS-EXAMINATION

10 BY MR. MATTHEWS:

11 Q. Tell us about the doctrine of search
12 incident to arrest.

13 A. I don't understand.

14 Q. Tell me about -- during the search
15 incident to arrest you remove anything that has
16 means to escape?

17 One handcuff key, is a means of escape?

18 Were you worried that he would have a
19 handcuff key?

20 A. Mr. Matthews, I have arrested a lot of
21 people. I have taken phones and clothing
22 and don't want evidence manipulated or
23 missed or anything.

24 MR. MATTHEWS: That's all.

25 MS. LEGETTE: Ask that he be excused, Your

1 Honor.

2 THE COURT: Any objection, Mr. Matthews?

3 MR. MATTHEWS: No, sir.

4 THE COURT: Leave your exhibits here.

5 As you can see, we're working late. You
6 said you were willing to work late. I'm trying
7 my best to finish this week.

8 During the overnight recess, do not let
9 anyone talk to you about this case. Do not talk
10 with anyone about this case. Do not try to do
11 any research about the case. No reading in the
12 newspaper or watching television or listening to
13 the radio about the case, as I have instructed.

14 If someone tries to talk to you about this
15 case, tell them, I am on the jury. I can't talk
16 about it. If a person does that, get their name
17 and give it to me.

18 I will handle that problem for you, ladies
19 and gentlemen. That person won't bother you
20 anymore, I promise you that.

21 I hope everybody has a good evening. We
22 will start here in the morning at 10:00.

23 You may leave the courthouse at this time.
24 Everyone else remain seated.

25 THE COURT: Ms. Legette, does the State

1 feel like it can rest its case tomorrow?

2 MS. LEGETTE: That is our intent, Your
3 Honor.

4 THE COURT: Mr. Matthews, I want you to
5 have as much notice as possible as to when the
6 State rests so you can advise your client that I
7 will advise him on the record under oath. The
8 two of you got into a disagreement when I asked
9 whether or not he had a record. Mr. Matthews
10 said, he said, yes.

11 Ms. Legette said no as to whether or not
12 the defendant had a record. So I still don't
13 know the answer.

14 So let me talk to the solicitor first.

15 Mr. Matthews, the solicitor says there is
16 no record. I need to know and advise the
17 defendant tomorrow. I want to show it to Mr.
18 Matthews who said, he said he has a record,
19 which is the first time that I have encountered
20 this.

21 MR. MATTHEWS: I didn't know.

22 THE COURT: Any record that I should be
23 aware of, Ms. Legette? Well, I will make the
24 solicitor provide you whatever information they
25 have on that. Thank you both for your patience.

1 Court is in recess until 10:00 tomorrow
2 morning.

3 (At 7:18 p.m. the proceedings were
4 continued until the following day without
5 interruption.)

6 * * *

7 END OF VOLUME III

8

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE GENERAL SESSIONS COURT

2017-GS-15-00572 - 574,
2017-GS-15-00704, -710

State of South Carolina,

vs.

TRANSCRIPT OF JURY TRIAL
VOLUME IV
PAGES 515 to 808

Kenneth Mar'Keith Chisolm

Thursday, August 18, 2022
Walterboro, South Carolina

B E F O R E:

The Honorable Perry Buckner, Judge Presiding

R E P O R T E D B Y:

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PROCEEDINGS

THURSDAY, AUGUST 18, 2022

WALTERBORO, SOUTH CAROLINA

(The following proceedings were held in
open court. All parties were present.)

BAILIFF: All rise, come to order.

THE COURT: Thank you, please be seated.

Is the State ready to proceed?

MS. LEGETTE: Yes, your Honor.

THE COURT: Is defense ready to proceed?

MR. MATTHEWS: Yes, sir.

THE COURT: Very good. All right, let's
come to order, is everybody in?

Paul, you've got everybody in?

BAILIFF: Yes, Your Honor.

MR. MATTHEWS: Your Honor, when this is
submitted, if you could just indicate that it's
subject to my objection.

THE COURT: Pardon?

MR. MATTHEWS: Your Honor, when she seeks
to admit that, if Your Honor would just say,
submitted subject to my objection.

THE COURT: Absolutely. In the Jackson v.
Denno case I'm trying to recall the basis of

1 your objection, Mr. --

2 MR. MATTEWS: Your Honor, I believe that
3 the determination of voluntariness is --

4 THE COURT: The record will speak for
5 itself whatever it is.

6 MR. MATTHEWS: Well, within the context. I
7 mean Detective King gave evidence as to the
8 voluntariness of it, and it is in the first
9 instance, of course, a Court determination, but
10 the jury also determines whether it is
11 voluntary.

12 THE COURT: Okay, I'm going to charge the
13 jury that just because the State has submitted
14 it, whether they believe it, or want to give it
15 any weight's entirely up to them.

16 MR. MATTHEWS: Yes, sir.

17 THE COURT: You've heard my charge. You
18 know what I'm going to say. All right, bring us
19 the jury, please.

20 (Jury enters courtroom.)

21 THE COURT: You've got the microphone,
22 there we go.

23 State your full name and then spell your
24 last name for the Court Reporter.

25 WITNESS: La'Shay Aiken, A-I-K-E-N.

1 THE COURT: Very good, your witness,
2 counsel.

3 MS. LEGETTE: Thank you, Your Honor.

4 ***

5 DIRECT EXAMINATION

6 BY MS. LEGETTE:

7 Q. Good morning, Ms. Aiken.

8 A. Good morning.

9 Q. Ms. Aiken, where are you from?

10 A. Walterboro, South Carolina.

11 Q. And, Ms. Aiken, if you want to, you can
12 slide that chair over, if you need to see in
13 front of me.

14 All right, Ms. Aiken, you said you're from
15 Walterboro?

16 A. Yes, ma'am.

17 Q. All right, and, Ms. Aiken, how old are
18 you?

19 A. I'm 24.

20 Q. Okay, and, Ms. Aiken, I notice that you
21 came from the back. Where are you currently
22 housed?

23 A. Colleton County Detention Center.

24 Q. And, Ms. Aiken, why are you housed at
25 the Colleton County Detention Center?

1 A. Should I state my charges, or --

2 Q. Yes, ma'am. Were you charged with
3 something?

4 A. Yes, murder -- well, attempted.

5 Q. Yes.

6 A. I can't remember the rest, there's so
7 many.

8 Q. All right, so you were charged in this
9 incident in front of the Court?

10 A. Yes.

11 Q. Okay. All right, and so, Ms. Aiken,
12 you've also already entered a plea of guilty to
13 these charges?

14 A. Yes, ma'am.

15 Q. And what charge did you plead guilty
16 to?

17 A. Accessory after-the-fact.

18 Q. All right, accessory after-the-fact,
19 and what was your sentence?

20 A. Nine years.

21 Q. Nine years, okay. And so for your
22 nine-year sentence, did you have any other
23 stipulations that you had to comply with?

24 A. Testifying.

25 Q. Okay, testify, and testify how,

1 truthfully or --

2 A. Truthfully.

3 Q. Okay, truthfully. And who are you
4 testifying against?

5 A. Kenneth Chisholm.

6 Q. Is Kenneth Chisholm present in Court
7 today?

8 A. Yes, ma'am.

9 Q. Can you point him out, please.

10 A. He's right there.

11 Q. Can you describe what he's wearing?

12 A. A white shirt and a blue tie.

13 Q. Okay, white shirt and a blue tie?

14 A. Yes, ma'am.

15 Q. All right.

16 MS. LEGETTE: And let the record reflect
17 the witness is identifying the Defendant,
18 Kenneth Chisholm.

19 BY MS. LEGETTE:

20 Q. Now, Ms. Aiken, despite the fact that
21 you have gotten a nine-year sentence for your
22 charge to accessory after-the-fact, what's gonna
23 happen to the rest of your charges?

24 A. They'll be dismissed.

25 Q. Okay, and so given that, and that is

1 the deal that you have made with the State of
2 South Carolina, why are you here today?

3 A. To testify truthfully and --

4 Q. Truthfully.

5 A. -- and tell honestly.

6 Q. Okay. All right, so, Ms. Aiken, let's
7 talk. Now, you said that you're from Colleton
8 County. What high school did you go to?

9 A. Colleton County High.

10 Q. And did you graduate?

11 A. Yes, ma'am.

12 Q. Now, after you graduated did you have
13 any plans?

14 A. To go to college.

15 Q. Okay, and how long have you known
16 Kenneth Chisholm?

17 A. I know I've known him for a while, but
18 know him truly, like not that long, like a year
19 since I've been aware of.

20 Q. Okay, so a year that you've been -- I
21 need -- okay, so I need you to speak up --

22 A. Yes, ma'am.

23 Q. -- and clearly, because this woman right
24 here is taking down everything that you're
25 saying.

1 A. Okay.

2 Q. Okay? All right, so repeat that, how
3 long have you known Kenneth Chisholm?

4 A. A year.

5 Q. A year? So a year prior to the
6 incident happening?

7 A. No, a year -- yeah, a year prior.

8 Q. So a year prior to the incident?

9 A. Yes.

10 Q. Okay, so a year prior to the incident
11 happening you've known Kenneth Chisholm. And
12 when you say knew him, in what capacity? You
13 would see him all the time, or talk to him from
14 time-to-time?

15 A. Every now and then through my ex.

16 Q. Through your ex, okay. You mentioned
17 your ex, who was your ex?

18 A. Dominique Eders.

19 Q. Dominique Eders, okay. So you said ex,
20 was he your ex-husband, ex-boyfriend, what was
21 he?

22 A. He was, he's my ex-boyfriend now.

23 Q. He's your ex-boyfriend now?

24 A. Yes, ma'am.

25 Q. All right, and so Dominique Eders, what

1 relationship did Dominique Eders have with
2 Kenneth Chisholm?

3 A. Their friends, or at least --

4 Q. Friends?

5 A. -- I think so.

6 Q. Okay.

7 A. Yeah.

8 Q. All right, so when you said you were
9 dating, or you were a girlfriend of Dominique
10 Eders, at any one time did you and Dominique
11 ever like hang out with Kenneth?

12 A. Yes.

13 Q. Okay. Did Kenneth know about your
14 relationship with Dominique?

15 A. Yes.

16 Q. Okay. All right, so now let's talk
17 about your relationship with Dominique.

18 A. Uh-huh.

19 Q. When did you say -- he is your ex-
20 boyfriend?

21 A. Uh-huh. Yes, ma'am.

22 Q. You've got to say yes or no.

23 A. Yeah, I'm sorry, yes, ma'am.

24 Q. All right, so he's your ex-boyfriend.
25 How long did you'all date?

1 A. A year -- a little over a year.

2 Q. A little bit over a year? Is that a
3 yes or a no?

4 A. Yes, ma'am.

5 Q. Okay. All right, and so a little bit
6 over a year you dated Dominique. All right, so
7 were you dating Dominique back in 2017?

8 A. Yes.

9 Q. All right, so let's talk specifically
10 about May, 2017.

11 A. Yeah.

12 Q. Do you remember May, 2017?

13 A. Yes.

14 Q. All right. Now, La'Shay, you said you
15 were dating Dominique in May, 2017. Did
16 anything happen to Dominique in May, 2017 or
17 before?

18 A. He got arrested for child support.

19 Q. So he got arrested for child support?

20 A. Yes, ma'am.

21 Q. All right, was that your child that he
22 was arrested for?

23 A. No, ma'am.

24 Q. Okay. Do you have any children by the
25 way?

1 A. No, ma'am.

2 Q. All right. La'Shay, prior to this
3 incident, had you ever been arrested before?

4 A. No, ma'am.

5 Q. So Dominique, your boyfriend, went to
6 jail for child support?

7 A. Yes, ma'am.

8 Q. All right, what jail was he in?

9 A. Colleton County.

10 Q. And as a result of Dominique going to
11 jail, what was your thought process about him
12 being in jail?

13 A. Getting him out.

14 Q. Are you cold?

15 A. Yes.

16 Q. Let me get you something, hold on a
17 minute.

18 MS. LEGETTE: May I approach, Your Honor.

19 THE COURT: Yes.

20 BY MS. LEGETTE:

21 Q. Now, La'Shay, so you wanted to get him
22 out?

23 A. Yes, ma'am.

24 Q. All right, so it wasn't your child that
25 he was in jail on, but you wanted him out?

1 A. Yes.

2 Q. All right, so how were you planning on
3 going about getting Dominique out of jail?

4 A. I was gonna have to pay the money, once
5 I knew who -- how much it really was. At first
6 I didn't know the price.

7 Q. Okay.

8 A. So he kept calling me and saying, "He
9 needed to get out," and he was crying, and I
10 would tell him, "You know, I didn't know if I
11 had it, because I didn't know if it was going to
12 be like high or not, but then like the amount
13 was something I had. I had it, and I was gonna
14 get him out.

15 Q. Okay, so while you were trying to get
16 him out, did you ever have any conversations
17 with any of his friends?

18 A. Yes.

19 Q. And what was the content of those
20 conversations?

21 A. He told me to ask like some of his
22 friends, and I asked them, and I would text
23 them, and ask if they had anything to put on
24 with my money to help.

25 Q. And did you ask his friend, Kenneth

1 Chisholm?

2 A. Yes, ma'am.

3 Q. All right, and did you know Kenneth
4 Chisholm by any nicknames?

5 A. Chiz.

6 Q. Chiz? Okay, so you asked Kenneth
7 Chisholm?

8 A. Yes, ma'am.

9 Q. And did you talk to him on the phone?
10 How did y'all communicate?

11 A. We talked on the phone, and we texted.

12 Q. Texted? Okay. So when you were
13 texting with Kenneth Chisholm what kinds of
14 questions -- what was your conversation?

15 A. Basically, I asked him about the money.
16 He said that -- he started telling me, he was
17 like --

18 MR. MATTHEWS: Objection, Your Honor,
19 hearsay.

20 MS. LEGETTE: It's not hearsay, Your Honor.

21 THE COURT: Sustained. Don't refer to what
22 someone else said, just what you, with your own
23 senses saw or heard.

24 MS. LEGETTE: Well, Your Honor, this is
25 actually --

1 THE COURT: Objection sustained, move
2 along, rephrase your question.

3 BY MS. LEGETTE:

4 Q. The Defendant, when you were talking to
5 Kenneth Chisholm --

6 A. Yes.

7 Q. -- what did Kenneth Chisholm say to
8 you?

9 A. he told me that he could get some
10 money, or he had a person that he could, you
11 know, try to figure out to get some money.

12 Q. All right, did he --

13 THE COURT: Excuse me, is there another
14 objection?

15 MR. MATTHEWS: Just the same objection.

16 MS. LEGETTE: Your Honor, this is --

17 THE COURT: Don't refer -- you say, "He
18 told me."

19 WITNESS: Oh.

20 THE COURT: Don't refer to what someone
21 else said, just what you observed, okay?

22 MS. LEGETTE: Your Honor, this is -- this
23 is what the Defendant said to her.

24 WITNESS: Yeah.

25 MS. LEGETTE: This is not someone else's

1 statement.

2 THE COURT: This is from Mr. Chisholm?

3 WITNESS: Yes.

4 MS. LEGETTE: Yes, Your Honor.

5 THE COURT: All right. Mr. Matthews, you
6 want to be heard for it? I didn't realize
7 that's the last statement.

8 MR. MATTHEWS: I'd just continue, I'll just
9 make an --

10 THE COURT: That objection's overruled, you
11 may proceed.

12 MS. LEGETTE: Thank you, Your Honor.

13 BY MS. LEGETTE:

14 Q. So, Miss Aiken, the conversation that
15 you were having with Mr. Chisholm, you were
16 trying to get Dominique, who was your boyfriend,
17 out?

18 A. Yes.

19 Q. All right, so what was the context of
20 your conversation with Kenneth Chisholm?

21 A. Kenneth Chisholm, he was telling me --
22 he texted me and he was saying that, like, that
23 he could find somebody that he could get money
24 from, and he was asking me to do like find
25 people and all that, that he ended up telling me

1 that, you know, he knew this guy.

2 Q. And what was the purpose of -- what was
3 he going to do with this guy that he knew?

4 A. Rob him.

5 Q. All right, and so what's -- you said
6 rob him?

7 A. Yes.

8 Q. All right, and so while he's going to
9 rob him, what was going to be your portion, or
10 were you supposed to go with him?

11 A. Yes, I was going -- he said I'll -- I
12 asked him, you know, I was like, "Can you
13 explain?" Because I was being nosey, and I
14 wanted to know what all he could have, you know,
15 would have done to get the money, before I knew
16 how much it was going to be.

17 Q. All right.

18 A. And I asked him, "What all did I, you
19 know, would I need to do?" And he said,
20 "Drive."

21 Q. Okay, all you needed to do was drive?

22 A. Yes.

23 Q. All right, did you agree to do that?

24 A. Uh-huh.

25 Q. Is that a yes?

1 A. Yes, yes, ma'am.

2 Q. All right, so you agreed to drive
3 Kenneth Chisholm to rob this man?

4 A. Yes.

5 Q. All right. Now, La'Shay, during that
6 period of time, what kind of car did you have?

7 A. A blue Camry.

8 Q. And was it a dark blue Camry or --

9 A. Light blue.

10 Q. It was light blue, and --

11 A. Uh-huh.

12 Q. -- kay, is that a yes?

13 A. Yes, ma'am.

14 Q. All right, Kenneth said that you --

15 A. I'm sorry.

16 Q. All right. So you had a light blue
17 Camry?

18 A. Yes, ma'am.

19 Q. You had a conversation with Kenneth
20 Chisholm about robbing a man. Did he explain to
21 you who the man was?

22 A. A plug -- plug.

23 Q. Plug?

24 A. Yeah.

25 Q. What's a plug mean?

1 A. To me, a man that sells drugs.

2 Q. Okay. So plug meant a person that sold
3 drugs?

4 A. Yes, ma'am.

5 Q. All right. So are you familiar with
6 the text messages that you exchanged with
7 Kenneth Chisholm during this period of time?

8 A. Yes.

9 Q. Now, the incident date was May 16th,
10 2017, but were you having this conversation with
11 Kenneth Chisholm prior to the incident date?

12 A. No.

13 Q. When were you having the conversation?

14 A. I mean -- yeah, I couldn't then, but,
15 yeah, I had it --

16 Q. Before?

17 A. Yeah, we already --

18 Q. And so --

19 THE COURT: Hold on, one at a time. Slow
20 down, Solicitor.

21 WITNESS: I'm sorry.

22 THE COURT: We can't have two people
23 talking, she can't take that down. Ask the
24 question, let her finish her answer before you
25 ask another, proceed.

1 MS. LEGETTE: Yes, sir, thank you, Your
2 Honor.

3 BY MS. LEGETTE:

4 Q. Now, I'm gonna slow down. So you said
5 Kenneth Chisholm and you had text message
6 conversations about him robbing a plug, your job
7 is to drive. Did these conversations happen
8 before the incident date?

9 A. Yes.

10 Q. All right.

11 MR. MATTHEWS: Objection, Your Honor.

12 THE COURT: Side bar.

13 (Bench conference.)

14 THE COURT: All right, the objection is
15 sustained. The Solicitor will comply with my
16 ruling. I'll note the record for an appropriate
17 time.

18 MR. MATTHEWS: Thank you, Your Honor.

19 THE COURT: Show it to him now.

20 MS. LEGETTE: Yes, Your Honor.

21 MR. MATTHEWS: Your Honor, I have another
22 matter of law, depending on if she thinks
23 that --

24 THE COURT: Ladies and Gentlemen, I'm
25 trying to keep from sending you back to your

1 jury room, so bear with me us.

2 THE COURT: Solicitor, comply with my
3 ruling. Ladies and Gentlemen, bear with us,
4 we're complying with the ruling that I just
5 made.

6 MS. LEGETTE: Thank you, Your Honor.

7 THE COURT: No further objection?

8 MR. MATTHEWS: No further objection, Your
9 Honor.

10 THE COURT: Proceed.

11 MS. LEGETTE: Thank you.

12 BY MS. LEGETTE:

13 Q. Ms. Aiken, I think when we kind of
14 ended a few moments ago, we were talking about
15 conversations and text messages that you had
16 with Kenneth Chisholm.

17 A. Yes, ma'am.

18 Q. Okay. Now, are you familiar with the
19 text messages themselves that you and Mr.
20 Chisholm exchanged during the week of May the
21 16th, 2017.

22 A. Yes.

23 Q. And at our request have you previously
24 reviewed those text messages?

25 A. Yes.

1 Q. All right, Ms. Aiken, I'm gonna hand
2 you in a moment what's been previously marked
3 for identification as State's Number 142A.

4 142A, I want you to take a moment and
5 tell me if you recognize State's Number 142A.

6 MS. LEGETTE: May I approach the witness?

7 THE COURT: You may.

8 MS. LEGETTE: Thank you.

9 THE COURT: Solicitor, do you have a 142 on
10 the exhibit list?

11 MS. LEGETTE: Yes, sir.

12 THE COURT: Do you just want to add an A to
13 it?

14 MS. LEGETTE: A, yes, sir, as a subset,
15 yes.

16 THE COURT: There's not gonna be any other
17 exhibit to stop like this? Show me what you've
18 got on the list.

19 MS. LEGETTE: Yes, sir, it's --

20 THE COURT: So you've got 142 over to the
21 right?

22 MS. LEGETTE: Yes, sir.

23 THE COURT: So this encompasses everything

24 MS. LEGETTE: Well, no, 'cause there's
25 another part to 142.

1 THE COURT: I mean if it's listed as 142A,
2 that would encompass all that you have?

3 MS. LEGETTE: Yes, sir, there will be part
4 a two, a part one, yes, sir yes, Your Honor.

5 THE COURT: All right.

6 BY MS. LEGETTE:

7 Q. Do you recognize State's 142A, Ms.
8 Aiken?

9 A. Yes, ma'am.

10 Q. All right, and, Ms. Aiken, what is
11 State's 142A?

12 A. Read it what says?

13 Q. No, no, no, what --

14 A. Oh.

15 Q. Just describe what is it.

16 A. It's the text messages from me to him.

17 Q. You to who?

18 A. Kenneth.

19 Q. All right, and is State's 142 a fair
20 and accurate reflection of the conversation in
21 text messages that you had with Kenneth
22 Chisholm?

23 A. Yes, ma'am.

24 Q. All right.

25 MS. LEGETTE: All right, at this time, Your

1 Honor, I would offer State's 142A's content --

2 THE COURT: As redacted.

3 MS. LEGETTE: -- as redacted for admission
4 into evidence.

5 THE COURT: Mr. Matthews, as to State's
6 142A as redacted, any objection?

7 MR. MATTHEWS: As redacted, no objection.

8 THE COURT: Ladies and Gentlemen of the
9 jury, State's Exhibit 142A will be admitted into
10 evidence to the trail of this case, without
11 objection. State's 142A now in evidence. You
12 may publish to the jury.

13 MS. LEGETTE: Thank you, Your Honor.

14 BY MS. LEGETTE:

15 Q. Ms. Aiken, I'm gonna go over this slow
16 with you, okay? So we'll start on page one. If
17 you'll read the telephone number that you see?
18 Do you see it?

19 THE COURT: Show it to her.

20 BY MS. LEGETTE:

21 Q. I'm sorry, let me approach you. All
22 right, Ms. Aiken, I'm speaking up with my
23 outdoor voice. If you will read the actual the
24 detected telephone number that you see?

25 A. Uh-huh.

1 Q. The telephone number and your telephone
2 number, and what the actual sentence said, what
3 the actual message is, okay?

4 A. Uh-huh.

5 Q. Can you do that?

6 A. Yes, ma'am.

7 Q. All right, so what telephone number do
8 you see?

9 A. 843-542-5985.

10 Q. And that was Mr. Chisholm's number?

11 A. Yes, ma'am.

12 Q. And what's the other number?

13 A. 843-599-8992.

14 Q. And that was your number?

15 A. Yes, ma'am.

16 Q. Now, what does the text message say?

17 A. "I'm trying to get up as much money as
18 possible, so he won't have to sit in there."

19 Q. So what do you mean when you say, "I'm
20 trying to get up as much money as possible, so
21 he won't have to sit in there?"

22 A. I didn't know the amount, because I was
23 trying to get as much money as he needed.

24 Q. And who was he?

25 A. Dominique.

1 Q. All right, so let's move to the second
2 page. You can take that clip off, if you need
3 to, and just turn the page over.

4 Now, Ms. Aiken, are you able to see a this
5 text message?

6 A. No, ma'am.

7 Q. All right, well, go ahead and read the
8 telephone number that you see.

9 A. 843-542-4935.

10 Q. All right, and what's the other number?
11 You don't see it?

12 A. It says it twice.

13 Q. Okay, it says it's twice, okay. So
14 what does the text message say?

15 A. "How much do we need?"

16 Q. Okay, and who is that from?

17 A. Kenneth.

18 Q. All right. Is there another text
19 message on that page on 142A?

20 A. Yes, ma'am.

21 Q. What's the next text message?

22 Okay, so what are you saying in that
23 text message?

24 A. We found \$4,000, but another friend was
25 going to give money."

1 Q. So you found out he was behind 4,000?

2 A. Yes, ma'am.

3 Q. And that was who?

4 A. Dominique.

5 Q. All right. So what's the next message
6 on State's 142A?

7 A. "But I already know what this and that,
8 but I'm gonna do what I can, RS," as in real
9 shit.

10 Q. All right, so who was that text message
11 from?

12 A. Kenneth.

13 Q. So that's Kenneth telling you he's
14 gonna do what he's got to do?

15 A. Yes, ma'am.

16 Q. All right, and that text message is to
17 you?

18 A. Yes, ma'am.

19 Q. All right, so is there another page in
20 State's 142A?

21 A. Yes, ma'am.

22 Q. All right, will you read that
23 particular text message?

24 A. "That's all on me."

25 Q. And who is on me?

1 A. Kenneth.

2 Q. All right, and is there another text
3 message on State's 142A?

4 A. Yes, ma'am. It says, "I don't, that's
5 why I'm uncomfortable asking these mother
6 fuckers for nothing for him."

7 Q. All right, so who's talking then?

8 A. That's me.

9 Q. That's you? All right. So you don't
10 feel comfortable asking other people is what
11 you're saying?

12 A. Yes, ma'am.

13 Q. All right, so is there another text
14 message on that page?

15 A. Yes, ma'am. Says, "I know," from
16 Kenneth.

17 Q. From Kenneth? And what date -- do you
18 see a date on those?

19 A. No, ma'am.

20 Q. I think if you look over on top of the
21 text message itself, there should be a date.

22 A. It's says 5/15/2017.

23 Q. You said 5/15?

24 A. Yes, ma'am.

25 Q. All right, so that would be May 15th?

1 A. Yes, ma'am.

2 Q. All right, so that's the day before the
3 May 16th incident?

4 A. Yes, ma'am.

5 Q. All right, so you're talking to Kenneth
6 about getting Dominique out the day before?

7 A. Yes, ma'am.

8 Q. All right, so is that the last text
9 message on that page?

10 A. Yes, ma'am.

11 Q. All right, so turn to the next page in
12 State's 142A. Can you read the context of that
13 text message?

14 A. "I know how --

15 Q. Who is talking?

16 A. Kenneth.

17 Q. All right, and that is on -- what date
18 is that on?

19 A. 5/15/2017.

20 Q. All right, and is there a response to
21 you?

22 A. Yes, ma'am.

23 Q. Okay, and what's -- that's the same
24 date?

25 A. Yes, ma'am.

1 Q. All right, and is there another text
2 message on that date?

3 A. Yes, it said, "Some plugs, we've got
4 weight, we've got our Terry Brown."

5 Q. Say that again?

6 A. He said, "Some plugs, we've got weight,
7 we've got our Terry Brown."

8 Q. Some plugs, we've got weight, we've got
9 our Terry Brown? So what does -- okay, you told
10 us earlier that plug meaning drug meet.

11 A. Uh-huh.

12 Q. All right, what does weight mean, or
13 did you know at the time? Do you know now what
14 weight means?

15 A. I know now.

16 Q. What does weight mean?

17 A. Drugs.

18 Q. Okay. And so Terry Brown, do you
19 understand what Terry Brown is?

20 A. No.

21 Q. Okay. Did you ever learn what Terry
22 Brown meant?

23 A. No.

24 Q. Okay. All right, is there another text
25 message in State's 142A?

1 A. Yes. It says, "So what do I got to
2 do?"

3 Q. And who talking?

4 A. That's me.

5 Q. That's you asking what do you got to
6 do. And what date is that particular text
7 message on?

8 A. I can't see the date.

9 Q. You can't see it? Okay, that's fine.
10 And who are you talking to?

11 A. Kenneth.

12 Q. Kenneth? All right, and so is there a
13 response?

14 A. Yes.

15 Q. All right, can you explain what's being
16 said in that text message? Is that -- who is
17 that from?

18 A. Kenneth.

19 Q. Kenneth? Okay. So explain what's
20 being said.

21 A. He says he's going into town for bread.

22 Q. All right, to get some bread?

23 A. Yeah, bread.

24 Q. What does bread mean?

25 A. Money.

1 Q. Money? Okay. All right, is there
2 another text message or response from you on
3 that page?

4 A. No, ma'am.

5 Q. No? Okay, all right.

6 Okay, so that's Kenneth talking to you
7 again?

8 A. Yes, ma'am.

9 Q. Okay, and what was your response at
10 this time?

11 A. "Sweet, can you hit him up?"

12 Q. All right, and so what do you mean by
13 hit him up?

14 A. Call.

15 Q. Well, what date is that?

16 A. No date.

17 Q. No date? You can't see that. Is there
18 another text message on that page?

19 A. Yes, ma'am.

20 Q. All right, so what is that -- who is
21 that text message from?

22 A. Kenneth.

23 Q. And what date is that text message on?

24 A. Monday.

25 Q. Monday? Okay. All right, so this is

1 the same conversation that you're having with
2 him prior to?

3 A. Yes, ma'am.

4 Q. All right, so when he says vans, what
5 does that mean?

6 A. County.

7 Q. You said county?

8 A. Yes, ma'am.

9 Q. What -- do you understand what county
10 means?

11 A. Counterfeit.

12 Q. Counterfeit money?

13 A. Yes, ma'am.

14 Q. All right, but when the incident
15 happened, did the issue of counterfeit money
16 ever come up during the incident itself?

17 A. Yes.

18 Q. Okay. All right, well, we'll get to
19 that, but for now let's move to the next page in
20 State's 142A. Is there another text message?

21 A. Yes, ma'am.

22 Q. All right, so that's from you, or
23 that's from Kenneth?

24 A. From Kenneth.

25 Q. All right.

1 Q. And is there another text message?

2 A. Yes, ma'am. "Oh my God, you don't know
3 him, I just need you to drive."

4 Q. All right, so what date is that
5 particular text message on? You don't see the
6 date on top of the text?

7 A. No.

8 Q. No? All right. Is that a yes or no?

9 A. No, ma'am.,

10 Q. All right, so he said, "An old white
11 guy, you don't know him."

12 A. Yes, ma'am.

13 Q. What did you understand that text
14 message to mean?

15 A. An old white guy I don't know, and then
16 he --

17 COURT REPORTER: I'm sorry, say it again.

18 BY WITNESS:

19 A. An old white guy that I didn't know.

20 Q. All right I'm gonna ask you to speak up
21 and --

22 A. Uh-huh.

23 Q. -- articulate, so that the Court
24 Reporter can get it all down, okay? I know I
25 talk fast, so I'm going to do my best to slow

1 down even further, okay? So a person that you
2 didn't know. What did he tell you he wanted you
3 to do.

4 A. Drive.

5 Q. Drive, all right. What did you
6 understand that to mean?

7 A. I just need to drive --

8 Q. You just need to --

9 A. -- him to the guy.

10 Q. Okay. All right, and so is there
11 another text message?

12 A. Yes.

13 Q. What does that text message say?

14 A. "Okay, where?"

15 Q. And then who is that from?

16 A. That's from me.

17 Q. And is there a response from Kenneth?

18 A. Yes, ma'am.

19 Q. Okay, and is there another text
20 message?

21 A. No.

22 Q. All right, so you don't respond to that
23 one?

24 A. No, ma'am.

25 Q. All right, so let's move to the next

1 page.

2 A. "Call me."

3 Q. And who is that from?

4 A. Me.

5 Q. Okay, and did you get a phone call, or
6 get another text message on that date?

7 A. No, ma'am.

8 Q. Okay, nothing else. All right, and is
9 there a final page?

10 A. Yes, ma'am.

11 Q. What does that text message say?

12 A. Said, "Why are you not answering the
13 phone?"

14 Q. And is that to you?

15 A. Yes, ma'am. Can I --

16 Q. You can go back, yes, ma'am.

17 A. Yes.

18 Q. Go ahead.

19 A. I think this -- the last text is from
20 -- from him, he said, "Call me," and that's to
21 me.

22 Q. Okay, that's from Kenneth?

23 A. Yeah.

24 Q. All right, so are these text messages
25 happening on May 15th and 16th, as --

1 A. Yes, ma'am.

2 Q. -- best you remember?

3 A. Yes, ma'am.

4 Q. Okay. All right, La'Shay, thank you.

5 So, now, you had these text messages with
6 Kenneth, and you had this conversation. Did you
7 ever respond to Kenneth, specifically, about
8 what was supposed to be going down, or what was
9 supposed to happen?

10 A. No, ma'am, that was the six on that
11 day.

12 Q. There's six on that day, all right. So
13 at some point did you actually meet with him?

14 A. Yes, ma'am.

15 Q. All right, when did you see Kenneth?

16 A. The next day.

17 Q. So --

18 A. The 17th.

19 Q. The 17th? Now, let's go back.

20 A. Oh.

21 Q. So let's go back to before the
22 incident.

23 A. Okay.

24 Q. All right, so the day of the incident
25 you had this conversation with Kenneth about

1 actually meeting with somebody out and smoke
2 some.

3 A. Uh-huh.

4 Q. And all you had to do was drive? Is
5 that correct?

6 A. But I want to -- I understand. We're
7 still talking about texts, or --

8 Q. Well, tell me about the conversation
9 that you had with Kenneth --

10 A. Okay.

11 Q. -- whether by text, or whether by
12 talking on the phone, or however you
13 communicated.

14 A. Yeah.

15 Q. We're just talking about prior to the
16 incident, okay? So let's go back to the day of
17 the incident.

18 A. Okay.

19 Q. Do you remember?

20 A. Yes.

21 Q. All right, so let's talk about -- that
22 was May the 16th, 2017, that was the date of the
23 incident, okay?

24 A. Yes, ma'am.

25 Q. All right, so you understand that

1 you're supposed to drive?

2 A. Yes, ma'am.

3 Q. What's going through your mind about
4 Dominique and getting him out?

5 A. On the day -- I could just tell --

6 Q. Yeah, just tell, yes, on the day of.

7 A. I had a call --

8 Q. And I need you --

9 A. Oh.

10 Q. -- to slow down, so she can get it all,
11 okay?

12 A. Yes, ma'am.

13 Q. Go ahead.

14 A. The day of I got a call, and -- from my
15 ex telling me he --

16 Q. Okay, don't tell us what he said, but
17 just tell us what your response was to what he
18 said. In other words, don't tell us what
19 Dominique said, just tell us what your response
20 was, based on what Dominique said.

21 A. My response was, I had him out.

22 Q. You had him out?

23 A. Yeah.

24 Q. So did you find out how much he needed
25 to get out?

1 A. Yes, ma'am.

2 Q. All right, so you found out how much he
3 needed to get out, and what did you do next?

4 A. Called Kenneth.

5 Q. All right, then you talked to Kenneth.

6 A. Yes.

7 Q. What did you'all talk about?

8 A. I just told him that Dominique phoned,
9 and the amount, that he said he already had it.

10 Q. Okay.

11 A. And he was on the phone and said,
12 "Okay, you know, but --

13 Q. He was on the phone?

14 A. Oh, Kenneth.

15 Q. All right.

16 A. And he's like, "Okay." Then Kenneth
17 said, "Can you," he asked for a ride, and he
18 said, "Can you give me and Moose-Goose," that's
19 his baby mama, "a ride to work."

20 Q. Okay, so did you know Moose-Goose? Did
21 you know what her name was?

22 A. I know I can't really pronounce it, but
23 it's something Napatio.

24 Q. Okay, but at the time you knew it to be
25 Moose-Goose?

1 A. Yes, ma'am, Moosie.

2 Q. Moosie, okay. So Kenneth calls --

3 A. Yeah.

4 Q. -- you'all talk?

5 A. Uh-huh.

6 Q. You tell him that you have the money --

7 A. Uh-huh.

8 Q. -- but he wants a ride?

9 A. Yes, ma'am.

10 Q. Okay, so talk about the ride, what kind
11 of a drive? Did you give him a ride?

12 A. Yes.

13 Q. All right, tell us about your ride.
14 Where did you meet him at?

15 A. He told me he was gonna go to
16 Sunshine's, on Sunshine Lane Road in Walterboro.
17 I told him, "Okay." So when I drove there, and
18 I got to the road, him and his baby mama were
19 already at the stop sign.

20 Q. All right, so what are you driving?

21 A. My own Camry.

22 Q. The blue Camry? The black and blue
23 Camry?

24 A. Yes, ma'am.

25 Q. So you go into Sunshine Lane or Street

1 to pick up Kenneth Chisholm and his girlfriend,
2 Moosie?

3 A. Yes, ma'am.

4 Q. And you said her name is what?

5 A. Napatino.

6 Q. Napatino, okay. All right, so what
7 happens when you get to Sunshine Lane or Street?

8 A. They were already at the stop sign when
9 I pulled in.

10 Q. All right, so what happened? Did they
11 get in?

12 A. Yes, ma'am, they got in the car.

13 Q. Who got in where?

14 A. Kenneth and his baby mama, this
15 Napatino.

16 Q. Who got in the front seat --

17 A. Kenneth --

18 Q. -- that you remember?

19 A. Kenneth got in the front --

20 Q. And --

21 A. -- and she got in the back.

22 Q. All right, so what happens? Where do
23 you'all go?

24 A. I'm still at the stop sign, and he had
25 -- Kenneth asked me, "Can I get her some -- take

1 her to get some shoes --

2 Q. Okay.

3 A. -- for work?" So I went to the Dollar
4 General, and I took them. They got out and went
5 in the store, I waited on them. They came back
6 out, and then after that I was going towards her
7 job, and he said to get her something to eat, so
8 I went to the Pak A Sak, and then I waited on
9 them a little while and eventually --

10 We left. And then I took her around the
11 corner, the back side of the job, it's a plant,
12 and when we got there, all of a sudden she said
13 she didn't want to go in there, she wanted to go
14 with him.

15 Q. Okay. So what happens?

16 A. And then that he was just -- he's like,
17 "Well, I've got some counterfeit money," and
18 that's when I'd seen the money, and I was gonna
19 see how -- see how it looked, and -- keep going?

20 Q. Yeah, keep going, yeah, I'm just --

21 A. I wanted to see how it looked, because
22 he was just telling me at the time, that he was
23 just gonna buy some weed. And when I saw him
24 coming out, and saying they're not gonna believe
25 this.

1 Q. So let me stop you right there, Ms.
2 Aiken. Let me stop you right there. So you
3 said that you were taking Kenneth and Moosie to
4 Moosie's job?

5 A. Yes, ma'am.

6 Q. And before you did all that, you took
7 them to Dollar General --

8 A. Yes, ma'am.

9 Q. -- to get shoes?

10 A. Yes, ma'am.

11 Q. All right, and then after they got the
12 shoes and they got back in the car with you, and
13 you were taking her back to the job you went to
14 the Pak A Sak

15 A. Yes, ma'am.

16 Q. Are you familiar with the Pack A Sak
17 video and still photographs?

18 A. Yes, ma'am.

19 Q. And at our request, have you previously
20 reviewed the Pak A Sak video for this case?

21 A. Yes, ma'am.

22 Q. Let me just approach. Ms. Aiken, I'm
23 handing you State's 125, 127, 128, 129, 130,
24 131, 132, 133. Tell me if you recognize --

25 THE COURT: All been marked?

1 MS. LEGETTE: All in evidence, yes.

2 BY WITNESS:

3 A. Yes, ma'am.

4 Q. Do you recognize those items? What are
5 State's 125, 127 through 133 that are already in
6 evidence? What are those items?

7 A. A disk.

8 Q. Okay.

9 THE COURT: Use the number on there,
10 understand?

11 A. State's 125.

12 Q. What is State's 125? Are you familiar
13 -- or do you recognize State's --

14 A. Yes.

15 Q. -- 125? What is it? What does it
16 contain?

17 A. A disk that I initialed and dated.

18 Q. All right, and is that disk the disk of
19 Pak A Sak that you actually previously reviewed
20 for this trial?

21 A. Yes, ma'am.

22 Q. And the video on that disk, does it
23 fairly and accurately reflect the date at Pak A
24 Sak, when you went to Pak a Sak to take Kenneth
25 Chisholm and Moosie to that store?

1 A. Yes, ma'am.

2 Q. All right

3 MS. LEGETTE: At this time, Your Honor, I'd
4 like to publish State's 125 with this witness.

5 THE COURT: It's already in evidence?

6 MS. LEGETTE: Yes, so I'm gonna have to
7 publish it. May I approach?

8 THE COURT: You may.

9 BY MS. LEGETTE:

10 Q. And, Ms. Aiken, before we publish, you
11 also recognize those still photographs?

12 A. Yes, ma'am.

13 Q. And what are those still photographs?

14 A. Pictures from the Pak A Sak.

15 Q. Okay, and they are a fair and accurate
16 reflection of the date in question, May 16th at
17 the Pak A Sak?

18 A. Yes, ma'am.

19 Q. All right, thank you.

20 MS. LEGETTE: Your Honor, may I approach?

21 THE COURT: Go ahead.

22 BY MS. LEGETTE:

23 Q. I'm going to approach, okay? All
24 right, Ms. Aiken, while we're waiting for our
25 videos to cue up, we're going to go through the

1 Pak A Sak still photographs that you said you
2 recognized. Now, Ms. Aiken, tell me --

3 THE COURT: Give the exhibit number for the
4 record on the screen.

5 MS. LEGETTE: Thank you, Your Honor.

6 BY MS. LEGETTE:

7 Q. Ms. Aiken, this is Exhibit Number 127,
8 are you able to see that clearly?

9 A. Yes, ma'am.

10 Q. Okay. Ms. Aiken, what are we seeing in
11 State's Number 127? And you can feel free to
12 point your little pointer. All right, what are
13 we seeing in State's Number 127? Do you see
14 anything you recognize in State's 127?

15 A. Pak A Sak and the parking lot, my car's
16 right there.

17 Q. That's your car?

18 A. Yes, ma'am.

19 Q. All right, and that's your car pulling
20 into Pak A Sak the date of the incident. Who is
21 in the car with you?

22 A. Kenneth Chisholm and his baby momma.

23 Q. Moosie?

24 A. Yeah, Moosie.

25 Q. Okay. All right, and so you actually

1 pull up at the Pak A Sak; is that correct?

2 A. Yes, ma'am.

3 Q. All right, and who goes in first?

4 A. Moosie and Kenneth.

5 Q. This is State's 128, are you able to
6 see what is in State's 128, or is it a little
7 too dark?

8 A. It's a little too dark on there.

9 Q. I'm going to approach you with State's
10 128, okay?

11 A. Okay.

12 MS. LEGETTE: May I approach?

13 BY MS. LEGETTE:

14 Q. What do you see in State's Number 128?

15 A. I see Kenneth and Moosie.

16 Q. All right, and are they getting out of
17 your car?

18 A. Yes, ma'am.

19 Q. Is that where you parked at the Pak A
20 Sak on that May 16th date?

21 A. Yes, ma'am.

22 Q. Okay. All right, you can put that one
23 down. We're gonna direct your attention now to
24 State's 129. What are you seeing in State's
25 129?

1 A. Moosie and Kenneth Chisholm.

2 Q. And is that what they had on the day of
3 the incident?

4 A. Yes, ma'am.

5 Q. All right. So at this point while
6 they're inside, where are you?

7 A. I'm in my car.

8 Q. In your car? Okay. And State's Number
9 130. This is State's 130.

10 A. Yes.

11 Q. What do you see in State's 130?

12 A. Kenneth and Moosie.

13 Q. Okay. And you're still in your car at
14 this time?

15 A. Yes, ma'am.

16 Q. All right. And now we're looking at
17 State's Number 131. What do we see in -- is it
18 too dark for you to see, or --

19 A. I can --

20 Q. Do I need to bring it closer to you?

21 A. Yes.

22 Q. All right, I'm gonna approach you with
23 State's -- well, no, this is State's Number 132,
24 I apologize.

25 A. Okay.

1 Q. All right, State's Number 132, let me
2 know if you can't see it.

3 A. I can see it.

4 Q. You can see it?

5 A. Yes, ma'am.

6 Q. All right, what do we see in State's
7 Number 132?

8 A. See Kenneth and Moosie in there.

9 Q. Can you point to Kenneth with your
10 pointer, your little red pointer?

11 A. Right there.

12 Q. That's Kenneth?

13 A. Yes.

14 Q. And point out Moosie.

15 A. Right there.

16 Q. All right, that's Moosie in that Number
17 10?

18 A. Yes, ma'am.

19 Q. And now in State's Number 133, who do
20 you see in State's 133?

21 A. Napatino and Kenneth.

22 Q. Can you point it out with your pointer,
23 please? That's Kenneth, all right. And that
24 one on the phone is Naptaino?

25 A. Yes, ma'am.

1 Q. Okay. And in a moment we're going to
2 go over the Pak A Sak video, okay? All right,
3 Ms. Aiken, I direct your attention --

4 THE COURT: State the Exhibit Number for
5 the record.

6 BY MS. LEGETTE:

7 Q. This is State's Number 125. I'll
8 direct your attention now, La'Shay, to the
9 screen at your left, again, and in a moment, is
10 this the Pak a Sak video?

11 (Video being played in courtroom.)

12 A. Yes, ma'am.

13 Q. All right. All right, La'Shay, what's
14 pulling up now?

15 A. My car.

16 Q. Can you point to your car? That's your
17 car?

18 A. Yeah.

19 Q. Are --

20 A. Yes, ma'am.

21 Q. Are you driving?

22 A. Yes, ma'am.

23 Q. And you said Kenneth's in the front
24 seat, right?

25 A. Yes, ma'am.

1 Q. Okay. All right, and you pull in right
2 here --

3 A. Yes, ma'am.

4 Q. -- and then who's getting out?

5 A. Moosie and Kenneth.

6 Q. Okay. Now, the timeframe of this
7 particular video and the events in this video,
8 is this before or after the incident?

9 A. Before.

10 Q. Before? Okay. So, now, point out
11 Kenneth and Moosie in State's Exhibit 125 on the
12 Pak A Sak video.

13 A. That's Kenneth.

14 Q. That's Kenneth?

15 A. And Moosie.

16 Q. All right. And this is prior to her
17 going to work down at the plant, right? She
18 wanted to go get some food?

19 A. Yes, ma'am.

20 Q. Okay. Now, are you on any type of time
21 constraints? Are you trying to get to a
22 location to get Dominique out?

23 A. Yes, ma'am, I had to be there before
24 5:00.

25 Q. Where did you have to be?

1 A. At the courthouse.

2 Q. Okay. And why?

3 A. To pay his child support.

4 Q. Okay. Now, La'Shay, you said at some
5 point you had to come inside the Pak A Sak?

6 A. Yes, ma'am.

7 Q. Okay. We're gonna speed it up a little
8 bit, La'Shay. Now La'Shay, what were you
9 wearing that day; do you recall?

10 A. Yes, ma'am, a blue shirt and white
11 shorts.

12 Q. Okay. All right, La'Shay, do you see
13 anybody you recognize in this particular video,
14 at this point?

15 A. Yeah, me.

16 Q. All right, so --

17 A. Point?

18 Q. Yes, ma'am, point for me. That's you
19 right there? Okay. Now, at some point,
20 La'Shay, when you come in the Pak A Sak, you
21 interact with Moosie and Kenneth?

22 A. Yes, ma'am.

23 Q. All right, you see them. And then you
24 go in intending to get what?

25 A. Soda.

1 Q. Okay, a soda. All right, and once you
2 get the soda then do you actually leave?

3 A. Yes.

4 Q. And what happens when you get back in
5 the car?

6 A. I was supposed to take her to her job.

7 Q. Okay. All right. Now, La'Shay, you
8 took her to her job after you all got through
9 from Pak A Sak, and what happens?

10 A. Once we got in the parking lot, she
11 said she didn't want to go in.

12 Q. All right, so in the parking lot to her
13 job she didn't want to go?

14 A. Yes, ma'am.

15 Q. And as a result of her not wanting to
16 go, what happens?

17 A. We left, said she wanted to go with
18 him.

19 Q. All right, so where were you'all going
20 at that point?

21 A. We were going to the guy, and meet him
22 at that -- in the parking lot at Walmart.

23 Q. All right, so who told you where to go?

24 A. He did. They did.

25 Q. He?

1 A. Kenneth.

2 Q. Kenneth? Okay. All right, so Kenneth
3 told you where to go. All right, and where did
4 Kenneth tell you to go?

5 A. He told me, "Go to Walmart."

6 Q. "Go to Walmart," okay. When he told
7 you to go to the location, of parking here?

8 A. Before we got there, before we passed
9 Sunshine Inn, the girlfriend had told him to get
10 his gun.

11 Q. All right, so let's go back.

12 A. Uh-huh.

13 Q. You talked about some counterfeit
14 money --

15 A. Yeah.

16 Q. -- in the bookbag.

17 A. Uh-huh.

18 Q. And I missed that part. When he got in
19 the car, what did he have with him?

20 A. A bookbag.

21 Q. All right, and did you never look in
22 it?

23 A. Yes.

24 Q. Did y'all discuss this?

25 A. I won't say discuss, I just asked could

1 I see it.

2 Q. You asked if you could see it?

3 A. Yeah.

4 Q. Okay. So you knew he had the
5 counterfeit money, or some money?

6 A. Yes.

7 Q. All right, so you look in the bag?

8 A. Uh-huh, I had --

9 Q. Tell me what you saw.

10 A. Play money, like --

11 Q. Like play money?

12 A. Yeah, monopolyish.

13 Q. It looked like --

14 A. Yes.

15 Q. And what did you say to him?

16 A. I told him nobody will be that drunk.

17 Q. What was his response.

18 A. Basically, he thought it looked real.

19 Q. Okay, and you said that -- so you
20 discussed this money, to you it looks fake?

21 A. Yes.

22 Q. What did you think was gonna happen
23 with this fake money?

24 A. I thought that -- hoping the guy would
25 have seen it, and knew it was fake off the top.

1 Q. Okay, but in your mind, what was he
2 ready to have?

3 A. Buy weed.

4 Q. Buy weed? Okay. So you said that
5 you're in a car, you're looking -- you look in
6 the bookbag, you'all had gone to Pak A Sak.

7 A. Uh-huh.

8 Q. Before you'all go meet with the guy at
9 Walmart, where do you'all go?

10 A. We went back -- we went to his house.
11 I think that was his house.

12 Q. His, as in whose house?

13 A. Kenneth's.

14 Q. Kenneth's house? Okay. What happened
15 at his house.

16 A. He got his gun.

17 Q. All right, so he got his gun?

18 A. Yes.

19 Q. All right, and were you able to see the
20 gun?

21 A. Yes.

22 Q. Okay. Did he say anything about the
23 gun?

24 A. No.

25 Q. All right. So he gets the gun, and

1 where do you'all go after he gets the gun?

2 A. We went to the Walmart parking lot.

3 Q. The Walmart parking lot. And what
4 happens at the Walmart parking lot?

5 A. When I pulled up, they -- stopped at a
6 stop sign, and I guess I took a second too long,
7 and told me -- Kenneth, his baby mama was like,
8 "Don't stop, don't sit here that long, go." And
9 pulled up, and then was trying to find where the
10 man parked at. And we were just looking for him
11 at first, and then we ended up -- I parked, and
12 the guy pulled up, and they -- he got out of the
13 car. He got in the car with the guy.

14 Q. Now, you said he.

15 A. Oh, Kenneth.

16 Q. So --

17 A. Kenneth got out of the car and got in
18 the car with the victim.

19 Q. All right, so Kenneth gets out of your
20 car, and he gets into the car with the victim?

21 A. Yes, ma'am.

22 Q. All right, so Kenneth gets out of your
23 car, and gets into the car with the victim, and
24 what are you driving at this point?

25 A. The same car, the blue Camry.

1 Q. All right, blue Camry. So about how
2 long would you say Kenneth's in the car with
3 this man?

4 A. A couple minutes, not that long.

5 Q. Not that long?

6 A. Not that long.

7 Q. All right, and so what do you do while
8 Kenneth's in the car with this man?

9 A. We were sitting there at first, and
10 then his baby mama started acting weird, and she
11 was just like --

12 COURT REPORTER: I'm sorry.

13 BY MS. LEGETTE:

14 Q. Don't tell me --

15 A. It was --

16 Q. Can you repeat that? Okay, you have
17 to --

18 A. I will speak up. I'm gonna speak up.

19 Q. Yes, please.

20 A. We was sitting there at first, and then
21 his baby mama started acting weird, and she was
22 saying -- they pulled off, Kenneth Chisholm and
23 the guy they pulled off, and she got, I don't
24 know, sketchy, or whatever, and she was saying
25 like, "Follow them," but I thought something was

1 weird, and she wanted me to follow them around
2 the buildings.

3 Q. So did you follow them?

4 A. Yeah. She got in the front seat, she
5 was in the -- she was still in the car with me.

6 Q. Okay. So she's in the car with you,
7 and you said then she's acting weird.

8 A. Yeah.

9 Q. And you were told to follow?

10 A. Yeah.

11 Q. All right, so what happens when you
12 follow it?

13 A. We didn't see them, and then we ended
14 up seeing them back in the parking lot, parked,
15 and he got out --

16 Q. Speak up.

17 A. He got out, and then he came back to
18 the car, and, obviously, the man thought the
19 money was real. I don't know how he thought it
20 was real, and he said --

21 Q. He?

22 A. Kenneth said that, "We've got to go to
23 his house." I mean the amount of money that man
24 thought we had, I guess he didn't have that
25 amount of drugs.

1 Q. Okay.

2 A. Yes.

3 Q. All right.

4 A. And --

5 Q. So he didn't have that amount of drugs,
6 so Kenneth tells you what?

7 A. He had to go to his house to get it.

8 Q. So are you told to follow him, or what?

9 A. Yes.

10 Q. All right, so --

11 A. He told me, "We've got to follow him to
12 his house."

13 Q. "We've got to follow him to his house,"
14 is what Kenneth said?

15 A. Yes.

16 Q. All right, and so as a result,
17 Kenneth's saying, "You've got to follow him to
18 his house," what did you do?

19 A. We followed him.

20 Q. All right, and who's driving?

21 A. I was the driver.

22 Q. You said that the girlfriend had gotten
23 in the front seat?

24 A. Yes, ma'am.

25 Q. All right, and so Kenneth got in what

1 position?

2 A. He got in the backseat.

3 Q. Backseat? All right, and do you
4 remember what kind of car that man was driving?

5 A. A green looking old car.

6 Q. Okay.

7 A. Yeah.

8 Q. And are you familiar with the video
9 from the Walmart, or Fat Jack's parking lot?

10 A. Yes, ma'am.

11 Q. And at our request, have you previously
12 reviewed that video for accuracy?

13 A. Yes, ma'am.

14 Q. And is that particular video a fair and
15 accurate reflection of the incident that you
16 just described on May 16th, 2017?

17 A. Yes, ma'am.

18 Q. All right.

19 MS. LEGETTE: May I approach?

20 THE COURT: You may.

21 BY MS. LEGETTE:

22 Q. La'Shay, do you recognize -- what
23 number is on that exhibit?

24 A. 143.

25 Q. Do you recognize State's 143?

1 A. Yes, ma'am.

2 Q. And what is State's 143?

3 A. The Fat Jack's --

4 Q. Video?

5 A. -- video.

6 Q. And have you previously reviewed
7 State's 143 for accuracy?

8 A. Yes, ma'am.

9 Q. And have you initialed your initials
10 and dated it --

11 A. Yes, ma'am.

12 Q. -- to be able to recognize it?

13 A. Yes, ma'am.

14 Q. And this is a fair and accurate
15 reflection of the events at Fat Jack's on the
16 day in question, May 16th, 2017?

17 A. Yes, ma'am.

18 MS. LEGETTE: I'd like to publish it, Your
19 Honor.

20 THE COURT: You may

21 BY MS. LEGETTE:

22 Q. Now, La'Shay, while you're familiar
23 with the video itself, we are having a technical
24 difficulty, but we are gonna key it up in a
25 moment.

1 A. Yes, ma'am.

2 Q. Are you also familiar with still
3 photographs from the Fat Jack's parking lot with
4 that video?

5 A. Yes, ma'am.

6 Q. All right, at this time I'm going to
7 approach you, and hand you what's been
8 previously entered into evidence, State's 68 and
9 69. Tell me if you recognize State's 68 and 69.

10 MS. LEGETTE: May I approach?

11 THE COURT: You may.

12 BY MS. LEGETTE:

13 Q. Do you recognize 68 and 69?

14 A. Yes, ma'am.

15 Q. And what are State 69 and 69?

16 A. The parking of Fat Jack's, and my car,
17 and the victim's car.

18 Q. And are State's 68 and 69 a fair and
19 accurate reflection of your car at the Fat
20 Jack's parking lot on May 16th, 2017?

21 A. Yes, ma'am.

22 Q. Thank you.

23 MS. LEGETTE: May I approach?

24 THE COURT: You may.

25 MS. LEGETTE: Thank you.

1 BY MS. LEGETTE:

2 Q. All right, La'Shay, I'm gonna hand you
3 now or show you now State's Number 68, and I
4 want you to tell us what we're seeing. I'm
5 gonna zoom in on State 68, so you can tell us
6 what we are seeing in State's Number 68.

7 A. It's the Fat Jack's parking lot, and my
8 car is right there.

9 Q. That's your car?

10 A. Yes, ma'am, and the victim's car, and
11 that's Kenneth getting in the victim's car.

12 Q. All right, so Kenneth's getting into
13 the victim's car. That blue car that you
14 pointed to in this location right here, that's
15 your car?

16 A. Yes.

17 Q. Where are you at this time? Are you
18 still in the car?

19 A. Yes, ma'am.

20 Q. And who's in the car with you?

21 A. Napatino.

22 Q. Napataino, okay. All right, and this
23 is State's Number 69, the same thing in this
24 particular picture as 68?

25 A. Yes, ma'am.

1 Q. And point out your car for us, please.

2 A. There.

3 Q. That's your car?

4 A. That's mine.

5 Q. Is it a light blue Camry?

6 A. That's mine.

7 Q. And point out Kenneth in the victim's
8 car.

9 A. That's Kenneth and the victim's car.

10 Q. Okay. Thank you. We're gonna go ahead
11 and watch the video, La'Shay, and this is going
12 to be State's Number 143.

13 (Video being played in courtroom.)

14 BY MS. LEGETTE:

15 Q. La'Shay, is your car already in the
16 parking lot, or do you see it in the parking
17 lot?

18 A. No, ma'am, not yet.

19 Q. You talked about it earlier in your
20 testimony about being at a stop sign, and you
21 were sitting there too long?

22 A. Yes, ma'am.

23 Q. Who was telling you, you were sitting
24 there too long?

25 A. Kenneth and his baby mama.

1 Q. All right, and this is while you were
2 at the Fat Jack's waiting for the plug?

3 A. Yes, ma'am. I should be coming soon.
4 I was sitting right there.

5 Q. Okay.

6 A. I think.

7 Q. All right, are you pulling in now?

8 A. Okay, that's my car. I'm sorry, I'm
9 sorry.

10 Q. All right, can you point to it?

11 A. Right there.

12 Q. That's your car?

13 A. Yeah.

14 Q. Who's getting out?

15 A. Kenneth.

16 Q. All right, so Kenneth's getting out?

17 A. Yeah.

18 Q. Do you see anybody coming down the
19 street now?

20 A. I see that green car.

21 Q. Point to it. All right. All right,
22 and who's getting inside to the passenger seat?

23 A. Kenneth.

24 Q. That's Kenneth, okay. So you watched
25 Kenneth get in this man's car?

1 A. Yes, ma'am.

2 Q. All right, so then they -- you said
3 they drove around?

4 A. Yes. They drove around and sat for a
5 minute, and then we didn't know what was going
6 on, and she told me, "In a few move and try to
7 see where they're at."

8 Q. So you moved to try to see where they
9 were at?

10 A. Uh-huh.

11 Q. So she's getting in your front seat
12 now?

13 A. Yes, ma'am.

14 Q. Okay. So now what are you doing?

15 A. Backing up to see where -- where they
16 went.

17 Q. Okay. So at this point right here,
18 what are you doing? You're driving with them
19 around the parking lot to try to find them?

20 A. Trying to find them.

21 Q. You said because why?

22 A. Because the baby mama wanted me to. I
23 guess she got the impression that they would sit
24 there, but they drove off.

25 Q. Okay, so at this point, does Kenneth

1 already have his gun?

2 A. Yes.

3 Q. You had already been to the house?

4 A. Yes.

5 Q. Okay.

6 A. Now, that's them.

7 Q. Will you point to it with your pointer,
8 please.

9 A. Right there.

10 Q. All right. Now, where's your car? Are
11 you still coming?

12 A. Yeah, we're still coming. I ended up
13 pulling off though.

14 Q. Okay, all right. Is that your car?

15 A. Not yet. Yeah, that's my car --

16 Q. That's your car?

17 A. -- I'm pulling up.

18 Q. Okay. All right, so now at this point,
19 you said you were going to meet Kenneth?

20 A. Yes. He ended up getting out.

21 Q. Okay.

22 A. To tell me that we have to go to his
23 house again.

24 Q. Okay, going back to his house?

25 A. Yes.

1 Q. Okay.

2 A. All that's --

3 Q. So now you're still sitting here.

4 A. Yes.

5 Q. Okay. All right, we're seeing that he
6 got out of the car?

7 A. Yes, he gets back in my car.

8 Q. Okay. You said he?

9 A. Kenneth.

10 Q. Okay. What's happening now?

11 A. I'm about to follow the guy.

12 Q. Point to it. This is -- you're
13 pointing -- you're following him?

14 A. I'm in the back, and that's the
15 victim's car in the front.

16 Q. All right, so you'all leave here, and
17 where do you'all go?

18 A. We head to the victim's house.

19 Q. The victim's house. You're following
20 the victim?

21 A. Yes, ma'am.

22 Q. All right.

23 MS. LEGETTE: If you could bring the lights
24 up, please.

25 BY MS. LEGETTE:

1 Q. Now, La'Shay, actually, you said that
2 once you leave the Walmart parking lot, then in
3 that video you are seen following the victim's
4 car, that green car, and you said you go back to
5 his house?

6 A. Yes, ma'am.

7 Q. Who is in the car with you when you go
8 back to his house?

9 A. Kenneth and Napatino.

10 Q. All right, but you're still driving?

11 A. Yes, ma'am.

12 Q. Okay, so are you familiar with any
13 other video surveillance along the way, as you
14 are passing, or going to the victim's house?

15 A. The one from the Feed and -- Feed
16 store.

17 Q. And at our request, have you previously
18 reviewed the video from the Seed & Feed store?

19 A. Yes, ma'am.

20 Q. And is that a video a fair and accurate
21 reflection of your car following the victim's
22 car on May 16th, 2017?

23 A. Yes, ma'am.

24 Q. I'm gonna hand you now what's been
25 moved into evidence as State's 60. Tell me if

1 you recognize this.

2 A. Yes, ma'am.

3 Q. And what is State's 60?

4 A. It's a Saunders Farms slide.

5 Q. And at our request have you previously
6 reviewed State's Number 60 that has been moved
7 into evidence for accuracy?

8 A. Yes, ma'am.

9 Q. And is State's Number 60 a fair and
10 accurate reflection of the video, where you are
11 following the victim's car?

12 A. Yes, ma'am.

13 MS. LEGETTE: May I approach.

14 THE COURT: You may.

15 BY MS. LEGETTE:

16 Q. Ka'Shay, along with being familiar with
17 the video that is contained in State's Number
18 60, are you also familiar with some still shots,
19 some still photographs from that video?

20 A. Yes, ma'am.

21 Q. All right. I'm gonna hand you in a
22 moment what had been admitted into evidence as
23 State's Numbers 70 and 71. I want you to take a
24 moment, and tell me if you recognize State's
25 Number 70 and 71.

1 MS. LEGETTE: May I approach?

2 THE COURT: You may.

3 BY MS. LEGETTE:

4 Q. Do you --

5 A. Yes, ma'am.

6 Q. Do you recognize State's 70 and 71?

7 A. Yes, ma'am.

8 Q. What are State's 70 and 71?

9 A. 70 is the victim's car, and 71 is my
10 car.

11 Q. All right, and are State's Number 70
12 and 71 a fair and accurate reflection of some
13 still photos that are taken off the Feed & Seed
14 video?

15 A. Yes, ma'am.

16 MS. LEGETTE: At this time, Your Honor, I
17 would like to publish those particular State's
18 Exhibits.

19 THE COURT: They're already in evidence.
20 Go ahead --

21 MS. LEGETTE: Yes, sir.

22 THE COURT: -- Solicitor?

23 MS. LEGETTE: Thank you, may I approach.

24 THE COURT: All right. In evidence.

25 BY MS. LEGETTE:

1 Q. All right, La'Shay, I'm going to end it
2 right here. All right, La'Shay, I would direct
3 your attention to the screen at your left. Tell
4 us when the cars come into the frame, okay?

5 A. Okay.

6 Q. This is State's Number 60.

7 A. That's the victim's car passing, and
8 that's my car right there.

9 Q. That's your car? All right, so you
10 were like directly behind the victim?

11 A. Yes, ma'am.

12 Q. Okay. And if you go down this road any
13 further, is there a stop sign?

14 A. Yes.

15 Q. Okay. And did you follow him all the
16 way to his house?

17 A. Yes, ma'am.

18 Q. And now, La'Shay, is this another angle
19 of that same video?

20 A. Yes, ma'am.

21 Q. And referring to the shot, can you tell
22 us when his car comes to the shot -- when the
23 victim's car comes into the shot and your car,
24 can you tell us when they come into the shot,
25 okay?

1 A. Yes, ma'am. That's the victim's car I
2 think.

3 Q. That's the victim's car?

4 A. Yeah, and that's my car.

5 Q. All right. So you get down to the stop
6 sign --

7 A. Yes, ma'am.

8 Q. -- and did you turn left?

9 A. Yes, ma'am.

10 Q. And do you continue to follow the
11 victim to his house?

12 A. Yes, ma'am.

13 Q. Okay.

14 THE COURT: Proceed.

15 BY MS. LEGETTE:

16 Q. Now, La'Shay, we also talked about
17 State's Number 70 and 71, the still photos?

18 A. Yes, ma'am.

19 Q. All right. And I draw your attention
20 now to the screen on your left, this is gonna be
21 State's Number 70. All right, do you recognize
22 anything in State's Number 70?

23 A. Yes, ma'am, that's the victim's car.

24 Q. All right, that's the victim's car, and
25 you indicated earlier that you were directly

1 behind him?

2 A. Yes, ma'am.

3 Q. And can you point to it on State's
4 Number 70? All right, that's the victim's car,
5 all right. And State's Number 71, this is your
6 car?

7 A. That's my car.

8 Q. And you are recognizing it?

9 A. Yes, ma'am.

10 Q. All right, thank you. Thank you. Now,
11 La'Shay, you said that you followed the victim
12 all the way to his house?

13 A. Yes, ma'am.

14 Q. All right, so you eventually get to the
15 house?

16 A. Yes.

17 Q. If I showed you a photo of the house,
18 would you recognize the house?

19 A. Yes, ma'am.

20 Q. All right, so La'Shay, tell us what
21 happens when you get to the house?

22 A. When we pulled up to the house, he told
23 me to park behind some car on the side of the
24 house, and parked. It wasn't a driveway, it was
25 on the side of the road. And him and -- Kenneth

1 and his baby mama got out with the victim. He
2 was on the porch sitting, talking.

3 Q. All right, so you said Kenneth and his
4 baby mama --

5 A. Yes.

6 Q. -- got out of the car --

7 A. Yes.

8 Q. -- and they sat on the porch, talking
9 to the victim?

10 A. Yes.

11 Q. Okay. I hand you now what's been
12 previously entered into evidence State's Number
13 14. Tell me if you recognize State's 14.

14 A. Yes, ma'am.

15 Q. And what is State's 14?

16 A. The house.

17 Q. Okay. And is it a fair and accurate
18 reflection of the house as it looked on May the
19 16th?

20 A. Yes, ma'am.

21 Q. And I noticed the line, this yellow
22 stuff right here.

23 A. Yes, ma'am.

24 Q. Was that there when you pulled up?

25 A. No, ma'am.

1 Q. La'Shay, this is State's 14. What is
2 this a picture of?

3 A. The house.

4 Q. This is the house? Okay. So you
5 followed this victim home to his house. Do you
6 see his car in the yard?

7 A. Yes, ma'am.

8 Q. Can you point it out with your pointer,
9 please?

10 A. There.

11 Q. All right, that's the car. Now, in
12 State's 14 this yellow tape on the side right
13 here, was that there when you pulled up?

14 A. No, ma'am.

15 Q. All right. So you pull up. Can you
16 tell us in this photograph where you pulled up,
17 if you see it, if it's in the shot? So you
18 pulled behind that --

19 A. Right there.

20 Q. -- white car?

21 A. Yes, ma'am.

22 Q. All right, so given the white car, you
23 probably saw a white car, and you say that
24 Kenneth and his girlfriend, or baby mama, get
25 out, and they go sit on the porch?

1 A. Yes.

2 Q. All right, so what are you doing while
3 Kenneth are sitting on the porch?

4 A. I was sitting in the car listening to
5 music on my phone.

6 Q. Okay, so tell us what happened. Just
7 tell us what happens. Tell us what you see --
8 what you perceive.

9 A. They were sitting on the porch, and I
10 was just sitting in there at first, and then I
11 kept looking up, because I was still pressed for
12 time, because I still had to get it to the
13 courthouse to pay the money. And at first they
14 were just talking, the girlfriend -- the baby
15 mama was just sitting there beside him, and the
16 man was standing up. And I looked up again, and
17 the man he was standing up, and then, like, in
18 his face, and I --

19 Q. Okay, you said he --

20 A. Oh Kenneth stood up, and the man --
21 they were just like in each other's face, and I
22 thought that maybe the man realized that the
23 money was fake.

24 Q. So had Kenneth taken his bookbag with
25 him to the porch?

1 A. Yes.

2 Q. Okay. So you said Kenneth and the man
3 are face-to-face?

4 A. Yes.

5 Q. What does it appear like -- you said it
6 appeared like they were going to what?

7 A. I would say it looked -- they weren't
8 like arguing, but it looked like they were
9 really -- I can't put it into words.

10 Q. So didn't looked like an argument -
11 wasn't an argument, but they were standing face-
12 to-face?

13 A. Yes.

14 Q. Like how close?

15 A. Because I could, literally, see like --
16 'cause the man was facing this -- to my -- his
17 back was kind of to me.

18 Q. The man's back was to you?

19 A. Yes.

20 Q. But you could see Kenneth?

21 A. Yes.

22 Q. All right, so what do you see next?

23 A. I just brushed it off about that he
24 thought -- he knows the money's fake, so we're
25 about to go. And then when I look at my phone

1 and check the time, and I look up again and he
2 had the man -- Kenneth had the victim by the
3 shirt.

4 Q. When you say had him by the shirt, what
5 do you mean?

6 A. He had him grabbed by the shirt, but --

7 Q. So he had the man in his hand --

8 A. Yeah.

9 Q. -- with his hand by the shirt?

10 A. Yes.

11 Q. All right, so what is the man doing?

12 A. He was like this, because he had his
13 gun out too.

14 Q. Kenneth had -- he had his gun, who is
15 he?

16 A. Kenneth.

17 Q. Kenneth had his gun out?

18 A. Yes, ma'am.

19 Q. And how is he aiming?

20 A. Well --

21 Q. Was it like this, or --

22 A. Yes, he had his handgun, like, you know
23 --

24 Q. Okay, and so what is Kenneth doing?

25 A. He shot him, I know that.

1 Q. Okay. And at this point you see him
2 shoot the man in the leg?

3 A. Yes, ma'am.

4 Q. Do you hear shots?

5 A. I -- not really.

6 Q. Okay.

7 A. It was silent like, but I was watching
8 it, so I saw that part.

9 Q. You saw that part?

10 A. Yeah.

11 Q. Okay, did the man fall to the ground?
12 What did the man do?

13 A. He yelled, he said that he was shot.

14 Q. Okay, said he was shot, all right.
15 Tell me what you're seeing. Don't let me ask
16 questions, you tell me what you're seeing.

17 A. His baby mama she jumped up and she ran
18 towards my car. She ran towards the car. Well
19 not really ran, she walked to the car, and she
20 was coming. And she came to the passenger seat,
21 the passenger door, and I was just looking, and
22 I couldn't see, because she was like in front of
23 the door, the window. And when she pulled the
24 door open, that's when I could hear more shots.

25 And then I kept asking her like, "What's

1 going on?" I'm like, "You know, what happened?"
2 And she was just like, "He's doing too much
3 shooting." And I was like, "What you mean?"

4 Q. Well, don't tell me what she said.

5 A. Okay.

6 Q. But what else happened?

7 A. After that she got in the car, and I
8 saw the door was open -- the house door was
9 open, and I tried to pull off. And when I tried
10 to make like a U-Turn to go back the other way,
11 I'd seen the little boy coming out of the house.

12 Q. And so the little boy ran out of the
13 house?

14 A. And --

15 Q. What did you see about the little boy?

16 A. He was running to -- towards us.

17 THE COURT: Back off that microphone a
18 little bit for me. You need to speak up.

19 BY MS. LEGETTE:

20 Q. It's okay, take your time. You said he
21 was running towards your car, or you said us,
22 the car?

23 A. Yeah, running toward my car. And at
24 the time I -- at that time I was trying not to
25 stop, because I was in shock, because I kept

1 saying -- I was like, "What's going on? That's
2 a little boy, that's a little boy." And I
3 didn't even notice nothing was wrong, and I just
4 thought he was like running to get away, but he
5 was coming towards us, because, obviously, he
6 thought that he was running to somebody to safe,
7 and I couldn't help him.

8 Q. And did you notice anything about the
9 little boy, about his body?

10 A. Yes. When he came close to us, that I
11 realized he had a hole in his chest, and he
12 stopped, and that's when blood was coming out of
13 his mouth, and he turned back around and started
14 running.

15 Q. So you see the hole, you see the blood
16 coming out of his mouth?

17 A. Yes, ma'am.

18 Q. And you said you see the blood coming
19 out of his mouth, and where -- what direction is
20 he going?

21 A. He turned back towards the house, but
22 not -- he wasn't going back there, obviously, he
23 turned back towards the yard.

24 Q. All right, and so --

25 A. And then that's when I just kept

1 repeating like, "Oh my God, oh my God." And
2 then when I was pulling off, his girlfriend
3 said, "What you doing?" And then that's when I
4 -- it hit me, and it was like I had to play it
5 off like I wasn't leaving him.

6 Q. Okay.

7 A. Yeah.

8 Q. So --

9 A. His --

10 Q. Go ahead.

11 A. And then when I looked I saw him --
12 Kenneth was running out of the house, and he had
13 the gun, put it in his bookbag and he ran in.
14 And he jumped in the front, and he asked me was
15 I trying to leave. "Were you trying to leave
16 me? Why were you trying to leave me?"

17 Q. All right, I need you to back off the
18 microphone a little bit, and so the Court
19 Reporter can get it all down, and say it again.

20 A. When he got in the car he was just, you
21 know, kind of yelling, just like, "Why were you
22 trying to leave me? You were trying to leave
23 me?" And I had to tell him, "No, I wasn't
24 trying to leave you." I mean I was, but --

25 Q. All right, and so let's go back a

1 little bit. You said that the door was open --

2 A. Yes, ma'am.

3 Q. -- you hear loud shots.

4 A. Uh-huh.

5 Q. They come out and then you heard a lot
6 more shots?

7 A. Yes, when she opened the door, that's
8 when I could everything, like all the shots.

9 Q. And, what, was Kenneth still on the
10 porch, or had he gone inside?

11 A. He was inside.

12 Q. All right, and when the little boy ran
13 towards your car -- well, first, let me ask you
14 this question.

15 So was there anyone else in the car with
16 you that day, besides Kenneth Chisholm?

17 A. Just Kenneth and his baby mama.

18 Q. Okay. And when you pull up to the
19 house and Kenneth Chisholm and his baby mama got
20 -- were sitting on the porch, or talking to the
21 victim on the porch, was anyone else on the
22 porch with them?

23 A. No, ma'am.

24 Q. All right, so it was just Kenneth, the
25 baby mama and the victim?

1 A. The victim.

2 Q. All right. So you then say that the
3 baby mama came walking back to your car, or
4 coming --

5 A. Yeah.

6 Q. -- back to the car?

7 A. Yeah.

8 Q. And she opened the door, and you heard
9 four shots?

10 A. Yes.

11 Q. Okay. All right, now, you said when
12 Kenneth got back to the car, he said what to
13 you?

14 A. Asked me why I was trying to leave him,
15 and was I trying to leave him?

16 Q. And your response is what?

17 A. No.

18 Q. Why did you respond that way?

19 A. Because I knew I had to.

20 Q. Because of what?

21 A. I knew I had to.

22 Q. What was going through your mind at
23 this time?

24 A. Just knowing that little boy and
25 another person got killed, and the only person

1 that was on my side was me, and it was him and
2 his baby mama, so --

3 Q. All right. Now, once Kenneth got back
4 into your car, and what location did he get in,
5 when he got back in the car?

6 A. The backseat.

7 Q. The backseat, okay. And did he say
8 anything about what he got while he was at the
9 house?

10 A. No. He was asked what he had, what he
11 got by his baby mama, and he's yelling, "I ain't
12 got shit," and that was it.

13 Q. Okay. Did he talk about the shooting
14 itself? About who he shot, or what happened
15 inside the house?

16 A. He tried to. He just -- like -- I --
17 from what I remember, he was like something
18 about he shot, and I told him -- that's when I
19 did say something, I was like, "I don't want to
20 hear it. I don't want to hear it." And he kept
21 telling me to drive, drive, drive.

22 Q. All right, and so did you drive?

23 A. Yes.

24 Q. Where did you go?

25 A. We didn't drive the normal way to get

1 to -- he knew some back way. I just can't even
2 go that way. I don't even know how -- he was
3 just telling me where to go, and it was a back
4 way I never took, and we ended up in front of
5 like Subway, gas station, by the Burger King,
6 and like going to Walmart.

7 Q. Okay, and so once you got there, did
8 you have -- were you still concerned about
9 getting to the Courthouse?

10 A. Kind of, sort of, like, I guess, yeah.

11 Q. And did you end up going to the
12 Courthouse?

13 A. Yes.

14 Q. All right. And why did you go to the
15 Courthouse?

16 A. At that time it wasn't just the
17 appointments to get him out, because of, you
18 know, the child support or whatever, and now it
19 was like he's the only connection that -- my
20 only connection with him, and I just felt more
21 comfortable, like, okay, well, if I get him out,
22 then maybe he can talk to him, because I was
23 still scared, like it was really something to
24 me, because I knew what happened.

25 Q. You were afraid for your own life?

1 A. Yes.

2 Q. All right, so you went to the
3 Courthouse, and you paid some money?

4 A. Yes.

5 Q. Okay. All right, and were you able to
6 get Dominique out?

7 A. No.

8 Q. All right, what happened with
9 Dominique?

10 A. I paid the money for it, but --

11 THE COURT: Ma'am, just stay right there.
12 Ladies and Gentlemen, I'm passed time normally
13 that I would give you a mid-morning break.
14 We're gonna stop at this point, and give you a
15 mid-morning break. Please do not discuss the
16 case. You may retire to your jury room at this
17 time.

18 (Jury exits the courtroom.)

19 THE COURT: And you can take a break, but
20 you can't talk to anybody about your case. If
21 you want to go to the restroom, you can. Don't
22 talk to anyone, and come back to the witness
23 stand; do you understand?

24 WITNESS: Yes.

25 THE COURT: All right, let's take five

1 minutes.

2 (Recess.)

3 ***

4 PROCEEDINGS CONTINUED

5 THE COURT: All right, let's come to order.
6 During the direct examination of this witness,
7 La'Shay Aiken -- and let the record reflect the
8 jury's not present, Madam Court Reporter, Mr.
9 Matthews made two objections.

10 The first objection was because it was in
11 the text of a message hearsay, or a message
12 referring to someone else speaking or talking.
13 I sustained that objection. Then the Solicitor
14 went back with the paper copies of the text
15 messages, and I might add that you will have to
16 do a better job of redacting them, if they're
17 gonna go to the jury, than just putting a piece
18 of paper over them, because the jury can clearly
19 see what's on it.

20 Mr. Matthews objected to information that
21 was technical in nature, concerning the actual
22 transponding of text messages without the
23 context of the message. I sustained that
24 objection and told the Solicitor they had to
25 redact it. Their redaction consisted of putting

1 a piece of paper over it, which can be lifted
2 up, and see the information that's redacted.
3 Before the documents go to the jury room,
4 there's gonna have to be a better job of
5 redaction than that.

6 I wanted there to be a record of what
7 transpired of the objection. So have I
8 accurately stated what occurred, as far as the
9 Defendant is concerned?

10 MR. MATTHEWS: Yes, sir.

11 THE COURT: And so far as the State is
12 concerned?

13 MS. LEGETTE: Yes, Your Honor.

14 THE COURT: Counsel approach. Are they
15 ready?

16 CLERK: Yes, sir.

17 THE COURT: All right.

18 BAILIFF: Bring them in?

19 THE COURT: Just one second.

20 BAILIFF: Yes, sir.

21 THE COURT: Bring us the jury.

22 (Jury enters courtroom.)

23 ***

24 PROCEEDINGS CONTINUED

25 THE COURT: Solicitor, direct examination,

1 you may proceed.

2 BY MS. LEGETTE:

3 Q. All right, so Ms. Aiken, I think when
4 we took our break a few moments ago, we were
5 talking about you had gone to the courthouse,
6 and you paid the money, but your boyfriend
7 Dominique couldn't get out.

8 A. Yes, ma'am.

9 Q. So what happens next, once you take the
10 money and you left the courthouse, who was with
11 you then?

12 A. Still Kenneth and his baby mama.

13 COURT REPORTER: I'm sorry, I'm sorry.

14 BY WITNESS:

15 A. Still Kenneth Chisholm and his --
16 Napatino, his baby mama.

17 Q. All right, so I want you to slow down,
18 okay? All right, I know you're nervous, but
19 we're going to slow down, okay, because she's
20 got to get it all down.

21 So you went back to your -- well, when you
22 got to the courthouse, did anything happen when
23 you got to the courthouse? Did you leave your
24 keys in the car? What happened?

25 A. He told me to give him my keys.

1 Q. He as in?

2 A. Oh, Kenneth.

3 Q. Why did he tell you to give him your
4 keys?

5 A. I'm not sure.

6 Q. And what did you take in the courthouse
7 with you?

8 A. My wallet.

9 Q. All right, so was left in the car?

10 A. They were standing outside, Kenneth and
11 his baby mama.

12 Q. All right, so you went in the
13 courthouse and you paid the money?

14 A. Yes.

15 Q. All right, so once you left the
16 courthouse, where did you'all go?

17 A. He told me that we had to get out of my
18 car, and I was like, "Where are we gonna go?"
19 And I was like, "Your people have got cars, your
20 people got cars." And I had got my
21 grandmother's car, and then I took them to some
22 house that's -- the girl owns the house, I
23 didn't even --

24 Q. All right, so Kenneth Chisholm told you
25 you'all had to change cars?

1 A. Yes.

2 Q. All right, so what car did you get?

3 A. My grandmother's.

4 Q. What kind of car was that?

5 A. A Dodge Dart.

6 Q. Do you remember what color it was

7 A. Gray.

8 Q. All right, so you got into a Dodge
9 Dart?

10 A. Yes.

11 Q. And who was with you?

12 A. Kenneth Chisholm and Napatino.

13 Q. Napatino. And what did you do with
14 them at that time? Where did you take them, at
15 somebody's house?

16 A. Yeah, they told me to drop them off to
17 some -- her aunt's house, or somebody else.

18 Q. All right, so once you dropped them off
19 at her aunt's house, or his aunt's house, what
20 did you do next?

21 A. I went home. They told me -- before I
22 left there were just like, "You'd better not say
23 nothing, don't tell nobody."

24 Q. Okay, and were you afraid? How did you
25 feel?

1 A. Scared, shocked.

2 Q. Okay, so did you tell anybody, at this
3 point?

4 A. Uh-uh.

5 Q. Is that a yes or a no?

6 THE COURT: You have to say yes or no.

7 BY WITNESS:

8 A. No. No.

9 Q. So you didn't tell anybody.

10 A. No.

11 Q. What did you do?

12 A. I went and -- I went home, and at first
13 I was just scared, I started like crying.

14 Q. Okay, and then you're crying, and did
15 you leave home? Did you stay home? Did you
16 tell your grandmother, or who were you living
17 with during that time?

18 A. I was living with my mom, but I went to
19 my grandma's house.

20 Q. So you went to your grandma's house,
21 okay. So did you stay at your grandma's house,
22 or did you go anyplace else?

23 A. I left and I went to Aiken.

24 Q. Why did you go to Aiken?

25 A. That's where my mom -- my ex got

1 transported to Aiken Jail.

2 Q. So your boyfriend got transferred to
3 Aiken Jail?

4 A. Yes, and I went to his dad's house,
5 because he told me to come there.

6 Q. All right.

7 A. His dad.

8 Q. Okay, so did you feel more safe there,
9 or what's going on?

10 A. Yes. I felt more safe there, because I
11 thought -- I don't know, they didn't know how to
12 get there. I don't know.

13 Q. Okay. All right, so did you ever talk
14 to the police at that point?

15 A. No, ma'am.

16 Q. All right, so do you remember how long
17 you were in Aiken?

18 A. A couple days, like, probably two,
19 three.

20 Q. All right, so were you also hiding as
21 well?

22 A. I mean kind of, yeah. I would say so,
23 yes.

24 Q. Okay. All right, and at some point did
25 the police find you?

1 A. Yes.

2 Q. Tell us about it, and were you
3 arrested?

4 A. Yes.

5 Q. Okay, and you were charged with, I
6 guess, what happened in this case?

7 A. Yes, ma'am.

8 Q. All right, and so you were arrested and
9 you went to jail?

10 A. Yes, ma'am.

11 Q. Okay, all right. And have you been in
12 jail ever since, basically, this happened?

13 A. Yes.

14 Q. And you indicated earlier that you
15 already pled guilty.

16 What did you plead guilty to?

17 A. Accessory after-the-fact.

18 Q. All right, and, La'Shay, is there
19 anything else that you wanted the Court to know
20 about your involvement in this case, that I may
21 have forgotten?

22 A. I mean I didn't know that a robbery
23 really was gonna like take place that day,
24 because the day before I was just seeing how,
25 you know, what he would have done to, you know,

1 help his friend. I wasn't really gonna, you
2 know, do anything.

3 I was gonna tell his friend like this is
4 what your friend would have done for you. And
5 the day that I found out that I had enough
6 money, you know, I was okay with all of that. I
7 had the money, I didn't even need nobody's money
8 to help me with anything, but I felt like I owed
9 him a favor, just because, you know, he was
10 telling me what he would have done, and that's
11 the only reason I still gave him a ride to buy
12 weed, which is dumb, but I --

13 Q. But you knew that the robbery was gonna
14 happen?

15 A. Yeah, basically.

16 Q. Okay. All right, La'Shay, I have no
17 further questions. Please answer any questions
18 from Mr. --

19 THE COURT: Exhibits to the Court Reporter
20 from the --

21 MS. LEGETTE: Yes, sir. Yes, sir.

22 THE COURT: Yes.

23 MS. LEGETTE: Thank you.

24 THE COURT: All of those are together, turn
25 them the same way, if you would. It's one

1 exhibit. Give that to the Court Reporter, there
2 we go.

3 COURT REPORTER: Thank you.

4 WITNESS: They're all good.

5 THE COURT: Just clip them together, both
6 of them. Kym?

7 COURT REPORTER: Yes, sir.

8 THE COURT: They're clipped.

9 COURT REPORTER: Thank you.

10 THE COURT: Cross-examination.

11 MR. MATTHEWS: Thank you, Your Honor.

12 ***

13 CROSS-EXAMINATION

14 BY MR. MATTHEWS:

15 Q. La'Shay, this is not my first time
16 seeing you in that chair, is it?

17 A. It should be.

18 Q. You didn't testify in a murder case
19 about seven years ago?

20 A. No.

21 Q. -- in this case?

22 A. No.

23 Q. All right. How long did it take you to
24 get from club to victim?

25 A. What do you mean by that?

1 Q. Well, you met with -- how many times
2 did you meet with the Solicitor's Office?

3 A. I'm not sure how many.

4 Q. A dozen?

5 A. I wouldn't say a dozen.

6 Q. Ten?

7 A. No.

8 Q. Eight?

9 A. Uh-huh.

10 Q. You had a conference with them back in
11 November of 2019, right? Could have been?

12 A. Could have been.

13 Q. Your attorney Scott Lee was here, still
14 here. Do you see him out there?

15 A. Yes, sir.

16 Q. He was with you at one of the meetings
17 back in 2019; is that correct?

18 A. Yes, ma'am. I mean yes, sir.

19 Q. And Ms. Legette was there, correct?

20 A. Yes.

21 Q. Donald Hipp was there, correct?

22 A. I don't remember.

23 Q. Investigator -- a big fella,

24 Investigator --

25 THE COURT: Whoa, whoa, whoa, one at a

1 time, so she can answer. Go ahead and ask the
2 question, and let her respond.

3 Q. Who all was there? How many people?

4 A. Three.

5 Q. Okay. Sean Thornton was there, right?

6 A. Yes, sir.

7 Q. Okay. And there was a big fella,
8 Donald Hipp was also there too, Investigator.

9 A. Yeah, there was a big fella there. I
10 guess that's his name.

11 Q. Okay, and you gave a statement to them
12 on November 7th, 2019; does that sound about
13 right?

14 A. I'm not good with my dates, but I know
15 I did talk to them.

16 Q. Okay, maybe eight times?

17 A. I don't know.

18 Q. Okay. How many times did you talk to
19 them in 2017?

20 A. I don't -- I -- I'm not sure. I don't
21 know like the amount, but I know I talked to
22 them a couple times.

23 Q. Okay. Did you talk to them to get
24 ready for trial at least twice?

25 A. No.

1 Q. You don't -- don't look at Ms. Legette.
2 You must have said, when you were responding to
3 the Prosecutor's questions here with the victim,
4 but in the beginning you referred to the victim,
5 Phillip Miller, as the plug, right?

6 A. Yes.

7 Q. Okay. I'm wondering how long it took
8 you to get from the plug to the victim?

9 A. I can't remember -- I don't know his
10 name. I went from plug, because your client
11 gave me that indication.

12 Q. I understand, I understand. At the
13 courthouse 20 minutes after this happened, you
14 went and posted a bond, right?

15 A. It could have been 20 minutes.

16 Q. Around there somewhere, right?

17 A. Yes, sir.

18 Q. And you know you're on film, you've
19 seen that too, right?

20 A. Yes, sir.

21 Q. You weren't crying then, were you?

22 A. Uh-uh.

23 Q. You weren't upset at all at that point
24 were you, not visibly?

25 A. I was scared.

1 Q. You were?

2 A. Yes.

3 Q. Okay, and you gave Kenneth your keys
4 and the phone, I guess, because you know you
5 couldn't carry those in the courthouse, right?

6 A. I can -- you can carry keys in the
7 courthouse.

8 Q. Keys, but as far as a phone, you gave
9 him your phone, right?

10 A. Oh, yeah.

11 Q. Okay, 'cause you can't carry that into
12 the courthouse, right?

13 A. I guess not.

14 Q. Okay. Well, I mean you know that, it's
15 posted, when you walk in, all right?

16 A. On the video you can see me running,
17 and not reading a poster.

18 Q. Okay, you ran in, because you were
19 worried you were gonna run out of time?

20 A. I ran in, because he told me to hurry
21 up, as well, and also because I was gonna run
22 out of time.

23 Q. Okay, all right. It wasn't -- when you
24 first saw Kenneth, you testified here, I
25 believe, that he had counterfeit money in the

1 bookbag; is that right?

2 A. Yes.

3 Q. Now, you already had the money, so you
4 didn't need to do this at all, did you?

5 A. Yeah.

6 Q. You did need to do it?

7 A. No.

8 Q. Okay. And, initially, when you saw the
9 counterfeit money, he didn't even have a gun,
10 did he?

11 A. I'd seen him calling for money, when he
12 went back to get his gun in his yard --

13 Q. Okay.

14 A. -- in the car.

15 Q. You wrote a statement, and you signed
16 this statement, I guess, December 16, 2021,
17 that's one of the times you met with the
18 Solicitors, right?

19 A. Could have been.

20 Q. Okay, I mean there's a statement. I've
21 marked this up, but I'll hand it to you to look
22 at, if you'd like.

23 A. I can.

24 Q. I mean if you need it to remember, if
25 you don't, maybe you can get a clear copy from

1 the Solicitor's Office, that's where I got it
2 from.

3 A. Yeah, whatever, that's --

4 Q. When you signed this, was your attorney
5 there with you, when you signed it?

6 A. What date are you -- I mean I don't
7 understand what you're talking about.

8 MS. LEGETTE: And I'm gonna ask that he
9 show the witness the statement --

10 MR. MATTHEWS: Sure.

11 MS. LEGETTE: -- if he insists on talking
12 to her about it.

13 THE COURT: Hand her a copy of the
14 statement. Have you got a copy?

15 MR. MATTHEWS: May I approach?

16 THE COURT: You may.

17 MR. MATTHEWS: I guess you can mark that.

18 COURT REPORTER: Yes, sir.

19 MR. MATTHEWS: At this point for
20 identification.

21 COURT REPORTER: Yes, sir. This will be 12
22 for identification.

23 THE COURT: What will it be, Kym?

24 COURT REPORTER: It will be 12, sir, for
25 identification.

1 THE COURT: ID only?

2 COURT REPORTER: Yes, sir.

3 MR. MATTHEWS: May I approach the witness?

4 THE COURT: You may.

5 BY MR. MATTHEWS:

6 Q. Have you reviewed both pages of that
7 statement?

8 A. Yes, sir.

9 Q. Okay. And is that your signature on
10 the second page?

11 A. Yes, sir.

12 Q. I'm sorry?

13 A. Yes, sir.

14 Q. Okay. So you signed this statement on
15 December the 16th of 2021, correct?

16 A. Yes.

17 Q. But you originally made the statement
18 on November the 7th of 2019; that's on the first
19 sentence of the first page.

20 A. Yes.

21 Q. All right. All right, does this help
22 refresh your recollection of what you said?

23 A. Yes.

24 Q. All right. Take a look at the fifth
25 paragraph on page one.

1 A. Okay.

2 Q. All right, when Kenneth first got in
3 the car, he did not even have a gun; is that
4 correct?

5 A. Yes.

6 Q. And it wasn't his idea for him to go
7 get one, was it?

8 A. No.

9 Q. All right. You identified pictures of
10 your car going by the Feed & Seed, but you only
11 saw that when the Solicitor's Office showed it
12 to you, right?

13 A. Yes.

14 Q. I mean you couldn't say it's how things
15 looked, because you were inside the car not
16 outside, right? Obviously.

17 A. Yes.

18 Q. How many times were you shown these
19 videos?

20 A. A couple.

21 Q. All right. You went to Aiken to get
22 away, correct, as you already testified?

23 A. Yes.

24 Q. And also to talk to your boyfriend,
25 right? But you couldn't talk to him on the

1 phone?

2 A. No, I don't have to talk to him, he was
3 transported out of there.

4 Q. Okay.

5 A. I didn't -- I didn't talk to him on the
6 phone.

7 Q. But you did talk to him on the general
8 phone in jail, right?

9 A. Yes.

10 Q. Okay. In one of your conversations you
11 had said something about Officer Jeneke; what
12 was that about?

13 A. Jeneke?

14 Q. One of your jail calls, you'd mentioned
15 that name. You don't remember?

16 A. No.

17 Q. You had testified too that your
18 intention, at that point, that you would not
19 have gone along, if you knew there was gonna be
20 a robbery, correct?

21 A. Yeah.

22 Q. Okay. He was going to buy weed?

23 A. Yes.

24 Q. And he was looking for weights, right?

25 A. Yes.

1 Q. Was he looking for maybe a quarter
2 pound, or do you know how much he was looking
3 for?

4 A. He didn't say.

5 Q. How much did you expect that you'all
6 were gonna get?

7 A. I didn't expect nothing because he
8 bought it for me.

9 Q. Okay. Did he offer you any money to
10 get you to drive out there?

11 A. No.

12 Q. You were waiting to go to the
13 courthouse, right? That was your number one
14 objective, was to get your boyfriend out of
15 jail, right?

16 A. Yes, the day before. When I found out
17 the day of that I had amount of money.

18 Q. When did you get that?

19 A. I got it the day -- I had money on me,
20 and then I got the rest of it out of my bank.

21 Q. Okay, \$500?

22 A. It could have been like a little less
23 than that, but I had money on me already, cash.

24 Q. What time of the day did you get that
25 on the 15th, the day before.

1 A. I think right before I -- like right
2 before I went to pick him up.

3 Q. Pick who up?

4 A. Kenneth.

5 Q. Okay, so that was the day of. You got
6 it the day of, not the day before?

7 A. Yes.

8 Q. Okay. And you picked up the money from
9 the bank, and --

10 A. Uh-huh.

11 Q. -- you had enough to get him out --

12 A. Uh-huh.

13 Q. -- but you did not go to the courthouse
14 right away?

15 A. No.

16 Q. Okay. Why not?

17 A. I picked him up, because he said he
18 wanted to be with me when I had gotten
19 Dominique. And he said he was pressed -- he had
20 a certain time to get to the guy.

21 Q. Okay, so you were all in on going to buy
22 the marijuana, right?

23 A. Yeah, I was all in to take him over
24 there.

25 Q. Okay. But by the time -- you made some

1 progress when you first started, you barely
2 could pronounce Niffatina's name.

3 A. Uh-huh.

4 Q. But by then you got pretty good. You
5 knew her as Moosie though, right?

6 A. Yes.

7 Q. All right. And you referred to her
8 later as Niffatina, because you wanted people to
9 understand who you're talking about, right?

10 A. Yes.

11 Q. Okay. Where did Moosie get her ammo;
12 do you know?

13 A. Her ammo?

14 Q. Her bullets.

15 A. Moosie -- you asked me earlier, and I
16 don't know her. I know her through him.

17 Q. Well, where do people go to get their
18 ammo?

19 A. I've never bought ammo, so I don't
20 know.

21 Q. Okay, Lowcountry Farms?

22 A. I don't know.

23 Q. All right. You pulled in, you say, in
24 front of or behind the white car?

25 A. In front of it.

1 Q. Okay. And I think you said in your
2 statement, and look at it, if you need to, that
3 Niffatina, Moosie --

4 A. Uh-huh.

5 Q. -- and Chiz got out and sat on the
6 swing on the porch; is that correct?

7 A. No, I never said sat down on a swing, I
8 said they were sitting on the porch. I don't
9 know if it was a swing, or whatever it would
10 have been.

11 Q. All right, take a look at your
12 statement.

13 THE COURT: Let the record reflect that
14 counsel is referring to Defendant's Number 12
15 for identification only.

16 BY MR. MATTHEWS:

17 Q. I'll move on. Obviously, you were
18 messing with your phone you testified, right?

19 A. Yes, sir.

20 Q. And you were on, obviously, the
21 driver's side, because you were driving, right?

22 A. Yes.

23 Q. So that's the seat farthest away,
24 obviously, from the house, correct?

25 A. Yes.

1 Q. All right, now, I want you to take a
2 look, again, at the second paragraph on page two
3 of Exhibit 12, your statement. Would you take a
4 look at that, please?

5 A. You said the second paragraph?

6 Q. Correct. All right, what's the last
7 sentence in that paragraph?

8 THE COURT: Which page?

9 MR. MATTHEWS: Page two.

10 BY WITNESS:

11 A. They sat in the swing and spoke to the
12 plug.

13 Q. Okay, so they sat in the swing and
14 spoke to the plug. The plug was not yet the
15 victim, that came later, right?

16 A. He's been the victim, but like I said,
17 I didn't know a thing.

18 Q. Okay, you didn't -- you know, you say
19 --

20 A. Um --

21 COURT REPORTER: I'm sorry.

22 BY MR. MATTHEWS:

23 Q. You said they sat on the swing.
24 There's not a swing on that porch at all.
25 You've seen the pictures afterwards, right?

1 A. I see there's chairs, a swing, I don't
2 know the front porch. I know they sat on the
3 porch, but --

4 Q. Okay. You were on the driver's side
5 mostly looking at your phone?

6 A. Uh-huh.

7 Q. Look up from time-to-time and you said
8 they had sat together on the swing, correct?

9 A. They was on the porch. In my --

10 Q. You --

11 A. In my -- the statement it says swing,
12 but a swing, chair, could have -- they were
13 sitting on the porch.

14 Q. Those details don't really matter, do
15 they?

16 A. Does it to you?

17 Q. It does a great deal to me.

18 A. It does to me too.

19 Q. I see. So they did sit on the swing,
20 that's right, or that's wrong?

21 A. They're on the porch.

22 Q. I'm asking you about the swing.

23 MS. LEGETTE: Your Honor, I believe she's
24 asked and answered. I believe she's asked and
25 answered it, Your Honor.

1 THE COURT: Counsel approach.

2 (Bench conference.)

3 BY MR. MATTHEWS:

4 Q. Ms. Aiken, you've had a chance to look
5 at this statement that you signed, correct?

6 A. Yes, sir.

7 Q. And after looking at that statement, do
8 you change your opinion, as to whether or not
9 they sat on the swing?

10 A. I mean after seeing the pictures again,
11 yeah.

12 Q. Okay, all right. So what you wrote in
13 the statement was wrong, and you know that from
14 the pictures, right?

15 A. About the swing, yes.

16 Q. Okay. You got a deal for accessory
17 after-the-fact, correct?

18 A. Yes, sir.

19 Q. And that is a parolable offense; is
20 that correct?

21 A. Yes, sir.

22 Q. Okay, so on a nine-year sentence,
23 you've been in jail how long?

24 A. About four years and three months.

25 Q. All right, but you're still in jail

1 now, because you've got other charges over you,
2 correct?

3 A. Yes.

4 Q. All right. But you understand those
5 charges will be dismissed after today, correct?

6 A. Yes.

7 Q. All right, and then you're almost at
8 max of time on a nine-year sentence, because
9 you've been in jail so long, right?

10 A. Yes.

11 Q. So do you believe that after today
12 you'll get out?

13 A. Yes.

14 Q. If you had testified significantly
15 different, like from what you wrote in this
16 statement, do you believe you would be getting
17 out?

18 A. Yes.

19 Q. You do?

20 A. Yes.

21 Q. Okay. So neither you nor your
22 testimony has to be true?

23 A. Yes, sir.

24 Q. Oh. Were you upset that Moosie never
25 got charged?

1 A. No.

2 Q. So with the deal you made, you could
3 very well get out of jail today. If you had not
4 made this deal, how much time would you have
5 got?

6 A. I'm not sure.

7 Q. Life, right?

8 A. Probably. Possibly.

9 Q. You know the deal that you made, right?

10 A. Yeah, I made a deal, but --

11 Q. Okay.

12 A. -- I don't know how much I would have
13 gotten.

14 Q. Your lawyer did not explain that to
15 you? Your lawyer's in the courtroom today.

16 A. You're talking about as if I would have
17 went to trial, and I would have took a different
18 plea --

19 Q. If you --

20 A. -- because of this?

21 Q. -- were convicted of this after trial,
22 you would have gotten a whole lot more time than
23 you got; is that correct?

24 A. I'm pretty sure.

25 Q. All right. No further questions. Oh,

1 one more. Did you ever give your phone to the
2 Solicitor's Office?

3 A. My home?

4 Q. Your phone.

5 A. No.

6 Q. Did you ever give your phone to Law
7 Enforcement?

8 A. No.

9 Q. Do you know that they can -- they're
10 supposed to be able to track where you are from
11 your phone, right?

12 A. Yes.

13 Q. But nobody ever asked for your phone?

14 A. No.

15 Q. No further questions.

16 THE COURT: Redirect?

17 MS. LEGETTE: Briefly.

18 ***

19 REDIRECT EXAMINATION

20 BY MS. LEGETTE:

21 Q. La'Shay --

22 A. Yes, ma'am.

23 Q. -- Mr. Matthews referred to that
24 statement that you have in front of you. I
25 think that's defense Exhibit Number --

1 THE COURT: Defendant's 12 for
2 identification.

3 MS. LEGETTE: Thank you, Your Honor.

4 BY MS. LEGETTE:

5 Q. Defendant's 12, that statement that you
6 signed.

7 A. Yes.

8 Q. Now, La'Shay, did you actually write
9 that statement?

10 A. No, ma'am.

11 Q. So could it have been a summary of what
12 you told the Solicitor's Office?

13 A. Yes, ma'am.

14 Q. All right, and so let's talk about the
15 date of your signature on there. Do you
16 remember signing that statement?

17 A. Yes, ma'am.

18 Q. Who else's name appears on it, that
19 signed that statement on December 16th, 2021?
20 Can you read it?

21 A. Not really.

22 Q. Was that your attorney?

23 A. Yes, the attorney signed as a witness.

24 Q. All right, and also there's someone
25 else that signed that statement?

1 A. Yes.

2 Q. Can you read that name?

3 A. No, I don't --

4 Q. Was that -- didn't that -- did you sign
5 that statement back in December, 2021, at the
6 Beaufort Courthouse?

7 A. Yes, ma'am.

8 Q. All right. Would that have been one of
9 the jailers?

10 A. Yes. Yes.

11 Q. Did you plead guilty that same day --

12 A. Yes, ma'am.

13 Q. -- when you signed that statement?

14 A. Yes, ma'am.

15 Q. All right. So, now, you didn't
16 actually write that statement, but you actually
17 signed your name on it, acknowledging it; is
18 that what you're saying?

19 A. Yes, ma'am.

20 Q. Okay. And did you ever talk about the
21 swing -- or, I'm sorry, whoever wrote that could
22 have been wrong about the swing?

23 A. Yes, ma'am.

24 Q. Okay. Now, you said earlier when Mr.
25 Matthews asked you about the gun, whose idea was

1 it to get the gun?

2 A. Moosie's.

3 Q. Moosie's? It was her idea?

4 A. Yes.

5 Q. All right, and so when you'all went to
6 the house to get -- who got the gun?

7 A. Chisholm.

8 Q. Kenneth?

9 A. Kenneth.

10 Q. So Moosie didn't get the gun?

11 A. No.

12 Q. Did you ever see Moosie with a gun that
13 day?

14 A. No, ma'am.

15 Q. All right. So when you'all got to the
16 house, who had the gun?

17 A. Chisholm.

18 Q. Chisholm? All right. Who did you see
19 shooting the gun?

20 A. Chisholm.

21 Q. When you heard the shots, when Moosie
22 was coming back to the car -- I'm sorry, when
23 you heard the shots, where was Moosie?

24 A. She was coming in the car. She was
25 getting in the car.

1 Q. So she didn't have a gun in her hand at
2 the time?

3 A. No, ma'am.

4 Q. And, La'Shay, one final question.

5 A. Yes.

6 Q. The person that you saw shooting on May
7 16th, 2017 at the victim's house or plug's
8 house, who was that person?

9 A. Kenneth.

10 Q. And is he present in Court today?

11 A. Yes, ma'am.

12 Q. Can you point him out, please?

13 A. He's right there.

14 Q. What does he have on?

15 A. A white shirt and a blue tie.

16 MS. LEGETTE: Let the record reflect the
17 witness has identified the Defendant, Kenneth
18 Chisholm.

19 THE COURT: Recross to the redirect?

20 MR. MATTHEWS: Nothing, Your Honor.

21 THE COURT: As to this witness, Solicitor?

22 MS. LEGETTE: We ask that she be excused,
23 Your Honor.

24 THE COURT: Any objections, Mr. Matthews?

25 MR. MATTHEWS: No, sir.

1 THE COURT: Ms. Aiken, you may step down.
2 Watch your steps on those stairs. Leave the
3 exhibits here. This goes to the Court Reporter,
4 hand it -- oh --

5 COURT REPORTER: Thank you, sir.

6 THE COURT: You're excused from the trial
7 of this case. Call your next witness.

8 MS. LEGETTE: The State calls Ms. Ila
9 Simmons.

10 * * *

11 ILA SIMMONS

12 * * *

13 being first duly sworn, testified as
14 follows:

15 THE COURT: Your witness, counsel, direct
16 examination.

17 MS. LEGETTE: Thank you, Your Honor.

18 ***

19 DIRECT EXAMINATION

20 BY MS. LEGETTE:

21 Q. Good afternoon, Ms. Simmons.

22 A. Good afternoon.

23 Q. Ms. Simmons, what do you do for a
24 living?

25 A. I'm currently not employed.

1 Q. Okay, are you retired?

2 A. I am.

3 Q. And where are you retired from?

4 A. From the South Carolina Law Enforcement
5 Division, also known as SLED.

6 Q. All right, and so how long did you work
7 at SLED?

8 A. 16 years.

9 Q. And in what capacity did you work at
10 SLED?

11 A. I was a Forensic Scientist in the Trace
12 Evidence Department in the Forensics Laboratory.

13 Q. All right, so tell us what your duties
14 were, as a Forensic Scientist in the Trace
15 Evidence Laboratory at the Department of SLED.

16 A. Uh-huh. We analyze gunshot residue.
17 We analyze gunpowder residue. We compare
18 fibers, paints, and we analyze for explosives
19 and arson cases.

20 Q. So tell us about your educational
21 background and training and experience, as it
22 relates to -- or applies to working in the Trace
23 Evidence Department at SLED.

24 A. I have a Bachelor's of Science Degree
25 in Chemistry. After completing that I went to

1 work at SLED. For the first three years I
2 worked with the SLED certified, Court qualified
3 Trace Evidence Examiner.

4 During that time I had to take and complete
5 with 100 percent efficiency written, practical,
6 and also written practical and examinations that
7 were showing that I was proficient for each area
8 of trace evidence, and that had to happen every
9 year.

10 Q. Okay, and so have you ever been
11 qualified as an expert in the area of trace
12 evidence?

13 A. Yes, ma'am, over 300 times.

14 Q. 300 times, all right, and so you have
15 testified and been qualified as an expert over
16 300 times?

17 A. Yes, ma'am.

18 MS. LEGETTE: At this time, Your Honor, I
19 would offer Ms. Ila Simmons as an expert in the
20 area of trace evidence.

21 THE COURT: Any objections as to
22 qualification?

23 MR. MATTHEWS: No objection.

24 THE COURT: Very well. Ladies and
25 Gentlemen, recalling my earlier instruction to

1 you, concerning expert testimony, the witness is
2 qualified without objection. You may proceed --

3 MS. LEGETTE: Thank you, Your Honor.

4 BY MS. LEGETTE:

5 Q. Ms. Simmons, what is gunshot residue?

6 A. Gunshot residue is a mixture of
7 microscopic chemicals that come out of the gun
8 when it's discharged. It comes out in a cone
9 shape pattern. It gets on anything in close
10 proximity to that gun, including the hands of
11 the person holding the gun, shooting the gun, or
12 someone's clothing and hands, if they sustain a
13 gunshot wound.

14 Q. Okay. And how is gunshot residue
15 collected?

16 A. There is a specialized test. It is a
17 piece of double-side sticky tape on a handle,
18 and that is dapped over the hands of the person
19 who may have been discharging the gun, or it can
20 be dapped over the clothing of someone who may
21 have been discharging the gun.

22 Q. And you testified about how somebody
23 could get gunshot residue on their hands, and I
24 think you touched on this some as well, but is
25 it common for a person who's been shot, or near

1 a gun going off to get GSR on their hands?

2 A. Yes. About 90 percent of people, who
3 are in close proximity to a handgun when it's
4 discharged, will have gunshot residue on their
5 hands, even if they weren't the one holding the
6 gun.

7 Q. All right, and so is there a common
8 location sometimes of where gunshot residue
9 might be on a person who's a victim of a gunshot
10 wound?

11 A. Generally, on the palms of the hands.

12 Q. And why is that, or can you testify to
13 why that could be?

14 A. In some cases, if they were to assume a
15 defensive posture, if someone were to shoot at
16 me, I might throw my hands up like this, so my
17 palms would be bladed toward the gun.

18 Q. All right. And so what is the
19 consistency of GSR?

20 A. It has the consistency of flour, so
21 it's very easily removed. If you get flour on
22 your hands and you wipe your hands, you know
23 that the flour's gonna come right off.

24 Gunshot residue is the same way, if you
25 wish your hands, you take a shower, put your

1 hands in and out of your pockets, it can remove
2 gunshot residue from your hands.

3 Q. So how long will GSR remain on the
4 hands of a person who is alive?

5 A. No more than six hours after a
6 shooting.

7 Q. Okay, so what about someone who is
8 deceased?

9 A. Well, when someone's deceased, of
10 course, they're no longer making contact, their
11 hands aren't making contact with objects,
12 they're not sweating, so gunshot residue can
13 remain indefinitely.

14 Q. Okay, so will your laboratory analyze a
15 GSR kit that is collected from someone after the
16 six hours goes by?

17 A. Not a living person, no, it wouldn't,
18 it would not.

19 Q. So if a shooting happens on a Tuesday,
20 and the person is not arrested until Thursday,
21 and the police do a GSR kit on that person, will
22 you analyze that particular GSR kit?

23 A. No, no gunshot residue would remain
24 that long.

25 Q. Now, turning your attention to the case

1 before the Court, did you have, or did you
2 receive, or examine any evidence in this case?

3 A. I did.

4 Q. And what evidence did you receive?

5 A. I received three gunshot residue
6 collection kits. I also received a glove to
7 process for the presence of gunshot residue, and
8 I processed a tee-shirt and pants and belt.

9 Q. And did you receive any other items?

10 A. I didn't process the other items. They
11 would have gone through my custody, but I would
12 not have opened them, or analyzed them.

13 Q. All right, so what was the condition of
14 the evidence that you did receive?

15 A. It was all sealed and initialed by the
16 person who brought it in.

17 Q. Okay. And can you tell us from whom
18 you received this evidence as --

19 A. Yes, ma'am, if I could consult my notes
20 first?

21 Q. Absolutely, yes, please.

22 A. The gunshot residue kits would have
23 been -- I would have received them from someone
24 in our evidence login area. When the evidence
25 is brought in, it's brought into a central login

1 area, logged into our computer system. It's
2 kept in a secure evidence room, until one of the
3 Trace Evidence Analysts would go down to collect
4 it, and I would have received it from Amy
5 Stevens Black, and that was -- yes, all three of
6 the gunshot residue kits were in there. And the
7 glove I received it from another one of our
8 Evidence Technicians in the central login area,
9 her name would have been Jackie Davis. And then
10 the pants and shirt would have also been
11 received from Jackie Davis from our central
12 login area.

13 Q. And you indicated earlier that the
14 evidence was in a sealed condition?

15 A. Yes.

16 Q. If it had not been in a sealed
17 condition, would you or someone at SLED need to
18 know that?

19 A. Yes, definitely.

20 Q. All right, I'm gonna hand you now
21 what's been previously marked for identification
22 and admitted into evidence as State's 139.
23 Please take a moment and tell me if you
24 recognize State's 139.

25 MS. LEGETTE: May I approach?

1 THE COURT: You may.

2 BY WITNESS:

3 A. Yes, ma'am, I do recognize State's 139.

4 Q. And what is State's 139?

5 A. It is three gunshot residue kits that
6 were collected in this case.

7 Q. And how are you able to tell?

8 A. On each gunshot residue kit it is
9 marked with a unique identification number that
10 each case is given, when it's brought into our
11 laboratory. Each item is marked with an item
12 number. It also has my handwritten initials,
13 and the date that I opened it to begin my
14 analysis.

15 Q. And is State's 139 in substantially the
16 same condition today, as when you previously
17 received it, and then thereafter test it and
18 sealed the bag?

19 A. Yes, it still has my initials and the
20 date that I sealed the evidence.

21 Q. Has it changed or altered any?

22 A. No, ma'am.

23 Q. All right.

24 MS. LEGETTE: I now offer into evidence, as
25 indicated it's been previously booked into

1 evidence, I reoffer it for admission into
2 evidence.

3 THE COURT: What's the number? My State's
4 Number bottom --

5 WITNESS: 139.

6 MS. LEGETTE: It should be --

7 THE COURT: My records reflect, Kym, you've
8 got it in evidence?

9 COURT REPORTER: Yes, sir.

10 THE COURT: 139's in evidence.

11 MS. LEGETTE: All right, thank you.

12 BY MS. LEGETTE:

13 Q. Ms. Simmons, tell us about the
14 examination that you made of State's 139.

15 A. These are three standardized gunshot
16 residue kits, it is what I mentioned before, it
17 was a double-sided sticky tape. I would have
18 analyzed each one of these samples on a scanning
19 electron microscope, which is a microscope that
20 can see down about 100,000 times greater than
21 the human eye can see.

22 Gunshot residue is so small that you can
23 fit 100 of them across a human hair, and this
24 particular microscope would actually take a
25 picture of the gunshot residue, it's particles

1 that we find, and would tell us every element,
2 every chemical element that was in these gunshot
3 residue particles, and that's how I analyzed
4 these. I analyzed each one of the kits, each
5 sample from each kit.

6 Q. And what were your findings on the GSR
7 kits, if you don't mind?

8 A. On each kit particles consistent with
9 gunshot residue were found.

10 Q. Okay. So what does that really tell
11 us? That he had gunshot residue on his hands?

12 A. Yes. At the time that it was
13 collected, yes, that's right.

14 Q. All right, the next thing that you also
15 indicated that you also received some other
16 items in this case. I want to turn your
17 attention, specifically, to I believe item 35
18 that you received at SLED.

19 A. Yes, ma'am.

20 Q. Can you tell us about item 35, and what
21 it was described as?

22 A. Item 35 was contained in a box. It was
23 in its own individual bag in a big box, and it
24 was labeled as, "Brown bag containing shoes and
25 socks."

1 Q. All right. Did it also come out of
2 Container F?

3 A. Yes, it did.

4 Q. All right, and so, Ms. Simmons, what,
5 if anything, did you do with the brown bag
6 containing the shoes and socks?

7 A. I did nothing. I didn't open it, and I
8 didn't inventory it.

9 Q. You didn't open it, and you didn't
10 inventory it. And what condition was it in when
11 you received it?

12 A. It was sealed. It was sealed in the
13 box, and then the bag was also sealed within the
14 box.

15 Q. All right, so you never tested that?
16 You didn't open it? You didn't test anything?

17 A. No, ma'am.

18 Q. Okay. And from whom did you receive
19 that evidence at SLED?

20 A. I need to check one more time. I
21 believe that would have been in the same
22 container. That would have been from Jackie
23 Davis, because it would have been Container F,
24 would have all been received from Jackie Davis.

25 Q. All right, and so once you received it

1 from Jackie Davis, what did you do with it next?

2 A. I would have processed the items that
3 were required, did require my processing, and
4 then I would have stored it in our room -- in
5 the room that we had there in the Trace Evidence
6 Department, in Room 338.

7 And then when it was time for me to take it
8 back downstairs to our Central Login Department,
9 I would take it back into my custody, and take
10 it down to -- and Jackie Davis received it, when
11 I took it back downstairs for her storage -- to
12 put it in storage.

13 Q. All right, so you never actually opened
14 State's Number, I'm sorry, item 35, which was
15 the shoes?

16 A. I did not.

17 Q. You just moved the box?

18 A. Yeah, I had -- I actually took other
19 items out of the box that I analyzed, but not
20 that particular item.

21 Q. All right, so that item's in there, but
22 you didn't open that item up?

23 A. That's correct.

24 Q. All right, and so once you did all
25 those things, you took it back and gave it to

1 Jackie Davis?

2 A. Yes.

3 Q. And thereafter where did it go?

4 A. It would have went -- Jackie would have
5 put it in the evidence processing intake area in
6 the central storage downstairs in our laboratory
7 in our central storage area. And then it would
8 have gone to the custody of Doris Yarborough,
9 who is another one of our login technicians, and
10 then it would have gone to Jasmine Yi, and she
11 was a Serology Analyst at the time.

12 Q. All right, in a moment I'm gonna hand
13 you what's been marked for identification only
14 as State's Number 148. Please take a look, and
15 tell me if you recognize State's 148.

16 MS. LEGETTE: May I approach the witness?

17 THE COURT: You may.

18 BY MS. LEGGETE:

19 Q. And 148 is just a box and not --

20 A. Yes.

21 Q. -- any contents.

22 A. Yes, the box would have been Container
23 F, that I would have received with all the bags
24 in it.

25 Q. Yes, ma'am, so you recognize Container

1 F?

2 A. Yes, I do.

3 Q. And that is what you received at SLED
4 as your item 35?

5 A. Yes.

6 Q. Okay, and --

7 A. Well, it would have been -- multiple
8 items would have been in there.

9 Q. In there.

10 A. But item 35 would have been in here.

11 Q. Yes, ma'am, all right. And thereafter
12 did you have any other significant involvement
13 with this case?

14 A. No, just that -- just what -- just
15 analyzing the pants and shirt.

16 Q. All right, thank you. Do leave that
17 box up there. And after the pants and shirt
18 that you actually, I guess, analyzed, did you
19 find any particles of gunshot residue on those
20 items?

21 A. I did not.

22 Q. Thank you, Ms. Simmons, I have no
23 further questions. Answer any questions from
24 Mr. Matthews.

25 THE COURT: Cross-examination.

1 MR. MATTHEWS: Thank you, Your Honor.

2 ***

3 CROSS-EXAMINATION

4 BY MR. MATTHEWS:

5 Q. How are you today?

6 A. I'm doing well, how are you?

7 Q. I'm doing all right. We've met a few
8 times before,

9 A. Yes, we have.

10 Q. Not too many more, I guess since you're
11 retired.

12 A. That's right.

13 Q. All right, what -- how close -- if
14 you're receiving -- if you're being shot, how
15 close do you have to be to somebody to get
16 gunshot residue?

17 A. That's depending upon the caliber of
18 the gun, but usually within about ten feet.

19 Q. Within ten feet, okay. And if somebody
20 is firing the shot, you would expect to see,
21 obviously, from the shot, you'd expect it to see
22 it on the back of their hand, and maybe the area
23 through here?

24 A. Yes, sir.

25 Q. Okay. And you did find gunshot residue

1 on each of the three victims in that case?

2 A. Yes, sir, I did.

3 Q. I don't have anything further.

4 THE COURT: Redirect?

5 MS. LEGETTE: None, Your Honor.

6 THE COURT: As to this witness?

7 MS. LEGETTE: We ask that she be excused.

8 MR. MATTHEWS: No objection.

9 THE COURT: You may step down. You're
10 excused from --

11 WITNESS: Thank you.

12 THE COURT: -- the trial of this case. You
13 may leave the courtroom. Call your next
14 witness.

15 MS. LEGETTE: Jasmine Ruiz-Yi.

16 THE COURT: Ten.

17 * * *

18 JASMINE RUIZ-YI

19 * * *

20 being first duly sworn, testified as
21 follows:

22 THE COURT: Adjust that chair to your
23 height, so you've got some back support, if you
24 need it, and adjust the microphone. It's just
25 to amplify your voice. Everybody has a tendency

1 to want to get right up on it. You don't have
2 to do that, just speak up, and it'll amplify
3 your voice for this nice lady right on the end
4 can hear everything you say. State your full
5 name, spell your last name for the Court
6 Reporter.

7 WITNESS: Jasmine Rui-Yi, R-U-I-Z - Y-I.

8 THE COURT: Your witness counsel, direct
9 examination.

10 MS. LEGETTE: Thank you, Your Honor.

11 ***

12 DIRECT EXAMINATION

13 BY MS. LEGETTE:

14 Q. Good afternoon, Mr. Ruiz-Yi.

15 A. Good afternoon.

16 Q. Mr. Ruiz-Yi, where are you currently
17 working?

18 A. I'm currently unemployed.

19 Q. Okay, all right. So where did you
20 formerly work?

21 A. I worked at SLED, the South Carolina
22 Law Enforcement Division.

23 Q. All right, and so what did you do at
24 SLED, the South Carolina Law Enforcement
25 Division?

1 A. I worked as a Forensic Serologist.

2 Q. And for how long were you at SLED?

3 A. Approximately, five and a half years.

4 Q. And what did your duties include as a
5 Forensic Serologist?

6 A. As a Forensic Serologist, I did
7 evidence processing on larger items of evidence,
8 where I would, essentially, scrape area for any
9 potential DNA. I also did body fluid
10 identification for blood, semen and saliva.

11 Q. All right. And so please tell us about
12 your education and experience and training, as
13 it relates to the field of evidence processing
14 in forensic serology.

15 A. I received a Bachelor's Degree of
16 Science and Genetics from Clemson University,
17 with a minor in Biochemistry. Upon employment
18 at SLED, I underwent their in-house training,
19 learned laboratory procedure, was given training
20 samples, which are, essentially, practice
21 samples to learn laboratory procedure and
22 technique with. After a period of doing
23 training samples, I was then allowed to do
24 supervised case work under a court qualified
25 serologist, in which I would do actual cases

1 under her supervision. After a period of doing
2 that, I was then given a five-part competency
3 exam, including a mock trial, a mock case,
4 written exam, oral exam and a report writing
5 exam. And after passing this exam I was allowed
6 to do my own case work.

7 Q. And have you ever been qualified as an
8 expert in the field of forensic serology and
9 evidence processing?

10 A. Yes, I have.

11 Q. How many times in the past?

12 A. Approximately, eight times.

13 MS. LEGETTE: At this time, Your Honor, I
14 would offer Ms. Jasmine Ruiz-Yi, as an expert in
15 the field of evidence processing and forensic
16 serology.

17 THE COURT: Any objection?

18 MR. MATTHEWS: No, sir.

19 THE COURT: Ladies and Gentlemen, the
20 witness is qualified without objection, forensic
21 serology. You may proceed, counsel.

22 MS. LEGETTE: Thank you, Your Honor.

23 BY MS. LEGETTE:

24 Q. Now, Ms. Ruiz-Yi, can you explain to us
25 what is forensic serology and evidence

1 processing? You may have already touched on it
2 some.

3 A. So serology is the science of body
4 fluid identification. It's me doing testing on
5 fluids that are, potentially, semen, blood, or
6 saliva. The evidence processing portion is, as
7 I explained earlier, basically, just scraping
8 items, like clothing, or, potentially, swabbing
9 items, like cell phones and things like that for
10 any potential DNA that's been left on the item.

11 Q. All right, and so did you receive
12 evidence in the case before the Court today?

13 A. Yes, I did.

14 Q. Can you tell us what items of evidence
15 that you received?

16 A. Would you like me to list out all the
17 items in the case?

18 Q. Well, actually, I want you to -- let's
19 go -- thank you for that question. Let's focus
20 our attention mainly on the pair of shoes, and
21 you can refer to your State item number, what
22 you received, and describe the actual shoes that
23 you received.

24 A. Yes, ma'am. All right, so the items
25 she's referring to for me is --

1 THE COURT: Speak up a little bit please.

2 BY WITNESS:

3 A. Yes, sir. So the item she's referring
4 to for me is SLED number item 35.1. They were
5 shoes that were shoes that were black and gray
6 on the exterior, with a red interior, brand Air
7 Jordan, size 12.

8 Q. All right, and so can you tell us,
9 based on your, I guess, certified chain of
10 custody from SLED, from whom did you receive the
11 actual shoes?

12 A. The chain of custody that you gave me
13 is actually missing the pages for that
14 particular item.

15 Q. All right, I'm gonna see if you
16 recognize this. All right, Ms. Ruiz-Yi, I'm
17 gonna hand you what's been marked for
18 identification only as State's 149. Tell me if
19 you recognize this.

20 MS. LEGETTE: May I approach.

21 THE COURT: What number?

22 MS. LEGETTE: State's 149, ID only.

23 THE COURT: 149, for ID only.

24 MS. LEGETTE: ID only, yes.

25 THE COURT: Not in evidence. Ask the

1 question, counsel.

2 BY MS. LEGETTE:

3 Q. Do you recognize State's Number 149?

4 A. Yes, ma'am.

5 Q. And what is State's 149?

6 A. It is a chain of custody for items
7 35.1, 35.1.1.

8 Q. All right. So from whom did you -- are
9 you able now to refresh your memory, as to from
10 whom you received the items at SLED, based on
11 item State's 149 for ID only?

12 A. This is for 35.1, which I created from
13 item 35. This does not have the parent item. I
14 might have that document though, one moment.
15 Okay, I do not, it's missing the previous page.

16 MS. LEGETTE: Beg the Court's indulgence.

17 BY WITNESS:

18 A. Oh, I'm sorry, ma'am, it's on the back
19 sheet, item 35.

20 Q. And, Ms. Ruiz-Yi, can you tell us from
21 whom you received item 35?

22 A. Yes, ma'am. I received it from
23 Forensic Technician, Doris Yarborough.

24 Q. Okay, and what was the condition of
25 item 35, when you received it?

1 A. It was sealed.

2 Q. All right. And had it not been sealed,
3 would you have made a note of it?

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

5 Q. And so once you received item 35 -- I'm
6 actually gonna hand you now -- you said earlier
7 that item 35 was a pair of shoes.

8 A. The item 35 is the shoes and socks.

9 Q. Shoe and socks.

10 A. Yes.

11 Q. Okay, I'm gonna hand you now what's
12 been previously marked for identification only
13 as State's 148, however, it also contains
14 State's Number 64 and 63; but for this purpose
15 of this hearing we want to talk about State's
16 Number 148, which is the box, a container, and
17 State's Number 63. Take a moment and tell me if
18 you recognize State's Number 148 and State's
19 Number 163 previously entered into evidence.

20 MS. LEGETTE: May I approach?

21 THE COURT: You may.

22 BY WITNESS:

23 A. Yes, ma'am, I do recognize this.

24 Q. All right, so State's Number 63, what
25 is State's 63?

1 A. Is State's 63 you're referring to the
2 container or the shoes?

3 Q. I'm sorry, so the container is State's
4 148, and, however, the shoes are State's 63.

5 A. Okay, yes, ma'am.

6 Q. So you recognize them as the shoes?

7 A. Yes, ma'am.

8 Q. And is State's 63 in substantially the
9 same condition today, as when you previously
10 received it?

11 A. To my recollection, yes.

12 Q. All right, so let's talk about, Ms.
13 Ruiz-Yi, did you make any examinations of
14 State's Number 63?

15 A. I did.

16 Q. And can you tell us about that
17 examination?

18 A. The examination I performed on the
19 shoes was a blood examination.

20 Q. Okay. And a blood examination?

21 A. Yes ma'am.

22 Q. All right. So did you find blood on
23 the shoes?

24 A. I did.

25 Q. All right, and so what, if anything,

1 did you do after finding the blood? How are you
2 able to find the blood on the shoes?

3 A. So what I do when blood testing on an
4 item, I perform a visual examination first. And
5 then if there are any areas that are suspicious,
6 or look like blood, I do a two-part chemical
7 test, after swabbing the area, to see if it's
8 positive and needs forwarding to the DNA
9 Department.

10 Q. All right, and so did you find blood on
11 both shoes or just one?

12 A. One moment, please.

13 Q. Yes, ma'am.

14 A. I took a represented sample from the
15 left shoe only.

16 Q. Okay, all right. So on the left shoe
17 you were able to find blood?

18 A. Yes, ma'am.

19 Q. All right, and so you actually
20 physically examined it, and you did what with
21 it?

22 A. A chemical test.

23 Q. Chemical test, okay. And so once you
24 did the physical examination and then the
25 chemical test, what did you do next?

1 A. So I swabbed the area, and then I
2 placed it into a coin envelope that is sealed,
3 which is then placed in a heat sealed pouch, and
4 then I gave that to the Evidence Control area
5 for an analyst to pick up at a later date.

6 Q. So you actually can create your own
7 swab?

8 A. Yes, ma'am.

9 Q. All right, and so in this particular
10 case, that swab that you did, what item with
11 SLED did it become?

12 A. It was item 35.1.1.

13 Q. All right, and so once you created item
14 35.1.1, what did you with it after you created
15 it?

16 A. One moment. After I created the item,
17 I returned it to the Evidence Control
18 Department.

19 Q. All right, so at some point did it
20 actually go to the DNA Analyst

21 A. Yes, that is correct.

22 Q. All right, and referring to your
23 internal chain of custody, are you able to tell
24 us how it arrived at the actual DNA Analyst?

25 A. Would you like the date and time it

1 arrived, or who it arrived to or from?

2 Q. Both is fine, yes, ma'am.

3 A. Okay, so she received it from Evidence
4 Custodian, Jackie Davis, on what looks to be
5 January 5th, 2018.

6 Q. All right, and so it would have been --
7 and what kind of condition would it have been
8 in, after you created the swab?

9 A. The condition of the swabs?

10 Q. Or the condition of the packaging
11 around the swabs.

12 A. Yes, it would have been sealed.

13 Q. Okay. I'm gonna hand you now what's
14 been previously marked for ID only, as State's
15 Number 138. Please take a moment and tell me if
16 you recognize State's Number 138.

17 MS. LEGETTE: May I approach the witness?

18 THE COURT: You may. What's the number on
19 the box?

20 MS. LEGETTE: 48, I'm sorry.

21 WITNESS: No.

22 THE COURT: I can't see it. 148. The box
23 is not in evidence?

24 MS. LEGETTE: The box is not in evidence,
25 no, sir.

1 BY WITNESS:

2 A. I do recognize the item.

3 Q. And, Ms. Ruiz-Yi, what is State's 138?

4 A. So State 138 is the container
5 containing the swabs from the shoes.

6 Q. All right, and is State's 138 today in
7 substantially the same condition today, as when
8 you previously created it and sealed it?

9 A. Yes, ma'am.

10 Q. And has it been changed or altered in
11 any appreciative way that you can tell?

12 A. Other than the analyst working on it,
13 no.

14 Q. And how are you able to recognize it,
15 if I didn't already ask that question?

16 A. So the package has the case number, and
17 the items numbers within it, as well as the seal
18 that I created, and the date that I sealed it,
19 and also from the inside I can see the items
20 that I created.

21 Q. Okay.

22 MS. LEGETTE: At this time, Your Honor, I
23 would offer State's 138 for admission into
24 evidence.

25 THE COURT: As to 138?

1 MR. MATTHEWS: Without objection.

2 THE COURT: Ladies and Gentlemen, State's
3 Exhibit 138 will be admitted into evidence in
4 the trial of this case without objection. You
5 may now publish to the jury.

6 (State's Exhibit 138 was admitted.)

7 MS. LEGETTE: Thank you, Your Honor.

8 BY MS. LEGETTE:

9 Q. And, Ms. Ruiz-Yi, just briefly, after
10 you created item number 138, which was the swab
11 from the left shoe, you turned it over to the
12 next person in the chain of custody?

13 A. Essentially, yes.

14 Q. All right, and did you have any other
15 involvement in this case?

16 A. Other than other items that were worked
17 on no.

18 Q. Thank you, Ms. Ruiz-Yi, I have no
19 further questions. Please answer any questions
20 from Mr. Matthews.

21 ***

22 CROSS-EXAMINATION

23 BY MR. MATTHEWS:

24 Q. Ms. Ruiz-Yi, how are you today?

25 A. I'm good, how are you, sir?

1 Q. I'm well, all things considered. When
2 you take swabs, you don't know how DNA, or
3 blood, or anything gets on an object, do you?

4 A. No, I do not.

5 Q. And just from being a human, would
6 walking around on shoes increase or decrease the
7 likelihood that DNA or blood would continue to
8 be on the object?

9 A. I'm -- I mean there's the likelihood of
10 stepping into blood, that's true.

11 Q. Afterwards, would it -- if you stepped
12 in mud, or something like that, or you step in
13 rain, it's likely that over time it would wear
14 off, and you would be less likely to find it; is
15 that correct?

16 A. That is correct.

17 Q. Okay. Nothing further.

18 THE COURT: Redirect?

19 MS. LEGETTE: None, Your Honor.

20 THE COURT: As to this witness?

21 MS. LEGETTE: We ask that she be excused.

22 THE COURT: Any objection?

23 MR. MATTHEWS: No, sir.

24 THE COURT: Very well, Ms. Ruiz-Yi, just
25 one minute.

1 WITNESS: Yes, sir.

2 THE COURT: I wrote down, and I'm not sure,
3 the Exhibit Number was 149.

4 COURT REPORTER: Yes, sir.

5 THE COURT: Do you have it up there?

6 COURT REPORTER: Yes, sir.

7 THE COURT: You did not admit it into
8 evidence?

9 COURT REPORTER: No, sir.

10 MS. LEGETTE: No, sir.

11 THE COURT: All right. Leave my exhibits,
12 take your file.

13 WITNESS: Thank you, sir.

14 THE COURT: Thank you. You're excused from
15 the trial of this case; you may leave the
16 courtroom.

17 WITNESS: Thank you.

18 THE COURT: Thank you, drive carefully.

19 WITNESS: Thank you, sir.

20 THE COURT: Mr. Foreman, and Ladies and
21 Gentlemen, wait one minute.

22 COURT REPORTER: Yes.

23 THE COURT: That was for ID only. Ladies
24 and Gentlemen, I'm gonna take your lunch break.
25 Believe me, I'm working to see that we conclude

1 the matter, so I want you to be aware of that,
2 but I want everybody to get a lunchbreak. I'm
3 gonna start back as soon as I know that
4 everybody's had a chance to get something to eat
5 and take a break, so as soon as I possibly can.
6 Please do not discuss the case amongst
7 yourselves, or with anybody else. Thank you
8 very much. You may retire to the jury room.

9 (Jury exits courtroom.)

10 MR. MATTHEWS: Your Honor, I think you've
11 heard whatever objection I had, or at least just
12 kind of keep an eye on me, because I'm getting
13 old too, and she says that she thinks we're
14 square.

15 THE COURT: Is that an indirect reference
16 to my age, Mr. Matthews?

17 MR. MATTHEWS: Your Honor, no.

18 THE COURT: I accept service on that, Mr.
19 Matthews. You did make an objection that I
20 ruled on in a side bar, during one of the last
21 witnesses, that I had not made a record of,
22 because she couldn't tape me on the side bar;
23 but my recollection is that I sustained your
24 objection, and I'm not certain.

25 Do you recall, Solicitor?

1 MR. MATTHEWS: Ms. Anderson says that it
2 was the hearsay, within the hearsay, within the
3 phone text, and that was taken care of.

4 THE COURT: All right, but I made a record
5 of that?

6 MR. MATTHEWS: Yes, sir.

7 THE COURT: Thank you very much, we'll take
8 our lunch break at this time.

9 (Lunch recess.)

10 MS. LEGETTE: State calls Dr. Reimer.

11 MS. LEGETTE: The State calls number 18,
12 Dr. Ellen Riemer.

13 * * *

14 DR. ELLEN RIEMER

15 * * *

16 being first duly sworn, testified as
17 follows:

18 THE COURT: Watch my stairs, thank you.
19 Adjust that chair to your back, make yourself
20 comfortable --

21 WITNESS: Okay.

22 THE COURT: -- and adjust my microphone,
23 which is going to amplify your voice. You don't
24 have to get right on top of it, but I need for
25 you to speak up. State your full name and spell

1 your last name for the Court Reporter.

2 WITNESS: It's Dr. Ellen Riemer, R-I-E-M-E-
3 R.

4 THE COURT: Your witness, counsel.

5 MS. LEGETTE: Thank you, Your Honor.

6 ***

7 DIRECT EXAMINATION

8 BY MS. LEGETTE:

9 Q. Good afternoon, Dr. Riemer.

10 A. Good afternoon.

11 Q. Dr. Riemer, where do you work?

12 A. I'm employed at the Medical University
13 of South Carolina, where I'm a Forensic
14 Pathologist.

15 Q. And what does a forensic pathologist
16 do?

17 A. A forensic pathologist performs
18 autopsies on individuals, who have died, in
19 order to determine the cause and matter of
20 death.

21 Q. And Dr. Riemer, are you a licensed
22 medical doctor?

23 A. Yes, I'm a licensed medical doctor.

24 Q. Very good, and how long have you been a
25 licensed medical doctor?

1 A. Since 19 -- okay, since 2001, that was
2 the year I graduated from medical school.

3 Q. All right, and so tell us about your
4 training, education, and experience as it
5 relates to being a forensic pathologist.

6 A. So after I received my Doctor of
7 Medicine Degree, which was in 1997, I did
8 pathology residency training at New York
9 Presbyterian Hospital, Columbia University
10 Medical Center, which is in the City of New
11 York, and that's a four-year training program.

12 After that I did a forensic fellowship
13 training program at the office of the Chief
14 Medical Examiner of the State of Maryland.
15 Following that, I did an additional fellowship
16 training year at John Hopkins Hospital in
17 cardiovascular and pulmonary pathology. And I
18 am Board certified in pathology and forensic
19 pathology.

20 Q. So, Dr. Riemer, what is forensic
21 pathology?

22 A. Yes, so forensic pathology is
23 specifically this, you know, pathology that is,
24 you know, anything that can happen to a body,
25 you know, including disease. So a pathologist

1 knows how to make diagnoses of disease
2 processes, by examining tissues and organs, so I
3 got the full training and certification in that.
4 And then forensic pathology is comprised of
5 evaluating what can happen to a body from
6 injuries.

7 So physical injuries, chemical injuries,
8 anything that -- so forensic pathology is
9 focused on, basically, you know, trauma.

10 Q. All right, and so, Dr. Riemer, as a
11 forensic pathologist, have you ever testified in
12 Court, where you were qualified as an expert in
13 the field of forensic pathology?

14 A. Yes, hundreds of times.

15 Q. Hundreds of times. And during your
16 years of being a forensic pathology, have you
17 ever seen cases, where the cause of death was
18 gunshot wounds?

19 A. Yes, unfortunately, multiple times.

20 MS. LEGETTE: At this time, Your Honor, I
21 would offer Dr. Ellen C. Riemer as an expert in
22 the field of forensic pathology.

23 THE COURT: Any objection, as to
24 qualifications?

25 MR. MATTHEWS: No, Your Honor. And may we

1 approach?

2 THE COURT: You may approach.

3 MR. MATTHEWS: No objection.

4 THE COURT: Ladies and Gentlemen, you're
5 about to hear the testimony of a witness, who
6 claims to have special knowledge, skills,
7 experience, training or education in the field
8 of forensic pathology, and who, if qualified, is
9 permitted to give her opinion, as to an expert,
10 as to matters in which she claims to be so
11 skilled, and determining the weight to be given
12 as such opinion, you should consider the
13 qualifications, the credibility or believability
14 of the expert, and the reasons given for her
15 opinion. You are not bound by such opinion, you
16 give it the weight, if any, you deem it should
17 be entitled.

18 This witness is qualified without objection
19 in the field of forensic pathology.

20 Solicitor, you may proceed.

21 MS. LEGETTE: Thank you, Your Honor.

22 BY MS. LEGETTE:

23 Q. Dr. Riemer, please educate us, how many
24 manners of death are there?

25 A. There are five manners of death, so go

1 though those?

2 Q. Yes, ma'am.

3 A. Okay.

4 Q. That's fine.

5 A. Actually, first of all, people can die
6 an unnatural death. Okay, natural would be
7 somebody who has a heart attack, or cancer, or a
8 stroke, or any natural disease has resulted in
9 failed demise.

10 Then there's accident, so if you're working
11 on a construction site, and a brick falls on
12 your head and you die from a head injury, that
13 can be an accident, or from motor vehicles, that
14 would be an accident. Accidental drug overdose
15 is an accident, so there can be a physical or
16 chemical accident, okay, we've got that.

17 Then there's homicide. Homicide is death
18 at the hand of another, so that's when somebody
19 else is responsible for causing the death.

20 And suicide is death at your own hands,
21 which I think everybody knows what that is.

22 And then the fifth manner of death is
23 undetermined. And sometimes, even after a
24 complete autopsy, examination, and a thorough
25 investigation, a manner of death cannot be

1 determined. So that's not a majority of cases,
2 but that's an option when I'm determining a
3 cause of death.

4 Q. Okay, thank you. Dr. Riemer, you were
5 working for the Medical University of South
6 Carolina, or MUSC, in May, 2017?

7 A. Yes, in 2017 I was.

8 Q. Yes, ma'am. And during the month of
9 May, 2017, did you have occasion to perform one
10 or more autopsies?

11 A. Yes.

12 Q. And, specifically, in the case before
13 the Court, were you able to, or did you have an
14 occasion to perform autopsies in this particular
15 case?

16 A. Can I retrieve my file?

17 Q. Yes, ma'am, yes, please.

18 A. Refer to them, so I can answer
19 questions. So I did three autopsies, I believe
20 they were on the same day of the deceased
21 individuals in this case.

22 Q. Okay. Dr. Riemer, I'm going to hand
23 you now what has been previously marked, for
24 identification only, State's Exhibit Number 144,
25 State's Exhibit Number 145, and State's Exhibit

1 Number 112. That's 144, 145 and 112. Please
2 take a moment and tell me, if you recognize
3 State's 144, 145 and 112.

4 MS. LEGETTE: May I approach the witness?

5 THE COURT: You may.

6 BY WITNESS:

7 A. Yes. These are photographs that I took
8 at the autopsies of the three deceased
9 individuals. These are called identification
10 shots, so they, basically, show the faces, kind
11 of like a driver's license shot, and then I have
12 a number beneath each person's face
13 corresponding to their autopsy number.

14 Q. All right, and Dr. Riemer, when was the
15 first time that you saw those individuals in
16 State's 144, 145 and 112?

17 A. Yes, they were -- it was on the date of
18 May 18th, 2017.

19 Q. And, Dr. Riemer, specifically, as it
20 relates to Number 144, who is pictured in
21 State's 144?

22 A. 144, yeah, this is Phillip Miller.

23 Q. All right, and now turning your
24 attention to 145?

25 A. 145 is Lori Miller.

1 Q. And Number 112?

2 A. V.M. [REDACTED]

3 Q. Thank you. And you've indicated the
4 first time you saw these individuals was at the
5 autopsy on May 18th, 2017?

6 A. Correct.

7 Q. Thank you.

8 MS. LEGETTE: May I approach the witness to
9 get those exhibits back?

10 THE COURT: You may.

11 BY MS. LEGETTE:

12 Q. Dr. Reimer, I want to talk first about
13 Phillip Miller. I want to turn your attention
14 to Mr. Miller. Let's talk about Mr. Phillip
15 Miller, Jr.'s autopsy. Based on his autopsy,
16 were you able to diagram any of his injuries?

17 A. Yes. So my autopsy examination
18 documented a total of six gunshot wounds to
19 Phillip. And my autopsy report explains each of
20 the injuries, and what they went through, and
21 where they exited, or if they did not exit,
22 where they terminated in the body. And I've
23 also made diagrams, which are my working notes
24 during the autopsy, in which I sort of mark,
25 make findings on it on the blank final diagram,

1 so I did that as well.

2 Q. And do you document injuries by use of
3 photographs, as well as x-rays?

4 A. Yes. Well, x-rays are performed kind
5 of like a GPS, before you start a trip.

6 So before I do any cutting, if I see that
7 there a gunshot wounds to the body by my
8 external examination, I will request x-rays to
9 be done. And the purpose of the x-rays is to
10 identify -- I want to make sure that if there is
11 a bullet or projectile in the body anywhere,
12 that I make sure to recover it. I don't' want
13 to leave it in there. So it gives me kind of an
14 idea of what's remaining in the body that I need
15 to recover.

16 Q. Very good. And, Dr. Riemer, based on
17 the autopsy of Mr. Phillip Miller, Jr., within
18 the bounds of reasonable medical certainty, have
19 you formed an expert opinion as -- or concerning
20 Mr. Phillip Miller's cause of death?

21 A. Yes. The cause of death is multiple
22 gunshot wounds.

23 Q. And what would you say this manner of
24 death is?

25 A. The manner of death is homicide.

1 Q. Okay. And, Dr. Riemer, before we go
2 over any photographic evidence, at this point, I
3 want to turn your attention to Lori Miller's
4 autopsy. All right, so let's talk about Lori
5 Miller. Dr. Riemer, were you able to document
6 Lori Miller's injuries through your autopsy?

7 A. Yes.

8 Q. Can you tell us about the
9 documentation?

10 A. Yes. There were a total of two gunshot
11 wounds to Lori Miller. And I can tell you, in
12 detail, about them, if you'd like, or just two
13 gunshot wounds. One of them was -- they were
14 both of the torso. One was to the right
15 forearm, and continued into the chest, and then
16 the other one was to the abdomen.

17 Q. And you documented Lori Miller's
18 autopsy the same way you documented Mr. Phillip
19 Miller's autopsy, with photographic evidence?

20 A. And Miller's yes.

21 Q. And Miller's, yes, ma'am, okay. And
22 did you also do any x-ray for Lori Miller?

23 A. Yes, everybody got x-rays, which
24 whenever there's gunshot wounds, a person gets
25 x-rays.

1 Q. Yes, ma'am. And so, Dr. Riemer, based
2 on the autopsy of Lori Miller, were you --
3 within the bounds of a reasonable medical
4 certainty, were you able to perform an expert
5 opinion, as to her cause of death?

6 A. Yes. The cause of death was gunshot
7 wounds of torso.

8 Q. All right, and have you also performed
9 an expert opinion about her manner of death?

10 A. The manner of death is homicide.

11 Q. All right, and, Dr. Riemer, before we
12 discuss or go over any photographic evidence of
13 Ms. Lori Miller's autopsy, let's just talk
14 briefly about V.M. [REDACTED] autopsy.

15 A. Okay.

16 Q. All right, so you did an autopsy on
17 V.M. [REDACTED]

18 A. Yes.

19 Q. Can you tell us about the autopsy of
20 V.M. [REDACTED]

21 A. Yes. So V.M. [REDACTED] autopsy
22 showed two gunshot wounds, one was to the chest,
23 and one was to the neck.

24 Q. And you also documented Mr. V.M. [REDACTED]
25 [REDACTED]'s injuries by photographic evidence, as

1 well as --

2 A. Photographs and I diagramed them, as
3 well.

4 Q. And, Dr. Riemer, based on that autopsy,
5 within the bounds of a reasonable medical
6 certainty, were you able to perform an expert
7 opinion, as to V.M. [REDACTED] cause of death?

8 A. Yes. The cause of death was gunshot
9 wounds to neck and chest.

10 Q. And what was his manner of death?

11 A. Manner of death is homicide.

12 Q. All right. Now, Dr. Riemer, let's go
13 back now and talk about Mr. Phillip Miller and
14 his six gunshot wounds. You indicated that you
15 had documented his injuries.

16 A. Hold on.

17 Q. You indicated you documented his
18 injuries by way of photographic evidence and
19 diagrams, as well as x-rays. I'm gonna hand you
20 what has been previously marked, for
21 identification, as State's 72, 73, 74, 75, 76,
22 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88,
23 89, 90, 91, 93, 94 and 95.

24 THE COURT: Did you skip 92?

25 MS. LEGETTE: Yes, sir.

1 BY MS. LEGETTE:

2 Q. Please take a moment, Dr. Riemer, and
3 tell me if you recognize this State's Exhibits.

4 MS. LEGETTE: May I approach the witness?

5 THE COURT: You may. Solicitor, don't
6 forget you've got 144, 145 and 112 only marked
7 for ID.

8 MS. LEGETTE: Yes, sir.

9 BY WITNESS:

10 A. Yes, I recognize these.

11 Q. And, Dr. Riemer, what are those State's
12 Exhibits that I called out previously, I believe
13 it started with State's Number 72 through
14 State's 91 inclusive, as well as State's 93
15 through State's 95 inclusive. What are those?

16 A. These are photographs of different
17 areas of the body of Phillip Miller, that show
18 gunshot wounds, and also x-rays of his body that
19 valuably show the presence of bullets that
20 remained in the body, and then I had found a
21 couple of gunshot wounds that show some tissues,
22 including broken bones.

23 Q. Thank you, Dr. Riemer. And, Dr.
24 Riemer, are State's Exhibits Number 72 through
25 91 inclusive, as well as 93 through 95 inclusive

1 fair and accurate reflections of the
2 documentation of Mr. Phillip Miller, Jr.'s
3 injuries, as well as x-rays, during your
4 autopsy, that you conducted on his body or his
5 person on May 18th, 2017?

6 A. Yes.

7 Q. And have those photographs been changed
8 or altered in any way?

9 A. Excuse me?

10 Q. Have they been changed or altered in
11 any --

12 A. No.

13 Q. Okay.

14 MS. LEGETTE: At this time, Your Honor, I
15 would offer State's Exhibit Number 72 through
16 92 --

17 THE COURT: 91.

18 MS. LEGETTE: -- Exhibit 91 inclusive, as
19 well as --

20 THE COURT: 93 through 95 --

21 MS. LEGETTE: Inclusive, Your Honor.

22 THE COURT: -- is that correct, Solicitor?

23 MS. LEGETTE: That's correct, Your Honor,
24 for admission into evidence.

25 THE COURT: Mr. Matthews, any objection?

1 MR. MATTHEWS: No objection, Your Honor.

2 THE COURT: Ladies and Gentlemen, State's
3 Exhibits 71, 72 -- oh, excuse me, 72, 71's
4 already in evidence, 72, 73, 74, 75, 76, 77, 78,
5 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90
6 and 91 are now in evidence without objection.
7 Also, State's Exhibits 93, 94 and 95 are now in
8 evidence without objection.

9 (State's Exhibits 72 - 95 were admitted
10 into evidence.)

11 You may publish, Solicitor.

12 MS. LEGETTE: Thank you, Your Honor. May I
13 have those back? May I have the lights, please?

14 BY MS. LEGETTE:

15 Q. Dr. Riemer, there is a pointer in front
16 of you, and you just press the little red
17 button.

18 A. Okay.

19 Q. Dr. Riemer, is it easier to start with
20 the x-rays or with the photographs from your
21 testimony, which would be easiest for you.

22 A. I think x-rays.

23 Q. X-rays, okay. All right, so I direct
24 your attention now to the screen at your left.
25 Dr. Riemer, this is State's Number 72, and what

1 are we seeing in State's Number 72?

2 A. So this is an AP, which is an
3 anteroposterior x-ray. We can take x-rays,
4 usually, if it comes from the front, or from the
5 side. So this is from the front, and we can see
6 that there is actually a projectile, something
7 -- we also call it a bullet, but a projectile
8 that's in the right side of the neck. And we
9 know it's right because there is an R there. So
10 every time you take an x-ray you use an R for
11 right side of the body.

12 Q. We're gonna get you a microphone, so
13 that you can stand, if you need to, or move
14 around --

15 A. Okay.

16 Q. -- if you need to, so you can better
17 see.

18 A. I think I'll stand.

19 Q. That's fine, yes, ma'am.

20 A. So that I can go --

21 Q. Just use the microphone.

22 A. -- a little closer.

23 Q. Yes, come on down, you can.

24 A. Okay.

25 THE COURT: Don't block my jury's view.

1 BY MS. LEGETTE:

2 Q. Go ahead, Dr. Riemer.

3 A. Yes, so there's -- this is his head.
4 This is like the eye sockets, the mouth, and
5 this is a projectile that lodged in the right
6 side of the neck.

7 Q. Okay, thank you. And now I'll go to
8 State's 73. What are we seeing in State's
9 Number 73?

10 A. Okay, so this is an x-ray, wait, I
11 don't want to get too close to this, because it
12 sounds funny. This is the chest cavity.

13 Q. I have another one, you can have that,
14 just --

15 A. I see what you're saying. All right,
16 so this is the chest cavity over here, this is
17 the right shoulder, and then the left shoulder's
18 out of view, but it's the same bullet, the same
19 projectile on the right side of the neck. We're
20 just seeing it on a different view.

21 Q. Okay. And now I'll show you State's
22 Number 74.

23 A. Okay. So this is actually showing his
24 abdomen area, and we have got the area of the
25 ribs, these are the pelvic bones and the

1 vertebral column. And you can see in this view
2 there's actually no projectiles in that.

3 Q. And now State's Number 75.

4 A. Okay, so this is the pelvic area. So
5 this is like the hip joints, and the pelvis, and
6 that's the other bullet that remained in his
7 body. And I can see it's in the pelvic region,
8 and then when I did the autopsy, I found it
9 actually in the wall of the bladder, so --

10 Q. And, Dr. Riemer, now we're looking at
11 State's Number 76.

12 A. All right, so that's the arm, the right
13 upper extremity, and this is the humerus bone,
14 which is between your elbow and your shoulder,
15 there's one bone there. And then this is the
16 elbow, in between elbow and the wrist there was
17 actually two bones, which allows you to rotate
18 your forearm.

19 And there was a gunshot wound to the right
20 forearm. It kind of went in and out, and as --
21 it actually went through the bone there, so I
22 see an injury to the bone from the gunshot wound
23 to the right forearm.

24 Q. Okay, Dr. Riemer, and so in State's
25 Number 77, what are we seeing in State's Number

1 77?

2 A. Okay, well, there's actually -- there
3 was a through and through gunshot wound to the
4 left thigh, and if you look carefully here, you
5 can actually see a little bit of disruption to
6 the soft tissue, but it just shows that when I
7 saw the gunshot to the left thigh, that there
8 was wasn't a bullet remaining in it, so -- and
9 the exit wound was on the back of the left
10 thigh, so --

11 Q. Okay. So now State's Number 78, what
12 do you see in State's 78? Well, should I turn
13 it? Is it easier to see this way?

14 A. Yeah, okay. So that's a lateral x-ray,
15 so it's a kind funny looking of the pelvic
16 region. So, you know, what we're seeing is the
17 top of the right hip bone here, and you can
18 vaguely see that, but remember we saw it in the
19 pelvis? So this is from the other view.

20 We usually do an x-ray from, you know, AP
21 and then lateral, so this is a lateral x-ray of
22 that pelvic region.

23 Q. And, Dr. Reimer, I show you now State's
24 Number 79.

25 A. Okay, so this is a lateral view of the

1 neck, where we already had two other x-rays,
2 that showed the termination of that projectile
3 in the right side of the neck. And it looks a
4 little different from this angle, it looks
5 really bound, because the bullet -- the top of
6 it is kind of round, and, you know, it just
7 shows it from like, you know, the x-rays kind of
8 head-on, as opposed to, you know, across.

9 So from this view, we actually see that
10 same projectile turning in the right side of the
11 back of the neck.

12 Q. All right, now Dr. Riemer this is
13 Number State's 80.

14 A. Okay, this is kind of a --

15 Q. Should I turn it?

16 A. Yeah. We usually -- if you turn --
17 usually, the numbers, yes.

18 Q. Okay.

19 A. Okay, yes. So this is actually a
20 gunshot wound to the frontal of the left thigh.
21 He had a bunch of these butterfly bandages on
22 his skin that he came in with. He might have
23 gone to a dermatologist, or somebody recently,
24 but there was a bunch of butterfly bandages on
25 him that, you know, were existing before the

1 autopsy. And-- but this is the entrance wound
2 to the left body.

3 Q. All right, and, Dr. Reimer, this is
4 State's Exhibit Number 81.

5 A. Yeah, okay. And that's also a closer
6 up view of that gunshot wound to the left thigh,
7 and there's actually -- we can see -- it's not
8 the best resolution here, but we can see that
9 there was some soot and -- on that gunshot
10 wound, and a little bit of stippling. So it was
11 -- actually, there's some black residue around
12 on the skin around the entrance wound, which is
13 deposited when a gun goes off, like in very,
14 very close range to the victim, so that when a
15 bullet comes out of the barrel of the gun, it
16 comes out at a very high speed and what propels
17 it is gunpowder, okay?

18 So the gunpowder propels the bullet out of
19 the barrel of the gun. Now, a bullet can
20 potentially travel a very long distance, but
21 gunpowder only travels a few inches. So when
22 you see gunpowder on the skin, you know that the
23 barrel of the gun was in close proximity to the
24 object that it struck, in this case was the left
25 thigh of Phillip Miller.

1 Q. And I have a question, Dr. Reimer, so
2 you said that if a person's standing real close,
3 can it still go through if they're fully
4 clothed?

5 A. Go through?

6 Q. Yeah, I'm sorry, what I'm saying is,
7 can gunpowder get onto a person's skin, if they
8 had on a pair of pants? Can it get --

9 A. Yes, gunpowder, like the soot here, it
10 frequently goes through clothing. If somebody
11 is wearing like a really thick leather jacket,
12 it may not.

13 Q. Okay.

14 A. It usually deposits on the surface, but
15 like woven or knit clothing doesn't usually --
16 like, most of it goes through, so --

17 Q. So with this particular injury, it is
18 very close to Mr. Miller?

19 A. Yes, this is really a very close-range
20 gunshot wound.

21 Q. And, Doctor Reimer, this is Bates
22 Number 82?

23 A. Yeah. Okay, and that is -- yeah, you
24 know, I'm not exactly 100 percent sure where
25 that was taken from.

1 Q. Could it be a closeup of the groin area
2 you talked about earlier?

3 A. Yes. So this is the -- it's kind of
4 another view, you know, the camera, I only have
5 the cameras I have to work with, so -- but we
6 can also see some soot deposition, and so it
7 indicates it's a close range shot.

8 Q. So that's also a close-range shot?

9 A. Yes.

10 Q. And this is in addition to the one in
11 his left eye?

12 A. Yes.

13 Q. All right, this is now gonna be State's
14 Number 83.

15 A. Okay.

16 Q. So you can see it better.

17 A. Yeah. Alll right, so this is the --
18 remember we saw the x-ray of the right forearm
19 that had the broken bone? Well, this is the
20 entrance wound on the kind of the hairy part of
21 the forearm just distal to the right elbow,
22 okay? And that also shows some soot, so that
23 was also very close range.

24 Q. So right now we have three really close
25 range?

1 A. Yes. So he's got, you know, two
2 gunshot wounds out of the six shows soot and
3 stippling, okay? And soot is very, very close,
4 like almost could be a contact, but they show
5 some stippling as well, so a little further back,
6 sort of how it starts right now, so maybe you
7 have soot and stippling, it's inches away. And
8 then with the gunshot wound to his face only
9 shows stippling. So stippling is usually
10 deposited within about two, two and a half feet,
11 depending on the gun, but we don't see soot on
12 his face, so that shot was a little further
13 back, but still fairly close.

14 Q. Now, I think State's Number 84 is just
15 the same shot of the arm, just a little bit --

16 A. Yes, it's --

17 Q. -- farther away?

18 A. Right, so we can tell now that that's
19 his right -- the right arm.

20 Q. Right. And now State's Number 85?

21 A. Okay. So this is a gunshot wound, this
22 is his -- it's Mr. Miller's profile --

23 Q. Okay.

24 A. -- and the location of the gunshot
25 wound is on his cheek, and we see all -- we

1 don't have any black soot, which is really that
2 gunpowder, you know, that just travels a couple
3 of inches, but we do have a bunch of stippling,
4 okay? This is from, basically, partially burned
5 gunpowder pieces that are coming out along with
6 the bullet, it helps propels the bullet forward,
7 and those -- we have the stippling, so these
8 pieces of gunpowder, like, basically, landing on
9 the skin, causing abrasions. So this also tells
10 us it's within two, or two and a half feet away.

11 Q. And, Dr. Reimer, this is gonna be
12 State's Exhibit 86, I think this is closer?

13 A. Yes. So this would be his arm and left
14 eye, all right, so kind of the crease of his
15 left eye, and so this is a closer view of the
16 same gunshot wound where we have the stippling,
17 the gunshot wound on the left cheek and the
18 face.

19 Q. Okay, and Dr. Reimer, would this injury
20 had potentially been fatal?

21 A. Yeah, well --

22 Q. While you're looking through notes.

23 A. I kind of reviewed things, but, you
24 know, sometimes a gunshot - only one gunshot
25 would have been sufficient to kill him,

1 depending on what it goes through. I do believe
2 this one went through the vertebral column and
3 caused some injury of the spinal cord, which is
4 frequently a fatal injury, and it's not on its
5 own fatal injury, it could cause somebody total
6 paralysis.

7 Q. Now, State's 87.

8 A. Okay. Yeah, okay, so that's actually
9 the right arm, okay? So if you turn your arm
10 like to look at the palm, you can see the thumb
11 being on the inside, and that's the exit wound
12 from the contact range very close on the right
13 forearm.

14 The other picture it went through the right
15 forearm, remember, it broke one of the bones
16 there, and then exited the -- sort of the
17 underside, that's called the ventral aspect of
18 the right forearm.

19 Q. So if we compare State's 87 to State's
20 84?

21 A. Yes. So we're looking at the same
22 gunshot wound, this is the entrance, this is the
23 exit wound, and it broke a bone on the way
24 through.

25 Q. Thank you. And, Doctor, this is

1 State's Number 88, probably just a closeup
2 version?

3 A. All right, yeah, so this is the closer
4 view of the exit wound on his right forearm.

5 Q. And, now, Doctor, this is gonna be
6 State's Number 89.

7 A. All right, yeah, let me figure out what
8 we're looking at here.

9 Q. If you need to refer to your notes.

10 A. Yeah, I don't --

11 Q. We'll come back to this one?

12 A. Yeah, I just, you know, I have to
13 remember, I don't remember. It's each one of
14 the gunshot wounds, I just don't -- oh I think I
15 know what it is. Yeah, this is - you see this
16 is the crease of his upper thigh.

17 Q. Crease? Okay.

18 A. Yes. So this is the gunshot wound. He
19 had a gunshot wound to the right side of the
20 lower abdomen.

21 Q. Okay.

22 A. And that's the one that ended up in the
23 pelvis. So this is the gunshot wound, and this
24 doesn't show any like stippling or soot, or
25 anything, so --

1 Q. Okay.

2 A. I think --

3 Q. Go ahead.

4 A. Yeah, that's a closer-up view of the
5 same entrance wound.

6 Q. And this is State's Number --

7 THE COURT: Exhibit Number?

8 MS. LEGETTE: That was State's 90. The
9 closer up version is State's 90.

10 BY MS. LEGETTE:

11 Q. And this is State's 91?

12 A. Yeah. Okay, that's actually like a --
13 kind of a abrasion, so frequently there may have
14 been a fragmental bullet that kinda struck his
15 skin, because there's lots of bullets going off.
16 That didn't actually go anywhere, but it kind of
17 caused some damage to his skin. It's right
18 below the gunshot wound that entered the right
19 side of the abdomen.

20 Q. All right, and this is State's 93?

21 A. All right. Yeah, so this is an exit
22 wound in the posterior -- yeah, this is an exit
23 wound that's on the back of the left thigh area.

24 Q. And, Dr. Reimer, this is State's Number
25 94. You also collected, I believe, projectiles

1 from his body?

2 A. Yes. So that was one of the purposes
3 of doing the x-rays, so I made sure, and kind of
4 know where the projectiles are, instead of
5 blindly searching in the body.

6 So this is a jacketed projectile that was
7 recovered from the right side of the neck. I
8 just wrote jacket and projectiles from the neck.

9 Q. And, finally, we have State's Number
10 95.

11 A. Yeah, and this was the jacketed
12 projectile recovered from the pelvis. So
13 there's something actually interesting about
14 this. You see it's a jacketed projectile, and
15 part of the jacket is missing, and I bet that
16 that piece of the jacket struck the -- remember
17 the bullet entrance on the right side of the
18 abdomen there was that little kind of cut of his
19 skin, and I bet that piece of the jacket kind of
20 broke off and hit -- because it was right near
21 the entrance wound.

22 So that makes like complete sense to me.
23 Before I actually saw this, I'm like, "Well, you
24 know, it could have been anything," but now I'm
25 suspecting it was a piece of the jacket that

1 broke off.

2 Q. Okay. Thank you, Dr. Reimer. I want
3 to discuss Lori Miller. Well, I actually want
4 to discuss Mr. Miller's, I guess, his injuries,
5 and how they could have been fatal, which ones
6 were fatal for him. Are you able to talk about
7 that?

8 A. I can come back, but I need to review
9 my notes.

10 Q. Yeah, okay.

11 A. Okay, so what I did in my report, I
12 have to sort of call each gunshot wound
13 something, and I gave it a letter. So because
14 there were six, I labeled the gunshot wounds A,
15 B, C, D, E and F. So they each have their ow,
16 like, you know, A, B, C, D, E and F, and they
17 all have their own name. So I'll start with the
18 gunshot wound to the left thigh. And they're in
19 no particular order.

20 I don't know, even though they're A through
21 F, I don't know what order they were actually
22 delivered to Mr. Miller in, but I have to label
23 them, so I can refer to them right now. Okay,
24 so the gunshot wound to the left thigh, that
25 went through, and we did have -- we saw the soot

1 and the stipling, so that was very close range.
2 And that went through skin, soft tissue and
3 muscle of the left thigh, before exiting the
4 back of the left thigh. And so where it went
5 through the gunshot wound at close range. If
6 that was the only gunshot wound, I believe Mr.
7 Miller would have survived, he would have needed
8 stitches and probably some surgery to repair the
9 injuries, but it would not have been fatal,
10 unless he were allowed to lie there and just
11 bleed forever. Okay.

12 And then the gunshot wound to the right
13 forearm, we saw that one, that also had some
14 soot and stipling, that went through the skin
15 and tissues of the right arm, and the radius,
16 which is one of the two bones of the right
17 forearm, one's the radius, one's the ulna, and
18 they work together, it helps us rotate our arm.
19 And then the exit wound was on the inside of the
20 right forearm, that's the ventromedial aspect,
21 and I comment that no projectile fragments are
22 recovered; as was in the left thigh, no
23 projectile or projectile fragments recovered.
24 And that he had a broken arm, and he would have
25 needed a cast, and some debridement, which is

1 cleaning out the wound, but I would not have
2 expected that that would have been fatal.

3 Okay, then there's -- so that's A and B.
4 Then gunshot wound to the face, the gunshot
5 wound to the face what we saw on the left cheek
6 of the face, and it did have the stippling around
7 it. And what that went through was some of the
8 tissues of the face, and after it went through
9 the cheek, it kind of continued through the
10 vertebral column, and that's C-1, C-2 and C-3
11 vertebra, so those are bones of the neck that
12 surround the spinal cord. And the bullet was
13 recovered in the right side of the back of the
14 neck, and that caused some bleeding of the
15 cervical spinal cord and the brain stem. So
16 that means, if that was the only wound, it would
17 have been fatal.

18 Now, I just want to one other thing. So I
19 said he died from multiple gunshot wounds.
20 Let's say, if -- because I don't know the role
21 that any individual gunshot wound may have
22 played in contributing to death, so, for
23 instance, if somebody's shot in the leg, even
24 though, like in his left thigh, even though the
25 wound in and of itself wasn't, you know,

1 immediately fatal, it could have prevented him
2 from running away, or, you know, protecting
3 himself from further injury.

4 So I never say, oh, well, you know, these
5 other wounds did not play a role, because it's a
6 very dynamic situation, and I don't know the
7 exact role that any individual gunshot wound
8 that caused a fatal may have like helped make
9 him more vulnerable to the other one that was.
10 Okay, and then -- so that gunshot to the face
11 did some very major damage to the spinal cord
12 and the base of the vital centers of the brain.

13 And then there's the gunshot wound to the
14 abdomen, okay. That was actually just a --
15 yeah, gunshot wound to the abdomen just went
16 through the right side of the abdomen without
17 doing any damage, except for the skin and
18 subcutaneous tissue would have caused some
19 bleeding.

20 And then the gunshot wound to the pelvis
21 was on the right side of the front of the
22 pelvis, and that went into the body, and went
23 actually through the right femoral artery, which
24 is a major blood vessel, kind of off of the
25 aorta, and ended up in the bladder.

1 Okay, so the bladder holds urine, it was
2 actually in the bladder wall, which is a very
3 tough muscle, so it stopped there, but caused a
4 lot of bleeding into that right pelvis area.
5 And that actually -- that was the only wound
6 that could have been potentially fatal, because
7 bleeding from a major arterial vessel like that
8 is -- sometimes I have somebody who's been shot
9 one time, and all it did was go through a vessel
10 like that, and it was enough to cause death.
11 And then the final gunshot was to the medial
12 aspect of the left thigh, so it's really kind of
13 the front of the left thigh, anteromedial aspect
14 of the left thigh, and that exited on the back
15 of the left thigh, and also just went through
16 some soft tissue.

17 Q. Thank you, Dr. Reimer. And you said
18 you also collected the projectiles that you
19 found at autopsy from Mr. Miller's body, as
20 well?

21 A. Yes, the two projectiles remaining in
22 his body, one was from the right side of the
23 neck, and then the other one was in the bladder
24 wall.

25 Q. All right, and, Dr. Reimer, I want to

1 turn your attention now to Lori Miller. Oh, I'm
2 sorry, there was one more thing I wanted to
3 discuss with you about Mr. Phillip Miller.

4 Do you also do a toxicology screen whenever
5 you --

6 A. Yes. So every person that has an
7 autopsy gets a NUSC, gets a complete toxicology
8 test on their blood, and it's just part of the
9 routine studies. And the toxicology went to the
10 lab, it was sent to a private laboratory called
11 NMS Lab, so I'm not like doing that evaluation
12 myself, but I sent off a sample of the blood, in
13 this case, the blood came from his heart, and I
14 got a bunch of substances back that were in
15 Phillip Miller's blood at the time he was -- at
16 the time of death.

17 Q. And what were those substances --

18 A. Yes.

19 Q. -- Dr. Reimer?

20 A. Okay. So he had -- we'll start from --
21 yeah, he had Delta9 THC, which is marijuana, and
22 then he had two additional metabolites of
23 marijuana. He had Microbinate, which that's a
24 muscle relaxant. He also had some hydrocodone,
25 okay, which is an opioid, opiate, and

1 hydromorphone, which it was -- hydromorphone is
2 actually a metabolite type of hydrocodone in
3 this case, but it could also be prescribed on
4 its own, so -- but he had hydrocodone and
5 hydromorphone, and then he also had hydrocodeine
6 and a hydrocodone, which are further metabolites
7 of hydrocodone.

8 So in addition to the hydrocodone
9 metabolite and metabolites, Microbinate, which
10 is that muscle relaxant, and marijuana. He also
11 had caffeine, nicotine and cotinine. Nicotine
12 is from cigarettes, and cotinine is a metabolite
13 of nicotine, so he had several substances in his
14 blood..

15 Q. Thank you, Doctor. And let's move now
16 to Ms. Lori Miller, you also conducted her
17 autopsy on May 18, 2017?

18 A. Yes. Let me pull out the correct one.
19 Okay.

20 Q. All right, Dr. Reimer, let's talk about
21 Ms. Lori Miller, and let's go through first,
22 before we go through her injuries, let's talk
23 about what the injuries showed on the autopsy.

24 A. Okay. So she had two gunshot wounds to
25 her body, and one of the gunshot wounds entered

1 the right forearm, okay, so it's kind of the
2 same location of the body that Mr. Miller also
3 had a gunshot wound. Now, none of her wounds --
4 neither of her wounds showed any evidence of
5 soot or stippling, so these were not from, you
6 know, within a couple of feet.

7 So she was shot from further back. And one
8 of the gunshot wounds went through the right
9 forearm, okay, kind of entered here, and went up
10 the right forearm through the arm, then exited
11 about here, kind of the underside of the right
12 forearm, near the armpit, and then re-entered
13 the body through the right side of the chest,
14 just below the armpit.

15 So it kind of went through the arm, and
16 then went into the chest, and terminated
17 actually in her vertical column, okay? So
18 that's kind of an unusual wound path, like it's
19 going through the arm, and then once it went
20 into the chest, it kind of had a little downward
21 trajectory, so how would that happen? Normally,
22 bullets take a straight path, they don't bounce
23 around everywhere, but that would make sense, if
24 you have somebody's arm out, and then getting
25 shot in the forearm, it would go through the

1 arm, and then like into the chest, and continue
2 the straight line.

3 So -- and that -- after it went through the
4 arm, the right arm, and the axilla, the right
5 axilla, which is the armpit area, then entered
6 the body, so it kind of came out a little bit,
7 it just didn't stay in the arm, it came out, and
8 then re-entered the right side of the chest,
9 where it went through the right fourth rib, the
10 right lung, and terminated in the vertebral
11 column.

12 And I recovered a projectile in her
13 vertebral column, between two of the vertebra,
14 and that caused bleeding into her -- the right
15 side of the chest, and there were bones broken
16 in her right arm, the right radius, which is one
17 of the bones below the elbow, and then the right
18 humerus, which is the bone between the elbow and
19 the shoulder.

20 And then she had some bleeding into her
21 airways, and that's because when there's injury
22 to the lung, you know, we're trying to breathe,
23 but some of that bleeding into the lung ends up
24 in her, you know, your trachea and your
25 windpipe, and your mouth.

1 Q. Thank you, Dr. Reimer. And, Dr.
2 Reimer, you testified earlier that you
3 documented Ms. Lori Miller's injuries by virtue
4 of an x-ray, diagrams and photographs?

5 A. Yes.

6 Q. All right, I'm gonna hand you in a
7 moment what has been marked for identification,
8 as State's Numbers 96 through 102 inclusive, as
9 well as State's Number 104 through 111,
10 inclusive.

11 Take a moment and tell me if you recognize
12 State's Exhibit 96 through 102 inclusive, as
13 well as 104 through 111 inclusive.

14 MS. LEGETTE: May I approach the witness?

15 THE COURT: You may.

16 BY WITNESS

17 A. Okay. I'll answer your questions.
18 She's got -- these are x-rays, and then some
19 projectile fragments, and photographs of the
20 wounds. And the projectile that was recovered
21 from the vertebral column.

22 Q. So State's 96 through 102 inclusive, as
23 well as 104 through 111 inclusive, are all a
24 fair and accurate reflection of the documents
25 and both x-rays and photographs of Lori Miller's

1 autopsy on May 18th, 2017?

2 A. Yes.

3 Q. And have those photographs or x-rays
4 been changed or altered in any way?

5 A. No.

6 Q. All right.

7 MS. LEGETTE: At this time, Your Honor, I
8 would offer State's Exhibits 96 through 102
9 inclusive, as well as Exhibits 104 through 111
10 inclusive, for admission into evidence.

11 THE COURT: Mr. Matthews, as to 96 through
12 102 inclusive, 104 through 111 inclusive?

13 MR. MATTHEWS: No objection, Your Honor.

14 THE COURT: So ladies and gentlemen of the
15 jury, State's Exhibits 96, 97, 98, 99, 100, 101
16 and 102 will be admitted into evidence in the
17 trial of this case without objection. Also
18 State's Exhibits 104, 105, 106, 107, 108, 109,
19 110 and 111 will be admitted into evidence in
20 the trial of this case without objection.

21 (State's Exhibits 96 - 102 and 104 - 111
22 were admitted into evidence.)

23 THE court: You may now publish to the
24 jury.

25 MS. LEGETTE: Thank you, Your Honor, may I

1 approach the witness?

2 THE COURT: You may.

3 BY WITNESS:

4 A. And I -- actually, when I was
5 describing the gunshot wounds, I said Lori
6 Miller had two gunshot wounds, but I only
7 described the one to the arm that went into the
8 chest. I didn't describe the other one.

9 Q. Oh please describe it.

10 A. So --

11 Q. I'm sorry.

12 A. Yes.

13 Q. Okay.

14 A. Because that's in there, and I want to
15 make sure I describe it.

16 Q. Absolutely, yes, ma'am.

17 A. So the other gunshot wound that she had
18 was to the right side of the lower abdomen, and
19 that was kind of an upward trending bullet
20 through her body. It went through her -- the
21 lower abdomen, and then went through some bowel,
22 like her intestines.

23 It went through the right kidney, the
24 inferior vena cava, so this kind of traveled
25 upward and to the left. And then a inferior

1 vena cava's a major vein in the body, and then
2 it went through the diaphragm, which is a muscle
3 used for breathing, then in the left lung, and
4 then the left fifth rib in the back, and the
5 projectile was recovered just underneath the
6 skin, and that's depicted in the photographs,
7 which made me realize I hadn't yet described
8 that.

9 Q. Yes, ma'am, absolutely. Dr. Reimer, I
10 will now publish these for you. Do you want to
11 sit there, or do you want to come down?

12 A. I'll come down.

13 Q. Okay. I have a microphone for you.

14 A. I'll talk loud.

15 Q. All right, this is State's Number 96.

16 A. Okay, so this is an x-ray of the chest
17 area, and we can see there's actually two
18 bullets that entered her body. Okay, one is in
19 the vertebral column, that was the one that went
20 through the right arm, and then went through
21 into the chest. And then the other one is on
22 the left side of the back, just beneath the
23 skin. That was the one that entered the right
24 side of the abdomen.

25 So she's only got two, but these were

1 sufficient to kill her.

2 Q. All right, Dr. Reimer, State's Number
3 97.

4 A. Okay, so this is the x-ray of her right
5 upper extremity, okay? And we can see there's
6 an injury, there's a broken radius here. Mr.
7 Miller also had a broken radius, but this bullet
8 had -- because it was traveling through the arm,
9 it also broke the right humerus. And you can
10 see a bunch of fragments here, some of those
11 fragments could be bone fragments, they could be
12 very small pieces of the projectiles, so it's
13 not uncommon for portions of pieces of
14 projectile to break off, and sort of end up
15 along the main path.

16 Q. And, Dr. Reimer, this is gonna be
17 State's Number 99?

18 A. All right, so this is a lateral view,
19 okay?

20 Q. Should I turn it, or it's fine?

21 A. Yeah, it's okay, yes, it's fine. So
22 this shows the posterior view of where one of
23 the bullets is in her back.

24 Q. This is State's Number 100.

25 A. Okay, so this is also a lateral, and

1 we've got -- this is the bullet that was in the
2 left side of her back, and this is the
3 projectile that was recovered in the vertebral
4 column, you know, the bones in the spinal cord.

5 Q. And now this is gonna be State's Number
6 102.

7 A. Okay, so these are some projectiles
8 fragments that I recovered from along the bullet
9 path in the arm. We saw the little fragments
10 like that, so I try to get what I can out,
11 instead of just sending her away without doing
12 that.

13 Q. Yes, ma'am. And this is gonna be
14 State's Number 104.

15 A. Okay, so it's kind of hard to see, but
16 it looks like that's the -- yeah, it's not a
17 great bright photo, but there's the entrance
18 wound on her right forearm, so this is on her
19 right side of her body, and that's the right
20 forearm.

21 Q. And maybe 105 is a better view of that?

22 A. Yeah, that's a closer-up view of the
23 same gunshot wound. The other one was just kind
24 of dark, we don't have the flash on.

25 Q. All right, yes, ma'am. And, Dr.

1 Reimer, this is gonna be State's 106.

2 A. All right. So -- yeah, so this is a
3 gunshot wound of -- yeah, this is actually on
4 her right arm, as well. So, yeah, you know,
5 it's saying that -- oh, I know, yeah --

6 Q. Let me turn it, I'm sorry, I'll turn
7 it.

8 A. Yeah, no, yeah, that's right. So it
9 actually -- there were -- the bullet actually
10 went all along the -- from the right forearm
11 through the upper arm, but because there's
12 broken bones and little pieces of projectile,
13 that's actually an exit wound from something,
14 either a piece of bone, or a projectile, which I
15 described in the autopsy report.

16 Q. All right, and this is State's Number
17 107.

18 A. Okay. Yeah, so this is the entrance
19 wound on the right side of the lower abdomen, so
20 it's just her hip region, and this is the
21 entrance wound, it's really low, and that from
22 there the bullet went into her body upward.

23 Q. Is there any explanation for how it
24 traveled upward, or just --

25 A. Well, you know, if a bullet's going

1 kind of upwards through somebody's body, that
2 would -- logic would tell us, that there's
3 somebody shooting, if the person is standing
4 straight, that the person's shooting from the
5 floor, right; or it could mean that she was
6 lying on the ground already from maybe the other
7 gunshot wound that caused her to get on her back
8 and then somebody might shoot her again, and
9 then in that case if somebody's lying down and
10 somebody's -- the shooter is standing up, it
11 would go kind of go upward through the body.

12 Q. All right.

13 A. So that's -- but I don't know exactly
14 how that happened, but it was going upward.

15 Q. All right, this is State's Number 108.

16 A. Yeah, okay, yeah, so this is -- we can
17 tell this is her right here. Okay, and this is
18 actually the exit wound after the bullet went
19 through the right arm, right, and broke that
20 right humerus bone, and exited here, okay?
21 That's the right armpit, and then re-entered
22 right there.

23 So you can see that it's kind of traveling,
24 yeah, and exited, and -- yeah.

25 Q. And, finally, State's Number 110?

1 A. Okay, so this is one of the two -- each
2 of these projectiles ended up in the body, and
3 so this is projectile that was from the left
4 side of the back, after it went through the
5 right side of the front of the abdomen, then it
6 went upward, kidney, and then on the right side
7 -- in the left side of the back.

8 Q. And State's Number 111?

9 A. And then this was the projectile from
10 the vertebral column, and this is the one that
11 went through the right arm and entered the
12 chest, and we can see that there's pieces of
13 that that had broken off, and those I recovered,
14 and they were taken -- a photograph was taken of
15 those right coming from the arm.

16 Q. Yes, ma'am. Thank you, Dr. Reimer,
17 those are all the photographs of Ms. Miller. If
18 you could have a seat up on the witness stand?

19 THE COURT: Lights.

20 BY MS. LEGETTE:

21 Q. Dr. Reimer, finally, let's talk about
22 V.M. [REDACTED] You also autopsied the body of
23 V.M. [REDACTED] on May 18th, 2017.

24 A. Yes.

25 Q. Let's talk about Mr. V.M. [REDACTED]

1 In his autopsy --

2 A. Okay.

3 Q. -- because you diagramed his injuries.
4 What were his injuries.

5 A. Okay. So V.M. [REDACTED] this was the
6 13-year-old boy.

7 THE COURT: Have you got that volume up?
8 Is her microphone on, Madam Clerk?

9 CLERK: Yes, sir, it's been turned up now.

10 BY WITNESS:

11 A. Okay.

12 THE COURT: Okay.

13 BY WITNESS:

14 A. That's better.

15 Q. I'm sorry, can you repeat that, Dr.
16 Reimer?

17 A. Okay, so V.M. [REDACTED] was the 13-
18 year-old boy who -- he sustained two gunshot
19 wounds. One was to the neck, and the entrance
20 was on the right side of the neck, and the exit
21 was on the upper side of like the back of the
22 neck, right shoulder area, so it went right
23 through the soft tissue of the neck, but it
24 also, along the way, through -- our neck has a
25 lot of important structures, it went through the

1 right internal jugular vein, which is a very --
2 everybody's heard of the jugular vein, that's a
3 very major blood vessel, it carries a lot of --
4 a big caliber, it carries a lot of blood, and so
5 it actually went through the right internal
6 jugular vein, along the way from the front to
7 the back, and that exited the back, so there was
8 no projectile recovered at the autopsy.

9 Q. Let me ask you a question, Dr. Reimer,
10 if a person is shot, like Vinny is shot, and the
11 -- how did the blood come out of a wound like
12 that?

13 A. Well, it's -- there's constant bleeding
14 internally. There's -- sometimes people can
15 bleed excessively on the inside, and it may not
16 even be evident outside of the body.

17 So it depends on how the body ends up.
18 Sometimes, you know, if there's a lot of
19 internal bleeding and not a lot of external
20 bleeding, you know, but if it's bleeding
21 internally, and if it's not going through your
22 veins and your arteries, that's as good as being
23 out on the street, because, you know, it could
24 be in your body, but if it's not in your blood
25 vessels, it's not where it's supposed to be, so

1 that also counts as bleeding. And then in
2 addition to that gunshot wound to the neck, he
3 had a gunshot wound to the left side of the
4 upper chest, and that went into his -- the left
5 side of the upper chest, went through a rib, and
6 then the left lung, and it's kind of going
7 across. It went through the trachea, which is
8 the windpipe, and then the lower lobe of the
9 right lung, so it's kind of coming from the left
10 side, the left side of the upper chest, it's
11 going into the chest, and it goes through the
12 windpipe, and then into the right lung, and
13 ended up exiting on the right side of his back.
14 So each of the gunshot wounds was through and
15 through, with no projectiles recovered in the
16 body..

17 Q. And would both of them have been
18 potentially fatal, or --

19 A. Yes. Each one of these on its own
20 could have been fatal without the other one, but
21 the combination of both of those caused so much
22 bleeding, that they resulted in his death. The
23 gunshot wound to the left side of the chest,
24 that went through the left lung, then the
25 windpipe, and then the right lung before exiting

1 the right side of the back, caused a lot of
2 bleeding into both chest cavities, and blood in
3 his windpipe, so he wouldn't have been able to
4 breathe. So between -- there's just a lot of
5 internal bleeding, and then just not being able
6 to breathe, because blood's pouring into his
7 trachea.

8 Q. Thank you, Dr. Reimer. And you
9 documented Mr. V.M. [REDACTED] injuries, as
10 well through photograph and x-rays, or at least
11 photographs and diagrams, right?

12 A. Yes. I did x-rays, but they're not
13 gonna -- they just show that there's no bullets.

14 Q. Yes, ma'am. So I hand you now what's
15 been previously marked for identification, as
16 State's 112, 113, 114, 115 and 116, and I ask
17 you to take a moment, tell me if you recognize
18 State's 112 through 116, inclusive.

19 MS. LEGETTE: May I approach?

20 THE COURT: You may.

21 BY MS. LEGETTE:

22 Q. Do you recognize State's Exhibits 112
23 through 116, Dr. Reimer?

24 A. Yes.

25 Q. And, Dr. Reimer, what are they?

1 A. These are photographs of gunshot
2 wounds, entrance and exit wounds sustained by
3 V.M. [REDACTED]

4 Q. And are State's Exhibits 112 through
5 116 a fair and accurate reflection of the
6 gunshot wound injuries to V.M. [REDACTED] on the
7 autopsy date of May 18th, 2017?

8 A. Yes.

9 Q. And have they been changed or altered
10 in any way?

11 A. No, these are my photographs.

12 Q. All right.

13 MS. LEGETTE: I would offer State's 112
14 through 116 inclusive at this time for admission
15 into evidence, Your Honor.

16 THE COURT: As to 112 through 116
17 inclusive?

18 MR. MATTHEWS: No objection, Your Honor.

19 THE COURT: Ladies and gentlemen of the
20 jury, State's Exhibits 112, 113, 114, 115 and
21 116 will be admitted into evidence in the trial
22 of this case without objection.

23 MS. LEGETTE: Thank you, Your Honor.

24 (State's Exhibits 112 - 116 were admitted.)

25 BY MS. LEGETTE:

1 Q. Before we publish, Dr. Reimer, you've
2 also said you collected the projectiles from
3 both bodies of Mr. Phillip Miller, Jr. and Ms.
4 Lori Miller, but there were no projectiles from

5 V.M. [REDACTED]

6 A. Correct.

7 Q. Did you collect a blood spot from

8 V.M. [REDACTED]

9 A. Yes, everybody gets a blood spot.

10 Q. A blood spot, okay. I'm gonna hand you
11 now what's been previously entered into evidence
12 as State's 120 and 123. I want you to take a
13 moment, and tell me if you recognize these
14 items.

15 MS. LEGETTE: May I approach?

16 THE COURT: You may.

17 BY WITNESS:

18 A. Okay, so these are the projectiles that
19 we saw pictures of, that I recovered from the
20 autopsy, and these are my -- the envelopes and
21 the autopsy labels, so I know which bullet is
22 from which person.

23 Q. Thank you, Dr. Reimer. And also to the
24 blood spot?

25 A. Yes. So this is a blood spot --

1 THE COURT: Can you give the Exhibit
2 Number, and don't say this for me, please,
3 ma'am.

4 BY WITNESS:

5 Q. Oh, okay, let's see.

6 THE COURT: What red number?

7 BY WITNESS:

8 A. Okay, red tag number 123 --

9 THE COURT: All right.

10 BY WITNESS:

11 Q. Is -- is an envelope containing the
12 blood spot card of V.M. [REDACTED]

13 Q. And, Dr. Reimer, are State's Exhibits
14 120 and 123 in the same condition today, as when
15 you originally collected them, during the
16 autopsies of Lori Miller, Phillip Miller and
17 V.M. [REDACTED] on May 19th, 2017?

18 A. Yes.

19 Q. Do they appear to have been changed or
20 altered in any way?

21 A. No, they look the same.

22 Q. Thank you, Dr. Reimer. And, Dr.
23 Reimer, at this time I'd like to finally present
24 the photographs of V.M. [REDACTED]

25 Do you need to come down to explain to the

1 jury what you see, or you --

2 A. I'd rather do it --

3 Q. Yes, ma'am, come down, I have your
4 microphone right here. Dim the lights, please.

5 BY WITNESS:

6 A. So this is actually the --

7 THE COURT: Exhibit number?

8 WITNESS: I'm sorry, okay.

9 MS. LEGETTE: This is State's 112.

10 BY MS. LEGETTE:

11 Q. Dr. Reimer, this is State's 112 up now.

12 A. Okay. So this Exhibit 112 is the
13 identification shot of V.M. [REDACTED] So
14 everybody gets an identification shot, and we
15 can actually see both of the entrance wounds
16 here. The entrance wound, the one on the right
17 side of the neck, there it is, that's an
18 entrance wound. And then this is like to the
19 left side of the upper chest, so those are the
20 two gunshot wound entrances.

21 Q. And this is State's Exhibit Number 113.

22 A. So this is another picture, it's kind
23 of the shoulder area, and that's of the upper
24 chest, and remember this one went through the
25 trachea, the windpipe, and right along, so --

1 but that's going into the body, and that's the
2 entrance wound, and, you know, it looks like all
3 of this debris -- it's actually scrapes on skin,
4 that are consistent with like postpartum like
5 insect activity.

6 So sometimes when insects are attracted to
7 tissue, they frequently come very quickly to the
8 scene, and bite skin, and it just happens, so
9 that's what I suspect that is.

10 Q. Thank you, Dr. Reimer. And, Dr.
11 Reimer, as to State's Number 114?

12 A. Okay, so this is another photo of the
13 entrance wound, specifically, on the right side
14 of the front of the neck. That's like the
15 internal jugular vein, and we do have some ant
16 activity as well on the skin. And that is going
17 to exit the right side of the back, shoulder
18 area, we'll see an exit wound soon.

19 Q. All right, this is State's Number 115,
20 Dr. Reimer.

21 A. Okay, there it is. So that's the exit
22 wound on the right side of the upper back, so
23 the entrance wound is kind of in front of the
24 chest, and it kind of goes from straight front
25 to back, and a downward direction before

1 exiting.

2 Q. And, finally, in State's Number 116,
3 Doctor Reimer?

4 A. Okay. So that's the exit wound on the
5 right side of that. This is his right armpit
6 area, and the right arm. And remember the
7 entrance wound was -- that's the entrance.

8 Q. From State's 113?

9 A. Right, one -- okay, and that went
10 through -- went up and entered the chest, it
11 went through the left lung, the trachea, the
12 right lung, and then the right side, so it's
13 going from front to back, left to right, and
14 downward before exiting.

15 Q. Thank you, Dr. Reimer, you can have a
16 seat now. And, Dr. Reimer, did you have any
17 other involvement in this case?

18 A. Did I have any other --

19 Q. Other involvement in this case, besides
20 the autopsy of victims, Lori Miller, Phillip
21 Miller and V.M. [REDACTED] did you have any
22 other involvement?

23 A. No, I did their autopsies.

24 Q. All right. Thank you, Dr. Reimer,
25 answer any questions from Mr. Matthews.

1 THE COURT: Just a moment, counsel
2 approach.

3 (Bench conference.)

4 MR. MATTHEWS: Actually, it's Ms. Anderson.

5 MS. LEGETTE: I'm sorry, Ms. Anderson.

6 THE COURT: Mr. Foreman, ladies and
7 gentlemen, I've gone 40 minutes past where I
8 normally give you a mid-afternoon break, but I
9 didn't want to break up the direct examination.
10 Let's take our one and only mid-afternoon break
11 now, give you a chance to stretch your legs, use
12 the restroom. Please do not discuss the case.
13 I'll be back with you just as soon as I know
14 you've all had a chance to take a little short
15 break. Thank you, you may retire to your jury
16 room.

17 (Jury exits the courtroom.)

18 THE COURT: All right, we'll take about
19 five to ten minutes.

20 (Recess)

21 THE COURT: Bring in the jury, please.

22 (Jury enters courtroom.)

23 THE COURT: Please be seated. All right,
24 Mr. Foreman, you've kept the clock together
25 during the break, thank you. We'll now continue

1 with the testimony of the trial of this case.
2 Doctor, I'll remind you you're under oath. Are
3 you passing the witness, Solicitor?

4 MS. LEGETTE: I am, Your Honor.

5 THE COURT: Cross-examination.

6 ***

7 CROSS-EXAMINATION

8 BY MS. ANDERSON:

9 Q. Good afternoon, Dr. Reimer, how are you
10 doing today?

11 A. I'm doing fine.

12 THE COURT: Will you bring the microphone
13 down? Thank you.

14 BY MS. ANDERSON:

15 Q. All right, have you testified as to the
16 cause and manner of death?

17 A. Yes.

18 Q. And in that, you performed autopsies,
19 as a part of your duties for MUSC?

20 A. Correct.

21 Q. You also mentioned that each person
22 that an autopsy is performed gets a toxicology
23 report?

24 A. Yes.

25 Q. And that report is capable of

1 determining whether or not a person ingested
2 drugs?

3 A. Yes.

4 Q. Prescription drugs?

5 A. Yes. Anything that's -- we get
6 prescription drugs, non-prescription drugs,
7 legal drugs, illegal drugs, everything shows up,
8 there's no secrets.

9 Q. You drew a sample for Ms. Lori Miller
10 on May 19th of 2017?

11 A. Actually, I think it was May 18th.

12 Q. Yes, ma'am.

13 A. Yeah, May 18th.

14 Q. May 18th.

15 A. Yes, I did.

16 Q. And you received the findings for that
17 sample on June 19th of 2017?

18 A. Yes.

19 Q. And you indicated that she had crack in
20 her system?

21 A. That she had crack, yes.

22 Q. Yes, ma'am. And that's a recreational
23 drug?

24 A. Yes, it's a recreational drug.

25 Q. You mentioned earlier that one of the

1 bullet projectiles re-entered her body.

2 A. Yes.

3 Q. Can you describe to the jury what that
4 would have looked like?

5 A. Well, I'll describe a gunshot wound
6 that went the length of her right arm, and we
7 saw that wound, and from there it went through
8 her chest, the right side of the chest cavity.
9 So that's the path of that bullet.

10 Q. And this was with her standing up, and
11 having her arms outstretched like this?

12 A. Yes.

13 Q. No further questions. Thank you, Dr.
14 Reimer.

15 A. You're welcome.

16 THE COURT: Redirect?

17 MS. LEGETTE: None, Your Honor.

18 THE COURT: As to this witness?

19 MS. LEGETTE: We ask that she be excused.

20 THE COURT: Any objection, Mr. Matthews?

21 MR. MATTHEWS: No, sir.

22 THE COURT: All right, just make sure to
23 leave my exhibits. You are excused from the
24 trial of this case; you may leave the courtroom.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Watch your step.

2 THE WITNESS: I shall.

3 THE COURT: Call your next witness.

4 MS. LEGETTE: The State call Number 19,
5 Courtney Daniels.

6 * * *

7 COURTNEY DANIELS

8 * * *

9 being first duly sworn, testified as
10 follows:

11 THE COURT: Adjust that chair to your back,
12 and adjust the microphone to your height, this
13 will amplify your voice. State your full name,
14 spell the last name for the Court Reporter.

15 WITNESS: Courtney Daniels, C-O-U-R-T-N-E-Y
16 D-A-N-I-E-L-S.

17 THE COURT: Your witness, counsel.

18 MS. LEGETTE: Thank you, Your Honor.

19 * * *

20 DIRECT EXAMINATION

21 BY MS. LEGETTE:

22 Q. Good afternoon, Ms. Daniels.

23 A. Good afternoon.

24 Q. Ms. Daniels, where do you work?

25 A. I work at Verizon Wireless.

1 Q. And for how long have you worked for
2 Verizon Wireless?

3 A. Eight years.

4 Q. Eight years. And what is your position
5 at Verizon Wireless?

6 A. I'm a Senior Analyst.

7 Q. And what does a Senior Analyst -- or
8 what are some of the duties of a Senior Analyst?

9 A. I am a custodian of records for civil,
10 as well as criminal cases. We do small claims,
11 mediations and arbitrations.

12 Q. And when you say you're a custodian of
13 records, that means for Verizon Corporation you
14 actually keep the records?

15 A. I testify to the records that we
16 produce and keep.

17 Q. Okay, and the records are kept in the
18 ordinary course of business?

19 A. Yes.

20 Q. All right. Now, can you tell the jury
21 about the kinds of records that you keep?

22 A. We keep cell phone records, which
23 include talk, text and data entries.

24 Q. All right, and so how long do you
25 retain cell phone records?

1 A. Cell phone records are typically kept
2 within two years, plus the current year.

3 Q. Can you tell us a little bit about how
4 a cell phone works?

5 A. So a cell phone works in when you make
6 a phone call, so you dial the number, and once
7 you press that send button or call button, that
8 call is then routed to the cell phone towers,
9 and that cell phone tower then directs the call
10 to the person that you are trying to reach.
11 That call is connected, and then it is stored
12 electronically in our system.

13 Q. All right, and so let's talk about
14 phone calls, specifically. What kinds of
15 information are you able to access with the
16 records you keep, as it relates to phone calls?

17 A. We keep the switch that it's hit off
18 of, the date and time, how long the call was,
19 who called the number, the cell phone tower that
20 it hit off, the direction of the call, which is,
21 basically, incoming and outgoing.

22 Q. Okay, and so now let's talk about text
23 messages. Text messages are also a part of cell
24 phone records that you keep?

25 A. Yes.

1 Q. All right, so let's talk about those.
2 What kinds of information are you able to access
3 with the records you keep, as it relates to text
4 messages?

5 A. Well, text messages are a little
6 different than calls, so the way text messages
7 are kept, they are kept within ten days of
8 making that text message. After that ten days.
9 the content of the message is no longer there,
10 but the two years still applies, as far as the
11 -- when the text message was made, who it was
12 made to, whether it was an incoming or outcoming
13 text message, or whether it was a picture
14 message.

15 Q. So you talked about content. Can you
16 explain what content is?

17 A. Content would be the -- what our system
18 would pull, as the message that was sent.

19 Q. Okay. All right, so when you -- okay,
20 so can you also access times, when you're
21 looking at your cell phone records, the dates
22 and time?

23 A. Yes.

24 Q. All right, so the time is also kept.
25 And so can you tell us a little bit about cell

1 phone tower information?

2 A. Cell phone tower information would be
3 included in the call details that I was
4 discussing, as far as what tower it was hit off
5 of, when it was first made, what cell phone
6 tower it was made off of, the last -- when it
7 was -- this call was ended, so that would be
8 inclusive in the call details.

9 Q. Okay, and so turning your attention to
10 the case before the Court, did Verizon receive a
11 search warrant for the case before the Court
12 back in May of 2017?

13 A. Yes.

14 Q. And based on that search warrant, are
15 you able to tell us the target number that was
16 requested?

17 A. Yes, that number was 843-542-5985.

18 Q. And where did that search warrant come
19 from; are you able to tell, or remember?

20 A. I don't remember the specific
21 department, but I believe it was the Sheriff's
22 Department.

23 Q. Okay. All right, and that would have
24 been Colleton County?

25 A. Yes.

1 Q. All right, and so based on that search
2 warrant, did Verizon comply and provide the
3 records to the requesting agency?

4 A. Yes.

5 Q. And that target number you said earlier
6 was 843-542-5985?

7 A. Yes.

8 Q. And the cell phone records that were
9 provided, what standard of time were they
10 provided in? Do you remember, or do you know?

11 A. Are you asking from the time that the
12 cell phone -- the search warrant?

13 Q. No, ma'am, the Eastern Standard, or --

14 A. Oh, I'm sorry.

15 Q. No --

16 A. Okay. So as far as the time zone, it
17 is based on the target number's location, so it
18 would be Eastern Standard, since we are in South
19 Carolina.

20 THE COURT: All right, counsel, let's move
21 along.

22 BY MS. LEGETTE:

23 Q. Ms. Daniels, I'm gonna hand you in a
24 moment what has been previously marked for
25 identification as State's 136 and State's 142,

1 as well as State's 134 and State's 135, that
2 have only been identified; however, I'm also
3 going to hand you State's 142A, that has been
4 marked for identification and entered into
5 evidence.

6 Can you please take a moment and tell me if
7 you recognize State's 136, State's 134, 135, 142
8 and 142A.

9 MS. LEGETTE: May I approach the witness?

10 THE COURT: You may.

11 BY WITNESS:

12 A. Yes, I do recognize these.

13 Q. And what are those exhibits?

14 THE COURT: The exhibit number, not what
15 are those. Each one of those has a red tab,
16 with a number, use that number for the record
17 for the Court Reporter. Thank you.

18 BY WITNESS:

19 A. Yes, sir. 136 is a DVD or CD that had
20 -- that contains the call details, text
21 messages, subscriber information that was
22 requested in the search warrant. I signed it
23 and dated it, when I reviewed it.

24 Q. And is State's 136 a fair and accurate
25 reflection of the actual entire file that

1 Verizon Wireless -- the cell phone record at
2 Verizon Wireless actually sent to the Sheriff's
3 Office upon the search warrant request?

4 A. Yes.

5 Q. And after you verified it, has it been
6 changed or altered in any way?

7 A. No.

8 Q. Thank you.

9 A. And 130 -- or excuse me, 142 is the
10 text message that -- or text messages that are
11 probably records for the target phone number.

12 Q. And have you also verified that State's
13 142 are actually a part of the cell phone
14 records that came out of State's 136?

15 A. Yes.

16 THE COURT: Is 142 a separate exhibit from
17 142A?

18 MS. LEGETTE: Yes, sir.

19 THE COURT: So she's identifying 142?

20 MS. LEGETTE: Yes, sir.

21 THE COURT: All right.

22 BY MS. LEGETTE:

23 Q. And as it relates to State's 142A?

24 A. 142 -- one second.

25 Q. If you have to look at it, you can go

1 back to be able to see it and verify.

2 A. Yes, I do recognize this.

3 Q. All right, and what is State's 142A?

4 A. These are also text message records.

5 Q. And are they also a part of the State's
6 Exhibit Number 136, the cell phone records that
7 were provided by Verizon Wireless to the
8 Sheriff's Office, upon the search warrant
9 request?

10 A. Yes.

11 Q. All right, thank you.

12 A. 134 are the call details that were
13 requested for the target phone number.

14 Q. And are State's 134 a fair and accurate
15 reflection also of the cell phone records that
16 had been provided by Verizon Wireless in State's
17 136?

18 A. Yes. And then 135 are also additional
19 records that were a part of the call details.

20 Q. All right, and are State's 135 a fair
21 and accurate reflection also of the cell phone
22 records, as provided by Verizon Wireless upon
23 the search warrant request?

24 A. Yes.

25 Q. And State's 136?

1 A. Yes.

2 Q. All right, and as it relates to State's
3 136, 142, 142A, 134 and 135, have those exhibits
4 been changed or altered in any way?

5 A. Except for the blanking out
6 information, no.

7 MS. LEGETTE: At this time, Your Honor, I
8 would offer State's Exhibits Number 136, 142,
9 142A, 134 and 135 --

10 THE COURT: 142A is already in evidence.

11 MS. LEGETTE: I apologize, Your Honor --

12 THE COURT: You want to admit 142 --

13 MS. LEGETTE: Yes, sir.

14 THE COURT: -- is that right?

15 MS. LEGETTE: That's right, Your Honor.

16 THE COURT: All right.

17 MS. LEGETTE: 134 and 135 for admission
18 into evidence.

19 THE COURT: 134 and 135?

20 MS. LEGETTE: Yes, Your Honor.

21 THE COURT: All right. Mr. Matthews, I
22 realize that it can be a little confusing for
23 you, so State's Exhibits 136, 142, 134 and 135,
24 correct, Solicitor?

25 MS. LEGETTE: Yes, Your Honor.

1 THE COURT: Any objection?

2 MR. MATTHEWS: No, sir.

3 THE COURT: Ladies and Gentlemen of the
4 jury, State's Exhibits 142, 134, 135 and 136
5 will be admitted into evidence in the trial of
6 this case without objection. You may publish.

7 (State's Exhibits 134 to 136 and 142 were
8 admitted.)

9 MS. LEGETTE: Thank you, Your Honor.

10 BY MS. LEGETTE:

11 Q. Ms. Daniels, I want to refer your
12 attention, specifically, to State's Number 142,
13 and if you will refer to just 142, not 142A, I
14 think they're connected, but you can take them
15 apart.

16 Are you able to tell us, as to the last two
17 text messages in that document on State's 142?
18 Are you able to tell us the date and time, and
19 telephone numbers from, I guess, the originating
20 source, as well as the content of the text
21 messages themselves?

22 A. Yes.

23 Q. Could you please read them?

24 A. Okay. The date would be May 16th,
25 2017, at 1611 and 39 seconds. The originating

1 phone number -- wait a second, the originating
2 phone number is 843-321-73802. The ending phone
3 number of the target number that received that
4 text message would be 843-53 -- or excuse me,
5 843-542-5985. The text message would read, as
6 in content, "Park next to Title Max van in Petco
7 parking lot."

8 Q. All right, thank you. And as to the
9 last text message on that page, can you tell us
10 the same information, date and time, as well as
11 the originating number, target number and
12 content of the text message?

13 A. Yes. It is May 16th, 2017, at 1631 and
14 40 seconds. The originating phone number is
15 843-3 -- or, excuse me, 843-217-3802. The
16 terminating number would be 843-542-5985. The
17 text message content reads, "The house is on
18 main road in town. Please park in front of
19 Toyota Avalon see -- you will see."

20 Q. Thank you. And, Ms. Daniels, you
21 testified earlier about the standard of time.
22 Are you also familiar with military time?

23 A. Yes.

24 Q. And when you testified earlier about
25 1611, what is the actual time in Eastern

1 Standard Time?

2 A. 1611 would be -- that would be 4 --
3 4:11 and 39 seconds, sorry.

4 Q. All right, and so 1631 would be what?

5 A. 4:30.

6 MS. LEGETTE: I beg the Court's indulgence.

7 BY MS. LEGETTE:

8 Q. Thank you, Ms. Daniels, I have no
9 further questions. Please answer any questions
10 from Mr. Matthews.

11 ***

12 CROSS-EXAMINATION

13 BY MR. MATTHEWS:

14 Q. How are you today?

15 A. Good, how about you?

16 Q. Good. Where are you coming from?

17 A. Atlanta.

18 Q. Atlanta?

19 A. Yes, sir.

20 Q. This must be very exciting for you to
21 be here.

22 A. Well, I've been in South Carolina a
23 couple times, but yes.

24 Q. What's your favorite Walterboro sports
25 team?

1 A. I'm not familiar with the sports teams
2 that you guys have.

3 Q. All right, if I --

4 THE COURT: Move on, Mr. Matthews.

5 MR. MATTHEWS: Yes, sir.

6 BY MR. MATTHEWS:

7 Q. If I heard you correctly, that you said
8 that the call as -- what was the originating
9 source from the call that was at 4:11:39?

10 A. What was the originating phone number?

11 Q. Yes.

12 A. 843-217-3802.

13 Q. Okay, I thought I heard 321-7382. What
14 number is that?

15 A. I'm not sure. Again, I can read it
16 again to you.

17 Q. That's okay. Who's the subscriber to
18 843-542 -- the target number 843-542-5985, who
19 is the subscriber?

20 A. We don't have that information.

21 Q. So you don't even know who actually is
22 paying for the phone?

23 A. That's correct.

24 Q. Okay, and, obviously, though you have
25 no way to know who is actually using the phone?

1 A. That's correct.

2 Q. Okay, so you're directing things from a
3 phone to another phone, or phones, or whatever,
4 but as far as who's doing it, you don't know?

5 A. That's correct.

6 Q. Nothing further.

7 THE COURT: Redirect?

8 MS. LEGETTE: None, Your Honor.

9 THE COURT: As to this witness?

10 MS. LEGETTE: We ask that she be excused.

11 THE COURT: Any objection?

12 MR. MATTHEWS: No, sir.

13 THE COURT: Very well, Ms. Daniels, you may
14 step down from the witness stand, you're excused
15 from the trial of this case.

16 WITNESS: Do I need to give these to you?

17 MS. LEGETTE: I'll get that from you.

18 THE COURT: Call your next witness.

19 MS. LEGETTE: The State calls Dylan
20 Hightower.

21 THE COURT: What number, 16?

22 MS. LEGETTE: Yes.

23 * * *

24 DYLAN HIGHTOWER

25 * * *

1 being first duly sworn, testified as
2 follows:

3 THE COURT: Move the chair up, make
4 yourself comfortable, adjust the microphone to
5 your height, state your full name, spell your
6 last for the Court Reporter.

7 WITNESS: Yes, sir. My name is Dylan
8 Hightower, I'm an Investigator with the 14th
9 Circuit Solicitor's Office, last name is spelled
10 H-I-G-H-T-O-W-E-R.

11 * * *

12 DIRECT EXAMINATION

13 BY MS. LEGETTE:

14 Q. Good afternoon, Mr. Hightower.

15 A. Good afternoon, ma'am.

16 Q. Or Investigator Hightower, I'm sorry.

17 A. Yes, ma'am.

18 Q. Investigator Hightower, where do you
19 work?

20 A. I'm employed at the 14th Circuit
21 Solicitor's Office as an Investigator. I also
22 supervise the Criminal Intelligence Unit out of
23 our main Headquarters office in OPD, or
24 Bluffton, South Carolina.

25 Q. And for how long?

1 A. I've been here -- employed here for 11
2 years.

3 Q. And please tell us about some of your
4 duties, and what you do on a daily basis.

5 A. So I assist local Law Enforcement with
6 active criminal investigations. I also
7 supervise our in-house Criminal Intelligence
8 Unit, that's comprised of three Intelligence
9 Units, comprised of three Intelligence Analysts,
10 and multiple other Investigators.

11 I also primarily, focus in the field of
12 criminal cases for Beaufort County, South
13 Carolina. I work alongside other Prosecutors
14 throughout the office and assist in prepping
15 cases for trial.

16 Another part of my focus is cell phone
17 forensics, like I'm involved with digital
18 extractions of phone devices, as well as
19 conducting records analysis for cellular phone
20 records.

21 Q. And please tell us about the process
22 for you get involved with local Law Enforcement
23 agencies and investigations.

24 A. So, essentially, when a violent crime
25 is committed somewhere throughout the 14th

1 Circuit, even outlying counties, along with some
2 cases in Georgia, as well, Barnwell and Bamberg
3 Counties.

4 I have a good working relationship with the
5 South Carolina Law Enforcement Division. They
6 generally request my assistance on doing any
7 type of analytics for cell phone records
8 involving a criminal offense, if it's a witness,
9 a victim, a defendant.

10 And I go and identify the cell towers that
11 are in use, any incoming and outgoing text
12 messages that might have been useful, as well as
13 identifying the tower information, and
14 establishing the general location of where that
15 cellular device was.

16 Q. Thank you. Now, could you please tell
17 us about any specialized training, education,
18 experience, and qualifications you have, as it
19 relates to cell phones, or cell phone records
20 being asked.

21 A. Yes, ma'am. After graduating from the
22 University of South Carolina in Columbia with a
23 bachelor's degree -- a Bachelor of Arts Degree
24 in Sociology, I was hired as an Intelligence
25 Analyst for the 14th Circuit Solicitor's Office.

1 At the time I was an Intern with the South
2 Carolina Law Enforcement Division.

3 During my time there, at the onset of my
4 employment with the 14th Circuit Solicitor's
5 Office, I took part in a four-week on-the-job
6 training in all aspects of criminal intelligence
7 analysis at the Fusion Center in Columbia, South
8 Carolina.

9 A minor focus during that timeframe was on
10 cell phone forensics, identifying historical
11 cell site analysis. Later in 2011, I attended a
12 Analyst Training School in Columbia, South
13 Carolina.

14 In 2012, I attended a class for ETS
15 Fundamentals of call detail record analysis.
16 Later in 2014, I attended a class for advanced
17 Forensics, which is a class, which is a class
18 that teaches you about the digital footprint of
19 cellular towers.

20 Shortly thereafter, I attended a separate
21 class, Mobilized Cellular Forensics Operator
22 course in 2017, where I had gone in and,
23 basically, was trained on the ability to extract
24 the mobile contents of a specific device, and
25 incorporate that in a comparison to what I see

1 on the cell phone record itself.

2 In 2018, I attended the FBI Cast Cellular
3 Analysis Survey Team, Historical Cell Site
4 Analysis course, and what all these courses
5 really focused on was identifying the concepts
6 of the cellular network for all the major
7 providers that provide AT&T, T-Mobile. Every
8 single provider is completely different just for
9 the records.

10 Also, the changing technology from 3G, to
11 4G, to 5G, which is what we're seeing right now,
12 is the 5G technology. Staying up-to-speed
13 throughout these different training exercises.
14 Staying up-to-speed with the different change in
15 technologies is paramount for what we do on a
16 daily basis.

17 Q. Thank you. Now, Investigator
18 Hightower, what is historical cell site
19 analysis?

20 A. So, essentially, all the historical
21 cell site analysis is, it establishes the
22 general indication of a specific target number.

23 COURT REPORTER: Please slow down.

24 BY MS. LEGETTE:

25 Q. Okay, slow down a little bit, okay?

1 Our Court Reporter is typing it all out, so I
2 talk a little fast, so can you please slow down
3 just a little bit?

4 A. Yes, ma'am. So, in essence, when a
5 criminal case is opened, a search warrant is
6 then executed, based off probable cause for a
7 specific target and cellular telephone number.
8 In response to that search warrant, a set of
9 cellular phone records are sent to you.

10 That's all on an Excel spreadsheet of the
11 cell tower listing, identifying where the cell
12 towers are, the latitude and longitude of the
13 cell towers, the call details records, which
14 encompass the incoming and outgoing calls, the
15 duration of the call, who they're calling, and
16 who they're receiving a call from, as well as
17 other digital tools that allow to identify the
18 approximate physical location of a cellular
19 telephone, as it's in use, while it's connected
20 to the network.

21 Verizon, in this case -- in all cases,
22 actually, is the only records provider that
23 actually stores text message content. So,
24 essentially, what a historical cell site
25 analysis is, is where you request information --

1 historical information, and then I go back, and
2 I analyze those phone records, and I identify
3 the general location of where that device was in
4 use, at any specific time.

5 Q. All right, and this might be a bad
6 question, but I'm gonna ask you throughout your
7 years of experience, how many cell phone records
8 would you say you've analyzed?

9 A. I've worked, literally, every possible
10 case involving cell phone records, missing
11 persons, drug cases, homicides, attempted
12 murders, well over two to 300 sets of records in
13 the ten to 12 years I've been doing it.

14 Q. And, Investigator Hightower, have you
15 ever been qualified as an expert in any specific
16 area, as it relates to cell phones or cell phone
17 analysis, or historical cell site analysis?

18 A. Yes, ma'am, I have.

19 Q. And how many times have you testified
20 in this area?

21 A. I testified 12, 11 times, I think,
22 qualified as an expert on any of these
23 occasions.

24 MS. LEGETTE: At this time, Your Honor, I
25 would offer Investigator Dylan Hightower as an

1 expert in the field of historical cell site
2 analysis,

3 THE COURT: Any objection, as to
4 qualifications, Mr. Matthews?

5 MR. MATTHEWS: No, sir.

6 THE COURT: Recalling my earlier
7 instruction to you concerning expert witnesses,
8 the witness is qualified, without objection,
9 cell phone analysis. You may proceed,
10 Solicitor.

11 MS. LEGETTE: Thank you, Your Honor.

12 BY MS. LEGETTE:

13 Q. Investigator Hightower, can you give us
14 a brief overview of how cell phones work,
15 please?

16 A. Yes, ma'am. The easiest way to really
17 demonstrate, without getting too technical on
18 how cellular towers work, imagine you and a
19 friend are in your front yard, and each of you
20 had a two-way radio, and you're on opposite
21 sides of the front yard, and within your yard
22 you had a sprinkler system, and on that
23 sprinkler system every general area of where you
24 walk around through that yard, you would
25 transfer from one to where you're starting point

1 is, and the closest sprinkler head that you're
2 at, and as you maneuver your way through the
3 yard, you're constantly going off of other
4 sprinkler heads. Cellular networks work exactly
5 the same way.

6 What we are able to identify through the
7 cellular networks is we're also allowed to -- or
8 at least able to analyze the sector that is in
9 use, during any transmission of access to the
10 network.

11 The sector is comprised of three,
12 basically, pieces of pie. They're all 120
13 degrees in width, and then they're all
14 identified as sector Alpha, Beta, or Gamma 123.
15 That allows us to know, as we're going through
16 and analyzing these records, what side of the
17 tower was in use, so, therefore, obviously,
18 giving a direction of where the device was in
19 use, as it was connected to the network.

20 Q. Now, Investigator Hightower, did you
21 conduct any analysis of any cell phone records
22 in this case?

23 A. Yes, ma'am, I did.

24 Q. And from whom did you receive those
25 records?

1 A. I received the records from, I believe,
2 a Detective King, at the time, from the Colleton
3 County Sheriff's Office, Detective Robertson --
4 former Detective Robertson was the one that
5 submitted the search warrant, and I received
6 copies of the search warrant, as well as the
7 contents of the Verizon response, the ability to
8 use sets of phone records.

9 Q. And once you received those records,
10 did you make any analysis?

11 A. I did, yes, ma'am.

12 Q. I'm gonna hand you now what's been
13 previously marked for identification, and
14 entered into evidence as State's 134 and 135.
15 Please take a moment and tell me if you
16 recognize State's 134 and 135.

17 THE COURT: They're in evidence.

18 BY MS. LEGETTE:

19 Q. In regards to State's Exhibit 134, I do
20 recognize that as being the 3G call detail
21 records, that was provided to me, in response to
22 the search warrant.

23 The secondary, I'm not sure what that is.
24 I recognize this as being the RTT data, which is
25 an approximation of the general location of

1 where the device was, as it was in use and
2 connected to the network. RTT stands for Real
3 Time Tool, a range to tower.

4 Q. Now, Detective -- I'm sorry,
5 Investigator Hightower, what, if anything, were
6 you able to do with the records that you --
7 those records in State's 134 and 135?

8 A. So the most common scenario is, what I
9 would do is once I received the phone records, I
10 would make sure I have everything that I need to
11 conduct my analysis.

12 I want to make sure I have the call detail
13 records, the incoming and outgoing calls. I
14 want to make sure I have a copy of the cell
15 tower listing, because, obviously, towers are --
16 new towers are being built every so often, and
17 you want to make sure your list matches what the
18 time period was during the time of your
19 incident.

20 Also, you want to make sure, especially
21 with Verizon and/or AT&T, you the RTT data, or
22 the PCMD data, which is the Per Call Measuring
23 Data. It's on the same idea, all the same
24 technology of establishing a general location of
25 where the device was in use, not just strictly

1 what tower that was in use.

2 Q. All right, and based on the information
3 you were able to access in the cell phone
4 records, especially in State's 134 and 135, did
5 you create a path of the information you
6 received?

7 A. Yes, ma'am, I did.

8 Q. And is that -- I'm gonna hand you now,
9 what's been previously marked for
10 identification, State's 137, and take a moment
11 and tell me, if you recognize State's 137.

12 MS. LEGETTE: May I approach?

13 THE COURT: You may.

14 BY WITNESS:

15 A. Yes, ma'am, I do.

16 Q. You recognize State's 137. What is
17 State's 137?

18 A. So State's 137 is a combination of the
19 RTT data, and the historical cell site call
20 detail record from May 16th of 2017, from 4:00
21 p.m. to 5:00 p.m.

22 Q. Okay. And did you also review any text
23 messages that were provided by the cellular
24 company, Verizon Wireless, in this case?

25 A. Yes, ma'am, I was.

1 Q. And I'm gonna hand you now, what's been
2 previously entered into evidence as State's 142.
3 Tell me if you recognize State's 142.

4 MS. LEGETTE: May I approach?

5 THE COURT: You may.

6 BY WITNESS:

7 A. Yes, ma'am, I do.

8 Q. All right, what is State's 142?

9 A. This is a copy of the Verizon text
10 message content, what Verizon would provide in
11 response to a search warrant.

12 Q. And you reviewed that also as part of
13 your analysis?

14 A. Yes, ma'am, I did.

15 MS. LEGETTE: At this time, Your Honor, I
16 would --

17 BY MS. LEGETTE:

18 Q. And, I'm sorry, is State's 137 a fair
19 and accurate reflection of the map that you were
20 able to create, by analyzing the Verizon
21 Wireless records submitted in this case?

22 A. Yes, ma'am, it is.

23 Q. And is it a fair and accurate
24 reflection of the cell phone -- I guess cell
25 phone location during that period of time on May

1 16th, 2017?

2 A. Yes, ma'am. It's a combination of the
3 general location where the device was in use for
4 specific text messages that were sent or
5 received, as well as one phone call that
6 processed through a cell tower in the town just
7 on the outskirts of the Town of Walterboro,
8 that's what this is.

9 Q. Thank you.

10 MS. LEGETTE: At this time, Your Honor, I
11 would offer this into evidence, State's Number
12 137.

13 THE COURT: As to 137, Mr. Matthews?

14 MR. MATTHEWS: No objection.

15 (State's 137 admitted.)

16 THE COURT: Ladies and Gentlemen of the
17 jury, State's Exhibit 137 will be admitted into
18 evidence in the trial of this case without
19 objection. You may now publish 137 to the jury.

20 MS. LEGETTE: Thank you, Your Honor.

21 BY MS. LEGETTE:

22 Q. Investigator Hightower, I'm gonna ask
23 you to come down from the stand and show the
24 jury what we are seeing in State's 137.

25 THE COURT: David, you may come around, so

1 you can view also.

2 MR. MATTHEWS: Thank you, Your Honor.

3 Currently, I'm able to see, but if I have to --
4 thank you for allowing me to move about, if I
5 have to.

6 THE COURT: Give your witness the
7 microphone. Come right over here.

8 Don't get inside the box, just get beside
9 Bill, he'll give you a place.

10 BY MS. LEGETTE:

11 Q. All right, Investigator Hightower,
12 there is a pointer on this on the mantle, if you
13 can get it.

14 A. Okay.

15 THE COURT: You need a portable microphone
16 too, Solicitor.

17 MS. LEGETTE: Yes, Your Honor.

18 THE COURT: Do you see all right, David?

19 MR. MATTHEWS: Yes, sir.

20 BY MS. LEGETTE:

21 Q. All right, Investigator Hightower,
22 please tell us what we are seeing in State's
23 137.

24 A. Yes, ma'am, so, again this is the
25 historical cell site analysis for 843-542-5985,

1 which is a phone number that was identified as
2 belonging to Kenneth Chisholm.

3 Within this timeframe, I ran from 1600
4 hours to 1700 hours, 4:00 to 5:00 p.m., and this
5 is all of the cellular tower activity for that
6 one-hour long timeframe.

7 Now, what this encompasses is, Tower 204
8 here, which is right around the area of Exit 57
9 off of I-95, where Walmart, Petco, Fat Jack's,
10 all that area is here. And what I was
11 referencing to before about the three pieces of
12 data, all of these represent a sector, which is
13 the site of the tower that was in use during the
14 transaction.

15 Other random red points throughout are
16 other Verizon cellular towers, that were not in
17 use during this timeframe by this target number.
18 I do that to incorporate and to show, mainly, in
19 the Town of Waltherboro, you see that the towers
20 are much closer to each other, obviously,
21 population size.

22 The cellular -- AT&T itself wants to make
23 sure their customers are happy. You want to
24 make sure, you know, you have a strong signal.
25 As you go further out into the more rural areas,

1 you'll see the towers spread out much further,
2 and that's very common in a cellular network in
3 the grand scheme of things.

4 Again, that's kind of why when we go
5 through Scotia, when we go through, you know,
6 different areas of Hampton and Colleton
7 Counties, you would have, you know, specific
8 areas, where calls will drop, and you would have
9 significant cell signal issues.

10 The one thing that reports here from Tower
11 204, which is right here at 550 Mt. Carmel Road,
12 it was -- at 4:07 p.m., based on the call detail
13 records, there was an outgoing call from this
14 595 number to 843-217-3802, utilizing Tower 204,
15 sector three, which this would be in the general
16 vicinity of Exit 57 Walmart, Petco and all that
17 area.

18 And that phone number that was called was
19 identified as the phone number tied to Phillip
20 Miller. During that same timeframe, throughout
21 Tower 204 as well, there was a series of text
22 messages sent and received to and from both of
23 these numbers.

24 And the sequence started at this, at 1602,
25 which is 4:02 p.m., utilizing Tower 204, there

1 was an outgoing message from 3802 to 5985, to --
2 with a message saying, "What are you driving?"
3 At 1603, or 4:03, there was a response from 5985
4 to 3802, saying, "Ain't get there yet, but blue
5 car." At 1608 -- or 1607 was when the phone
6 call took place, that I previously referenced
7 right here, Tower 204. At 1608, or 4:08 p.m.,
8 again, there was an outgoing message from 5985
9 to 3802, and it referenced again, "In blue car."
10 There was a response at one minute later from
11 3802 to 5985 responding, "K." At 4:11 or 1611
12 hours there was an outgoing message from -- I'm
13 saying the last four digits of these two
14 numbers, 3802 to 5985, saying, "Park next to
15 Title Max van in Petco parking lot."

16 Again, we're still right here a Tower 204.
17 These are all text messages that were received
18 and sent from this phone number. At 1630 hours
19 or 4:30 hours, the device itself starts moving
20 further west, outside of the Town of Walterboro.
21 And in doing this, this is -- these three black
22 dots represent three text messages, all being
23 the same message, but accessing the network on
24 three separate times, and it's all within a
25 four-minute time period.

1 So I can see, based off of the records,
2 that from 1632 or 4:32 p.m. to 4:36 p.m., this
3 was the general location of the actual device
4 that Kenneth -- excuse me, I cannot say that,
5 but that the phone belonging to Kenneth Chisholm
6 was in the area of where the incident occurred.
7 Within that message it stated, "The house is on
8 main road in town, please park in front of the
9 Toyota Avalon, you'll see." That was an
10 incoming message from 3802 to 5985.

11 Q. And, Investigator Hightower, so where
12 is, I'm sorry, where on this map would the
13 incident location be, versus where the device
14 appeared to have been?

15 A. Yes, ma'am, so the incident location
16 would be replicated by this blue dot here. Each
17 of these black dots represent every time that
18 text message went through the network to be
19 transmitted to the target number.

20 What this encompasses here is, this is
21 utilizing the round trip delay measurement,
22 which is, basically, based off of signal
23 strength for that specific phone tower on how
24 fast it takes to get to that specific device,
25 and then back to the tower.

1 So it's establishing a measurement, this is
2 about 3.3, 3.4 miles away, identifying the
3 general location of where the actual device was,
4 as it was in use.

5 Additionally, we see this cross-reference
6 for this overlap of an additional tower just
7 north, Tower 292. When we start seeing that
8 overlapped area, our percentages and our
9 accuracy ratings get much, much higher, we're
10 only relying -- here you can only rely on one
11 cell tower.

12 When you have two overlapping cell towers,
13 like in a missing person's case, we would search
14 right here, where that device might have been,
15 and that's just -- it's the way we've always
16 done it in the past, as the technology arose.

17 Q. And, Investigator Hightower, are you
18 able to tell us, based on the analysis that you
19 had made, and the overlap, and the accuracy, how
20 close was the device -- the device that was
21 utilized in 542-5985, how close was that device
22 to the incident location?

23 A. So I can't give a precise measurement.
24 I can't give you like within ten yards, because
25 the technology doesn't work that way, but based

1 off of my previous dealings with RTT and RTT
2 data, this is very consistent with being within
3 about a two-mile radius of where the incident
4 would have occurred.

5 Obviously, we had three known data
6 locations, which also backs up that information
7 up. That location actually being much more
8 accurate, if it was just one text message, or
9 one transmittal through the Verizon network.

10 Q. All right. Investigator Hightower, is
11 there anything else you can tell us about this
12 map and your analysis that you made in this
13 case?

14 A. No, ma'am, again this is just all of
15 the incoming and outgoing phone calls, as well
16 as text messages for this target number during
17 that one-hour timeframe on May 16th of 2017.

18 Q. Okay, thank you. Please have a seat in
19 the witness stand. And, Investigator Hightower,
20 you said one to two miles, a two-mile radius?

21 A. Yes, ma'am.

22 Q. All right. Is there anything else that
23 you had to do with this case? Did you have any
24 other involvement in this case?

25 A. Not related to something like this, no,

1 ma'am.

2 Q. All right. Thank you, Investigator
3 Hightower, I have no further questions.

4 Answer any questions from defense.

5 A. Yes, ma'am.

6 ***

7

8 CROSS-EXAMINATION

9 BY MR. MATTHEWS

10 Q. Sir, the whole time you worked for her
11 boss?

12 A. Yes, sir.

13 Q. Okay. Do you ever disagree with the
14 boss?

15 A. On occasion, yes, sir.

16 Q. Do you? Okay. You've never testified
17 though, right?

18 A. Who?

19 Q. When you disagree, you don't get to
20 testify.

21 A. I'm not sure how to answer that
22 question.

23 Q. Under oath have you ever said, "No, the
24 Prosecutor is wrong?"

25 A. I don't believe so.

1 Q. No, I didn't think so. You said that
2 the phone belonged to Kenneth Chisholm. In
3 fact, the phone company didn't know whose number
4 that was, how do you know?

5 A. It -- well, based off the
6 investigation, and who I deal with with the case
7 officer --

8 Q. So Officer --

9 A. Yeah.

10 Q. -- King said that's who had the phone?

11 A. The information that's conveyed to me
12 as being -- this phone number being tied to
13 the --

14 Q. But you don't know whose phone it is.

15 A. I do not know 100 percent, if that --

16 Q. Okay.

17 A. -- was his phone.

18 Q. Now, you have also -- the phone numbers
19 to and from, and I believe they told you that
20 one was supposed to have been following the
21 other; is that right?

22 A. I only reviewed two sets of phone
23 records in this case.

24 Q. Okay, did you look through the cell
25 phone records also on 217-320-3802?

1 A. 217-3802, yeah, I did not do a full
2 fledge analysis on that number, but I did notate
3 the contact between the target number, as well
4 as that 3802 number.

5 Q. Okay. You saw that they were in
6 contact with each other, but not where 3802 was?

7 A. I did not do a type of location
8 information for 3802, yes, sir.

9 Q. Okay. How about La'Shay Aiken's phone,
10 were you given the information on that?

11 A. I was not, no, sir.

12 Q. Okay. You were told that's who was
13 supposedly driving the car?

14 A. I believe, at the time, I was familiar
15 with that. I was involved in a separate case in
16 Colleton County at that time, and this was the
17 only responsibility that I had for this case.

18 Q. Okay, so you had three different
19 numbers that you could have tracked, and you
20 tracked one?

21 A. Yes, sir. I was only provided two sets
22 of phone records, and I made the decision to
23 just focus on the one.

24 Q. I don't have anything further.

25 THE COURT: Redirect?

1 MS. LEGETTE: Nothing further, Your Honor.

2 THE COURT: As to this witness?

3 MS. LEGETTE: We ask that he be excused.

4 THE COURT: Any objection?

5 MR. MATTHEWS: No, sir.

6 THE COURT: Mr. Hightower, if you leave my
7 exhibits, and you are excused from the trial of
8 this case.

9 WITNESS: Thank you, Judge.

10 THE COURT: Call your next witness.

11 MS. LEGETTE: At this time, Your Honor, the
12 State rests.

13 ***

14 STATE RESTS

15 ***

16 THE COURT: Very well. Are there any
17 matters of law that I need to take up at this
18 time?

19 MR. MATTHEWS: Yes, sir.

20 THE COURT: Mr. Foreman, and Ladies and
21 Gentlemen of the jury, I'm going to ask you to
22 step to your jury room. Please do not discuss
23 the case. I'll be right back with you just as
24 soon as I can, after I take up the matter of
25 law.

1 (Jury exits the courtroom.)

2 THE COURT: The door is shut; the jury is
3 no longer present.

4 Mr. Matthews, I'm happy to hear from you.

5 MR. MATTHEWS: Your Honor, I think the
6 standard post-trial motions at this point, we've
7 already --

8 THE COURT: Post-trial motions?

9 MR. MATTHEWS: I'm sorry, post --

10 THE COURT: They're closing the State's
11 case, Mr. Matthews.

12 MR. MATTHEWS: Yes, sir. The one I've
13 argued lots and lots of times, we've heard --

14 THE COURT: You're moving for the record.

15 MR. MATTHEWS: Yes, all right.

16 THE COURT: Solicitor, I'll be happy to
17 hear from you.

18 MS. LEGETTE: Thank you, Your Honor. Your
19 Honor, the State submits to the Court that the
20 evidence in this case is -- from the witness
21 stand you have Mr. Hightower, who just testified
22 that the target number, the 5985 number, was
23 within a two-mile radius during the period of
24 time, when the victims were being shot.

25 We also had La'Shay Aiken testify that she

1 actually knows Kenneth Chisholm, she identified
2 Kenneth Chisholm. She saw Kenneth Chisholm with
3 a gun on May 16th, 2017. She saw him actually
4 physically shooting the victim, Phillip Miller,
5 who then was inside the house. She heard four
6 gunshots going off, at which point there
7 actually is a body lying in the house. There
8 are ten shell casings from SLED's Crime Lab that
9 have been testified to by Michele Eichenmiller
10 they all matched and were fired by the same
11 firearm.

12 Additionally, La'Shay Aiken testified that
13 the victim, V.M. [REDACTED] after she heard
14 these shots and she was trying to turn around
15 and leave, that the victim, V.M. [REDACTED] came
16 out of the house running towards her car. She
17 was able to see him with a gunshot wound in his
18 chest, and also with him having blood coming out
19 of his mouth, he then turned around and
20 collapsed.

21 Thereafter, she actually saw Kenneth
22 Chisholm come out of the house, or from the
23 house, with the gun. She'd actually seen him on
24 the porch with the gun shooting Phillip Miller
25 just prior to all this. At which point then

1 Kenneth Chisholm got into the car with her and
2 his baby mama, Niffatina Coppadge, at which
3 point he began to tell her or tell them about
4 having shot someone, and had a head shot.
5 Phillip Miller clearly had a head shot, Your
6 Honor.

7 Also, there's actually an upper body shot
8 to V.M. [REDACTED]

9 Additionally, K.W. [REDACTED] testified that
10 Kenneth -- I'm sorry, that a man fitting the
11 description, who looks like Kenneth Chisholm,
12 although she never identified him in Court, she
13 actually drew a photograph, as well as a sketch
14 with a SLED artist, indicating that there was a
15 black man, who came to the door.

16 She was able to see him, for a moment, a
17 period of time, to be able to describe him, that
18 he had long hair, it was curly, it was -- he was
19 a black man. He also had a gun in his hand, and
20 he had a medallion or a shirt -- I'm sorry, a
21 necklace on, what she drew in her photograph, as
22 well as in the sketch artist photograph.

23 Additionally, she testified that this same
24 man came to the door. She said she only saw
25 one, he actually shot her in the leg. At this

1 point, she actually ran. She was in the zone of
2 danger, as evidenced by the fact that there were
3 ten shell casings around at this crime scene,
4 Your Honor, and all the shots that she heard,
5 additionally, they didn't talk about how he
6 heard --

7 THE COURT: Stop a minute.

8 MS. LEGETTE: Forgive me. David Butler
9 testified that he heard, I believe, four to five
10 gunshots. He then heard a woman scream, "No,
11 don't." We heard a female voice saying, "No,
12 don't." At this point, he said he heard just a
13 pause, he heard more shots going off, and then
14 he heard a car crank up, and go down Highway 21.

15 So, Your Honor, of the totality of the
16 circumstances, we have K.W. [REDACTED] saying
17 she's being shot by a black man wearing a gold
18 chain, or a chain, come to her door with the
19 hair; along with Teresa Stephens, who testified
20 that she saw -- when she came back through, she
21 saw Vinny lying on the sidewalk. She saw the
22 man lying on the porch, and she saw a black man,
23 who was a stalky build, who had shoulder-length
24 hair, running across the street, and getting
25 into a sky blue car.

1 That is the sky blue car that La'Shay Aiken
2 testified to in this trial today, that she was
3 driving, and then Kenneth Chisholm came running
4 back to the car, and got into the car with that
5 gun, after he had shot the victims in this case,
6 along with having possession of a weapon during
7 the commission of a violent crime. So we submit
8 to the Court that the State has met its burden,
9 and that when moving on a motion for a directed
10 verdict, the Court is concerned that the
11 existence of evidence.

12 So we would ask the Court to respectfully
13 to deny the motion of defense, and submit this
14 case to the jury. Thank you.

15 THE COURT: Mr. Matthews --

16 MS. LEGETTE: Oh, I'm sorry, and there's
17 blood on Vinny's shoe.

18 THE COURT: Pardon?

19 MS. LEGETTE: There is blood on Vinny's
20 shoe. The blood of Vinny Miller is on the shoe
21 of Kenneth Chisholm. Thank you, Your Honor.

22 THE COURT: Are you done now, Solicitor?

23 MS. LEGETTE: Yes, Your Honor.

24 THE COURT: All right.

25 Mr. Matthews, given the standard that I'm

1 required to apply, at this time your motion for
2 a directed verdict is respectfully denied. You
3 and Your client come around and be sworn by the
4 Clerk of Court.

5 ***

6 KENNETH MAR'KETIH CHISHOLM

7 being first duly sworn, testified as
8 follows:

9 THE COURT: Make sure both of those
10 microphones are on for the Defendant and his
11 lawyer. Let the record reflect the Defendant's
12 been sworn.

13 BY THE COURT:

14 Q. Mr. Chisholm, at this time I'm going to
15 explain to you certain of your rights. If you
16 do not understand anything I say, please let me
17 know. If you want me to explain anything in
18 further detail, please let me know. Do you
19 understand?

20 A. Yes, sir.

21 Q. We've now reached the stage of the
22 trial, where you may present your defense. You
23 have the right to testify in your own behalf,
24 however, no one can make you testify. I
25 understand you do not have a record, according

1 to the Solicitor.

2 THE COURT: Is that correct, Solicitor?

3 MS. LEGETTE: That is correct, Your Honor.

4 THE COURT: Is that correct, Mr. Matthews?

5 MR. MATTHEWS: Yes, sir.

6 BY THE COURT:

7 Q. All right, if you had a record, or any
8 conviction involving dishonesty, or false
9 statement, or for a crime punishable by
10 imprisonment of more than one year, then this
11 Court made the determination, as a matter of
12 law, that the probative value of admitting that
13 evidence outweighs its prejudicial effect.

14 The Solicitor would be able to introduce
15 this record for impeachment purposes, to try to
16 attack your credibility and your believability.

17 I understand that that does not apply here,
18 because you do not have a record. If you elect
19 not to take the witness stand, I will charge the
20 jury that they are not to give the fact that you
21 did not testify any consideration whatsoever,
22 and there is to be absolutely no prejudice to
23 you, because you did not testify.

24 The matter of whether or not you testify
25 will be left entirely up to you, as to whether

1 or not you wish to testify in the trial of this
2 case. You may talk with your attorney, Mr.
3 Matthews, but it is not your attorney's
4 decision, it is your decision. The ultimate
5 decision as to whether or not you testify in the
6 trial of this case will be left entirely up to
7 you.

8 Have you understood what I've just told
9 you?

10 A. Yes, sir.

11 Q. Have you made your decision, as to
12 whether or not you want to testify in the trial
13 of this case?

14 A. Yes, sir. I have a question. I want
15 to know like, if I testify, am I able to answer
16 questions and to ask questions?

17 Q. I'm sorry, I'm not understanding you
18 now. What is he telling me, David?

19 MR. MATTHEWS: Your Honor, he wants to know
20 if he's allowed to ask questions.

21 BY THE COURT:

22 Q. Ask questions about what I just advised
23 you?

24 A. Or by like questions that might be
25 asked.

1 THE COURT: I need to understand now.

2 BY THE COURT:

3 Q. We're talking about whether or not
4 you'll testify first.

5 MR. MATTHEWS: Your Honor, this is one of
6 the reasons I think would be a terrible idea for
7 him to testify.

8 I don't think he understands. He wants to
9 know if he can cross-examine the witnesses,
10 essentially.

11 BY THE COURT:

12 Q. No, sir, that's your lawyer's job that
13 was appointed for you to represent you, to
14 cross-examine the witnesses. Now I'm asking you
15 whether or not -- we've reached the point in
16 your case, where you get to decide whether you
17 want to get on the witness stand and testify.
18 So I'm asking you whether or not -- and I'll let
19 you talk to your lawyer, if you want to, but you
20 have to tell me whether or not you wish to
21 testify.

22 A. Can I speak to my lawyer?

23 Q. Pardon?

24 A. May I speak with my lawyer first?

25 Q. Can --

1 MR. MATTHEWS: He wants to talk to me.

2 THE COURT: Sure.

3 BY THE COURT:

4 Q. Have you had enough time to talk to
5 your lawyer now, Mr. Chisholm?

6 A. Yes, sir.

7 Q. Have you made a decision, as to whether
8 or not you wish to testify?

9 A. No, sir.

10 Q. And what is your decision?

11 A. No, sir.

12 Q. You do not wish to testify? You've got
13 to say yes or no.

14 A. No, sir.

15 Q. And that's your decision, nobody forced
16 you into that decision?

17 A. No, sir.

18 Q. Nobody threatened you?

19 A. No, sir.

20 Q. Nobody promised you anything?

21 A. No, sir.

22 Q. And your decision is, you do not wish
23 to testify in the trial of this case; is that
24 correct?

25 A. Yes, sir.

1 Q. Thank you, sir, you may return to your
2 seat with your attorney.

3 MR. MATTHEWS: Your Honor, I have two
4 witnesses, or one or two, depending on certain
5 things.

6 THE COURT: All right. I'm going to bring
7 the jury back in, at this point. We'll proceed
8 with your case, so we can conclude the
9 testimony. Bring us the jury, please.

10 (Jury enters courtroom.)

11 THE COURT: Mr. Foreman, Ladies and
12 Gentlemen of the jury, you've now heard the
13 evidence from the State of South Carolina.
14 You'll now hear from the Defendant.

15 Mr. Matthews, you may call your first
16 witness.

17 MR. MATTHEWS: Karissa Wiggins.

18 * * *

19 KARISSA MILLER (WIGGINS)

20 * * *

21 being first duly sworn, testified as
22 follows:

23 THE COURT: Ms. Wiggins, pull that
24 microphone. Have you been sitting in the
25 courtroom?

1 WITNESS: Not in a long time.

2 THE COURT: All right.

3 WITNESS: My name --

4 THE COURT: Pull that microphone up, state
5 your full name, and spell your last name for the
6 Court Reporter.

7 WITNESS: My name is Karissa Miller, M-I-L-
8 L-E-R.

9 THE COURT: Ms. Miller, I'm sorry, I
10 thought your last name -- on my sheet I've got
11 your last name as Wiggins, it's Miller.

12 WITNESS: It's Miller.

13 THE COURT: All right.

14 WITNESS: Yes, sir.

15 THE COURT: Ms. Miller. Your witness, Mr.
16 Matthews, direct examination.

17 MR. MATTHEWS: Thank you, Your Honor.

18 ***

19 DIRECT EXAMINATION

20 BY MR. MATTHEWS:

21 Q. Wiggins has been your name at some
22 time, correct?

23 A. It was previously when I was married.

24 Q. Okay, all right. Ms. Wiggins, you are

25 K.W. [REDACTED] mother, correct?

1 A. I am K.W. mom, yes.

2 Q. And you were Phillip Miller's and Lori
3 Miller's daughter?

4 A. Yes.

5 Q. Okay. The State has not called A Sak
6 in May of 2017?

7 A. I did up until the 16th, when
8 everything happened.

9 Q. Right. And while you were at work you
10 got a call from your oldest daughter, K.W.
11 correct?

12 A. Yes, I did, as I was packing my bags
13 and leaving work.

14 Q. Okay, about what time was that?

15 A. I would have to say, roughly, around
16 4:40ish.

17 Q. Okay. And around 4:40 or so you got a
18 phone call from your daughter?

19 A. Yes.

20 Q. And what did you do when you got that
21 call?

22 A. I ran out the door with the bag that I
23 had on my hand, and drove as fast as I possibly
24 could to my children. Had K.W. on the phone
25 until the phone died, and I called 911.

1 Q. You were still at work when you got the
2 call?

3 A. Yes.

4 Q. Was anyone else there?

5 A. Yes.

6 Q. Did you ask either of them to call
7 anybody -- who all was there?

8 A. I don't recall. I was actually on the
9 way out the door.

10 Q. Okay. Did you ask anybody to call 911?

11 A. No, I was on the phone with my
12 daughter.

13 Q. I understand, but there were other
14 people in the store with you, right?

15 A. I assume so, at the time, but my memory
16 is not 100 percent, because of the traumatic
17 event that I went through. I have PTSD, so my
18 memory is a little sketchy.

19 Q. And you have had anxiety problems too,
20 correct?

21 A. As well as depression, yes.

22 Q. Okay. All right, so you talked to
23 K.W. as long as you could?

24 A. Yes.

25 Q. And then K.W. phone went dead?

1 A. Yes.

2 Q. Okay. At that time, did you learn
3 where K.W. [REDACTED] was during the -- when she was
4 making the call?

5 A. Yes.

6 Q. Where?

7 A. She told me she was running to the
8 bedroom.

9 Q. Okay.

10 A. I told her to lock the door behind her.

11 Q. Okay. Was she in that bedroom with
12 anybody?

13 A. Not that I'm aware of.

14 Q. Okay, now, right after this you
15 interviewed with Detective Kelly Padgett,
16 correct?

17 A. I don't recall.

18 Q. Okay. The woman Detective, you talked
19 to her a few times; is that correct?

20 A. There was a few different female
21 Detectives that I spoke with, or Officers. I
22 cannot recall which one is which.

23 Q. Okay. And when you talked to her, you
24 did not give a description of the assailant from
25 K.W. [REDACTED] did you?

1 A. No. We didn't speak about the event,
2 because I was not trying to traumatize my child
3 already more than she already had been.

4 Q. I see, but her younger sister, Cameron,
5 did describe the assailant, right?

6 A. Possibly, I'm not sure.

7 Q. Okay. In fact, when you asked Karissa
8 if K.W. I'm sorry, Detective Padgett asked
9 you if K.W. told her anything, Karissa said,
10 "No, but Cameron did," in your discussion with
11 Officer Padgett, right?

12 A. Again, I have PTSD, and my memory is
13 sketchy, I'm not sure, but if your notes say
14 that, then likely.

15 Q. Okay. And, initially, they both were
16 locked in her bedroom, correct?

17 A. From what I understand, as far as I
18 learned this week, that was not the case until
19 K.W. did not hear anymore footsteps, so I
20 don't know, because I was not there during the
21 event --

22 Q. I understand.

23 A. -- itself.

24 Q. I'm only concerned about what you
25 learned on that day. What you've learned from

1 the courtroom, what we've all heard in the
2 court, we've all heard what we've heard, so
3 don't amend things, and if you don't remember,
4 you don't remember, that's fine; but if you did
5 talk to Kelly Padgett the day of this incident,
6 correct?

7 A. It's likely.

8 Q. Okay. And the day after that you gave
9 her a call, correct?

10 A. Again, it's likely, but I don't
11 remember. I do not recall a lot from that day,
12 actually, the majority of that day.

13 Q. Okay. In fact, the following day you
14 talked about a possible suspect in this case,
15 correct?

16 A. When they were questioning me, yes.

17 Q. Okay. What did your dad do for a
18 living?

19 A. He did not work, he stayed at home and
20 helped my mom watch my children, while I worked,
21 because I was in the middle of a divorce.

22 Q. I understand.

23 A. He also had back surgery, and multiple
24 other surgeries just prior to -- three to four
25 weeks prior to this incident happening, which

1 made it very difficult for him to work, which he
2 was actually in the process of getting
3 disability.

4 Q. Okay, but you told Kelly Padgett that
5 there was somebody that owed him \$1,000; is that
6 correct?

7 A. From what I had overheard him saying,
8 yes.

9 Q. All right, and you were concerned that
10 this might be somebody who was a suspect,
11 correct?

12 A. I mean I was grasping at straws.
13 Anything that I had heard at that point felt
14 relevant.

15 Q. Okay. And this was a fella that worked
16 at a tire shop?

17 A. Yes, but from what I understand, at
18 that point in time, the money that was -- that
19 my dad was claiming that was stolen from him.
20 He was actually referring to the crap tires that
21 were put on his car.

22 Q. Okay, he said somebody owed him \$1,000?

23 A. Right, because he got crap tires put on
24 his cars.

25 Q. I see. So you'all weren't growing

1 marijuana in the house?

2 A. I was not, no.

3 Q. Okay.

4 A. Absolutely not.

5 Q. Unaware of any marijuana being grown in
6 the house?

7 A. Correct.

8 Q. And how many bathrooms did you have in
9 your house?

10 A. I had two bathrooms, but we only used
11 one.

12 Q. Okay, all right. Do you recall exactly
13 what you told Ms. Padgett about the other
14 possible person that may have done this?

15 A. No, I don't.

16 Q. Okay. She would know though, right?

17 A. Likely.

18 Q. How long did it take you to get home
19 from PakNet?

20 A. A lot less than it should have.

21 Q. That --

22 A. I don't know.

23 Q. I understand.

24 A. I don't know. I was there before the
25 first officer arrived.

1 Q. Okay, and you got there before the
2 first officer arrived.

3 Did you get there before the bus drivers
4 arrived?

5 A. No.

6 Q. Okay. When you got there, when you
7 talked to the police afterwards in the video,
8 you said that your grandparents were -- that
9 your parents were inside the house, right?

10 A. Yes.

11 Q. Okay.

12 So you had gone inside the house?

13 A. I tried.

14 Q. You tried?

15 A. I tried, yes. One of the women that
16 was -- had stopped, she prevented me from going
17 any further than checking my father's pulse. I
18 checked my brother's pulse on the sidewalk. I
19 got to the front porch to check my father's
20 pulse, and she grabbed me, before I could go
21 check my mother.

22 Q. Okay.

23 A. And this was after I had my kids out of
24 the house.

25 Q. You got your kids out of the house, and

1 | then they kept you from going back in the house?

2 A. My kids were coming out of the house,
3 when they heard me, so I continued them down the
4 stairs to the other side of the vehicle away
5 from the house, and then proceeded, once they
6 were situated, to go back, and make sure that
7 nobody else had a pulse.

8	Q. All right.
---	---------------

9 MR. MATTHEWS: Your Honor, I have no
10 further questions of this witness. I would then
11 call Kelly Padgett.

12 THE COURT: Not until we get a chance for
13 this witness to be cross-examined.

14 MR. MATTHEWS: Yes, sir.

15 THE COURT: Take a seat, Mr. Matthews.

16 Cross-examination.

17 * * *

18 CROSS-EXAMINATION

19 BY MS. LEGETTE:

20 Q. Hello, Ms. Miller.

21 A. Hello, Ms. Legette.

22 | Q. You lost your mom in this incident?

23 A. Yes, I did.

24 Q. And your dad?

25	A. Yes.
----	---------

1 Q. And your brother?

2 A. Yes.

3 MS. LEGETTE: I have nothing further.

4 THE COURT: Redirect?

5 MR. MATTHEWS: No, sir.

6 THE COURT: As to this witness, Mr.

7 Matthews, may she be excused?

8 MR. MATTHEWS: I think she's gonna be here
9 anyway, but I --

10 THE COURT: Mr. Matthews, that's not -- are
11 you willing to excuse her, yes or no?

12 MR. MATTHEWS: No, sir.

13 THE COURT: All right, I'm gonna ask you to
14 remain with us, please, ma'am.

15 You can have a seat out in the courtroom.

16 WITNESS: Okay.

17 THE COURT: You can step down from the
18 witness stand.

19 WITNESS: Okay, I'll just remain then.

20 THE COURT: I'm gonna ask you to stay with
21 us, he doesn't want to excuse you yet.

22 WITNESS: Thank you, sir, thank very much.

23 THE COURT: Thank you very much. Call your
24 next witness.

25 MR. MATTHEWS: Kelly Padgett.

1 Your Honor, I didn't tell her when to be on
2 standby, she is --

3 THE COURT: Hold on, Mr. Matthews, let's
4 see if she's here.

5 MR. MATTHEWS: Your Honor, she's on the
6 way. Your Honor, could I ask for a five-minute
7 break, to give her a chance to get here?

8 THE COURT: A five-minute break for what?

9 MR. MATTHEWS: For Kelly Padgett to -- or
10 we can sit, I don't care, but she's gonna be
11 about five minutes, apparently.

12 THE COURT: Well, Mr. Matthews, if you
13 subpoena a witness, you're supposed to have them
14 here when the time comes. I gave you notice of
15 that last night.

16 MR. MATTHEWS: Yes, sir.

17 THE COURT: She's not here. Mr. Matthews
18 said she's on the way. Counsel approach.

19 (Bench conference.)

20 THE COURT: She's pulling up? You can open
21 the door for her, she just pulled up. Ms.
22 Padgett, come in and be sworn by the Clerk of
23 Court.

24 * * *

25 KELLY PADGETT

1 * * *

2 being first duly sworn, testified as
3 follows:

4 THE COURT: Have a seat. Adjust the chair,
5 pull the microphone down, and state your full
6 name, and spell your last for the Court
7 Reporter.

8 WITNESS: Yes, sir. My name is Kelly
9 Padgett, P-A-D-G-E-T-T.

10 THE COURT: Direct examination, Mr.
11 Matthews.

12 MR. MATTHEWS: Thank you, Your Honor.

13 ***

14 DIRECT EXAMINATION

15 BY MR. MATTHEWS:

16 Q. Ms. Padgett, I apologize for bringing
17 you over this quickly. I thought I was doing
18 you a favor, apparently, I was not.

19 A. It's okay.

20 Q. Detective, you were -- what is your
21 current occupation?

22 A. I'm currently employed with the
23 Colleton County Sheriff's Office. I'm a Deputy,
24 I work with Administrative Services.

25 Q. Okay.

1 THE COURT: Pull that microphone down a
2 little bit.

3 BY MR. MATTHEWS:

4 Q. And then some time before that you
5 worked for the Solicitor's Office?

6 A. Yes, sir.

7 Q. And before that you were with the
8 Sheriff's Office again, or prior to that?

9 A. Prior to working at the Solicitor's
10 Office, I worked for about 11 months with SLED.

11 Q. Okay.

12 A. And prior to that I worked over 14
13 years with the Sheriff's Office.

14 Q. And you were working at the Sheriff's
15 Office during this incident time, during May of
16 2017?

17 A. That's correct.

18 Q. All right. During the course of your
19 investigation -- you were involved in this case
20 to some degree?

21 A. Yes.

22 Q. Was one of the things that you did was
23 to talk to Karissa Miller, or Karissa Willard, I
24 guess, at the time?

25 A. Yes, sir.

1 Q. Okay. And did you make notes from that
2 call?

3 A. Yes, sir.

4 Q. Okay.

5 MR. MATTHEWS: May I approach the witness?

6 THE COURT: You may. Defendant's?

7 COURT REPORTER: 1,3 sir. 13.

8 THE COURT: 14.

9 COURT REPORTER: 13, sir.

10 THE COURT: 13?

11 COURT REPORTER: Yes, sir.

12 THE COURT: Defendant's 13.

13 MR. MATTEWS: May I approach the witness?

14 THE COURT: You may.

15 BY MR. MATTHEWS:

16 Q. Officer, I've handed you what has been
17 marked as Defendant's Exhibit Number 13, and ask
18 if you can identify that?

19 A. Yes, sir.

20 Q. What are those?

21 A. This was my case file notes that I took
22 during my time with the investigation.

23 Q. Okay. Ms. Willard-Miller testified
24 that she doesn't remember everything that she
25 talked about. Do your notes reflect your

1 conversation with her?

2 A. Yes, sir.

3 Q. Would you indicate -- I've underscored
4 some stuff, but if you would indicate what --
5 talk about that phone call. Read from your
6 notes.

7 A. Do you wish me to read what --

8 MS. LEGETTE: Is he going to enter it as --

9 THE COURT: Just a moment. Yes, ma'am.

10 MS. LEGETTE: Is that being admitted into
11 evidence?

12 THE COURT: Counsel approach.

13 (Bench conference.)

14 BY MR. MATTHEWS:

15 Q. Officer Padgett, looking at defense
16 Number 13, does that refresh your recollection
17 of your discussion?

18 A. Yes, sir.

19 Q. Would you tell the jury about your
20 conversation?

21 A. Yes, sir. So the night of the
22 incident, I met with Karissa Wiggins and her two
23 daughters at the hospital here I Colleton.

24 Q. Hey, I'm not -- actually, go ahead.

25 A. Yeah, so when I met with them, I asked

1 if they knew who was responsible, and if they
2 knew why this incident had happened.

3 Q. Okay. Did you talk to Karissa about
4 the phone call?

5 Did you talk to her about what she talked
6 about? Did you talk to her about her
7 conversation with [K.W. ██████████]

8 A. Yes.

9 Q. Okay. Tell me about that conversation.
10 Refer to your notes, if you need to, the
11 underscored portions particularly.

12 A. Sure. So just reading from what you
13 have underlined in my notes, Karissa said that
14 [K.W. ██████████] went and locked herself in the bedroom
15 with her little sister, Cameron. I asked
16 Karissa if [K.W. ██████████] told her anything about the
17 suspect.

18 Karissa said, no, but that Cameron did.
19 She also said that her Uncle Vinny was the only
20 other person in the house.

21 Cameron didn't hear the man say anything,
22 and she didn't see the gun.

23 Q. Okay. After that, the next day, did
24 Karissa call you about a suspect?

25 A. It was actually later in that same

1 night I talked to Karissa on the phone, and she
2 had just remembered that her father, the
3 previous evening, before the homicides occurred,
4 her father had made mention of something along
5 the lines of saying that he was going to take
6 care of business, and that he left the
7 residence.

8 They didn't know where he had gone. And
9 when he came back, he was very sweaty, and I
10 believe out of breath.

11 And then she had spoken to her father, at
12 some point, the week before the homicides
13 occurred, and said that a black male that worked
14 at Tire King owed him \$1,000.

15 Q. Okay. You had reported that call; did
16 you not?

17 A. Yes, sir.

18 Q. When she said black man, that's not the
19 word that she actually used, was it?

20 A. I don't recall that.

21 Q. Okay. All right, it was not a
22 complimentary term that she used though; is that
23 correct?

24 A. I haven't reviewed the recording. I
25 don't recall what she said specifically.

1 Q. Okay. I have nothing further.

2 THE COURT: Cross-examination?

3 MS. LEGETTE: No questions.

4 THE COURT: As to this witness, Mr.
5 Matthews?

6 MR. MATTHEWS: She may be excused, as may
7 Ms. Miller.

8 THE COURT: You're excused from the trial
9 of this case, you may leave the courtroom.

10 WITNESS: Thank you, sir.

11 THE COURT: Give that document to my Court
12 Reporter.

13 WITNESS: Yes, sir.

14 THE COURT: Let's mark it for
15 identification.

16 COURT REPORTER: Thank you.

17 THE COURT: Call your next witness.

18 MR. MATTHEWS: The defense rests, Your
19 Honor.

20 ***

21 DEFENSE RESTS

22 ***

23 THE COURT: Is there any reply testimony
24 from the State of South Carolina?

25 MS. LEGETTE: None, Your Honor.

1 THE COURT: Very well. Mr. Foreman, Ladies
2 and Gentlemen of the jury, you've heard the
3 evidence in this case. You've not heard the
4 final arguments of the attorneys, or my charge
5 on the law. We'll start back in the morning on
6 time, 10:00 a.m. in the morning.

7 Be here before 10:00, because I want to
8 start at 10:00.

9 I've got young people that are driving all
10 the way from east of the Cooper back here behind
11 me, they're gonna fight traffic all the way
12 across the Cooper River, then they get against
13 the traffic, when they come down Savannah
14 Highway, so I'm trying to accommodate a lot of
15 schedules and travel.

16 Some of you have to travel in order to get
17 here. Some you little pretty -- do I have
18 anybody that lives in Edisto Beach? Yeah,
19 that's my longest distance of travel, and,
20 ma'am, I apologize. I understand about that,
21 that's why I'm trying to give you a little time
22 to get here in the morning.

23 Over the overnight recess it's very
24 important that you not watch television, listen
25 to the radio, go on your computer, or try to do

1 any type of research about this case.

2 We will conclude this trial following
3 closing arguments, and my charge to you on the
4 law first thing in the morning at 10:00 a.m.

5 When you come in the morning, please report
6 to your jury room. I intend to start on time in
7 the morning. Thank you for your patience, you
8 may leave the courtroom at this time.

9 (Jury exits courtroom.)

10 THE COURT: Are there any matters of law
11 that I need to take up at this time?

12 MR. MATTHEWS: I make the same motion.

13 THE COURT: And for the reason that I
14 annunciated earlier, the standard that I'm
15 required to use, your motion at the close of all
16 the evidence, is respectfully denied.

17 I'd like to see -- I know you'all have
18 worked hard, we've all had long hours this week.
19 We've worked my Court Reporter hard this week.

20 I'd like to see my lawyers in Chambers for
21 a charge conference. I will go over my entire
22 charge, and the verdict forms with you.
23 Everyone else is excused until 10:00 a.m.
24 tomorrow morning.

25 Bring the verdict form and the charge to

1 the Chambers.

2 (At 5:42 a.m. the proceedings were
3 continued until the following day without
4 interruption.)

5 ***

6 END OF VOLUME IV

7

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE GENERAL SESSIONS COURT

2017-GS-15-00572 - 574,
2017-GS-15-00704, -710

State of South Carolina,

vs.

TRANSCRIPT OF JURY TRIAL
VOLUME V
PAGES 809 to 916

Kenneth Mar'Keith Chisolm

Friday, August 19, 2022
Walterboro, South Carolina

B E F O R E:

The Honorable Perry Buckner, Judge Presiding

R E P O R T E D B Y:

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P P E A R A N C E S

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Appearing for the Defendant
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PROCEEDINGS

FRIDAY, AUGUST 19, 2022

WALTERBORO, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

THE COURT: Thank you, good morning, please be seated.

Good morning, Kym.

COURT REPORTER: Good morning, Your Honor.

THE COURT: My Law Clerks are going to get with you about exhibits after this hearing.

COURT REPORTER: Yes, sir.

THE COURT: They kept the good exhibit, let me make sure, and I'll also deal with the attorneys about the redaction. I'd like to put on the record that we stayed here last night to have a pre-trial conference. I went through my entire charge with the State and attorney for the Defendant. I also showed the Defendant and the State the proposed jury forms that I'm gonna use and avert. Both the State and Defendant have agreed to the formal verdict.

We have five different verdict forms, one for each indictment, three murders, one

1 attempted murder, one possession of a weapon
2 during the commission of a violent crime. I
3 asked for any additional requests to charge from
4 either the State or Defendant, both told me that
5 they had no additional request to charge. I
6 then went to the order of final argument.

7 Folks, we have a rule about it. Mr.
8 Matthews presented evidence, both in the form of
9 exhibits, and by live testimony, therefore, the
10 State has the final argument. They have agreed
11 that Mr. Matthews will open, and he asked for 30
12 minutes. I told him I wouldn't put any time
13 restriction on him. I'm happy for him to have
14 that.

15 The State also believes they can complete
16 their closing argument in 30 minutes, and the
17 State will have final argument, since the
18 Defendant has presented evidence. Have I
19 accurately stated what occurred in my Chambers,
20 just so far as our charge conference, and so far
21 as the State is concerned?

22 MS. LEGETTE: Yes, Your Honor.

23 THE COURT: And so far as the Defendant is
24 concerned?

25 MR. MATTHEWS: Yes, Your Honor.

1 THE COURT: All right. Now, Mr. Matthews,
2 before I bring the jury in, let me put this
3 aside, are you ready to proceed?

4 MR. MATTHEWS: Yes, sir.

5 THE COURT: All right, is the State ready
6 to proceed?

7 MS. LEGETTE: Yes, Your Honor.

8 THE COURT: Now, to my Bailiff, once the
9 attorneys start their oral argument, there's to
10 be no one in or out of the courtroom.

11 BAILIFF: Yes, sir.

12 THE COURT: If you've got somebody waiting
13 out there, and they want to come in, let them in
14 now, because I'm not gonna have people walking
15 around, because I want the jury's focus to be on
16 the attorneys and their argument. The same will
17 be true for my charge. Depending on how long it
18 takes, if the jury wants a break after the oral
19 arguments, I'll take a break, after the oral
20 arguments before I give them my charge. Do
21 you'all understand?

22 BAILIFF: Yes, sir.

23 THE COURT: So that there's no -- because
24 people tap on the window and come up, like want
25 to come in, and all that does is distract the

1 jury, and I don't want them distracted during
2 oral arguments with a charge. All right.
3 Anybody who feels that they can't stay in here
4 for both the arguments and the charge, I'd ask
5 you to please step out at this time. Very well,
6 bring us the jury, please.

7 (Jury enters the courtroom.)

8 THE COURT: Good morning.

9 FOREMAN: Good morning.

10 THE COURT: Well, Mr. Foreman, you've kept
11 them altogether. Good morning, Ladies and
12 Gentlemen:

13 THE JURY: Good morning.

14 THE COURT: We're now going to hear the
15 final arguments of the attorneys, followed by my
16 charge on the law. Now, if you want a break
17 after the arguments, let me know, Mr. Foreman.
18 You can turn around and look at your jury, and
19 if anybody needs a break before. My charge will
20 probably last about -- I estimate somewhere
21 around 35 to 40 minutes, so if you need a break
22 after that, I'm happy to give you one. I want
23 you to give the attorneys your careful
24 consideration. Thank you very much. Mr.
25 Matthews?

1 MR. MATTHEWS: Thank you, Your Honor, if it
2 pleases the Court. Ms. Legette.

3 MS. LEGETTE: Mr. Matthews.

4 ***

5 CLOSING ARGUMENT BY MR. MATTHEWS

6 MR. MATTHEWS: Mr. Foreman, Ladies and
7 Gentlemen, we've had a long week together.
8 You've had a chance to hear an awful lot, now it
9 becomes up to you. Judge Buckner is gonna tell
10 you that it's your burden of proof -- the
11 State's burden to prove to you, beyond a
12 reasonable doubt each element of the charges in
13 this case. You've got to know who did what and
14 why. The why part goes to mental intent. You
15 might have an idea -- the State is gonna spend
16 an awful lot of time showing that Kenneth was at
17 that particular place, but in terms of
18 identification, there are a number of things to
19 look at.

20 We had a chance to hear K.W. [REDACTED] who
21 seems to be a really nice young lady. She is
22 truly a victim in this case, there's no question
23 about it, but after five years she, apparently,
24 has misremembered this; and the reason I say it,
25 it's based on the evidence, because people get

1 stuff wrong all the time, people lie. I think
2 [K.W.] mostly just misremembers, but the reason
3 that I called her, as a witness, the State did
4 not, her mother, is because the first person she
5 talked about who did this was her mother, and
6 she gave no description of anybody.

7 In fact, said that she and her 5-year-old
8 sister went back and locked themselves in her
9 bedroom. That was the first report of what
10 happened. Her younger sister, Cameron, who did
11 not testify, her mother says she said she saw.
12 And is it reasonable, based on the evidence, to
13 assume that -- to believe that [K.W.] see who
14 shot? There were an awful lot of shots.

15 It must have been a horrible situation, but
16 you heard the coroner -- the Pathologist testify
17 about bullet paths. You also heard the medic on
18 scene, the EMT, who treated [K.W.] about her
19 gunshot wound, said it was through and through.
20 And said that the bullet entered her leg right
21 here, and went out right there, from the inside
22 of her right upper thigh, through her thigh and
23 out the outside of her thigh.

24 Obviously, you can't get that kind of shot,
25 if you're facing somebody. There was only one

1 projectile found in that house that could have -
2 - it was unmarked, and that was the one that was
3 in the bathroom, it went through a door in the
4 bathroom. K.W. [REDACTED] had said that Cameron, her
5 sister, was locked in the bathroom.

6 We know from what Karissa said that that's
7 not true, but maybe K.W. [REDACTED] was locked in the
8 bathroom, and maybe that's where she got shot.
9 It would have been nice if Law Enforcement had
10 bothered to send that projectile to the DNA
11 expert, who testified, to find out if there was
12 any damage. She said it's possible we could
13 have determined whose DNA was on that
14 projectile. If her DNA, if K.W. [REDACTED] DNA was on
15 that projectile, as I suspect it probably was,
16 that meant that she was in the bathroom and
17 didn't see anything. What she did see before
18 she went and talked to the Hopeful Horizons, Ms.
19 Patel, we didn't hear her testify, but it
20 doesn't matter, what we did hear is that she saw
21 a news report prior to going there. She had
22 heard that the person who did this was 18 or 19
23 years old. She had seen the news, and I'm
24 grateful for the media, I really am, our
25 democracy depends on it, however, it can

1 influence people, and it can influence them in a
2 bad way.

3 In this particular thing, the image that
4 she got and that she drew most likely came from
5 the news report that she saw before, and,
6 certainly, if she didn't tell her mother who it
7 was and what he looked like, and her younger
8 sister did, she clearly was not standing in
9 front like that, when somebody shot. It
10 physically couldn't have happened, based on how
11 the bullet wound came in.

12 The next -- and, of course, she wasn't
13 given a -- there was no in court identification.
14 The dramatic moment you see in most cases is,
15 when the victim in a case says, "Him, that's the
16 one that did it," but you didn't have that
17 moment. The only people that did that were Law
18 Enforcement and La'Shay Aiken. Those are the
19 only two people that identified Mr. Chisholm
20 here in Court. It's something to think about.
21 The next thing is what happened. Somebody who
22 did identify Kenneth Chisholm is La'Shay Aiken.
23 La'Shay, who told you from the stand that, in
24 exchange for her nine-year sentence, that she
25 would probably be out today. I'd be willing to

1 bet dollars to donuts that she is walking the
2 streets free right now. Other charges she had
3 were dismissed.

4 So even though there was no deal for what
5 she was gonna say, she testified, and now she's
6 out, I would imagine. She was the one,
7 apparently, that set -- if she is to be believed
8 at all, she's the one that set this up ahead of
9 time. She needed money to bond out her
10 boyfriend, but then she had the money, so why
11 did she continue on with this? The only
12 credible person on this, what point, that puts
13 Kenneth on the porch is La'Shay.

14 What if La'Shay was on the porch? If
15 K.W. didn't see this, and I don't think she
16 could have, any reason that La'Shay couldn't
17 have done it? She was the one that benefited
18 from this. She's the one that needed the money.
19 She's the one that set this up, and she's the
20 one that ran. They arrested Kenneth here in
21 Walterboro. They arrested La'Shay in Aiken
22 County. She ran, and I would be willing to be
23 she's out today.

24 So in terms of where people were and what
25 they did, you look at what is most likely. I'm

1 sure that Ms. Legette is gonna talk to you, but
2 what about the DNA on the shoes? Well, what
3 about that? We spent an awful lot of time
4 listening to testimony of chain of custody
5 witnesses. You do that to make sure things are
6 not adulterated, or changed in any way. We've
7 heard several witnesses who said, "I took this,
8 I put -- my seal is on here, there's no way
9 anybody could have tampered with this.

10 We want to make sure, because this is all
11 careful stuff," but you can't see DNA, right? I
12 mean you can see blood, but if there's just a
13 small amount, you can't see that.

14 So if you can't see it to start with, how
15 it got there, they don't know how it got there,
16 but the chain of custody is designed to make
17 sure that once Law Enforcement gets it, it's not
18 tampered with. In this particular case, you had
19 a chance to see a statement given by Mr.
20 Chisholm, and it's up to you to determine
21 whether that's voluntary or not, whether it was
22 coerced or not.

23 You know, I don't know exactly what all
24 that was. I know he's got a ninth grade
25 education. I know that he's -- doesn't know

1 what an app is. I know that he doesn't know
2 what that new car smell is, well, it was a long
3 time before I had a new car, so maybe he
4 wouldn't have known, but there's an awful lot of
5 things that -- there's some maybe indication
6 that maybe he got roughed up a little bit, when
7 he was arrested. All of these things could
8 imply intimidation, and even if you're acting
9 brave, and you're acting like you know what's
10 going on, it doesn't mean you are, and it
11 doesn't mean you're not coerced. For reasons
12 beyond my understanding -- well, I do
13 understand, Officer King had started his
14 testimony -- started videotaping, and taped him
15 changing clothes in his underwear.

16 Is that coerced? That was my intent. But
17 I asked him in booking, normally, how do you do
18 this? You take them to the jail -- they're
19 arrested, you take them to the jail, in the
20 jail, in their own little room they get dressed
21 out. They take off their own clothes, they're
22 put in the locker room, nobody messes with them,
23 because they're in the locker. They change into
24 their jail clothes, they come back, and then you
25 start the interview.

1 How many people have you interviewed that
2 were in their underwear? Well, you know,
3 because that's not something you do. So why
4 would you do that, other than to intimidate?
5 Well, I'd suggest maybe one other reason. You
6 saw at the tail-end of that interview, you saw
7 Sheriff Strickland, then Sheriff Strickland, now
8 not Sheriff Strickland, but then Sheriff
9 Strickland say, "Why would your DNA be on those
10 shoes?" Now, they'd just taken those shoes.
11 They had just taken them. And during the course
12 of the interview, how did he know that DNA was
13 gonna be on those shoes?

14 Well, I guess I know, if I put the DNA on
15 the shoes. I don't know. All I know is that
16 the chain of custody is important, and there
17 should have been a search warrant, like they got
18 for the phone, for those clothes, and that
19 search warrant should have been delivered over
20 to the jail, when he took those things off. On-
21 scene the DNA expert, the SLED guy that
22 testified, you know, you've seen the swabs,
23 they're just Q-Tips. And you can take -- you
24 can go out to the scene, and, granted, good
25 Lord, there was a lot of blood, and that was

1 hard to look at; but if you had a mind to say
2 their blood is on your shoes, there was plenty
3 to take, and all you need is a pocketful of Q-
4 Tips, or even one or two that you don't report.
5 And you take those shoes, which had not been
6 done by a search warrant, you take them, you put
7 a little swab on them, you throw the swab away,
8 because the DNA expert doesn't know where that
9 DNA comes from, doesn't know how it gets there.

10 And you're walking around on these shoes
11 for two days, and you've still got DNA after two
12 days walking around, really? No. He could
13 confidently say there was gonna be the victim's
14 blood on those shoes, for what reason? If the
15 chain of custody had been done properly, if the
16 search warrant had been done properly in the
17 beginning, then you can be pretty sure that this
18 wasn't tampered with; but even though it was
19 tampered with when it -- once it made its way to
20 SLED, before it got to SLED there is a very good
21 chance it could have been, so I would ask you
22 not to consider those shoes much.

23 There are -- I would like to have seen the
24 bus driver say, "Yes, that's the person I saw
25 right there. I'm in Court here, I'm testifying,

1 he's sitting right there, that's the guy I saw,"
2 but she didn't say, she wasn't asked that.
3 Photo lineups are a normal part of this, and
4 sometimes I complain about them, and all that
5 sort of stuff, but it is one way to sort of sort
6 things out, and that wasn't done for any of the
7 people that testified, "I saw him," or "I saw a
8 black male." It wasn't done, and an awful lot
9 of time is gonna be spent on all the cell phone
10 tower stuff, fine, whatever, within two miles,
11 okay, maybe. Maybe I was at the store, maybe I
12 wasn't, I don't know, but even if so, what
13 happened on that porch we don't know.

14 We know one thing that the trace expert
15 testified from SLED is, the gunshot residue was
16 found on Phillip's hands and on Lori's, and on
17 the child's. What does that mean? Well, it
18 means maybe they were close enough, where
19 gunshot residue could have come from somebody
20 firing, it's a possibility. It's also a
21 possibility that they fired. And here's one
22 thing that neither SLED nor Law Enforcement
23 found on-scene, that you would certainly expect
24 to find, and that is guns within the Miller's
25 house. Everybody's got a gun, and I don't know

1 -- and I don't know if anybody has ever even
2 heard of a drug dealer that doesn't keep a gun.
3 I don't know if that exists. How could it be?
4 Everybody wants to cover up, and they want to
5 say everything's a little bit better than it is,
6 and, you know, neither K.W. nor Karissa would
7 talk about the marijuana that was being grown in
8 the house.

9 I don't have a big problem with marijuana,
10 but I have a problem with people covering up for
11 it. They had two bathrooms, they only used one.
12 You've got five people in that house, and you're
13 choosing to use one bathroom? And you don't
14 know there's pot being grown in the house? Well
15 of course they do. Why do you think -- I don't
16 know, as I said I wasn't there, and neither was
17 Ms. Legette, but why would mama upon getting a
18 call at work no say, "Somebody call 911?" Why?
19 Because you've got some cleaning up to do when
20 you get home, would be my guess. You've got
21 some guns you've got to remove before Law
22 Enforcement get there, would be my guess. And
23 that would be consistent with gunshot residue on
24 the hands.

25 You heard the Pathologist testify that on

1 Lori Miller's arm, there was a bullet traveling
2 this way, and back in through the bottom of the
3 biceps into the chest wall, like they were going
4 like this. And gunshot residue on the hands,
5 maybe somebody was firing at him. You've got
6 La'Shay saying there was some counterfeit money
7 out there, it doesn't matter. He didn't --
8 La'Shay said, even if you're to believe her at
9 all, that he didn't he think about bringing a
10 gun. They're going out there to buy weed, and
11 he didn't -- she looked in the bag, and they've
12 got a backpack she says, and there as
13 counterfeit money in there that she didn't think
14 looked real.

15 She's concerned about her boyfriend, she's
16 got \$500 in her purse, and she doesn't go down
17 and pay that first? Anyway, she didn't see a
18 gun. And somebody, who for reasons beyond my
19 understanding, Niffatina Coppadge was not
20 charged. She says, according to La'Shay, "You
21 need to go back and get that gun. I asked Jason
22 Chapman, "What's a quarter pound go for?"
23 "Yeah, maybe could be \$500." I don't know, but
24 I mean that's -- depending on the quality of it,
25 it could be. In one of the texts you have P. I

1 thought it was a pound, but then he says, "No,
2 it's a quarter pound."

3 The drug SLED guy would know that, I would
4 imagine. But that's the idea, he didn't have
5 any intent going out there, he didn't have a
6 gun, because he wasn't selling at that point, he
7 was buying. But the Millers didn't have a gun?
8 Really? Gunshot residue in there, no gun. And
9 also you might expect to see 11 shelves, they
10 found ten.

11 I say 11, because [K.W.] was shot, and they
12 found a slug -- they found a projectile, but the
13 other ten shells relate to wounds that [V.M.]
14 Phillip and Lori had, those are the slugs, or
15 whatever, that's just what they found. So ten
16 shells, should have been 11. Maybe that was
17 part of the cleanup, maybe when Karissa went
18 there first, maybe she picked up guns, maybe she
19 picked up some shells too, I don't know. Like I
20 said, I wasn't there, but these are things that
21 the evidence can suggest, because people get it
22 wrong, and after five years, even people who
23 want to tell the truth maybe don't remember. I
24 want you to consider this evidence seriously, I
25 know you will.

1 I want you to consider -- oh, one other
2 thing too, I didn't want to leave this out.
3 Karissa did mention the possibility her father
4 had a conflict with somebody else before that,
5 called up police and mentioned it. She didn't
6 remember it exactly, and neither did Detective
7 Padgett, but she had said some -- I'm gonna say
8 a black guy, but that's not what he said, so
9 they don't remember. They said don't remember
10 what he said. "Owes me \$1,000." That was a
11 week before. I don't know. Like I said, I
12 wasn't there, but I know that there's a
13 possibility.

14 They were talking about one other witness,
15 and one other possible suspect, and, again, why
16 Niffatina wasn't charged? Beyond my
17 understanding. Why La'Shay is very probably
18 walking the streets right now, I don't know, but
19 I don't that it is difficult to look at this,
20 and not have a reasonable doubt as to mental
21 intent, at the minimum. Thank you for your
22 consideration.

23 THE COURT: Solicitor?

24 MS. LEGETTE: Thank you, Your Honor. Mr.
25 Matthews.

1 THE COURT: Proceed. Mr. Matthews, if the
2 board is used, and you want to come around, by
3 my Bailiffs and you can see what's on the easel
4 and the board, and review the block at this
5 time, but you're welcome to.

6 MR. MATTHEWS: Your Honor, thank you. I
7 might need to just walk around and look at it,
8 and then walk back.

9 * * *

10 CLOSING ARGUMENT BY MS. LEGETTE

11 MS. LEGETTE: Ladies and Gentlemen, good
12 morning. On May 16th, 2017, Phillip Miller
13 brought home a killer. And, Ladies and
14 Gentlemen, that killer sits among us today. His
15 name is Kenneth Chisholm. Now, the Trial Judge
16 is going to charge you in a few moments about
17 beyond a reasonable doubt, and that Kenneth
18 Chisholm sits before you wearing a robe of
19 righteousness.

20 A robe of righteousness that can only be
21 removed when you, and if you say, but before you
22 do, I want to submit this case to you. Now,
23 clearly, if you believe the shoes, the Jordan's
24 on his feet don't fit, then you must acquit
25 Kenneth Chisholm. The State bears the burden in

1 this case beyond a reasonable doubt. It is a
2 burden that we have, it's a heavy burden, it is
3 a load to carry, but all people charged that
4 same standard must be applied to the case; and
5 we gladly stand before you today to have you try
6 this case.

7 Now, on May 16th, 2017, Phillip Miller
8 brought home a killer. We have seen text
9 message after text message, we have not tried to
10 hide anything about him being a drug dealer.
11 Yes, Phillip Miller was a drug dealer, indeed he
12 sold drugs, but he sold drugs out of his car, he
13 didn't carry a gun.

14 A drug dealer carrying a gun, out of
15 desperation, called on his 13-year-old son to
16 help me get out. But Ladies and Gentlemen,
17 let's talk about what Kenneth Chisholm is
18 charged with in this case, because today is not
19 about Karissa Miller or Karissa Wiggins, it's
20 about Kenneth Chisholm, Rambo, Rambo, Chiz,
21 Kenneth, this is who this is about. Kenneth
22 Chisholm is charged with murder, the murder of
23 Phillip Miller, the murder of Lori Miller, the
24 murder of Vinny Miller, and the attempted murder
25 of K.W. [REDACTED] and that's why he's here

1 today, and that's what we have to talk to you
2 about, and also possession of a weapon during
3 the commission of a violent crime.

4 The Judge himself is going to tell you what
5 the law is, but just so you know something to
6 look for. I see it like a map, like an
7 equation, a math problem. I wasn't that good in
8 math, but I see this as a math problem.

9 Now, let's talk about what happened this
10 evening. Not just that Kenneth Chisholm
11 murdered them, it was a slaughter. It was a
12 slaughter, Ladies and Gentlemen. Now, in the
13 words of these people, when they were talking
14 about what happened, how do we know what
15 happened? Mr. Matthews wants you to believe you
16 don't know what happened, but we have witness
17 after witness, after witness, who told us what
18 happened. And as I was listening to the
19 witnesses, I, in my own mind, I could see
20 La'Shay pulling up, K.W. [REDACTED] standing, Phillip
21 Miller on the porch, Phillip Miller on the
22 porch, Phillip Miller on the porch. They are
23 face-to-face. He is face-to-face with the man
24 who will not only kill him, but he's wife, and
25 his son, and try to kill his granddaughter.

1 K.W. calls comes face-to-face, face-to-
2 face, face-to-face with the man who had just
3 shot her grandfather, face-to-face with this,
4 face-to-face with a killer, face-to-face with
5 the man who shot her grandfather and her
6 grandmother and her Uncle Vinny, who was 13-
7 years-old, this is what she saw, and she said
8 what? "I was frozen." I said, "K.W. who did
9 you see?" "I saw a man standing there, he was
10 dark-skinned, he had a gun, wearing' a necklace,
11 curly hair." Her attention to detail so
12 intensive until she even drew the mailbox.
13 She's standing there in the middle of the
14 hallway.

15 Mr. Matthews wanted to abuse that child,
16 and said she couldn't see, but right there in
17 the picture you can see for yourself. In the
18 picture you'll see it in her journal is the
19 hallway, the hallway she's standing in. This is
20 that hallway, right in front of the front door,
21 and this is the man she saw, and the trees, and
22 the snow outside, and the road, and the mailbox,
23 and the man, the man with a gun, that's what
24 K.W. saw, that's what K.W. saw. Kenneth
25 Chisolm is guilty, Ladies and Gentlemen.

1 How do we know this? We have physical
2 evidence. We've gotten shell casings. They all
3 came from the same gun. They all came from the
4 same gun. Heard four or five shots, then a
5 pause, a woman screaming, and then more shots,
6 and then a car crank up.

7 La'Shay said that there was only one person
8 on the porch, one person in the car with a gun,
9 that person was Kenneth Chisholm. The person on
10 the porch with a gun was Kenneth Chisholm. The
11 man in the doorway, there was one man in the
12 doorway that came and saw he had the gun, that
13 man is Kenneth Chisholm, that's who that man is.
14 All the ten shell casings, the cartridges were
15 fired out of the same gun, all fired from the
16 same gun, in the same span of time, Ladies and
17 Gentlemen, that man is Kenneth Chisholm.

18 And then what do we have, Teresa
19 Stephenson, it was one gun, it was one shooter,
20 and that shooter, that killer, that same man is
21 Kenneth Chisholm, that's out of facts, if you
22 added up the facts, Ladies and Gentlemen, you
23 add up the facts. Mr. Matthews wants you to
24 believe that K.W. did not see, or could not
25 see what she said she saw. She told you she

1 didn't get it out of any media report. Nobody
2 suggested it to her. How many times did I have
3 to ask that child, "Who suggested it? Who had
4 influenced you? Who told you what to say?" She
5 said, "I saw it myself." Who should I believe
6 she saw what she says. Teresa Stephens said she
7 saw a man, I saw the man.

8 She sat there and she had her eyes down.
9 She didn't want to be here. She hated to say.
10 She hated to say, "Yes, it was a black man,
11 stalky-build, shoulder length hair, running
12 across the street to a light blue car." That's
13 the same light blue car that La'Shay Aiken says
14 Kenneth Chisholm came running into. That same
15 light blue car that she was driving, that he
16 came running to the car with the gun, and got
17 inside.

18 That same Kenneth Chisholm, him, that
19 La'Shay Aiken pointed out, that same one sitting
20 over there, wearing a robe of righteousness,
21 that man. We added up the facts, Ladies and
22 Gentlemen, and Kenneth Chisholm had * with them,
23 wearing dreadlocks, and a necklace. Oh, let's
24 talk about that necklace maybe, let's talk about
25 that necklaced. Oh, we've got it, we've got it

1 right here in your jury room. This necklace
2 right here, this necklace that Investigator King
3 talked about with him on the video, this
4 necklace that he wears all the time, every day.
5 Was wearing it on Tuesday, May the 16th, 2017,
6 and K.W. saw him with the necklace on you'll,
7 saw him with the necklace on.

8 There was no description of a necklace in
9 no media reports. And, yes, she was shot, and
10 what did the -- Deputy Chief David Greene, with
11 King with a PhD., the expert, he says, "You can
12 die from a gunshot wound to your thigh, because
13 of the femoral artery." I remember even
14 yesterday Dr. Riemer talked about that femoral
15 artery, and that shot to the thigh that Mr.
16 Miller sustained. There's so much blood in that
17 area.

18 She could have bled to death, she could
19 have died, and that's why they flew her out.
20 That was attempted murder, he tried to kill that
21 child. You walk into a house, you open the
22 door, and your shooting everything that's
23 moving, everything in that house that is moving
24 then, everything. The only thing that got away
25 probably were the roaches. And, yes, there was

1 some marijuana in that room over there, we know
2 Mr. Miller sold drugs, it's in the text
3 messages.

4 That's the only reason why this whole thing
5 happened, a drug deal gone wrong, a drug deal
6 gone wrong. Ladies and Gentlemen, we have --
7 the Judge will tell you about direct and
8 circumstantial evidence. Direct meaning I saw,
9 and circumstances, the circumstances leading to
10 a conclusion. In this case we have La'Shay
11 Aiken with direct evidence, an eyewitness about
12 what happened. Now, she's sitting right here in
13 front of this car. She said she parked in front
14 of the Avalon, right in front of the porch. She
15 could see them on the porch.

16 She had a bird's-eye view to see them
17 sitting right here on the sidewalk, and she saw
18 the entire thing. And not only that, Ladies and
19 Gentlemen, we also have 13-year-old V.M. [REDACTED]
20 [REDACTED]'s blood. You heard the DNA expert
21 talking about it. The probability of randomly
22 selecting someone else in the population. on the
23 planet, it was 830 septillion, well, 830 plus 24
24 zeros, I can't even say the word. That's how
25 many of randomly selecting someone's DNA, other

1 than V.M. [REDACTED] on the left shoe, those left
2 Air Jordans that Kenneth Chisholm -- yes, he
3 undressed in the video, but you saw the
4 integrity of the shoes, when he undressed.

5 It's unfortunate, but you saw the shoes
6 coming off, and being put into the bag. Now,
7 here's the thing, Mr. Matthews wants you to
8 believe that maybe the Sheriff's Office swabbed
9 the blood onto the bottom of that shoe. That's
10 where he was going with that, but you head
11 Jasmine Ruiz-Yi talk about how, basically, after
12 a period of time the blood degrades, it
13 degrades. So what it means, if blood and that
14 kind of thing degrade, if the Sheriff's office
15 wanted to put blood on the shoe, they had plenty
16 of blood they could have got, Lori's blood,
17 Phillip Miller's blood, K.W. [REDACTED] blood, you saw
18 a bloodbath in that house. It's a blood bath in
19 there.

20 This was a slaughterhouse, he slaughtered
21 them. And then the telephone rang. Let's talk
22 about when the cell phone rings, let's talk
23 about it. We had Mr. Hightower come in here and
24 tell you about a whole lot of stuff about cell
25 phone records, and that kind of thing, but what

1 I noticed was interesting, was that he said he
2 could put the device that Kenneth Chisholm was
3 using at the time, at 4:32, two miles from the
4 incident location, because of the technology,
5 they've got two towers that work, bouncing off
6 of that cell tower.

7 It tried to go through three times he said.
8 That last text message, that last text message
9 at 4:32 p.m., oh, and what does that last text
10 message at 4:32 p.m. say? You'll have it in
11 your jury room, you can read it for yourself.
12 What does it say? It says, "Park in front of
13 the house, in front of the

14 Avalon you'll see." You'll see, you'll
15 see, then hung up that night to Kenneth
16 Chisholm's phone. We talked about the necklace,
17 the cellphone. Let's talk about Mr. Chisholm's
18 statement to the police. There are some things
19 that he admits. Remember at the beginning I
20 told you there would be admissions, you would
21 hear admissions in this case. And Kenneth
22 Chisholm * admitted a few things, that lead us
23 to only one conclusion. He admitted he was
24 Rambo, Chiz. He admitted he was texting Phillip
25 Miller. He admitted all those things, he is

1 Rambo. He's got a tattoo of Rambo on his hand.
2 He is Rambo, and he was there to buy drugs.

3 He finally got around to admitting he went
4 to the Petco lot, if you noticed in the video.
5 It took him a while to admit he had been at
6 Walmart that day. He had been everywhere else,
7 but he had not been to Petco. He didn't want to
8 talk about Petco, but he finally admitted it.
9 The victim told him he was in a blue -- he told
10 the victim he was in a blue car parked by the
11 van, almost saying.

12 He finally admits it, and he finally admits
13 that he was with La'Shay, although he tried to
14 say at first it was a gray Dodge Dart, remember
15 that? Yeah, uh-huh, until he finally had said,
16 "It's a light blue car." "The house is on the
17 main road of town, park behind the Avalon."
18 Ladies and Gentlemen, the Pak A Sak, you might
19 have wondered, why is she playing all of these
20 videos? I get it, I do, it's a long haul, I get
21 it. I was putting you there, to show you that
22 they were altogether, La'Shay, the baby mama,
23 Niffatina Coppadge, and Kenneth Chisholm,
24 wearing the necklace, that necklace.

25 They were also at the Saunders Feed & Seed.

1 They were also at Fat Jack's together, leading
2 you to only one conclusion. What did he talk
3 about? He talked about that, but then when the
4 investigation began to center on him being
5 Rambo, and Rambo talking to Phillip Miller, with
6 him being killed, he was like, "No, no, no, they
7 call me Rambo, I go by Chiz. I go by Chiz,
8 people call me that." "But you just said you
9 was Rambo, you're just proud to have that tattoo
10 on your hand."

11 You've got the video; you can even sit and
12 watch it again. Inconsistencies, at first he
13 said he was anywhere but with the victim, who he
14 called Cat. Then he, finally, had to admit he
15 was with him. He at first said he was in a gray
16 Dodge Dart, but then when the investigation kind
17 of closed in on that, "We was in a light blue
18 car." Remember that whole thing. He could see
19 himself, but he couldn't see the light blue car?
20 The evidence is pretty clear, you'all will have
21 them in your jury room, it's easy to see, but
22 remember it took him about 30 minutes to finally
23 admit, "That's the car right there. That's the
24 car right there that I got out of. That's me
25 getting in his car, but that's not the car."

1 But then, finally, "That is me."

2 And then when he finally admitted that was
3 the car, Ken asked him a simple request, "Circle
4 it." He clearly could write -- could use his
5 left hand to write earlier in that interview,
6 but he wouldn't. He didn't even want to touch
7 it. And then his number, he talked about his
8 number being the 927-81 number, and then when it
9 began to close in, "No, no, no, that's not my
10 number." "But it is your number, you said it
11 was your number." "No, that was the number I
12 was using, it was a 542 number." "The same 542
13 number in your text message," and he finally
14 acknowledges he was using that number.

15 Buying weed from white people, "* how
16 colored people are." But then he said, "I
17 hadn't bought in a year." And then he had to
18 come back and said, "Yeah, I bought from the
19 plug, an older white guy." "But I thought you
20 didn't? But you did." He come around the bend,
21 Ladies and Gentlemen, come around the bend, and
22 he told me, "Shit." I remember that part, it's
23 a real tiny part. Ken asked him about Shay.
24 Now, if you'all remember La'Shay Aiken got on
25 the stand yesterday, got on the stand yesterday,

1 credibility of witnesses. The Judge is going to
2 charge you about the credibility of witnesses,
3 what you can believe, why you should believe
4 them, except for you, you're the Judges and the
5 triers of facts.

6 She sat on that stand and she cried, and
7 her nose got red. She was not making it up.
8 She saw what she saw, she did what she did, and
9 she came here and she told you what she had done
10 and why. And why? Oh, the love of a man.
11 She's trying to get him out of jail on child
12 support. She don't have no kids with him, no
13 kids, but she's trying to get him out.

14 She thinks he is gonna help her, Chiz,
15 Rambo, Chiz. She called Chiz.

16 Now, Chiz, Rambo says, "No, no, no, no.
17 La'Shay, she don't think about it,"

18 "But you just talked about him earlier your
19 boy, Dominique Eders (phonetic), who was her
20 boyfriend, who was the entire reason that we're
21 here today? Because La'Shay wanted to get him
22 out of jail. Yeah, Mr. Matthews, said, yeah,
23 she did.

24 She did call Chaz, she was trying to get
25 him out, but what does she ask that man to do?

1 What's she -- "Well, you'll just have to drive,
2 just drive." And she did, she drove. All the
3 while she is taking his money, trying to get his
4 friend out, and they had seen them together. He
5 knew she had a boyfriend, and he knew that man
6 was Dominique Eders, but no, uh-uh, uh-uh, no.
7 Let's talk about the relationship with La'Shay
8 Aiken and Kenneth Chisholm.

9 Now, here's something interesting, Ladies
10 and Gentlemen, Kenneth Chisholm said the exact
11 same thing that La'Shay Aiken says all the way
12 through, until they leave Walmart, and then
13 suddenly there's a gap. And then after they
14 leave Walmart, that part right there, is missing
15 a piece.

16 Oh, Courthouse, and then his house.
17 There's a gap in time ain't it? There's a
18 wrinkle in the fabric, a wrinkle in time. He
19 said the same thing that she says. What did he
20 say? They both said he called La'Shay to come
21 pick up him and his baby mama. La'Shay picked
22 him and his baby mama, Niffatina, Moosie, up on
23 Sunshine Street. La'Shay took them to the
24 Dollar General to get some shoes. They both
25 said the same thing. Baby Mama didn't want to

1 leave the Pak A Sak, you'll saw the video. I
2 know it was hard to watch, I know it was, I
3 apologize, but you needed to see that. Then
4 they both said they went to the Baby Mama's job,
5 but she refused to go inside. She wanted to go
6 with Chisholm.

7 Now, La'Shay says they leave, and they go
8 back home, and they get the gun. The
9 counterfeit money, the Monopoly money in the
10 bag. They go back at Niffatina's insistence,
11 and they get the gun. Kenneth Chisholm has the
12 gun, not Niffatina, Kenneth Chisholm has the
13 gun. That part is also left out in his
14 statement, but they are still consistent. Then
15 La'Shay and Kenneth both say, when he finally
16 got around to it, after they had to kind of go
17 and circling back, "We went to the Walmart, met
18 with the plug," you can see it on video, see it
19 on video. You've got the text messages that put
20 him there at the Walmart down here, at Exit 57.
21 Text messages ae putting him there at the
22 Walmart. You can read them for yourself, the
23 content, it puts him at the Walmart, they both
24 said the same thing, it's on video.

25 And then they drive around the parking lot

1 in his car. It's all consistent, until right
2 there, and you'll see on the video, if you watch
3 it again, they are leaving out together behind
4 each other. One car leaves, the next car
5 leaves, and then on the sides you can see, you
6 see them again. He finally admits to seeing the
7 blue car, but here's where it gets kind of
8 interesting, because they are the only cars you
9 see, right behind here, right behind the
10 victim's car, but Kenneth never mentions it, he
11 never goes into that. He never tells you that
12 on the video.

13 He never says, "That's the one part where
14 they get." And then he says, "Yes, we went to
15 the courthouse. La'Shay dropped off the money."
16 Money for his friend that he said she wasn't
17 dating. He's his friend. You can see the text
18 messages. And then the part about being at his
19 aunt's house, he is consistent right there, they
20 are both consistent with each other, but the one
21 thing, the one thing, the one place, the one
22 place where it all goes wrong, Ladies and
23 Gentlemen, you see the missing timeframe, where
24 he went after they left the Walmart parking lot,
25 and where did they go? They went to [REDACTED] [REDACTED]

1 Country Highway, and this murder of Phillip,
2 Lori, V.M. [REDACTED] and the attempted murder of K.W. [REDACTED]
3 happened, and it was Kenneth Chisholm.

4 And La'Shay was sitting right here in front
5 of this house, in front of that black car right
6 there. And he sat on this porch, him and
7 Moosie, the baby mama, on this porch. Now, Mr.
8 Matthews had to make a big deal out of the
9 swing, but I don't care nothing' about no swing.
10 She said she was sitting right there in the blue
11 car that Teresa Stephens saw her in, and them
12 leaving there, and him getting there, right
13 there on this porch.

14 On this porch right here is where it all
15 happened. Then what did La'Shay happened? She
16 saw him shoot that man in the leg. That
17 Pathologist told you about the soot being inches
18 away, almost a burn mark, how close he waws to
19 that man. She said it burned the shot, and then
20 he shot in the leg, and he kept shooting, and
21 shooting. And then Phillip Miller says, "Help
22 me, Vin, help me." You are a desperate man, you
23 are a desperate man, I don't care if you're a
24 drug dealer, you are a desperate man, and you
25 are claiming the life, you are in your dying

1 breath asking for your 13-year-old son to come
2 help you, because you don't have a gun, and
3 you're doing all that you can and you cannot
4 protect them, and the wife's saying, "No, stop."

5 Almost everything is consistent.
6 Everything else is consistent. Even the text
7 messages are consistent.

8 I told you about credibility of witnesses,
9 I told you, real tears. She told you, she came
10 here to tell you what really happened. She told
11 you what really happened. What really happened,
12 and, Ladies and Gentlemen, what really happened
13 in this case, what really happened, it was the
14 unlawful killing of another person, and that
15 person was Lori Miller, and that was murder.
16 That was murder, Ladies and Gentlemen, and how
17 do you know? Because we have the bullets.
18 Everything considered, the unlawful killing of
19 another, killing.

20 We have three people dead. The Pathologist
21 told you they were all homicide, all of this was
22 homicide, all of it, it was all homicide. It
23 was the killing of the hand of somebody else,
24 and that somebody else is Kenneth Chisholm,
25 Kenneth Mar'Keith Chisholm is the killer in the

1 courtroom among us.

2 He is that killer, and that robe of
3 righteousness, that robe of righteousness,
4 you're gonna take it off in the jury room,
5 you're gonna take it off of him, and you're
6 gonna find him guilty.

7 And then what La'Shay said, La'Shay said
8 she saw a baby come out of that house, and then
9 she turned around, and they were coming towards
10 her, and she said she could not get it, and she
11 was the one that heard everyone get hurt, and
12 Vinny had blood coming out of his mouth. She
13 saw a hole in his chest. Kenneth was the only
14 one in that house with a gun.

15 David Butler said he heard a woman say,
16 "Don't, don't."

17 K.W. said her and her Uncle Vinny were in
18 the living room, and her grandmama was there
19 too, and she ran, she walked across, and she
20 stood at that door and she saw this man come
21 kill Phillip, he killed Lori, he killed V.M.
22 and that was aforethought. Even the nine-year-
23 old girl, and if she hadn't run out of that
24 room, where she ran to, she would have been dead
25 too.

1 A gun is a deadly weapon or instrument, and
2 you just walk in there shooting, and shoot, and
3 shoot, and shoot, and shoot, and shoot, and
4 shoot, and shoot, and shoot, and shoot, and
5 shoot, then come running out. And the man said
6 they were trying' to leave, I would have ran
7 too. That's murder, that's murder in the State
8 of South Carolina, Ladies and Gentlemen, that is
9 murder.

10 And then when we have attempted murder, the
11 Trial Judge himself will tell you what the law
12 for attempted murder is, but like I said, I was
13 telling you, to give you a little pep talk.
14 Attempted murder, a person with the intent to
15 kill, an attempt to kill another person with
16 malice or forethought, either expressed or
17 implied. The specific intent to kill. The
18 specific intent to kill, the zone of danger.
19 Did he have a specific intent to kill [K.W. ██████████]
20 Willard?

21 He was getting everything in that house
22 that moved and breathed, boom, boom, boom, boom,
23 boom, boom, boom, boom, boom, boom, boom. The
24 intent to kill [K.W. ██████████] specifically, he
25 shot her, he shot her. There was ten shell

1 casings found. You have to be a pretty good
2 shot to hit everything that you aim at, Kenneth
3 Chisholm. You've got to be a real good shot.
4 Ten shell casings, maybe they'll find another
5 shell casing, you shoot 11 times, and you get
6 everything that you aim at, except one time,
7 adult. Intent to kill, a zone of danger,
8 specific intent to kill K.W. ██████████ ██████████ that's
9 the other person. Malice, let's talk about
10 malice, evil, wicked, depraved, direct disregard
11 for human life.

12 When you walk into a house, and you see
13 this, you have a total disregard for human life,
14 and anything that's moving and breathing,
15 including dogs and animals, and anything else,
16 it's a slaughter happening there. Phillip
17 Miller was killed by Kenneth Chisholm. Lori
18 Miller was killed by Kenneth Chisholm. Vinny
19 Hill was killed by Kenneth Chisholm, and he
20 almost killed K.W. ██████████ ██████████ Possession of a
21 deadly weapon during the commission of a violent
22 crime, that's the gun, Ladies and Gentlemen.
23 Michele Eichenmiller told you she tested all the
24 shell cases, they all came from the same gun.
25 The bullets are too badly damaged to be able to

1 determine what gun, and she never got it, but we
2 know this, according to La'Shay Aiken and
3 K.W. the person that did this has it coming,
4 and according to La'Shay Aiken, that person was
5 Kenneth Chisholm. And that's the case, Ladies
6 and Gentlemen, that's the case. That's the law,
7 the Judge himself is going to charge it to you.
8 La'Shay Aiken said something interesting. I
9 said, "La'Shay, what did he say?"

10 He said, "Were you trying to leave me?"
11 And she had to suck it back in, that she wasn't
12 trying to leave, she had to suck it up, but then
13 he began talking about it, that he was seeing it
14 in his mind replaying it in his mind, and began
15 to tell them. "Yeah, one of them got a head
16 shot."

17 Mr. Miller got a headshot, you'all, look at
18 that head shot. It's a head shot, and it's got
19 this right here burn marks, that's stippling.
20 Dr. Riemer told you'all about that.

21 His thigh wound and all that soot, closeup,
22 in person. Ladies and Gentlemen, La'Shay Aiken
23 told you what happened. We know what happened.
24 Let's repeat, we know that. Kenneth Chisholm,
25 just like La'Shay Aiken said the little boy had

1 blood in his mouth.

2 If you look closely at this picture, this
3 picture of Vinny, you'll be able to see the
4 blood coming out of his mouth. And Dr. Riemer
5 talked about how he was drowning in his own
6 blood, couldn't breathe, you'll be able to see
7 this injury. There we go, the physical
8 evidence, the DNA. Our DNA Analyst, Alysha
9 Breland talked about that teeter-totter, and
10 where it's very strong support for the one way
11 or the other, that teeter-totter, that seesaw,
12 we go down one side or the other, or stay in it.
13 In this case, there's no middle ground.

14 There is no middle ground, it's all the way
15 down. It's all the way down, that's the end of
16 it. 830 septillion, the probability of
17 selecting anyone else, other than him, 830
18 septillion, that blood, this blood on the bottom
19 of the shoes, on Kenneth Chisholm's shoes, that
20 you saw him take off. The signs.

21 I heard Kenneth say in the video, "DNA
22 don't lie," and it doesn't. And he ran through
23 Vinny's blood to get into La'Shay's car. The
24 same route Vinny had taken, he took that same
25 route, and that's how the blood got on his

1 shoes, not from some police officer trying to
2 swab it to frame him. This is not a frame, this
3 is not that, Ladies and Gentlemen.

4 This is not that. You cannot explain this.
5 Ladies and Gentlemen, we've come to the end, the
6 case is what it is. We submit to you that the
7 State has proved its case beyond a reasonable
8 doubt, and that means it is a burden we are glad
9 to meet, and we thank you for your time. And we
10 ask you when you go into your jury room to
11 review the evidence.

12 Don't take my word for it, review the
13 evidence. You can have all of it. Yeah, I know
14 it's 150 pieces of stuff or less, minus one or
15 two, but you look for yourself, try this case.
16 Give Kenneth Chisholm his fair trial, a fair and
17 impartial trial, and find him guilty of murder
18 of Phillip Miller, Jr., murder of Lori Miller,
19 murder of Vinny Miller, attempted murder of
20 K.W. [REDACTED] and possession of a weapon
21 during the commission of a violent crime. Thank
22 you.

23 COURT REPORTER: Judge, I need to use the
24 restroom.

25 THE COURT: My Court Reporter says she

1 needs a break, so we're gonna take five minutes.
2 Please retire to your jury room. Do not discuss
3 the case. I'll be right back with you. All
4 right, we'll take a five-minute break, you've
5 got it.

6 COURT REPORTER: Thank you, sir.

7 (Recess)

8 THE COURT: All right, while we're waiting
9 outside the presence of the jury, I want to put
10 a couple things on the record. Throughout this
11 trial I've had a couple of objections from
12 counsel about, first of all, there was an
13 objection that came from the mother of the minor
14 child is the alleged victim of the attempted
15 murder.

16 She did not want her child to be videoed.
17 The Trial Judge has the power, in the interest
18 of justice, to make any type of recording or
19 still photography, and because of that -- the
20 Solicitor came to me and expressed the wish I
21 ask the members of the media who are present,
22 all of which I've granted permission to be here,
23 not to photograph the minor child. The rule
24 also does not permit the photograph in still or
25 video of the jury.

1 So they were prohibited from taking any
2 pictures of the jury, still or videos. They
3 were prohibited from taking any pictures of the
4 minor child.

5 I also restricted them from using any
6 video, because I have not sequestered this jury.
7 I don't know how long they're going to
8 deliberate, and because it may be necessary, I
9 met with the attorneys this morning, to ask
10 them, because I was asked by one of the members
11 of the media, what did I define the end of the
12 trial would be?

13 After the jury reaches the verdict and I've
14 dismissed the jury, then my ban on video would
15 be lifted after that. That way I don't have to
16 face the issue of members of the jury possibly
17 seeing some video.

18 I've actually had an objection during this
19 trial from Mr. Matthews, because he feels like
20 there's been information about this trial on
21 Facebook, which I delineated as coming from
22 WCIV, Channel 4, who has a representative in the
23 courtroom.

24 Now, member of the media have been very
25 courteous, and they have complied, to my

1 knowledge, with my request, but I wanted to put
2 that on the record. I have repeatedly,
3 repeatedly cautioned the jury not to watch
4 television, listen to the radio, read the
5 newspaper, or go on a website device to do any
6 type of research about this case. I've
7 repeatedly cautioned them throughout the trial
8 of this case, to decide this case solely and
9 only upon the evidence that's presented during
10 the trial of the case, when both sides are
11 present with the right to cross-examination.

12 I thank the media for the cooperation with
13 my order, and with that I think we're probably
14 ready to start back. Got anybody outside your
15 door? No one in or out.

16 Have you got anybody wanted to come in
17 outside your door?

18 BAILIFF: No, sir.

19 THE COURT: All right, bring us the jury.
20 Nobody in or out during the charge. All you all
21 right, Kym?

22 COURT REPORTER: Yes, sir. Yes, sir.

23 THE COURT: All right, hand me the five
24 indictments, please.

25 CLERK: Yes, sir.

1 THE COURT: The five indictments you got
2 for me, pull them out for me --

3 CLERK: Yes, sir.

4 THE COURT: -- so I don't have to go
5 through the file. Five?

6 CLERK: Yes, sir.

7 THE COURT: Thank you.

8 CLERK: You're welcome, sir.

9 (Jury enters courtroom.)

10 ***

11 JURY CHARGE

12 THE COURT: All right, Ladies and
13 Gentlemen, I'll remind you that during this
14 trial, you and I have had certain duties to
15 perform. As the Trial Judge, it has been my
16 responsibility to preside over the trial of this
17 case, and I also have the duty to rule on the
18 admissibility of evidence offered during this
19 trial. You are to consider only the competent
20 evidence before you. If there was any testimony
21 that I ordered stricken from the record in this
22 case during this trial, you must disregard that
23 testimony.

24 You are to consider only the testimony,
25 which has been presented from this witness

1 stand, any exhibits which I have then made a
2 part of the record and entered into evidence in
3 this case, and if there were any stipulations of
4 counsel, you would consider that. I have the
5 additional duty, in addition to that, as the
6 Trial Judge, to charge you the law that applies
7 to this case.

8 As the Presiding Judge, I'm the sole Judge
9 of the law in this case, and it is your duty, as
10 jurors, to accept and to apply the law, as I now
11 state it to you. If any of you already have any
12 idea, as to what the law is, or what you think
13 the law ought to be, and it does not agree with
14 what I now tell you the law is, you must abandon
15 any of your preconceived ideas or opinions,
16 because you took an oath from the Clerk of Court
17 at the start of this trial, and in that oath you
18 swore or affirmed that you would accept the law,
19 and apply the law exactly as I now state it to
20 you.

21 In every case tried before this Court with
22 a jury, the jury becomes the sole and the
23 exclusive judge of the facts in the case, based
24 on evidence introduced during the trial of the
25 case.

1 A Trial Judge, such as myself, cannot
2 intimate, the Trial Judge cannot state, a Trial
3 Judge cannot make any comment on or make any
4 statement to a trial jury about the facts in a
5 case, or about the evidence, which has been
6 presented during the trial of the case.

7 Since you, the jury, Ladies and Gentlemen,
8 are the sole judges of the facts in this case,
9 based on the evidence, you are not to infer from
10 anything that I have said during the progress of
11 this trial, in ruling upon the admissibility of
12 evidence, or otherwise anything that I say now
13 during the course of this charge to you, that I
14 have any opinion whatsoever about the facts in
15 this case.

16 The law does not allow me to have an
17 opinion about the facts in this case. This is a
18 matter, Ladies and Gentlemen, solely and only
19 for you, the jury, to determine. As jurors, it
20 is your duty to determine the effect, the value,
21 the weight, and, ultimately, the truth of the
22 evidence that's been presented during the trial
23 of this case. Now, I charge you, Ladies and
24 Gentlemen, that the Defendant in this case,
25 Kenneth Mar'Keith Chisholm has been charged in

1 these documents, which we call indictments.

2 The Defendant is charged with three counts,
3 or three indictments, of murder, one count of
4 attempted murder, and one count of possession of
5 a weapon during the commission of a violent
6 crime. Now, the indictments are not evidence in
7 the case, that's why I prepared a verdict form
8 for you.

9 However, Mr. Foreman, this nice young
10 gentleman behind me, Erin, raise your hand for
11 them, Erin, so they can see you, he's going to
12 come to you after you've reached your verdict,
13 and he's going to want you to write whatever
14 words you write on the verdict form, on the
15 indictment, there's a place that says,
16 "Verdict," for each indictment.

17 And if you write guilty or not guilty under
18 the word, verdict, and then you would sign your
19 name, as Foreperson of the jury, on the
20 indictment, and you would date it. I'm handing
21 those indictments now to Aaron, and he's going
22 to come to you, all right?

23 What you will have in your jury room will
24 be the verdict forms that I've prepared. It has
25 the indictments on it, and it also -- when I get

1 to that point in my charge, I'll explain to you
2 about the verdict form. What you should know
3 now, I remind you that the fact that the
4 Defendant was arrested, the fact that the
5 Defendant was charged, the fact Defendant was
6 indicted in this case, is not evidence in this
7 case, and it cannot be considered by you, as
8 evidence of guilt in this case; nor does it
9 create any presumption, or inference of guilt.

10 The indictments are simply the formal
11 written instruments, by which it contains the
12 charges made against the Defendant, but it's the
13 formal document or instrument by which the case
14 is brought into this Court, the Court of General
15 Sessions for Colleton County.

16 Now, indictments in this case include
17 several different offenses.

18 The charges are, as I have told you, in
19 indictment one, murder, indictment two, murder,
20 indictment three, murder, indictment four,
21 attempted murder, indictment five, possession of
22 a weapon during the commission of a violent
23 crime. Each indictment charges a separate and
24 distinct offense. You must decide each
25 indictment separately on the evidence and the

1 law that applies to it, uninfluenced by your
2 decision, as to any other indictment with one
3 exception in this case.

4 The Defendant may be convicted or acquitted
5 on any or all of the offenses charged. You're
6 going to be asked to write a separate verdict of
7 guilty or not guilty for each indictment on your
8 verdict form, and, ultimately, your Foreman,
9 whatever he writes on here will also write it on
10 the indictment.

11 I told you there's one exception. That
12 exception is for the offense of possession of a
13 weapon during the commission of a violent crime.
14 In order to convict the Defendant of possession
15 of a weapon during the commission of a violent
16 crime, you must first have convicted the
17 Defendant of being guilty of committing a
18 violent crime. I charge you, Ladies and
19 Gentlemen, under the laws of the State of South
20 Carolina, both murder and attempted murder are
21 violent crimes under the laws of the State of
22 South Carolina.

23 So unless you found the Defendant guilty of
24 either murder, or attempted murder, you cannot
25 find the Defendant guilty of possession of a

1 weapon during the commission of a violent crime;
2 however if you find the Defendant guilty of
3 either murder or attempted murder, you then may
4 consider whether or not the Defendant is guilty
5 or not guilty of the offense of possession of a
6 weapon during the commission of a violent crime.
7 The Defendant in this case, Kenneth Mar'Keith
8 Chisholm, has pled not guilty to these
9 indictments, and that plea of not guilty places
10 the burden on the State of South Carolina to
11 prove the Defendant guilty.

12 A person charged with committing a criminal
13 offense in South Carolina is never required to
14 prove himself or herself innocent. I charge
15 you, Ladies and Gentlemen of the jury, that it
16 is an important rule of the law, that the
17 Defendant in a criminal trial, no matter what
18 the seriousness of the charge may be, will
19 always be presumed to be innocent of the crime
20 for which the indictment or indictments were
21 issued, unless guilt has been proven by
22 evidence, satisfying you of that guilt, beyond a
23 reasonable doubt.

24 This presumption of innocence does not end
25 when you begin your deliberations, but it

1 accompanies the Defendant throughout the trial,
2 until you, the jury, reach a verdict of guilt,
3 based on the evidence satisfying you of that
4 guilt, beyond a reasonable doubt.

5 The presumption of innocence, Ladies and
6 Gentlemen, is not just a legal theory, it is a
7 substantial right to which every defendant is
8 entitled. It is like a robe of righteousness,
9 which is placed upon the shoulders of the
10 Defendant, which remains with the Defendant
11 until it has been stripped from the Defendant,
12 by evidence satisfying you of the Defendant's
13 guilt, beyond a reasonable doubt. It is not a
14 legal theory, it is not just a legal phrase, it
15 is the presumption of innocence, a substantial
16 right to which every defendant in criminal court
17 is entitled, unless you, the jury, are satisfied
18 from the evidence of the Defendant's guilt,
19 beyond a reasonable doubt.

20 What is a reasonable doubt in the law? A
21 reasonable doubt is the kind of doubt that would
22 cause a reasonable person to hesitate to act.
23 There are two different types of evidence that
24 are normally introduced during a trial.

25 Like many things in the law, we have names

1 for these two general types of evidence that are
2 generally presented during a trial. We call
3 these two types of evidence direct evidence and
4 circumstantial evidence. Direct evidence
5 directly proves the existence of the fact of a
6 fact and does not require deduction or
7 inference. Circumstantial evidence is proof of
8 a chain of facts indicating the existence of a
9 fact. Crimes may be proven by either direct
10 evidence or circumstantial evidence, or a
11 combination of both.

12 The law makes no distinction between the
13 weight or value be given to either direct or
14 circumstantial evidence; however, to the extent
15 the State of South Carolina relies on the
16 circumstantial evidence, the circumstances must
17 be consistent with each other, and when taken
18 together point to the guilt of the accused,
19 beyond a reasonable doubt.

20 If the circumstances merely portray the
21 Defendant's behavior is suspicious, the
22 circumstantial evidence has failed.

23 I charge you, Ladies and Gentlemen, that
24 necessarily, as I told you in my remarks at the
25 outset of this trial, you, as the jury, must

1 determine the credibility or the believability
2 of the witnesses who have testified during the
3 trial of this case. Credibility simply means
4 believability. It becomes your duty, as jurors,
5 to analyze, to evaluate the evidence, and
6 determine which evidence convinces you of its
7 truth.

8 In determining the believability of the
9 witnesses who have testified in this case, you
10 may believe one witness over several witnesses,
11 or several witnesses over one witness. You may
12 believe a part of the testimony of a witness and
13 reject the remaining part of the testimony of
14 that same witness. You may believe the
15 testimony of a witness in its entirety; you may
16 reject the testimony of a witness in its
17 entirety. You may consider whether any witness
18 has exhibited to you any interest, any bias, any
19 prejudice, or other motive in this case, and as
20 I told you at the outset of the trial, you may
21 even consider what we call the demeanor of the
22 witness, the appearance of the witness, while
23 the witness is on the witness stand.

24 Anything that is in evidence, Ladies and
25 Gentlemen, you, as the jury, have the right to

1 consider it, in passing upon the credibility or
2 the believability of the witnesses who have
3 testified during the trial of this case.

4 Now, Ladies and Gentlemen, let me talk to
5 you about criminal intent. In order to
6 establish criminal liability, or criminal
7 responsibility, criminal intent is required.
8 I'm going to give you some examples of criminal
9 intent. It's the mental state required to be
10 proven by the State for a particular crime,
11 beyond a reasonable doubt, and it might be, for
12 example, in some cases purpose, or it might be
13 intent, or it might be knowledge, or it might be
14 recklessness, or it might be criminal
15 negligence.

16 Those are examples of criminal intent.
17 Criminal intent must be proven by the State,
18 beyond a reasonable doubt. Criminal intent is
19 always a matter that must be determined by the
20 jury from the circumstances surrounding the
21 situation, based on the evidence introduced
22 during the trial of the case. Now, there is no
23 way, Ladies and Gentlemen, to prove intent to a
24 mathematical certainty.

25 There is no way that medical science can

1 dissect a person's brain and determine what that
2 person had in mind. So the law says, Ladies and
3 Gentlemen, that criminal intent may be inferred
4 from the circumstances shown to have existed,
5 based on evidence introduced during the trial of
6 the case. This is how you, as a jury, make a
7 determination of whether or not any element in
8 any crime, requiring the intent was present.

9 It is not necessary to prove criminal
10 intent by direct or positive evidence, but
11 intent may be established by inference in the
12 same way as any other fact, by taking into
13 consideration the acts of the parties, and all
14 the facts and circumstances of the case, based
15 on the evidence introduced during the trial of
16 the case.

17 Criminal intent is a mental state, a
18 conscious wrongdoing. It is up to you, Ladies
19 and Gentlemen of the jury, from the evidence to
20 determine what the Defendant intended to do,
21 based on the circumstances shown to have
22 existed, based on the evidence that's been
23 introduced during the trial of the case.
24 Criminal intent can arise from action or a
25 failure to act. It may arise from negligence,

1 recklessness, or an indifference to duty, or the
2 consequences considered by the law to be the
3 equivalent of criminal intent.

4 I charge you, Ladies and Gentlemen, that a
5 statement alleged to have been made by the
6 Defendant has been admitted into evidence in
7 this case. While the Court, as the gatekeeper
8 and the person who determines the admissibility
9 of evidence, as determined that the statement is
10 admissible, I instruct you now and charge you
11 that you, the jury, make the ultimate decision
12 of whether or not the Defendant made the
13 statement.

14 If the Defendant did make the statement,
15 you must determine whether the statement was
16 made by the Defendant voluntarily and of his own
17 freewill. This means that the statement was not
18 caused by pressure, force, fear, threats,
19 coercion, or intimidation, or by hope, or a
20 promise of leniency, or a reward of any kind.
21 In determining whether the statement was
22 voluntary, you make consider, if introduced into
23 evidence during the trial of this case, both
24 with the characteristics of the Defendant, and
25 the details of the question.

1 You may consider, if introduced into
2 evidence, yea to the Defendant, the Defendant's
3 education, or lack thereof, the Defendant's
4 mental ability or capacity, the Defendant's
5 intelligence, the Defendant's background and
6 environment, the place and length of intention,
7 the nature of the questioning, and the advice,
8 or lack thereof, to the Defendant of his
9 constitutional rights, including, but not
10 limited to the right to remain silent, that any
11 statement could be used against him in a court
12 of law, the right to have a lawyer present, that
13 if he could not afford a lawyer, a lawyer would
14 be appointed to represent him without any cost,
15 and that he could stop making a statement at any
16 time.

17 You must carefully consider all the
18 surrounding circumstances, before you give any
19 weight to an alleged statement. The State has
20 the burden of proving beyond a reasonable doubt
21 that the alleged statement was voluntary. If
22 you determine it was, you may give the statement
23 any further consideration that you, as the jury,
24 deem necessary. You must decide what weight, if
25 any, is to be given to any alleged statement.

1 If you determine the alleged statement was not a
2 free and voluntary statement of the Defendant,
3 you should not consider the statement at all.

4 I charge you, Ladies and Gentlemen, that an
5 issue in this case is the identification of the
6 Defendant as the person who committed the crime
7 charged. The State has the burden of proving
8 identity, beyond a reasonable doubt. You must
9 be satisfied, beyond a reasonable doubt, of the
10 accuracy of the identification of the Defendant,
11 before you may convict the Defendant.
12 Identification testimony is an expression of
13 belief or impression by a witness.

14 You, as the jury, must determine the
15 accuracy of the identification of Defendant.
16 You must consider the believability of any
17 identification witness in the same way as any
18 other witness. You may consider whether the
19 witness had an adequate opportunity to observe
20 the offender, at the time of the offense. This
21 will be affected by things, such as how long or
22 how short a time was available, how far or close
23 the witness was, the lighting conditions, and
24 whether the witness had the chance to see or
25 know the person in the past.

1 Once again, I instruct you, Ladies and
2 Gentlemen of the jury, that the burden of proof
3 is on the State of South Carolina, and it
4 extends to every element of the crime charged,
5 and this, specifically, includes the burden of
6 proving beyond a reasonable doubt the identity
7 of the Defendant as the person who committed the
8 crime. If after examining all the evidence in
9 the case you have a reasonable doubt as to the
10 accuracy of the identification, you must find
11 the Defendant not guilty.

12 I charge you, Ladies and Gentlemen, and
13 emphasize to you, the fact that the Defendant
14 did not testify in this case is not a factor to
15 be considered by you, in any way, in your
16 deliberations and in your consideration of the
17 question of the guilt or the innocence of the
18 Defendant.

19 You, Ladies and Gentlemen, must, in fact,
20 the consideration of the Defendant not
21 testifying must not be considered by you in any
22 manner in your jury room. A Defendant has the
23 constitutional right to remain silent, and the
24 assertion of his constitutional right must not
25 be considered by you in your deliberations.

1 I repeat, under your oath, you are to draw
2 no conclusion, or whatsoever, from the fact that
3 the Defendant in this case did not testify. The
4 fact that the Defendant did not testify should
5 not even be discussed in your jury room. The
6 burden of proof in this case, as I've instructed
7 it to you to be is on the State of South
8 Carolina. The Defendant is not required to
9 prove his innocence, the burden of proof remains
10 on the State to prove guilt, beyond a reasonable
11 doubt.

12 I charge you, Ladies and Gentlemen, that
13 the Defendant is charged with three indictments,
14 or three counts in this case, with murder. For
15 the offense of murder, the State must prove,
16 beyond a reasonable doubt, that the Defendant
17 killed another person with malice aforethought.

18 Malice is hatred, ill-will or hostility
19 towards another person. It is the intentional
20 doing of a wrongful act, without just cause or
21 excuse, and with an intent to inflict an injury,
22 or under circumstances that the law would infer
23 an evil or hostile intent.

24 Malice aforethought does not require that
25 malice exists for any particular time before the

1 act is committed, but malice, that is hatred,
2 ill-will, or hostility must exist in the mind of
3 the Defendant just before and at the time of the
4 act being committed.

5 Therefore, there must be a combination of
6 this hostility or evil intent, and the act
7 itself. Malice aforethought may be expressed or
8 implied. Expressed and implied may not mean
9 different times of malice, but merely the manner
10 by which malice may be shown could exist. That
11 is either by direct evidence, or by inference
12 from the facts and circumstances which are
13 proved from the evidence presented during the
14 trial of the case.

15 Express malice is shown when a person
16 actually speaks words with expressed hatred, or
17 ill-will, or hostility for another, or, for
18 example, when the person prepared beforehand to
19 do the act, which was later accomplished.
20 Malice may also be inferred from conduct,
21 showing a total disregard for human life.

22 I charge you, Ladies and Gentlemen, that
23 the Defendant in this case is also charged with
24 attempted murder. In order to prove attempted
25 murder, the State must prove the Defendant acted

1 with the specific intent to kill another person,
2 and the Defendant attempted to kill another
3 person with malice and forethought, either
4 expressed or implied.

5 As I told you before, malice is hatred,
6 it's ill-will, its hostility, an evil mind
7 towards another person. It is the intentional
8 doing of a wrongful act, without just cause, or
9 excuse, or with an intent to inflict an injury,
10 or under circumstances the law would infer an
11 evil intent.

12 Malice and forethought, again, for
13 attempted murder does not require that malice
14 exists for any particular time before the act is
15 committed, but malice must exist in the mind of
16 the Defendant just before and at the time the
17 act is committed; and, therefore, there must be
18 a combination of the previous evil intent and
19 the act.

20 As I charged you for murder, or attempted
21 murder, malice may be expressed or inferred.
22 These terms, expressed or inferred, are not and
23 do not mean different kinds of malice, but
24 merely the manner in which malice may be shown
25 to exist.

1 This is either by direct evidence, or by
2 inference from the facts and circumstances,
3 which have been proved during the trial of this
4 case, by evidence introduced during the trial of
5 this case. As I have charged you with murder,
6 now for attempted murder, expressed malice is
7 when somebody speaks words, which express the
8 hatred or ill-will toward another person.
9 Malice may also be inferred in conduct showing a
10 total disregard for human life.

11 If facts are proved, beyond a reasonable
12 doubt, sufficient to raise an inference of
13 malice to your satisfaction, this inference
14 would be simply an evidentiary fact to be
15 considered by you, the jury, along with the
16 other evidence in the case, and you give it the
17 weight you decide it should receive.

18 For attempted murder, a specific intent to
19 kill, is an element of attempted murder. Intent
20 means intending the result, which actually
21 occurs, not accidentally, or involuntarily.
22 Intent may be shown by acts and conduct of the
23 Defendant, and other circumstances from which
24 you, as the jury, may naturally and reasonably
25 infer intent.

1 Evidence of the character of the act, the
2 character of the instrument used, the manner in
3 which the instrument was used, the purpose to be
4 accomplished, and the resulting wounds or
5 injuries may be considered in determining the
6 intent with which the act was committed.

7 Intent may also be inferred, when it is
8 demonstrated from the evidence that the
9 Defendant willfully, voluntarily committed the
10 act, the natural tendency of which is to destroy
11 another's life.

12 I charge you, Ladies and Gentlemen, that
13 the Defendant is also charged with a third
14 indictment, with the offense of possession of a
15 weapon during the commission of a violent crime.
16 As I told you at the outset, in order to convict
17 the Defendant of the offense of possession of a
18 weapon during the commission of a violent crime,
19 you must first convict the Defendant of a
20 violent crime. I charge you, under the laws of
21 the State of South Carolina that the offenses of
22 murder and attempted murder are violent crimes,
23 as defined by the laws of the State of South
24 Carolina.

25 The State must prove for this offense,

1 possession of a weapon during the commission of
2 a violent crime, beyond the reasonable doubt,
3 that Defendant was in possession of a weapon, or
4 visibly displayed what appeared to be a weapon
5 during the commission of a violent crime. The
6 weapon can be any type of weapon, based on the
7 evidence. It can be a knife, a firearm. A
8 firearm means any type of weapon, which is
9 designed to or may readily be converted to expel
10 a projectile.

11 In order to prove the Defendant guilty of
12 possession of a weapon during the commission of
13 a violent crime, as I told you, you must first
14 find the Defendant guilty of committing a
15 violent crime, murder and attempted murder, or
16 violent crimes under the laws of the State of
17 South Carolina.

18 Also, for possession of a weapon during the
19 commission of a violent crime, the State must
20 prove, beyond a reasonable doubt, that the
21 weapon further advanced or helped in the
22 commission of the violent crime, based on
23 evidence introduced during the trial of the
24 case.

25 Now, Mr. Foreman, and Ladies and Gentlemen

1 of the jury, your verdict must be unanimous.
2 That must be the verdict of each and every one
3 of you. All 12 of you must agree on the
4 verdict. I told you I had prepared verdict
5 forms for you, Mr. Foreman, and I hold them in
6 my hand. The first one involves indictment
7 2017-GS, that means General Session Criminal
8 Court, 15 is the number, we have a coding system
9 for each County, Colleton County is 15, 00574.
10 It's entitled the State of South Carolina v.
11 Kenneth Mar'Keith Chisholm.

12 I put these words on the verdict form, "We,
13 the jury, by unanimous consent, find the
14 Defendant, Kenneth Mar'Keith Chisholm, in
15 indictment number 2017-GS-15-00574 for the
16 murder of Lori Miller, and underneath those
17 words I have printed guilty or not guilty.

18 Mr. Foreman, when the jury unanimously
19 reaches a verdict, you would place a checkmark
20 on the line beside either guilty or not guilty.
21 You cannot sign both forms of verdict, it must
22 be either guilty or not guilty. After you have
23 placed a checkmark in the appropriate blank, you
24 would then sign your name on the verdict form,
25 where it says, "Signature of Foreperson," and

1 you would put in today's date, which is August
2 the 19th, 2022.

3 The next form of verdict is indictment
4 2017-GS-15-00573, entitled the State of South
5 Carolina v. Kenneth Mar'Keith Chisholm, and it
6 has a jury verdict form on it. And it states,
7 "We, the jury, by unanimous consent, find the
8 Defendant, Kenneth Mar'Keith Chisholm, in
9 indictment number 2017-GS-15-00573, for the
10 murder of V.M. [REDACTED] and underneath those
11 words I have placed the words guilty or not
12 guilty. You must check one form of verdict or
13 the other, you cannot find both.

14 You would then sign your name on the blank
15 where it says, "Foreperson," and fill in today's
16 date. There is absolutely no significance to
17 the order in which I wrote the verdict. I,
18 obviously, had to write one before the other.
19 You cannot find both forms of verdict. You must
20 find either guilty or not guilty.

21 The third verdict form is in indictment
22 2017-GS-15-00572, the State v. Kenneth Mar'Keith
23 Chisholm. The indictments verdict form says,
24 "We, the jury, by unanimous consent find the
25 Defendant, Kenneth Chisholm in indictment number

1 2017-GS-15-00572 for the murder of Phillip
2 Miller, and underneath that I have placed the
3 words on the verdict forms, guilty, or not
4 guilty.

5 You would check one or the other, once the
6 jury reaches unanimous consent, sign your name
7 as Foreperson, and date it.

8 The fourth form of verdict is indictment
9 2017-GS-15-00704, State v. Kenneth Mar'Keith
10 Chisholm. This jury form or verdict form says,
11 "We, the jury, by unanimous consent find the
12 Defendant, Kenneth Mar'Keith Chisholm in
13 indictment number 2017-GS-15-00704, for the
14 attempted murder of K. Willard, a minor," and
15 underneath that verdict form for attempted
16 murder I have placed the blanks, guilty or not
17 guilty.

18 You must sign one verdict form or the
19 other, you cannot find sign both, and then you
20 would sign your name as Foreperson, put the date
21 on that verdict form.

22 The final form of verdict in this case is
23 in indictment 2017-GS-15-00710, the State v.
24 Kenneth Mar'Keith Chisholm. This verdict form
25 says, "We, the jury, by unanimous consent find

1 the Defendant, Kenneth Mar'Keith Chisholm, in
2 indictment number 2017-GS-15-00710 for the
3 possession of a weapon during the commission of
4 a violent crime."

5 I've instructed you now in order to find
6 the Defendant guilty of possession of a weapon
7 during the commission of a violent crime, you
8 must first find the Defendant guilty of
9 committing a violent crime.

10 I instruct you and charge you that murder
11 and attempted murder are violent crimes under
12 the laws of the State of South Carolina. There
13 are two verdict forms underneath this verdict.
14 You would put either guilty or not guilty, but
15 you cannot find him guilty of possession of a
16 weapon during the commission of a violent crime,
17 unless you have found him guilty of committing a
18 violent crime.

19 If you have found the Defendant not guilty
20 of all the other indictments, you must find the
21 Defendant not guilty on possession of a weapon
22 during the commission of a violent crime.

23 All right, Mr. Foreman, and Ladies and
24 Gentlemen of the jury, I've now charged you the
25 law on this case, in order to help you reach a

1 fair and just result in this case, based on the
2 evidence in this case.

3 Each of you were picked as fair and
4 impartial jurors. Both the State of South
5 Carolina and the Defendant have the absolute
6 right to expect that each of you will fulfill
7 the oath that you took at the outset of this
8 trial.

9 And that is, you will decide this case
10 solely and only on the evidence, which has been
11 presented during the trial of this case, and
12 that you will abide by your oath in reaching
13 your verdict. I'm going to ask you at this
14 time, Mr. Foreman, and Ladies and Gentlemen of
15 the jury to retire to your jury room.

16 Ms. Austin, I'm going to ask you to stay
17 with us. Please do not begin your
18 deliberations. I'm going to go through each
19 exhibit, to make sure I have each exhibit.
20 You've noticed we've kept quite a list during
21 the trial. I'm going to make sure we have each
22 exhibit. It might be necessary for me to bring
23 you back for some brief additional instruction.

24 When it is time for you to start your
25 deliberations, I will send all five verdict

1 forms into the jury room. I will also send all
2 the exhibits, which have been introduced into
3 evidence.

4 Now, some of the exhibits require the use
5 of equipment. If you want to view an exhibit
6 that requires the use of equipment, just tell me
7 and we'll bring you back in the jury room, and
8 use the equipment, which is not available to you
9 in your jury room. All you have to do is let me
10 know. Once I have sent the exhibits and the
11 verdict forms into the jury Mr. Foreman, then
12 you, and the members of the jury may then
13 commence your deliberations. I'm going to ask
14 the jury to retire to your jury room at this
15 time.

16 (Jury exits courtroom.)

17 THE COURT: Ms. Austin -- this is on the
18 record.

19 COURT REPORTER: Yes, sir.

20 THE COURT: Ms. Austin, no one became ill,
21 or for some reason could not continue, so this
22 concludes your service on behalf of Colleton
23 County. I want to thank you very much for your
24 service. I've watched you throughout the trial,
25 and I know all the Judge can do is ask the juror

1 to listen, you were attentive, you were patient,
2 and I very much -- we're going to send you this
3 big check. How much are we paying, Sherry?

4 CLERK: \$20 a day.

5 THE COURT: \$20 a day for every day that
6 you served on the jury. I thank you so much. I
7 know it isn't enough, but I thank you so much.
8 We need good people to serve on the jury.

9 I appreciate your services. Please tell
10 your husband I said hello.

11 MS. AUSTIN: He had one question. He said
12 for me to ask you if you liked blueberry jam.

13 THE COURT: He would what?

14 MS. AUSTIN: If you like blueberry jam.

15 THE COURT: Tell him I very much do, and I
16 come and buy blueberry jam from his grocery
17 store.

18 MS. AUSTIN: Do I get to leave, or --

19 THE COURT: You get to leave now. Drive
20 carefully on your way back to Edisto Beach.

21 MS. AUSTIN: Thank you.

22 THE COURT: Okay.

23 MS. AUSTIN: Thank you.

24 THE COURT: All right.

25 Any exceptions or additions to the charge

1 from the State of South Carolina?

2 MS. LEGETTE: No, Your Honor.

3 THE COURT: Any exceptions or additions to
4 the charge from the Defendant?

5 MR. MATTEWS: No, sir.

6 THE COURT: All right, counsel, now I'm
7 sending these two very bright -- you'all know
8 how bright they are, I brag about them all the
9 time.

10 Now, I want you both to come forward and
11 certify, and once we go through the list, that
12 the Court Reporter has all the exhibits, okay,
13 that have been introduced into evidence. Not
14 those marked for identification.

15 I'm particularly concerned about the
16 exhibits that I redacted pursuant to your
17 objection, Mr. Matthews, because we're not
18 sending an exhibit back to the jury room that
19 they can lift up a yellow piece of paper, or
20 even, no, I don't believe, Mr. Matthews, the
21 jury understands it anymore than you said you
22 did, or I did, because of it's technical
23 language from the cell phone company, but I
24 don't want it to be where they can look at stuff
25 that I ruled was inadmissible in the trial of

1 the case.

2 I also want you to identify those exhibits,
3 which were required to be equivalent in the
4 courtroom. My advice would be to tell the jury,
5 as I did, if they want to review that, we keep
6 it here in the courtroom, because -- but if you
7 want to send it back, I will, but there's no way
8 for them to actually see the exhibit in their
9 jury room, without coming back and using the
10 equipment, all right? Take your list and go
11 down to Kym, you'all come forward, and let's go
12 through the exhibits.

13 On the record, Kym.

14 COURT REPORTER: Yes, sir.

15 THE COURT: We have now for the past 50
16 minutes gone over the exhibits. Is the State
17 satisfied that we have all the State's exhibits?

18 MS. LEGETTE: The State is satisfied.

19 THE COURT: Is the Defendant satisfied we
20 have all the Defendant's exhibits?

21 MR. MATTHEWS: Yes, sir. Yes, sir.

22 THE COURT: Is the Defendant satisfied with
23 142A, based on my ruling of a redaction?

24 MR. MATTHEWS: Yes, sir.

25 THE COURT: Has 142A been placed in the

1 box?

2 MS. LEGETTE: It has.

3 THE COURT: All right. Does the State have
4 any objection, if I send the verdict forms and
5 the exhibits into the jury, and tell them the
6 jury may now commence their deliberation?

7 MS. LEGETTE: No objection.

8 THE COURT: Does the Defendant have any
9 objection to sending the verdict forms by the
10 Bailiff and the exhibits into the jury, and
11 telling the jury they may now commence their
12 deliberation?

13 MR. MATTHEWS: No objection.

14 THE COURT: Now, you'all are satisfied with
15 all the exhibit, Solicitor?

16 MS. LEGETTE: I am.

17 THE COURT: Mr. Matthews?

18 MR. MATTHEWS: Yes, sir.

19 THE COURT: All right, I'm gonna need some
20 help. All right, counsel, we will be at east,
21 while we await the jury's verdict.

22 Please, if you're gonna leave the
23 courthouse, make sure you give your cell phone
24 number to one of my law clerks, if we need to
25 reach you, so we can gather everybody, in case

1 the jury has a question.

2 Thank you very much, we are in recess.

3 (Jury deliberating.)

4 (Recess)

5 BAILIFF: All rise, come to order.

6 THE COURT: Thank you, please be seated.

7 All right, just a couple minutes ago, it's now
8 by the clock it looks like about 1:58, and the
9 jury probably got the case probably sometime
10 around ten until 1:00, so they've had it a
11 little over an hour.

12 I received a message, which I've
13 communicated to attorneys, can we get the charge
14 paperwork the Judge read to the jury about the
15 definition of each charge. Any objection from
16 the State to make the jury's note a Court's
17 exhibit?

18 MS. LEGETTE: No objection, Your Honor.

19 THE COURT: From the Defendant?

20 MR. MATTHEWS: No, sir.

21 THE COURT: It's Court's Exhibit Number --

22 COURT REPORTER: 11.

23 THE COURT: 11, without objection. All
24 right, I have prepared for the consent of both
25 attorneys my charge on the murder, my charge on

1 attempted murder, and we had to do a little
2 editing for possession of a weapon, because I
3 adlibbed a little bit of it, and what I didn't
4 charge, the portion about the finding the knife.

5 Folks, I used the word knife as a deadly
6 weapon, but I didn't define it. We took that
7 out, because that wasn't -- even though it was
8 printed, was not what I orally said, and I had
9 hoped the Solicitor and the defense attorney
10 read my entire charge on murder, attempted
11 murder, and possession of a weapon during the
12 commission of a violent crime, and they both
13 agreed that I can send what has been redacted
14 now agreement to the jury; is that correct from
15 the State?

16 MS. LEGETTE: Yes, Your Honor.

17 THE COURT: Correct from the Defendant?

18 MR. MATTHEWS: Yes, sir.

19 THE COURT: Which according to mine will be
20 pages 18 through 24 of my charge. All right.
21 Take this into the jury, and tell the jury to
22 let me know if that -- to tell you whether or
23 not that answers their question, that's all I
24 want to know.

25 BAILIFF: Yes, sir. They are still reading

1 it, they don't know whether that's gonna satisfy
2 them or not, they're still reading.

3 THE COURT: Very well, we'll wait until
4 they're finished reading.

5 BAILIFF: Yes, sir. They're still reading
6 it, but they right now have another question.

7 THE COURT: Counsel approach.

8 (Bench conference.)

9 THE COURT: State's Exhibit 140 went in,
10 and 10, 11 and 12 were admitted during her
11 testimony. She was the tenth witness in the
12 trial of this case.

13 MS. LEGETTE: That was on Tuesday, Your
14 Honor.

15 THE COURT: Pardon?

16 MS. LEGETTE: That was on Tuesday.

17 THE COURT: All right, on the record now.
18 I received the second note from the jury, after
19 we gave them the transcript of my charges on
20 murder, attempted murder, and possession of a
21 weapon during the commission of a violent crime.
22 They have written me a second note saying they
23 are requesting the transcripts of testimony of
24 witness, K. Willard.

25 Obviously, we don't have a transcript

1 prepared yet of testimony, but we do have the
2 recording. The attorneys have agreed that I
3 will bring the jury back and play the recording
4 of K. Willard, the minor child's testimony; is
5 that correct from the State?

6 MS. LEGETTTE: Yes, Your Honor.

7 THE COURT: From the Defendant?

8 MR. MATTHEWS: Yes, sir.

9 THE COURT: Any objection making this
10 question, Court's Exhibit Number 13?

11 MS. LEGETTE: Not from the State.

12 THE COURT: Wait a minute.

13 COURT REPORTER: 12, sir.

14 THE COURT: 12. I thought the last one was
15 12.

16 COURT REPORTER: The last one was 11.

17 THE COURT: Then Court's Exhibit Number 12,
18 my mistake.

19 MS. LEGETTE: Not from the State.

20 THE COURT: Without objection, Mr.
21 Matthews?

22 MR. MATTHEWS: Without objection, Your
23 Honor.

24 THE COURT: Bring in the jury.

25 THE COURT: Approximately, 30 minutes,

1 counsel.

2 (Jury enters courtroom.)

3 THE COURT: Mr. Foreman, I received your
4 note, concerning asking for a transcript of
5 testimony. We haven't prepared the transcript
6 yet, she's still taking it down. We do have an
7 audio recording of the testimony, if you would
8 like for me to play this. It's approximately,
9 and don't hold me to this, but approximately 30
10 minutes in length, so you tell me whether or not
11 the jury wants to hear an audio recording, which
12 we're happy to play, but there's no transcript
13 prepared yet.

14 That would be much later on. And the Court
15 Reporter's, obviously, been with us the entire
16 time. She can't take down and type a transcript
17 simultaneously. What's the jury's preference?

18 FOREMAN: I think the jury would like to
19 hear the audio.

20 THE COURT: All right. Now, when we
21 publish this, she's trying to turn her equipment
22 up, and we're going to use a microphone, so
23 you've got to listen very carefully; do you
24 understand? We're doing the best we can to
25 amplify.

1 FOREMAN: Your Honor, can we -- there's a
2 specific part of the transcript --

3 THE COURT: You can tell me what parts.
4 You can talk to the Foreman, he speaks for the
5 jury. You can tell me what parts you want to
6 hear, and I'll try to accommodate by playing it
7 forward.

8 FOREMAN: Okay, we'll let you know, there's
9 one part we want to hear, and we'll let you know
10 when to stop it.

11 THE COURT: All right. When you're ready
12 for me to stop it, you raise your hand for me.
13 I'll be watching you, while we're playing it; do
14 you understand?

15 FOREMAN: Now, you'all listen --

16 THE COURT: Now, you're gonna have to
17 listen carefully, because this is amplified.
18 She's got it turned up, and she's got a
19 microphone that she's gonna hold to her
20 equipment, okay? Any objection from the State?

21 MS. LEGETTE: None, Your Honor.

22 THE COURT: From the defense?

23 MR. MATTHEWS: No, sir.

24 THE COURT: All right.

25 FOREMAN: All you'all listen, and I'm gonna

1 be looking at you. If you hear something that I
2 miss or something, make sure you let me know.

3 THE COURT: Kym, are you ready?

4 COURT REPORTER: I am, sir.

5 THE COURT: All right. Would you play the
6 testimony of K. Willard for the jury?

7 (Audio recording played for the jury).

8 THE COURT: Counsel approach.

9 (Bench conference.)

10 THE COURT: Step back. You may continue,
11 Madam Court Reporter, put the microphone up, so
12 the jury can hear it. Projector is for
13 accuracy, Ladies and Gentlemen, just hold on a
14 minute. Counsel approach.

15 (Bench conference.)

16 THE COURT: Mr. Foreman, we will try again.
17 Obviously, we're trying to make-shift the
18 amplification for you to hear. You have to
19 listen carefully. We believe she's found the
20 correct location now. My lawyers are coming
21 forward, so that they can hear also what you
22 hear.

23 (Audio is played for the jury.)

24 THE COURT: Stop. Stop.

25 Mr. Foreman, have we now answered your

1 question?

2 FOREMAN: I think so, yes, sir, yes, sir.

3 THE COURT: I ask you now to return to your
4 jury room and continue your deliberations.

5 FOREMAN: All right.

6 (Jury exits courtroom.)

7 THE COURT: Any exceptions, additions, or
8 objections to the Court's comments to the jury
9 from the State?

10 MS. LEGETTE: No, Your Honor.

11 THE COURT: From the Defendant?

12 MR. MATTHEWS: No, sir.

13 THE COURT: All right, we'll continue to be
14 at ease. They say we've answered their
15 questions.

16 We have the Court's exhibits that have been
17 marked without objection, as to their questions.
18 Please let me know if you're going to leave the
19 courtroom. I need my Law Clerks to have your
20 cell phone number, and we'll await the jury's
21 verdict.

22 (Recess)

23 BAILIFF: All rise, the Honorable Judge
24 Buckner presiding.

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READING OF THE VERDICT

THE COURT: Thank you, please be seated.
My understanding from my Bailiff is that the
jury has reached a verdict. Anything from the
State before I publish the verdict?

MS. LEGETTE: No, Your Honor.

THE COURT: From the Defendant?

MR. MATTHEWS: No, sir.

THE COURT: Now, Ladies and Gentlemen, I'm
happy for those of you to remain in here, but I
do not allow any type of outbursts, emotions,
when a jury publishes a verdict. Regardless of
how you feel about it, this is not the time to
show disrespect for the members of the jury.
They've worked hard all week, and regardless of
what their verdict is, we respect their
decision.

If you cannot control your emotions, and
you cannot keep from bursting out, I'm going to
ask you to get up and leave this courtroom,
because I will enforce with my contempt powers
the rule of not embarrassing the jury. Everyone
understand that? All right. Bring us the jury,
please.

1 (Jury enters the courtroom.)

2 THE COURT: Bailiff, do they have the sheet
3 that I gave to them. Give me that.

4 MR. MATTHEWS: I'm looking at --

5 THE COURT: Counsel approach.

6 (Bench conference.)

7 THE COURT: Mr. Foreman, has the jury -- oh
8 on the record first of all, we have made Exhibit
9 Number 13 a Court's exhibit, without objection,
10 from the State or Defendant, the information
11 that the jury requested, concerning the portion
12 of my charge dealing with the substantive
13 offense; is that correct, from State?

14 MS. LEGETTE: Yes, Your Honor.

15 THE COURT: From the defense?

16 MR. MATTHEWS: Yes, sir.

17 THE COURT: Mr. Foreman, has the jury
18 reached a verdict?

19 FOREMAN: Yes, sir.

20 THE COURT: Would you give it to my Clerk
21 of Court, she'll bring it to me.

22 "State of South Carolina v. Kenneth
23 Mar'Keith Chisholm on indictment 2017-GS-15-
24 00572, we the jury, by unanimous consent, find
25 the Defendant, Kenneth Mar'Keith Chisholm, in

1 indictment number 2017-GS-15-00572 for the
2 murder of Philip Miller guilty."

3 If this be your verdict, Ladies and
4 Gentlemen of the jury on this indictment, please
5 signify by raising your right hand. Thank you.
6 Let the record reflect 12 hands were raised.

7 "On indictment number 2017-GS-15-00574, the
8 State v. Kenneth Mar'Keith Chisholm, we the
9 jury, by unanimous consent, find the Defendant,
10 Kenneth Mar'Keith Chisholm in indictment number
11 2017-GS-15-00574 for the murder of Lori Miller
12 guilty." If this be your verdict, Ladies and
13 Gentlemen of the jury, please indicate by
14 raising your right hand. Thank you. Let the
15 record reflect 12 hands were raised.

16 "On indictment 2017-GS-15-00573, the State
17 v. Kenneth Mar'Keith Chisholm, we the jury, by
18 unanimous consent find the Defendant, Kenneth
19 Mar'Keith Chisholm in indictment number 2017-
20 GS-15-00573 for the murder of V.M. [REDACTED]
21 guilty." If this be your verdict, Ladies and
22 Gentlemen of the jury, please indicate by
23 raising your right hand. Thank you. Let the
24 record reflect 12 hands were raised.

25 "On indictment 2017-GS-15-00704, the State

1 v. Kenneth Mar'Keith Chisholm, we, the jury by
2 unanimous consent find the Defendant, Kenneth
3 Mar'Keith Chisholm in indictment number 2017-S-
4 15-00704, for the attempted murder of K.
5 Willard, guilty." If this be your verdict,
6 Ladies and Gentlemen of the jury, please
7 indicate by raising your right hand. Thank you.
8 Let the record reflect 12 hands were raised.

9 "On indictment 2017-GS-15-00710, the State
10 v. Kenneth Mar'Keith Chisholm, we, the jury, by
11 unanimous consent, find the Defendant, Kenneth
12 Mar'Keith Chisholm, in indictment number 2017-
13 GS-15-00710, for the possession of a weapon
14 during the commission of a violent crime
15 guilty." If this be your verdict, Ladies and
16 Gentlemen of the jury, please indicate by
17 raising your right hand. Thank you. Let the
18 record reflect 12 hands were raised.

19 Mr. Matthews, is there anything from the
20 Defendant, before I excuse the jury?

21 MR. MATTHEWS: No, sir.

22 THE COURT: Anything from the State, before
23 I excuse the jury?

24 MS. LEGETTE: No, Your Honor.

25 THE COURT: All right. Stay right there,

1 Mr. Foreman, he's bringing you the indictments.
2 You can use that to write on it.

3 Ladies and Gentlemen, first of all I want
4 to thank you -- be seated Mr. Matthews, along
5 with your client. Hold on a second, let me talk
6 to you for another minute.

7 I want to thank you for your patience, I
8 realize it's been a long process. I realize
9 there have been over 140 some exhibits. I
10 realize that it's been long hours of work. I
11 haven't got home a single night this week before
12 7:00 to 7:30 at night, even though we started at
13 10 o'clock in the morning, we worked late,
14 because I wanted to finish the trial for you,
15 because I realized you've left your homes,
16 you've left your families, you left your jobs in
17 order to serve on the jury.

18 Now, first of all, there are members of
19 media in the courtroom. It is entirely up to
20 you whether you want to talk with anybody about
21 this case. If you don't want to talk to anyone,
22 that's fine, if you want to talk to them, that's
23 fine too, that's your decision, I leave that to
24 you.

25 If someone persists in trying to talk to

1 you, and you don't want to talk to them, you get
2 their name, and you give it to me, I'll handle
3 that problem for you, Ladies and Gentlemen.
4 That person won't be bothering you anymore.

5 And what's going to happen now, in our
6 State, we're going straight into sentencing.
7 The Solicitor has prepared a sentencing sheet.
8 Sentencing is not your problem, Ladies and
9 Gentlemen, that's the Judge's problem, but I
10 invite you, if you'd like to stay for
11 sentencing, I would be more than happy if you
12 would stay right in the seats you're in right
13 now, or if you want to, you can get up, and you
14 can have a seat out in the courtroom, if you'd
15 like, or if you'd like, you can leave by the
16 door that you've been using to go to your jury
17 room, because this concludes your service for
18 the week as a juror.

19 It also means that you listened to me, when
20 I qualified you on Monday, this means because of
21 your service this week, you are exempt from jury
22 service, if you choose to claim your exemption
23 for three years, should the computer select you
24 again for jury service.

25 So by virtue of your service this week,

1 you're exempt from jury service. Now, I always
2 ask this, because I'm always trying to look for
3 ways to make it better. Did we treat you okay,
4 Mr. Foreman?

5 FOREMAN: Yes, sir.

6 THE COURT: I know the Clerk of Court did a
7 great job. If you knew how she's been running
8 around, she just informed me that she was -- she
9 worked as hard as she could every day to see
10 that each of you got fed. She was also feeding
11 these great Law Clerks that I've got with me, so
12 we didn't have to leave the courthouse, we could
13 all stay here, but I know she's doing a good
14 job, and I know you'll are appreciative of her,
15 and I am as well.

16 What you didn't know was she waws my Court
17 Reporter for 12 years, before she got elected
18 Clerk of Court, so I'm pretty partial to her,
19 I'll have to tell you, but she worked pretty
20 hard. Did anybody have a problem with their
21 jury service? Don't worry, I've got thick skin,
22 and I am more than willing -- yes, ma'am, what
23 was your problem?

24 JUROR: You did -- there -- we do have
25 smokers, and some of the days we went hours

1 without a cigarette.

2 THE COURT: That was horrible.

3 JUROR: It was.

4 THE COURT: And you know what. You can say
5 that's the best thing I ever did for you to go
6 eight hours without a cigarette. I completely
7 understand it, because I used to be a smoker
8 before I quit, but we do not allow smoking in
9 the courthouse, and I'm proud to tell you --
10 I've been married for 40 years, my wife's been a
11 smoker for 40 years, and she quit.

12 She hasn't had a cigarette now for three
13 months, and I'm so proud of her I don't know
14 what to do.

15 JUROR: Yes, sir.

16 THE COURT: But I understand that
17 happening, but I can't change that. If you're
18 gonna smoke, you have to smoke, but you've got
19 to understand when you're calling as many
20 witnesses as we called in this case, I can't
21 stop, take a break, and let you go outside and
22 smoke a cigarette, as much as I'd like to be
23 able to, I just can't accommodate everybody.

24 All right, thank you for your service.
25 We're going to be sending each of you that

1 exorbitant check of \$20 a day for each day that
2 you served on the jury.

3 Now, those of you who want to remain for
4 sentencing, you can stay right here in your
5 seat, or you can leave, whichever is your wish.
6 Your jury service is now concluded. Now, to the
7 members of the press, who have been asking me
8 when they can use video. You can now use video.
9 I'm dismissing the jury, however, no one on the
10 jury is to be videoed.

11 Ladies and Gentlemen, thank you so much for
12 your service. You've got them?

13 MS. LEGETTE: We're bringing them now, Your
14 Honor. Our beloved Clerk is printing them for
15 us.

16 * * *

17 SENTENCING HEARING

18 THE COURT: Counsel, let the record reflect
19 that I've been handed by my Clerk the five
20 indictments, and the Foreman has signed, and
21 written the words guilty on each indictment, and
22 has signed his name and dated it today on each
23 of the five indictments, which I'm handing to
24 the Clerk, along with the jury verdict forms
25 that we've prepared in connection with this

1 case.

2 Mr. Matthews, are there any post-verdict
3 motions from the Defendant?

4 MR. MATTHEWS: No, sir.

5 THE COURT: All right. If you and your
6 client would come around then for sentencing. I
7 need a sentencing sheet. Is it working?

8 MR. MATTHEWS: That one's yours.

9 THE COURT: I'm waiting on the sentencing
10 sheet. Solicitor, for purposes of the record,
11 I'll ask you to write a maximum possible
12 sentence, and a minimum sentence on each sheet
13 at the top.

14 MS. LEGETTE: Yes, sir, Your Honor. Your
15 Honor, may I approach?

16 THE COURT: David?

17 MR. MATTHEWS: Yes, sir.

18 THE COURT: All right, let's come to order,
19 please. I have -- what's going on?

20 MR. MATTHEWS: Your Honor --

21 CLERK: 2122.

22 THE COURT: 2122?

23 CLERK: 2122.

24 THE COURT: 2122, let me make sure I've got
25 that on here. 2122. Solicitor, Mr. Matthews,

1 I'm ready to hear from you. I've received the
2 sentencing sheets.

3 Let me hear from the State first,
4 Solicitor, and then I'll hear from you.

5 MS. LEGETTE: Thank you, Your Honor.

6 THE COURT: Obviously, I've heard the
7 evidence in this case. I was told, because I
8 got inconsistent information, but I was told, at
9 one point, the Defendant had no prior, or you
10 disagreed, as to whether he had a record or not,
11 and I'm certainly not talking about an arrest,
12 only convictions.

13 Later you agreed that he had no records,
14 but my understanding, for purposes of sentencing
15 now is, the Defendant has no prior criminal
16 record; is that correct, Solicitor?

17 MS. LEGETTE: That's correct, Your Honor.

18 THE COURT: I'm happy to hear from you.

19 MS. LEGETTE: Thank you, Your Honor. Your
20 Honor, the family has asked me to speak on their
21 behalf. They would ask the Court to sentence
22 Mr. Chisholm to the maximum possible sentence in
23 this matter.

24 They do not wish to speak, but they did
25 want me to tell the Court that on their behalf.

1 THE COURT: And you've advised the family
2 that the maximum sentence for murder is life?

3 MS. LEGETTE: Yes, Your Honor, they're
4 aware.

5 THE COURT: The maximum sentence for
6 attempted murder is 30 years.

7 MS. LEGETTE: Yes, Your Honor.

8 THE COURT: And the maximum sentence for
9 possession of a weapon during the commission of
10 a violent crime is five years.

11 MS. LEGETTE: Yes, sir.

12 THE COURT: And there is some language,
13 which I have discussed with you and with Mr.
14 Matthews during this trial, about the sentencing
15 language in possession of a weapon during the
16 commission of a violent crime, but both of you
17 have advised me that you read the statute, that
18 if the Defendant receives life imprisonment for
19 a violent crime, that there is no mandatory
20 consecutive sentence for the possession of a
21 weapon during the commission of a violent crime;
22 is that correct, Solicitor?

23 MS. LEGETTE: That's correct, Your Honor.

24 THE COURT: Is that correct, Mr. Matthews?

25 MR. MATTHEWS: Yes, sir.

1 THE COURT: All right, Solicitor, I'm happy
2 to hear from you. I understand the family's
3 wishes.

4 MS. LEGETTE: Yes, sir, Your Honor,
5 however, the Court is not so inclined. They had
6 also asked for a permanent restraining order, if
7 you are inclined to say the life sentence, Your
8 Honor. They are asking for a permanent
9 restraining order.

10 THE COURT: They agree that if I give a
11 life sentence, there would be no need for a
12 permanent restraining order?

13 MS. LEGETTE: That's correct, Your Honor.

14 THE COURT: I understand that as well.

15 MS. LEGETTE: And that's all they had asked
16 me to tell you, Your Honor. You've heard the
17 facts. Mr. Chisholm has no prior record, and we
18 will leave it at that, at your discretion, Your
19 Honor.

20 THE COURT: Very well.

21 Mr. Matthews, I'm happy to hear from you,
22 and I'll be happy to hear from your client, if
23 he wishes to address me.

24 MR. MATTHEWS: Thank you, Your Honor. Your
25 Honor already knows he does not have a prior

1 criminal record. One of the things, obviously,
2 if it's a continuum, you know, there certainly
3 were a lot of bad things about this. A couple
4 things, that if you -- he's always contended
5 that he did not do this, and, you know,
6 obviously, there was --

7 THE COURT: The jury's spoken now, Mr.
8 Matthews.

9 MR. MATTHEWS: The jury has indeed, yes,
10 they have.

11 THE COURT: They have convicted, so I
12 understand that you pled not guilty, but, Mr.
13 Matthews, there was plenty of evidence from
14 which the jury could conclude he was guilty,
15 beyond a reasonable doubt, and I'm not going to
16 substitute my judgment for the jury.

17 MR. MATTHEWS: No, sir, and I wasn't asking
18 the Court to, the only reason I was saying that
19 is, if I -- some of the things that I mentioned,
20 by way of mitigation came out in the State's
21 case. And such as, that he didn't leave that
22 day with a gun. I'd ask the Court to consider
23 that, that he didn't --

24 THE COURT: Which is exactly why I gave the
25 charge that malice of forethought need not exist

1 for any particular amount of time, and the
2 Defendant, Mr. Matthews, you know and I know it
3 must exist at the time the act was committed, or
4 just before.

5 MR. MATTHEW: Yeah, that's correct, Your
6 Honor, and I'm not -- this is not -- the jury
7 has spoken. This is by way of mitigation, only
8 to say that he didn't --

9 THE COURT: I understand that. I just want
10 you to understand what I will consider.

11 MR. MATTHEWS: Yes, sir, and --

12 THE COURT: I certainly will consider that
13 he has no prior record.

14 MR. MATTHEWS: And I would ask the Court to
15 consider something less than a life sentence.
16 He is 24, which is still pretty young, but if he
17 got a 40-year sentence, plus the consecutive
18 five, there's no way that he would get out, it's
19 very, very unlikely.

20 Some possibility, but a 40-year sentence
21 and then consecutive sentence for the possession
22 of a weapon during the commission of a violent
23 crime would be almost the same as a life
24 sentence, and it would give him some reason to
25 behave better in prison, for example, and, you

1 know, he will have spent, basically, his entire
2 adult life, with maybe some small chance to get
3 out somewhere down the line, but I'd ask the
4 Court to take that into consideration, and show
5 whatever mercy the Court can.

6 THE COURT: Now, Mr. Matthews, does Mr.
7 Chisolm wish to address the Court?

8 MR. CHISHOLM: No, sir.

9 THE COURT: I'm happy to hear from you, Mr.
10 Chisolm.

11 MR. CHISHOLM: No, sir.

12 THE COURT: You do not wish to? All right.
13 Anything further from the State?

14 MS. LEGETTE: No, Your Honor.

15 THE COURT: Anything further from the
16 Defendant?

17 MR. MATTHEWS: No, sir.

18 THE COURT: All right. All right, I
19 carefully listened to the evidence in this
20 trial. In my over 20 years of experience on the
21 bench, I've had capital cases, I've had murder
22 cases, I've never had in this County, or any
23 other county in my experience on the bench, a
24 triple murder case. Clearly, there was
25 overwhelming evidence of the Defendant's guilt.

1 Mr. Chisholm, I have to balance what's
2 involved in this case; that I had the murder of
3 a 13-year-old child, and I have the attempted
4 murder of a 9-year-old child.

5 In addition to that, I had the murder of
6 two other individuals, regardless of whether or
7 not the selling of drugs was involved, or
8 whether robbery was a motive or not, I have to
9 consider the manner in which the evidence showed
10 this occurred. This was, without a doubt, as
11 heinous and as atrocious a set of circumstances
12 for any family to endure. I take into
13 consideration that you have no prior record, but
14 I also take into consideration that you have
15 taken three lives from a family in the
16 community.

17 On indictment 2017-GS-15-00572, the State
18 v. Kenneth Mar'Keith Chisholm, indictment for
19 murder. The sentence of the Court is the
20 Defendant is to be committed to the State
21 Department of Corrections for life in prison.

22 Indictment 2017-GS-15-00573, the State v.
23 Kenneth Mar'Keith Chisholm, indictment for
24 murder. The sentence of the Court is Defendant
25 is committed to the State Department of

1 Corrections for life in prison.

2 On indictment 2017-GS-15-00574, the State
3 v. Kenneth Mar'Keith Chisholm, the sentence of
4 the Court is murder. The Defendant is committed
5 to the State Department of Corrections for a
6 term of life in prison.

7 On indictment 2017-GS-15-00704, attempted
8 murder, State v. Kenneth Mar'Keith Chisholm.

9 The sentence of the Court is Defendant is
10 committed to the State Department of Corrections
11 for a term of 30 years.

12 On indictment 2017-GS-15-00710, possession
13 of a weapon during the commission of a violent
14 crime, the sentence of the Court is Defendant is
15 committed to the State Department of Corrections
16 for a term of five years.

17 Mr. Matthews, those sentences will all run
18 concurrent to each other.

19 MR. MATTHWEWS: Thank you, Your Honor.

20 THE COURT: Thank you, Solicitor.

21 This concludes sentencing and the trial of this
22 case. The Defendant is in custody.

23 (At 5:18 p.m. the proceedings were
24 concluded.)

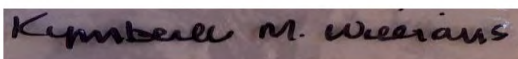
25 END OF TRANSCRIPT

CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Colleton County, South Carolina on the 15th to 19th days of August 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

This, the 27th day of April, 2023.



Kymberlee M. Williams, CSR/RPR

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Kenneth Mar'Keith Chisolm, Appellant.

Appellate Case No. 2022-001206

Appeal From Colleton County
Perry M. Buckner, III, Circuit Court Judge

Unpublished Opinion No. 2024-UP-370
Submitted October 1, 2024 – Filed October 30, 2024

APPEAL DISMISSED

Appellate Defender Jessica M. Saxon, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Melody Jane Brown,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after review pursuant to *Anders v. California*, 386
U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

THOMAS, KONDUROS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

WITNESSES

King, CCSO

Robert E. King

ARREST WARRANT NUMBER

2017A1510100307

Date of Arrest: May 18, 2017

True BillRoake Drandy

Foreperson of Grand Jury

Date: 9/21/17

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2017-SS-13-00572

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

September Term 2017

THE STATE

vs.

Kenneth Mar'Keith Chisolm

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

RECEIVED

AUG 25 2022

SC Court of Appeals

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

2017 SEP 21 PM 12:05
COLLETON COUNTY
GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

COUNTY OF COLLETON)

INDICTMENT

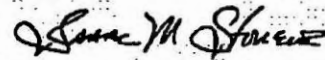
2017-GS-15-00572

At a Court of General Sessions, convened on September 21, 2017, the Grand Jurors of Colleton County present upon their oath:

Murder

That in Colleton County, South Carolina, on or about May 16, 2017, the Defendant, Kenneth Mar'Keith Chisolm, did, with malice aforethought, kill and murder Philip Miller, by means of shooting him with a firearm, and that Philip Miller did die in Colleton County as a proximate result thereof on May 16, 2017, all in violation of Section 16-3-10, et al., of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

30 - Life

921

STATE KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500572

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

VS.

INDICTMENT/CASE#: 2017GS1500572

KENNETH MAR'KEITH CHISOLM

AKA:

A/W#:

2017A1510100307

Race: Black Sex: Male Age: 18

Date of Offense:

05/16/2017

DOB: [REDACTED] SS#: [REDACTED]

S.C. Code §:

16-3-10

Address:

CDR Code #:

0116

City, State, Zip:

DL#:

SID#

RECEIVED

SENTENCE SHEET

AUG 25 2022

SC Court of Appeals

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Murder

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

[Signature]
Solicitor

70550
SC Bar #

Defendant

[Signature]
Attorney for Defendant

11924
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of LIFE IMPRISONMENT days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017GS1500573; 2017GS1500574; 2017GS1500704;

2017GS1500710

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

STATE

KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500572

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150 \$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$
§50-21-114 (BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	TBD \$ 18.75
☒ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500 \$ 500.00
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$

TOTAL \$ 643.75

 Clerk of Court/Deputy Clerk: Sherry R. Davidson
 Court Reporter: Kymberlee Williams
Presiding Judge: [Signature]Judge Code: 2922Sentence Date: August 19, 2022

WITNESSES

King, CCSO

DOCKET NO. 2017-GS-15-00573

The State of South Carolina

County of Colleton

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September Term 2017

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2017A1510100308

Date of Arrest: May 18, 2017

THE STATE

vs.

Kenneth Mar'Keith Chisolm

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

Defendant

Witness:

C.C.C. PLS. and G.S.

True Bill

Rooke Drawdy

Foreperson of Grand Jury

Date: 9/21/21

VERDICT

RECEIVED

AUG 25 2022

SC Court of Appeals

Foreperson of Petit Jury

Date:

INDICT

2017 SEP 21 PM 1:05
COLLETON COUNTY
GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

INDICTMENT

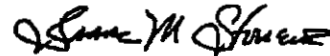
2017-GS-15-00573

At a Court of General Sessions, convened on September 21, 2017, the Grand Jurors of Colleton County present upon their oath:

Murder

That in Colleton County, South Carolina, on or about May 16, 2017, the Defendant, Kenneth Mark Keith Chisolm, did, with malice aforethought, kill and murder V.M. [REDACTED] by means of shooting him with a firearm, and that V.M. [REDACTED] did die in Colleton County as a proximate result thereof on May 16, 2017, all in violation of Section 16-3-10, et al., of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

30-Life

STATE KENNETH MAR'KEITH CHISOLMINDICTMENT/CASE#: 2017GS1500573

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

VS.

INDICTMENT/CASE#: 2017GS1500573

KENNETH MAR'KEITH CHISOLM

AKA:

Race: Black Sex: Male Age: 18DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* SID#

AW#:

2017A1510100308Date of Offense: 05/16/2017S.C. Code §: 16-3-10CDR Code #: 0116

RECEIVED
 AUG 25 2022
 SC SENTENCE COURT of Appeals

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: MurderIn violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70550
 Solicitor SC Bar # Defendant

[Signature] 11924
 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of LIFE IMPRISONMENT days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017GS1500572; 2017GS1500574; 2017GS1500710☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOD. 2017GS1500704
 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500573

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$		
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 3.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

 Clerk of Court/Deputy Clerk
 Court Reporter:

 Presiding Judge:
 Judge Code:
 Sentence Date:

WITNESSES

King, CCSO

DUCKET NO. 2017-GS-15-00574

The State of South Carolina

County of Colleton

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September Term 2017

I hereby appear in my own proper
person and plead guilty to the within
indictment or to

ARREST WARRANT NUMBER

2017A1510100309

Date of Arrest: May 18, 2017

THE STATE

vs.

Kenneth Mar'Keith Chisolm

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

True Bill

Foreperson of Grand Jury

Date:

9/21/17

VERDICT

Foreperson of Petit Jury

Date:

INDICT

RECEIVED

Defendant

AUG 25 2022

SC Court of Appeals

C.C.C. PLS. and G.S.

2017 SEP 21 PM 1:05
COLLETON COUNTY
GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

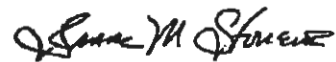
INDICTMENT
2017-GS-15-00574

At a Court of General Sessions, convened on September 21, 2017, the Grand Jurors of Colleton County present upon their oath:

Murder

That in Colleton County, South Carolina, on or about May 16, 2017, the Defendant, Kenneth Mar'Keith Chisolm, did, with malice aforethought, kill and murder Lori Miller, by means of shooting her with a firearm, and that Lori Miller did die in Colleton County as a proximate result thereof on May 16, 2017, all in violation of Section 16-3-10, et al., of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

30-Life

929

STATE KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500574

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

INDICTMENT/CASE#: 2017GS1500574

VS.

KENNETH MAR'KEITH CHISOLM

AW#: 2017A1510100309

AKA:

Date of Offense: 05/16/2017

Race: Black Sex: Male Age: 18

S.C. Code §: 16-3-10

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0116

Address:

City, State, Zip:

DL#* SID#

RECEIVED

AUG 25 2022

SC Court of Appeals

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ Plea

TO: Murder

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70550
Solicitor SC Bar # Defendant

[Signature] 11924
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of LIFE IMPRISONMENT days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017GS1500572; 2017GS1500573; 2017GS150071

2017GS1500704

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

STATE KENNETH MAR'KEITH CHISOLM INDICTMENT/CASE#: 2017GS1500574

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ 3.75
TOTAL		\$ 128.75

 Clerk of Court/Deputy Clerk: Shepp P. Dawson
 Court Reporter: Kymberlee Williams

 Presiding Judge: _____
 Judge Code: _____
 Sentence Date: August 19, 2022

WITNESSES

King, CCO

Red 5/16/17 King

DOCKET NO. 2017-GS-15-00704

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

September Term 2017

THE STATE

vs.

Kenneth Mar'Keith Chisolm

Indictment For

Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

RECEIVED

AUG 25 2022

SC Court of Appeals

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2017A1510100338

Date of Arrest: May 16, 2017

*True Bill**Rooke Drawdy*

Foreperson of Grand Jury

Date: *9/21/17*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

2017 SEP 21 PM 1:25
COLLETON COUNTY
GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

)
)
)

INDICTMENT

2017-GS-15-00704

At a Court of General Sessions, convened on September 21, 2017, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about May 16, 2017, the Defendant, Kenneth Mar'Keith Chisolm, did, with intent to kill and with malice aforethought, attempt to willfully kill K. Willard, (a minor victim) to wit: the defendant did shoot her with a firearm, all in violation of Section 16-3-29, et al. of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

0-30925

STATE KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500704

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

INDICTMENT/CASE#: 2017GS1500704

VS.

KENNETH MAR'KEITH CHISOLM

AW#: 2017A1510100338

AKA:

Date of Offense: 05/16/2017

Race: Black Sex: Male Age: 18

S.C. Code §: 16-3-29

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 3410

Address:

City, State, Zip:

DL#* SID#

RECEIVED
SENTENCE SHEET
AUG 25 2022
SC Court of Appeals

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Attempted Murder

In violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70550
Solicitor SC Bar # Defendant

[Signature] 1924
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 30 days/months/years Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017GS1500572; 2017GS1500573; 2017GS1500574; 2017GS1500710

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

STATE

KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500704

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

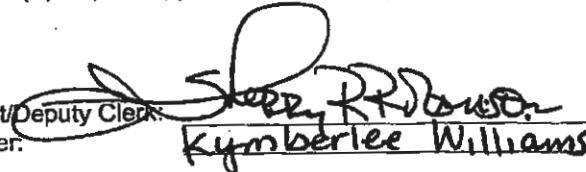
*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

 Clerk of Court/Deputy Clerk:
 Court Reporter:


 Kimberly Williams

 Presiding Judge:
 Judge Code:
 Sentence Date:

TOTAL \$ 128.75
 2722
 August 19, 2022

WITNESSES

King, CCSO

DOCKET NO. 2017GS1500710

The State of South Carolina

County of Colleton

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September Term 2017

I hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

Kenneth Mar'Keith Chisolm

ARREST WARRANT NUMBER

2017A1510100344

Date of Arrest: May 18, 2017

Indictment For

Possession of Weapon During
Violent Crime

SC Code: 16-23-490

CDR Code: 0549

RECEIVED

Defendant

AUG 25 2022

SC Court of Appeals

Witness:

C.C.C. PLS. and G.S.

2017 SEP 21 PM 12:04

COLLETON COUNTY
GENERAL SESSIONS COURT

True Bill

Rooke Droudy

Foreperson of Grand Jury

Date: 9/21/17

VERDICT

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

)
)
)

INDICTMENT

2017-GS-15-00710

At a Court of General Sessions, convened on September 21, 2017, the Grand Jurors of Colleton County present upon their oath:

Possession of Weapon During Violent Crime

That in Colleton County, South Carolina, on or about May 16, 2017, the Defendant, Kenneth Mar'Keith Chisolm, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: Murder; and Kenneth Mar'Keith Chisolm was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: Murder; all in violation of Section 16-23-490, et al. of the South Carolina Code of Laws, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

years 937

STATE KENNETH MAR'KEITH CHISOLM

INDICTMENT/CASE#: 2017GS1500710

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

VS.

INDICTMENT/CASE#: 2017GS1500710

KENNETH MAR'KEITH CHISOLM

A/W#: 2017A1510100344

AKA:

Date of Offense: 05/16/2017

Race: Black Sex: Male Age: 18

S.C. Code §: 16-23-490

DOB: 05/16/1999 SS#: 05/16/1999

CDR Code #: 0549

Address:

City, State, Zip:

DL#* SID#

RECEIVED
SENTENCE SHEET

AUG 25 2022

SC Court of Appeals

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Possession of a Weapon During a Violent Crime

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

70550
SC Bar #

Defendant

Attorney for Defendant

11924
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017GS1500572; 2017GS1500573; 2017GS1500574;
2017GS1500704

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

STATE KENNETH MAR'KEITH CHISOLM INDICTMENT/CASE#: 2017GS1500710

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
☐ **PTUP** after _____ months/years
And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:			\$ _____
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ _____
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150		\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ _____
	TOTAL		\$ <u>128.75</u>

 Clerk of Court/Deputy Clerk: Steph R. Rouse
 Court Reporter: Kymberlee Williams

 Presiding Judge: _____
 Judge Code: _____
 Sentence Date: Aug 9, 2022

STATE OF SOUTH CAROLINA)

County of Colleton)Kenneth Mark Keith CHISUM # 388732)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2025-CP-15-286

APPLICATION FOR

POST-CONVICTION RELIEF

FEB 28 2025 AM 9:43
COLLETON CO CP, GARY HALE**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention S.C.D.O.C. at Lieber Correctional Institution; Post Office Box 205; Ridgerville, South Carolina 29472.
2. Name and location of Court which imposed sentence Colleton County General Sessions;
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-15-00572 / Murder
 - (b) 2017-GS-15-00573 / Murder

(c) 2017-GS-15-00574 / Murder

5. The date upon which sentence was imposed and the terms of the sentence:

(a) August 19, 2022 / Life

(b) August 19, 2022 / Life

(c) August 19, 2022 / Life

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ☒ _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES.

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. APPEAL DISMISSED

ii. _____

iii. _____

(c) the date of each such result:

i. October 30, 2024

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. 2024-UP-370

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel.
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) failed to suppress statement when interrogated invoked right to
- (b) counsel.
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Ineffective Assistance of Counsel/must go P.C.R.
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. David Mathew, Esquire; 319 North Lucas Street; Walterboro, South Carolina 29488.
 ii. Breen Richard Stevens/Jessica M. Saxon, App. Dfr.; Post Office Box 11589; Columbia, South Carolina 29211-1589.
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. arraignment, plea of not guilty, trial and sentencing.
 ii. direct appeal.
 iii. _____

19. State clearly the relief you seek in filing this application:

Vacate conviction and sentence
REVERSED and Remanded for new trial

20. Are you now under sentence from any other court that you have not challenged?

no

STATE OF SOUTH CAROLINA)

County of Colleton)

VERIFICATION

I, Kenneth Mar Keith Chisolm, #388732, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Kenneth Chisolm

SWORN to and subscribed before me this 18th
 day of February, 2025.

Ludrean Bryant (L.S.)
 Notary Public

My Commission Expires: March 31, 2031

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Kenneth Mar Keith Chisolm #388732, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Kenneth Chisolm
Applicant

SWORN or affirmed to and subscribed before me this
18th day of February, 2025.

Luchean Bryant
Notary Public

My Commission Expires: March 31, 2031

FEB 28 2025 AM 9:43
COLLETON CO CP, GARY HALE

County Colleton, Clerk of Court

Colleton County Courthouse

2025-CP-15-286

101 Hampton Street

Walterboro, South Carolina 29488

RE: Request for copy of P.C.R. application

DEAR CLERK OF COURT :

Enclosed for filing in your office is application for post-conviction relief. I ask that your office, please, send me back a stamped clocked-in copy of the P.C.R. application showing the filing in your office.

I thank you in advance for your assistance in this matter.

Sincerely Submitted,
Kenneth Mar Keith Chisolm

Kenneth Mar Keith Chisolm #388732

Lieber Correctional Institution, A/B-58

Post Office Box 205

Ridgeville, South Carolina 29472

This 18 day of FEB, 2025.

FEB 28 2025 AM 9:43
COLLETON CO CP, GARY HALE

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	IN THE FOURTEENTH JUDICIAL CIRCUIT
	)	
Kenneth M. Chisolm, #388732,	)	CASE NO. 2025-CP-15-00286
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	(Counsel Already Appointed)
	)	
Respondent.	)	

AUG 1 2025 AM 10:11
COLLETON CO CP, GARY HALE

In response to the application for post-conviction relief filed by Kenneth M. Chisolm (Applicant) on February 28, 2025, Respondent, makes the following return:¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In September 2017, Applicant was indicted by the Colleton County Grand Jury for three counts of murder (2017-GS-15-00572;-00573;-00574), attempted murder (2017-GS-15-00704) and possession of a weapon during the commission of a violent crime (2017-GS-15-00710). On August 15, 2022, Applicant proceeded to a jury trial before the Honorable Perry Buckner. Applicant was represented by Public Defender David Mathews. Assistant Solicitor Tameaka Legette represented the State. The jury found Applicant guilty as indicted. Judge Buckner sentenced Applicant to life imprisonment for each murder, thirty years for attempted murder and five years for the weapons charge all to run concurrently.

¹ Respondent's Return was due to be filed within ninety days of receipt. See Rule 12(a), SCRPC ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.") Now, having completed the Return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this Return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application"); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court).

Applicant filed a timely notice of appeal. Appellate Defender Breen Richard Stevens filed a brief on behalf of Applicant pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed the appeal after review pursuant to Anders. State v. Chisolm, Op. No. 2024-UP-370 (S.C. Ct. App. filed October 30, 2024). The Remittitur was sent on November 15, 2024.

CURRENT APPLICATION

On February 28, 2025, Applicant timely filed this application alleging ineffective assistance of counsel for failing “to suppress statement when interrogated invoked right to counsel.” As relief, Applicant requests “vacate conviction and sentence, reversed and remanded for new trial.” Attached to this return and incorporated by reference are the Colleton County Clerk of Court records for the underlying convictions, Applicant's records from the Department of Corrections, the trial transcript and Applicant's appellate records. Respondent reserves the right to file an amended return upon receipt of any additional information.

INEFFECTIVE ASSISTANCE OF COUNSEL

Respondent requests an evidentiary hearing in response to Applicant's allegations of ineffective assistance of counsel. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must

prove that counsel's performances were deficient. *Id.*; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C at 117, 386 S.E. 2d at 635 (quoting Strickland, 366 U.S. at 690). The proper measure of performances is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. At 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C at 117-18, 386 S.E.2d at 625.

Here, the record likely does not refute or disprove Applicant's claims; therefore, Respondent requests an evidentiary hearing. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record").

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Respondent requests Applicant specify any claims he intends to raise in advance of the hearing. Respondent reserves the right to request a continuance based upon any amendments withheld until the last minute. Respondent further requests all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent before the hearing. Likewise, Respondent requests all potential evidence and a witness list be sent to Respondent before the hearing. Respondent reserves the right to request a continuance and oppose witness testimony and

exhibits that result in undue prejudice to the State.

ALL OTHER ALLEGATIONS

Any allegation not expressly admitted, qualified, or explained is hereby denied.

CONCLUSION

WHEREFORE, Respondent requests an evidentiary hearing on Applicant's claims of ineffective assistance of counsel.

Respectfully Submitted,

ALAN WILSON
Attorney General

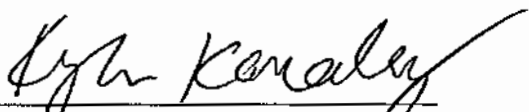
DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, II
Senior Assistant Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

KYLEE KANEALEY
Assistant Attorney General

By:



Kylee Kanealey, Bar No. 107060

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
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July 25, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	CASE NO.: 2025-CP-15-00286
	)	
KENNETH M. CHISOLM,	)	
	)	
APPLICANT,	)	
	)	
v.	)	<u>TRANSCRIPT OF RECORD</u>
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT.	)	
	)	

Tuesday, September 23, 2025

COMMENCING AT:
 Beaufort County Courthouse
 Beaufort, South Carolina
 Before The Honorable Eugene P. Warr, Jr., Presiding Judge

APPEARANCES:

For the Applicant:

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For the State:

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Heather R. Landry, CVR
 Official Reporter

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(No exhibits were marked or received.)

1 (The proceeding commenced at 1:33 p.m.)

2 **MS. DIXON:** May it please the Court. Danielle Dixon,
3 Assistant Attorney General for the State of South Carolina.
4 This is the case of Kenneth Chisolm v. State, docket number
5 2025-CP-15-286. Mr. Chisolm is currently serving a life
6 sentence. In September 2017 he was indicted by the
7 Colleton County Grand Jury for three counts of murder and
8 one count of attempted murder and possession of a weapon
9 during a violent crime. Those are indictment numbers
10 2017-GS-15-572, 573, 574, 704, and 710.

11 On August 15, 2022 he proceeded to a jury trial before
12 the Honorable Perry Buckner. He was represented by public
13 defender David Matthews, and the case was prosecuted by
14 Deputy Solicitor Tameaka Legette. Mr. Chisolm was convicted
15 as indicted by the jury, and Judge Buckner sentenced him to
16 life imprisonment for each count of murder, 30 years for
17 attempted murder, and five years for the weapon charge all
18 to run concurrently.

19 He did file a notice of appeal which was perfected by
20 appellate defender Breen Richard Stevens who filed a brief
21 pursuant to Anders v. California. The South Carolina Court
22 of Appeals, after its review, dismissed the appeal and the
23 remitter was sent November 15, 2024. Thereafter, on
24 February 28, 2025, Mr. Chisolm timely filed this
25 application for post-conviction relief alleging counsel was

1 ineffective for failing to suppress his statement when he
2 invoked his right to counsel during his interrogation.

3 More recently, I did receive an email from Ms. Marto
4 regarding their amendments. And, Your Honor, it's our
5 understanding that that is what they're going forward on at
6 this time. And those are that counsel should have objected
7 to search for truth language at page 128 of the trial
8 transcript. I assume that's preliminary statements by the
9 judge or one of the lawyers; counsel was ineffective for
10 failing to successfully suppress applicant's statement. And
11 specific to that, Mr. Chisolm was dragged to the interview
12 and that he invoked his right to counsel multiple times.
13 They're alleging that counsel was ineffective for not
14 meeting with Mr. Chisolm and discussing the case enough with
15 him, for not investigating anything, for not presenting a
16 zealous defense, and for not highlighting the male victim's
17 character issues such as drug dealing and gang relations.
18 And at this time, we'll turn it over to Ms. Marto.

19 **THE COURT:** All right, Ms. Marto.

20 **MS. MARTO:** Yes, Judge, I did consolidate those
21 allegations into a formal amendment. I think that would
22 probably be helpful to kind of follow along.

23 **THE COURT:** Very good. Thank you.

24 **MS. MARTO:** Yes, Your Honor. But Ms. Dixon did
25 accurately state the allegations. We're planning on going

1 forward on today. And beyond that, we would call our first
2 witness, Mr. Kenneth Chisolm, to the stand.

3 (Whereupon, the witness, KENNETH CHISOLM, was duly
4 sworn and testified as follows:)

5 **THE COURT:** Ms. Marto, whenever you're ready.

6 **MS. MARTO:** Thank you, Judge.

7 - - - - -

8 DIRECT EXAMINATION

9 BY MS. MARTO:

10 Q. Good afternoon, sir.

11 A. How you doing?

12 Q. Good. How are you doing?

13 A. All right.

14 Q. So who represented you at trial?

15 A. David Matthews.

16 Q. And what were you charged with?

17 A. Three counts of murder, attempted murder, gun charge.

18 Q. And what was the outcome at trial?

19 A. Life sentence.

20 Q. Were you found guilty of everything?

21 A. Yes, ma'am.

22 Q. And how do feel like counsel did representing you?

23 A. Poorly.

24 Q. So how long, roughly, did counsel have your case before
25 trial?

1 A. David Matthews, probably like a few weeks. Two, three
2 maybe, if that.

3 Q. And how many times did y'all discuss your case?

4 A. Once. He just let me know I had a trial coming up.

5 Q. Did you get a chance to discuss discovery or anything
6 like that with him?

7 A. Not really. Just that he said that my codefendant was
8 supposed to become a witness and that was just about it.

9 Q. Is there anything else that counsel you feel like
10 should've explained to you prior to the trial?

11 A. I mean, basically, he should have just told me
12 everything. Like, he didn't come see me, let me know
13 nothing about my codefendant coming to stay. He just didn't
14 tell me nothing. So I was going blind. I was sitting there
15 basically waiting on anybody to come contact me. But I
16 didn't get any contact. They came, it was just like you got
17 court coming up, this is going on, and that was that. I was
18 preparing for trial.

19 Q. Did you feel like counsel was prepared to try your
20 case?

21 A. Say one more time.

22 Q. Did you feel like counsel was prepared to try your case
23 at trial?

24 A. No. No, ma'am.

25 Q. How do you feel like he did in defending you?

1 A. Poorly.

2 Q. What do you think he should've done better?

3 A. At least come contact me. Have some type of -- like,
4 bringing some type of, like, proof that he's doing
5 something. Bringing like -- come see me, let me know, okay,
6 this is going on. Like, more communicating. More
7 contacting letting me know updates. I didn't get no new
8 updates throughout the whole process.

9 Q. And do you know what your defense was at trial?

10 A. I don't understand. Say that again.

11 Q. What defense did counsel go forward on at trial to try
12 and prove to the jury you weren't guilty?

13 A. Nothing. Really nothing, really.

14 Q. What do you feel like he should have presented in your
15 defense?

16 A. I mean, he should have -- I mean, I just feel like he
17 ain't really nothing. He should have like -- like, a lot
18 things that I was trying to, like, tell him and it mix it
19 up, like, at the trial, like, on certain stuff. Like, he
20 washed it under a bridge, like. Even we had our recess and
21 I contacted my people and family and stuff, when they had,
22 like, you know what I'm saying, concerns, still was like
23 washing it under a bridge. So I feel like everything that I
24 was trying to, like, why we can't go this way, why we
25 can't look at it like this, why can't we do this. It was

1 like he was just trying to completely, like, oh, that
2 wouldn't make sense or like -- he just was basically trying
3 to cut everything that I was trying to bring to the table.

4 Q. And one of the things that came out at trial was a
5 police statement you made. Is that correct?

6 A. Yes, ma'am.

7 Q. And do you feel like that statement was made
8 voluntarily or knowingly on your part?

9 A. No, ma'am.

10 Q. Now, why do you feel that that's not the case?

11 A. Because the day, like, I was -- you know what I'm
12 saying. The day I was just -- I was never, like, brought
13 up for like nothing. I was just told I was coming in for
14 questioning. I was coming toward the Annex. That's where
15 the technician was at. I was ambushed by SLED and an
16 officer on the street. I got abused, beat up. And then I
17 got thrown in the Annex. When I was there, they was
18 automatically really just trying to throw me into, like, a
19 jumpsuit. So I was having to constantly tell them, like, I
20 though I was just here for answering questions. Like, I was
21 never told I was under arrest, nothing, accused of nothing.
22 I was just told that basically, like, with me coming up for,
23 like, you feel me.

24 And I was just trying to not run or not try to make
25 myself look guilty. I was like let me see what's going on.

1 So when I was on the way there, they just surrounded the car
2 and did what they did. And we saw that. That's how that
3 played out. I went to the interrogation room. I didn't do
4 nothing, like. I was telling them I need legal, I want the
5 lawyer, this and that. They just kept making it seem like I
6 was already guilty. I was in there two hours, I think,
7 constantly -- as soon as I got there, they deliberately just
8 throw me in the jumpsuit. And basically just kept answering
9 questions, kept trying to -- basically, I don't know, trying
10 to make me say more than one thing, say the same thing over
11 and over, twist it up. I don't know. But I just know,
12 like, I didn't get, like -- you feel me. I didn't get no
13 -- I don't know how to really explain it. But I just know
14 when I was there, like, they didn't try to -- they forced me
15 in there. They wouldn't let me leave. They kept constantly
16 trying to question me over and over and over and over.
17 Asking for a lawyer. Different people coming in. They took
18 my clothes off the rip. So it was like what that gonna make
19 you think? Like, once you're there, like, if you
20 just -- you know what I'm saying.

21 I was young at the time. I was like 18 years old. I'm
22 constantly -- I'm knowing better. I'm telling them I need a
23 lawyer. They're like, oh. They make it seem like you
24 already guilty, give you clothes and all that stuff. I
25 mean, shoot, they basically already making their own

1 decision. But that's why I feel like in the trial, like,
2 they trying to present stuff as in statements and stuff. I
3 was trying to tell my lawyer, like, how can they, like, use
4 certain stuff when I'm constantly telling them, like, I need
5 a lawyer. It's basically like, you know what I'm saying,
6 what are my rights.

7 Q. What do you feel like counsel should've done at trial
8 when it came to ---

9 A. Should have at least present -- he should have, I
10 guess -- like, I don't know he, like, put objections or
11 motions or something. Just do something like talking to
12 them, telling them about that in the trial, like, why are we
13 not, like, bringing this up? He's just like -- I can't
14 remember word for word because it was like three years ago.
15 But I just know basically he was downplaying everything I
16 was trying to bring, everything.

17 Q. So do you feel like counsel should have challenged your
18 statement more thoroughly?

19 A. Yes, ma'am.

20 Q. And you think that he should've argued that you kept
21 invoking the right to counsel?

22 A. Yes, ma'am.

23 Q. And do you feel like he did that?

24 A. No, ma'am.

25 Q. And what you think the outcome would've been had he

1 done that?

2 A. I mean, he's just like -- I feel like -- you talking
3 about as far as like with me being interrogated and stuff
4 like that?

5 Q. Do you think that your statement would have come out at
6 trial?

7 A. Probably not, no.

8 Q. How do you feel like that would have impacted your
9 case?

10 A. I just feel like because he got to say certain stuff to
11 the jury and the jury got to soak it up and it got that
12 picture and that image instead of, like, the real truth of
13 it, the whole backbone of how it like -- you feel me. Like,
14 they know, like, me trying to like -- they don't get to see
15 all that in front of the jury. I feel if that was presented
16 to the jury, like all that, you know that I'm saying,
17 interrogation room, trying to ask for a lawyer, trying to
18 get a good counsel before I even say a word, you know what
19 I'm saying. If they took all that into consideration, like,
20 okay, well.

21 And like I said, I was young. I'm doing everything I
22 know I'm supposed to do as far as like, okay, if I'm going
23 to get interrogated, I need a lawyer. You feel me? That's
24 what I was asking for. Like I say, they just came in there
25 straight with jump clothes, interrogating me. So I feel

1 like if they had presented stuff like that in court, the
2 jury would have had a different inside. You feel me?

3 Q. What do you feel like counsel should've investigated?

4 A. Talking about like as a whole, throughout the whole
5 case?

6 Q. Yeah, throughout the whole case.

7 A. I feel like they should've investigated the
8 codefendant, for one, because she came -- she made a
9 statement at the end. Like, my understanding with the whole
10 five years of just sitting here, there was no statement
11 made, I guess no written or verbal. So my thing was how can
12 she make a statement at the last minute. And from my
13 understanding at the trial, she stated, like, the State told
14 that her that she was to cooperate that she would've been
15 released after the case.

16 So I feel like all that was, like, it came out of
17 nowhere. Because I was not aware of none of this. Like I
18 said, I figured out that my codefendant was supposed to be a
19 witness like a week before my trial. So I feel a lot of
20 things that came up that I didn't -- wasn't aware or told.
21 Everything was just getting brought and ambushed as going
22 with the flow of me going, like, weeks from going to the
23 court. And at the end of the day, I still had to go that
24 route.

25 Q. Okay. And just so the record is clear, the codefendant

1 you're referring to is Ms. Aiken. Is that correct?

2 A. Yes, ma'am.

3 Q. And so you didn't know she was gonna testify until
4 about a week before trial?

5 A. Yes, ma'am.

6 Q. What do you feel like counsel should've done when news
7 of that broke? What do you think he should've investigated
8 or otherwise done?

9 A. Talking about my feelings about my codefendant?

10 Q. Yeah.

11 A. I feel like he should at least try to put like a motion
12 of like push the case back some. You feel me? I guess work
13 on that. I guess find a strategy around that and do
14 research on that. Because I feel like it was weird. Like,
15 how can she just out of the blue just become a State's
16 witness and say whatever the statement. You feel me?
17 That's basically how it looked. She just became a witness
18 on cooperation. Like, the State just -- you know what I'm
19 saying. I feel like bribed her like say this, say this and
20 you get out. That's obviously what happened. Like, she was
21 locked up just as long as I was and make no statement and
22 then cooperate but didn't do nothing. Now, all of sudden,
23 she's at trial on the stand saying -- pointing the finger.
24 So I feel like that's coaching from the State.

25 Q. Now, there were three people that were fatally shot in

1 this case, right?

2 A. Uh-huh.

3 Q. And I think your connection was to Mr. Phillip. Is
4 that correct?

5 A. Yes, ma'am.

6 Q. And what did you want counsel to bring out about
7 Mr. Phillip at trial before the jury that he didn't?

8 A. I feel like they should just paint that picture and the
9 truth about that man. Like, not in a bad way, but -- I
10 don't know the whole -- his whole background. I just know
11 that he was like a drug dealer. That he already had his own
12 type of name out there on the streets. He had people after
13 him. He did his own thing. I just felt like at trial they
14 just tried to paint a picture like he was an innocent
15 person. Like I'm saying, I understand the background of
16 what happened and how everything laid out. But I feel like
17 when I'm the suspect, everything get pointed to me. I'm
18 gonna be the bad guy. I'm gonna get targeted. So I felt
19 like -- you know what I'm saying? I didn't really . . .

20 Q. Okay. And so what about the background specifically
21 are you talking about? Personal activity, drugs, what?

22 A. What, the victim?

23 Q. Yeah.

24 A. Well, like I said, I just heard that he was a drug
25 dealer. A big drug dealer in the city. I heard he had his

1 own beef with people in the city. I didn't know him,
2 physically. Like, me meeting up with him that day, that was
3 just like a first time -- like I say, I was buying drugs.
4 Like, I buy weed. I was young, I bought weed. I can't --
5 that's not a lie. I met up with him to buy weed. But
6 anything that led up afterwards -- like, I met him in a
7 public place. They trying to paint the picture like I
8 followed this dude and did all this extra stuff. No, I did
9 not. And then that's the thing I was trying to tell my
10 lawyer, like, the address and stuff, I live in the area.
11 Y'all cannot force to paint a picture like I followed this
12 man home.

13 That's what I was trying to tell my lawyer at the same
14 time, I live there. I live in the area. How you gonna
15 assume that I could've just -- you feel me -- when I live
16 here. My lawyer didn't want to argue about none of that in
17 trial. I got public records showing, like, addresses of
18 where I stay at in the same area. So in trial when they
19 were trying to argue on like -- I guess when they brought
20 the tech there who was gonna do like the cell towers or
21 whatever, trying to use the phone towers, whatever, all this
22 is still in the same area. It ain't like -- we was
23 all still like in the same area of phones. I met up with
24 him at the Walmart area. And I guess they trying to make it
25 lead up to where the crime happened at. All this is still

1 in the same area. I live in the area.

2 The picture they tried to paint was I followed this
3 dude from -- well, we met up with the exchange for the
4 marijuana to following him back home. And that's what I was
5 trying to tell my lawyer, like, I did not followed this
6 dude. Like, I went home. I did my own things. You cannot
7 make it seem like I just followed this dude. But he didn't
8 try to, you know, attack it and try to using that. I showed
9 him even like -- I think in the motion to Rule 5, like, I
10 have it in my public records and stuff. I'm showing him,
11 like, my address. Like, this is the same. Like, this is
12 just really up the street type stuff. So like why you --
13 why can't we argue like -- you know what I'm saying? Like,
14 I live in the area. Don't try to paint the picture like I
15 followed him. That's not the case. He's like he's
16 washing it under the water. I feel like everything I was
17 trying to present to him, he was just washing it under the
18 rug. And that was his biggest issue. Well, all counsel,
19 really.

20 But Dave Matthews, I had him in beginning when I first
21 got the case. I got moved to Beaufort, I got handed to
22 Trasi Campbell. I had her for, like, three years. She
23 became a solicitor. I got handed to some other dude. I
24 can't remember him. But then I went back to David Matthews
25 like just before trial. And that's that. I just got

1 bounced around, bounced around, and really no legal
2 counseling from neither one.

3 Q. Had counsel, I guess, painted a more fuller picture of
4 Phillip, what do you feel like the outcome at trial would've
5 been?

6 A. It would gave -- it would have opened the jury's eye to
7 like, okay, well, shoot. Like they paint the picture like
8 the it's a whole actual background of like where we came
9 from, I guess, or what he was actually doing out there. It
10 would've I guess give the jury room to think like, okay,
11 shoot, anybody could have did that. And that's what I was
12 trying to tell my lawyer. Like, this man, you got to do a
13 background check. Like, I thought they didn't do a full
14 background check. And I felt what little information they
15 did find, they put in the case, it was basically painting a
16 picture like -- this man got a whole dang, like, operation,
17 at his house. They washing all that under the rug.

18 They ain't trying, like, to make it seem like, oh,
19 well, it could have been drug related. They make it seem
20 like it just been like a target or a thing we saw. I feel
21 like all that would have been presented, like, his
22 background. His background, like what he deal, what they
23 found, like, the jury would probably be like okay, well, it
24 could have been a room full of, like, options of maybe
25 multiple, like other people, avenues, not just singling one

1 person out off of -- like I said, it's so long ago, like, I
2 can't even remember, like, detail for detail. But I just
3 feel like they just did it like that. It would have opened
4 the jury's eyes. I feel like the more things the jury
5 hears, like, on both sides instead on just the defendant or
6 what he's accused of, it would open the jury's eyes to,
7 like, have more room for thought to, like, okay, speculate
8 other options and stuff like who could have been -- like,
9 who could have been involved or could have, like, that don't
10 sound right. I just feel like the jury would have had more
11 avenues to think of it.

12 Q. Do you think they would've found you not guilty?

13 A. Probably so. Maybe so, yes. If they brought, like,
14 everything like -- everything. Like, I have a lot of
15 arguments, like. I was constantly trying to tell him and
16 the end of trial, my people was telling him, like why we
17 can't bring this up, like why you can't. He's just like,
18 oh, I don't -- he's just -- I don't believe he was on my
19 side. If he was here, I would ask him. Like, I told him
20 multiple times, like, even when I had recesses, like, you
21 don't think we can argue on this. You don't think -- why
22 you not using that, why you're not -- he's just like, oh,
23 I'm just doing like this. Like, he just basically doing it
24 his own way.

25 Q. Is there something specific you asked him to argue in

1 your defense or just ---

2 A. I feel like one of the main ones -- there was a few.
3 It was really like multiple. But one of them -- like, I
4 remember, like, my codefendant was like, like I say, she
5 became a state witness out of nowhere. Like, I understand
6 that as we both was just sitting in the county waiting on
7 our trial date. We had, like, four trial dates that got set
8 back. And I never knew. Like, nobody ever told me that she
9 was obviously cooperating last minute or however that played
10 out.

11 So I just felt like everything -- like, and that come
12 in affect would -- them not communicating with me, them not
13 coming to see me or contacting me. They know I had a trial
14 date coming up that had been set. So they had to show face,
15 like, okay, this is going on. And I'm lost, like. So I'm
16 asking him, like, so if this is a new development, then we
17 gonna put the case back a little bit, like, so we can at
18 least know something. He just got back on my case within
19 like a week or two. So I'm asking him, like, so is it a
20 setback. He's like, oh, well, we done had so many setbacks,
21 they're ready to move forward. And I'm like why this needs
22 to move forward? Like, I understand, you know what I'm
23 saying, to move it forward because the case had been dragged
24 a little bit. But at the end of the day, it's a new
25 development in the case. Like, they saying that -- you know

Direct Examination of Mr. Chisolm by Ms. Marto

20

1 that I'm saying -- that you just basically just gotta let me
2 go to court and -- just saying you only care about the
3 whole -- you know what I'm saying -- a witness who is about
4 to hit the stand and accuse me of doing stuff. And you
5 talking about we can't put the case back to try to regroup
6 and, like -- you know what I'm saying -- get our own
7 strategy and tie it together. So I say that's one of them.

8 And like I said, I was telling him to bring up the
9 interrogation. Like, I was asking for a lawyer, asking for
10 a lawyer, asking for a lawyer, asking for a lawyer. Like,
11 everything, I just kept trying to tell him. Like, he
12 just -- he just kept washing it under the bridge, kept doing
13 it.

14 Q. Are there any other issues that you wish to raise
15 against Mr. Matthews that we haven't already talked about?

16 A. Not off the head. No, ma'am.

17 **MS. MARTO:** Nothing further, Your Honor.

18 **MS. DIXON:** Judge, can we go off the record briefly.

19 **THE COURT:** Yes, ma'am.

20 **MS. DIXON:** Just to talk about the witness.

21 **THE COURT:** Sure.

22 (Off the record at 1:55 p.m.)

23 (Mr. David Matthews joins remotely via Webex and the
24 proceedings resume at 2:08 p.m.)

25 **MS. DIXON:** May it please the Court?

— — — — —

CROSS-EXAMINATION

BY MS. DIXON:

Q. Mr. Chisolm, I think you testified that Mr. Matthews got this case a few weeks before your trial. Is that correct?

A. Yes, ma'am.

Q. And do you recall another attorney had the case beforehand?

A. Yes, ma'am.

Q. A blonde lady, do you remember her name?

A. Trasi Campbell.

Q. Traci Campbell. That's correct. Did she visit you?

A. A few times.

Q. A few times. A few, would that be two times, five times, ten times? What do you think?

A. She came probably like maybe three or four times. But only when it's like the case got set back or --

Q. Okay.

A. -- no major updates.

Q. So she went to the jail to visit you?

A. Yes, ma'am.

Q. Did she take the discovery?

A. I think. Yes, ma'am.

1 Q. She took the discovery. And what kind of discovery did
2 you review with her?

3 A. I want to say the motion. But it was mostly just
4 like -- the motion to discovery. Just like the background
5 of the case.

6 Q. Okay. And so you testified, I think on direct, that
7 you did see the statement of your codefendant?

8 A. No. Which one?

9 Q. Ms. Atkins, LaShay.

10 A. Did I see her statement?

11 Q. Uh-huh.

12 A. No. I didn't see no statement.

13 Q. Did you learn about the statement?

14 A. I heard it verbally when they came to see me, like,
15 two weeks before the trial.

16 Q. Okay. Mr. Matthews?

17 A. Uh-huh.

18 Q. Came to see you and told you about the statement?

19 A. Yeah. The last and first time I heard about it, just
20 before trial.

21 Q. Okay. And what did he tell you at that time about the
22 statement?

23 A. Basically that she was -- you know what I'm saying --
24 she was a state witness. That she was a state witness. And
25 I was questioning, like, how is that possible. Like,

1 because I was under the impression that she didn't make no
2 verbal or written or no type of statement at all. So
3 basically I was questioning them on that. And still
4 proceeded forward.

5 Q. Okay. So you think he should've gotten the trial
6 stopped or somehow gotten that statement not in?

7 A. Most definitely. At least got it, like, pushed back.

8 Q. Okay. What do you think extra time would have
9 given -- would have allowed you to do in relation to that
10 statement?

11 A. I mean, anything. I mean, time. I mean, that's a big
12 difference of us going to trial and learning about a new
13 witness who is supposed to be a suspect in the case. And
14 knowing that they didn't make a statement or cooperate at
15 all. From my understanding, even through the motion of
16 Rule 5 and the whole discovery, like, that's a big
17 difference. Knowing about it a week or two before trial and
18 got no type of tactic to try to -- so.

19 Q. And what was the nature of her statement? What was she
20 going to say about you?

21 A. I ain't even sure.

22 Q. Where you at your trial?

23 A. Yeah, I was at my trial. Are you saying what did she
24 say?

25 Q. Uh-huh.

1 A. Basically trying to say I'm the suspects. I was the
2 one who did it.

3 Q. Was she the driver that day?

4 A. Yes, ma'am.

5 Q. She was the driver and she said you were in the car
6 with her?

7 A. Talking about like -- how do you mean that day? You
8 talking about like just with her that day?

9 Q. Going back to the day of the murder.

10 A. I was with her that day, yeah.

11 Q. You were with her that day and in the car, correct?

12 A. Uh-huh.

13 Q. And she testified she was the driver?

14 A. You keep saying the driver. Like, driving what? I was
15 with her that day.

16 Q. In the vehicle, correct?

17 A. That day. Yes, ma'am.

18 Q. And she was driving the vehicle?

19 A. That day.

20 Q. And you were in the vehicle?

21 A. That day, yes, ma'am.

22 Q. You were in the vehicle with her that day?

23 A. Uh-huh.

24 Q. And she testified she drove you to the victims' home?

25 A. Yeah. That's what she testified.

1 Q. That's what she testified. And she testified that you
2 shot the victim?

3 A. Yes, ma'am.

4 Q. Shot the three victims?

5 A. Yeah. She testified to that.

6 Q. Well, four if you include the 9-year-old girl.

7 A. Yeah.

8 Q. You remember the --

9 A. I can't remember exactly what she testified to. But I
10 know she testified that I was a suspect, I was the shooter.

11 Q. Gotcha. Do you remember the 9-year-old drew a picture
12 of you?

13 A. It was a picture that was drawn. But it wasn't a
14 picture like -- and I feel like the 9-year-old, in the
15 trial, she didn't point me out. I feel like ---

16 Q. Did she -- she drew a picture of you, correct? Did she
17 in that picture draw a picture of the necklace you were
18 wearing?

19 A. No. And that's another thing that I was trying to
20 argue with Dave Matthews about. All, like, the descriptions
21 and stuff, like, all that you could tell was kind of
22 coached. You could look through the motion to Rule 5, you
23 could tell, like, when there's a question to her, even at
24 the hospital, even with, I guess, the victim, I think
25 Phillip, it's his daughter or whatever, you could tell that

1 they was kinda coaching her. Like, she -- in the midst of
2 it, all her family was even trying to tell her like, like,
3 it was a surprise and shocking. I think his daughter even
4 said that he had -- I mean, he even had people who wanted to
5 do, like, harm to him. Like he'd been -- it's all in the
6 motion. Like, she is letting it be known that they had
7 their own -- I guess he's a drug dealer. Like, they
8 kept -- they didn't want to present that. They didn't want
9 make it seem like it was drug-related. So all that was
10 swept under the rug.

11 Back to the 9-year-old's statement, I know I feel like
12 it was coached because I think of the emotion, I think when
13 she was at the hospital, like, the descriptions she was
14 giving, like, you could tell that they was coaching. Like,
15 how could she -- I don't even remember like, you know what
16 I'm saying. I get, like, mix up the words. But I know,
17 like, it was something in the case that I was bringing up to
18 Trasi Campbell that she was telling me something about,
19 like, the time frame of when they were questioning her,
20 like, it was basically instead of questioning her, it was
21 more like them basically telling her, like, I was already a
22 suspect within like a few days of the incident. And I think
23 the questioning happened after I was arrested as the suspect
24 or whatever. So I feel like coaching could come into that
25 part. Because if I'm already a suspect and y'all are

1 questioning her after I already a suspect, y'all could tell
2 them anything. Y'all could put the images, okay, this is
3 what we got or with that.

4 Q. Do you recall David Matthews cross-examining her about
5 whether she saw information on TV about this?

6 A. Talk about the ---

7 Q. The 9-year-old victim.

8 A. I remember him cross-examining her. But certain, like,
9 questions he asked, I'm not very familiar because it was
10 like, what, three years ago.

11 Q. But you do recall he cross-examined her?

12 A. Uh-huh.

13 Q. And if the record shows that he cross-examined her
14 about where she got this information, would you dispute that
15 that's in -- that that was ---

16 A. I can't remember.

17 Q. You don't remember?

18 A. I don't remember.

19 Q. Okay. What was the necklace like that you were
20 wearing? Tell me about the necklace.

21 A. I can't remember. I know I had -- I had jewelry.

22 Q. You don't remember the necklace, nothing about it?

23 A. I had jewelery. I mean, how you mean? Like, the
24 pendant, can I describe it?

25 Q. Yeah. What was -- yeah, describe it.

1 A. I just had jewelry. I had jewelry. I mean, I had
2 chains, I had watches.

3 Q. So you don't remember what it looked like?

4 A. No, ma'am. You talking about nine years ago.

5 Q. Nine years, okay. No memory of the pendant you were
6 wearing?

7 A. No.

8 Q. Do you remember that she drew a picture of that?

9 A. I feel like it was coaching still afterwards.

10 Q. Do you remember that you were wearing that when you
11 spoke to police?

12 A. I still had the pendants and all that stuff on.

13 Q. You had shoes on too, didn't you?

14 A. I had all that on.

15 Q. And your shoes on as well?

16 A. How do you mean?

17 Q. Whenever you went to talk to the police, did they take
18 your shoes?

19 A. They took everything.

20 Q. Did they find anything on those shoes?

21 A. I don't know. I mean, I think they try to tell they
22 said they found blood.

23 Q. Whose blood?

24 A. I don't know. One of the victims.

25 Q. One of the -- the 13-year-old boy?

1 A. I'm guessing.

2 Q. The blood of the 13-year-old boy on your shoes?

3 A. I'm guessing. That's what they said.

4 Q. That's what they said.

5 **MS. DIXON:** I have nothing further.

6 **MS. MARTO:** No redirect, Your Honor.

7 **THE COURT:** Very well. You may step down, sir.

8 **MS. MARTO:** We call David Matthews, Judge.

9 **THE COURT:** All right. Mr. Matthews, you ready, sir.

10 **THE WITNESS:** (No audible response.)

11 (Brief pause.)

12 (Whereupon, the witness, DAVID MATTHEWS, first being
13 duly sworn, testified as follows:)

14 - - - - -

15 DIRECT EXAMINATION

16 BY MS. MARTO:

17 Q. Mr. Matthews, you represent Mr. Chisolm, correct?

18 A. Yes.

19 Q. How long did you have this case before trial?

20 A. I had it initially. And I think -- for whatever
21 reason, I think Stephanie ended up giving it to Trasi
22 because I think she was supposed to be doing the serious
23 charges or something, anyway. I had it briefly in 2017,
24 went to see him at the jail once. All this stuff is in my
25 notes which I provided, and I hope y'all had a chance to

1 look at. But I met with him in 2017. Helen Dovell had it
2 for a little while. Trasi Campbell had it for a little
3 while, and then it ended up back to me in I guess 2022.

4 Q. So the second time around, do you recall how long you
5 had it? A couple of weeks, a couple of months?

6 A. It's whatever is in my notes. I'll see if I can pull
7 those up and read them or if you want to ask me particular
8 questions.

9 Q. And what was your defense at trial?

10 A. Well, the defense was that it wasn't me, it was
11 somebody else. You know, it was a -- at one point he was
12 kind of at the Beaufort jail, which was kind of an ordeal.
13 And we talked about it some. I talked about the process. I
14 knew that the victim, the adult male victim, was selling
15 drugs. Of course, that's what the whole meeting was about.
16 And from stuff I found through my investigation, it looked
17 like he might've had some racial animus, the victim in that
18 case. And, you know, suggested the possibility one of the
19 things that I think that the sister, the adult male's
20 sister, I think -- somebody in the family -- had talked
21 about a debt that somebody owed to the adult male. And we
22 looked at, you know, maybe producing that as an alternative
23 shooter. Did what we could with it.

24 Q. Do you recall how many times you met with him after you
25 had taken over the case for the second time?

1 A. Did you look at my notes?

2 Q. Well, sir, I'm trying to create a record. So do you
3 recall ---

4 A. I understand. If you've had a chance to look at them,
5 at my notes, whenever -- I try to whenever I -- I've got
6 electronic notes that are 20 cases long in this. And every
7 time -- I wouldn't say necessarily every time -- but I try
8 to document in my electronic notes that I provided every
9 time -- every time I did whatever in the case including
10 visiting. So in my notes, so how many times is in the notes
11 as to how many visits.

12 Q. Now, what did you do to try and challenge Mr. Chisolm's
13 police statement?

14 A. It's my recollection that his statement basically was
15 only that admitted what they could pretty clearly prove
16 anyway, which is he met with the guy in a Walmart parking
17 lot or the parking lot outside -- the second part of the
18 Walmart parking lot not the -- there are two parts of it.
19 But there was a close circuit -- or I don't know what it is.
20 But there was a camera outside of one of the shops and it
21 shows his car rolling up and getting out of the car and
22 talking to the adult male victim. And I think he admitted
23 that that he did that. I think he admitted he sent some
24 texts.

25 He did not admit to, and never did, say that he was on

1 the scene. There was some videos in the stores along the
2 way the did the, you know, triangling of the cell phones and
3 stuff like that, and they looked at the shots a couple of
4 the places around somewhere near the time on the way out to
5 where the victim was from, lived. There was some videos
6 that appeared to show him there. But I think the only thing
7 that he admitted is he had sent texts; that he had set up an
8 opportunity to buy drugs from the adult male victim and did
9 send texts and then he did meet with him outside of the
10 Walmart parking not.

11 Q. Did Mr. Chisolm tell you that he kept asking for an
12 attorney when he was being interrogated?

13 A. I don't know. It's been a while. You know, the
14 videos, if you've had a chance to look at the videos, the
15 video -- I'll say this, the interrogation was pretty bad in
16 a lot of respects. The police, which they took off all his
17 clothes. This is after they beat him up. Nothing I could
18 do about it. So I mentioned it to Margie Bright Matthews
19 just through her receptionist, so we could establish -- you
20 know, since I was not allowed to handle civil matters.
21 I -- then about that. The interrogation was pretty bad.
22 But in terms of what he actually said, it was stuff they
23 could prove. He did admit that he was on scene at the
24 shooting. He didn't admit he did the shooting.

25 Q. Now, when did you find out that his codefendant was

1 gonna be testifying at trial?

2 A. It's in the notes. Let's see, I'll have to look. It
3 looks like -- okay. We just put him through both to
4 Beaufort -- (distorted audio). The murder section on
5 the on -- the murders, there's different sections on that.
6 And I don't know about the other two murders. I don't know
7 what -- (distorted audio) -- or not. But this says for
8 August 8, 2022, both to Beaufort. I spoke with the
9 defendant about an hour. I let him read LaShay's statement.
10 LaShay, who I actually cross-examined -- (distorted
11 audio) -- so I won that one, but I didn't win this one.

12 But I let him read LaShay's statement. TL, that's
13 Tameaka Legette, says there's no ---

14 (Audio disruption at 2:22 p.m.)

15 **THE COURT:** Tell him hold on.

16 **MS. MARTO:** Hang on, sir. They're trying to correct a
17 speaker issue.

18 **THE COURT:** We lost it. I don't know why we lost him
19 for a moment. Because we can't hear him on here.

20 **MS. DIXON:** Yeah.

21 **THE COURT:** Excuse me, I can hear him on here, but it's
22 got the echo. So we lost him on here, but you still have
23 him?

24 **MS. MARTO:** Can you hear me, sir?

25 **THE WITNESS:** I unmuted this.

1 **THE COURT:** Need to go back to the last question -- go
2 back to the last question and repeat the answer, please.

3 Ask him to go back to the last, Ms. Marto, and complete ---

4 **MS. MARTO:** I understand, sir. I'm trying to remember
5 what the last question was.

6 BY MS. MARTO:

7 Q. How long did you know about the codefendant and how she
8 was gonna be testifying at the trial?

9 A. Nephentina or LaShay?

10 Q. The second.

11 A. I don't remember who ---

12 Q. LaShay.

13 A. Okay. You know, as I said, whenever I got
14 something -- Tameaka is -- we've tried a bunch of cases
15 together, and she's ethical and does a good job, but she
16 sometimes slow getting me -- I don't know whether sometimes
17 it's slow for her to get it or not. But whenever I got it,
18 like I said, LaShay's statement on August 8th, I read
19 to -- I listened to the jail calls. Let's see. Listen to
20 the jail calls of LaShay. In the jail, there's
21 a -- apparently reference to Janicki. Janicki was drug
22 squad guy with the Colleton County Sheriff's Department who
23 was -- who left after being accused of some improprieties.
24 I don't know whether I tied that. I don't think he had much
25 to do with the investigation of this. Anyway, what was the

1 question specifically? Can you hear me?

2 Q. I'm not making out -- what's the answer?

3 **THE COURT:** We also. Just a moment.

4 (Brief pause to deal with audio issues.)

5 **THE COURT:** Can he hear us?

6 **MS. MARTO:** Can you hear us, sir?

7 **THE WITNESS:** I think I heard the judge say can he hear
8 it, and I heard you say can you hear it.

9 **MS. MARTO:** Okay.

10 BY MS. MARTO:

11 Q. Now, did Mr. Chisholm ever talk to you about what he
12 perceived to be Phillip's issues concerning drug dealing,
13 gang relations, things of that nature?

14 A. Well, the whole thing was about drugs as far as that
15 goes. As far as him being a drug dealer, I think that was
16 pretty clear. That was the whole reason for the meeting.

17 Q. And what did you do with that information at trial, if
18 anything?

19 A. It clearly came up. It was the whole reason that they
20 met. As far as what I did, I may have argued that I think
21 probably the -- there was no question he was a drug dealer.
22 The adult male victim was a drug dealer, no question. And
23 as far as whether I could make anything of it, you know, I
24 have not -- you sent the transcript of the trial. I have
25 it, but I didn't read it. And it's been a while. If you

1 could point me to something particularly in the testimony of
2 the trial transcript, I'll certainly be happy to read it.

3 **THE COURT:** Ms. Marto, apparently, he's speaking into
4 two microphones, maybe. I wonder if he can mute one of
5 them, and I wonder if that would help us possibly.

6 **MS. MARTO:** Sir, can you mute one of your microphones?

7 **THE COURT:** We're getting a bad echo.

8 (Brief pause.)

9 **THE COURT:** No. He's cutting it back on. Just go back
10 to where he was.

11 **MS. MARTO:** Okay. Go back to where you were, sir.

12 **THE WITNESS:** Okay. And I hit my mute. You can hear
13 me on the phone. If that was -- I turned off my microphone
14 there and I'm just ---

15 **THE COURT:** That's better.

16 **THE WITNESS:** Is that better?

17 **THE COURT:** Oh, yes.

18 A. Okay. What was the question again?

19 Q. What did you do with the information that Phillip
20 specifically had a history of drug dealing, criminal
21 activity, gang relations, things of that nature?

22 A. As far as gangs, I don't know anything about it. As
23 far as drug dealing, it was clear he was a drug dealer. And
24 it wasn't in this case. But in the other two cases out
25 there too. You know, one of the problems with it is that it

1 was kind of a modus operandi thing. He was
2 accused -- Tameaka ultimately dismissed them -- but he was
3 accused of killing two other drug dealers. I don't know
4 whether it was to eliminate the competition or for whatever
5 reason. But that doesn't necessarily -- it helps some to
6 make the victim look bad. But it doesn't really help -- it
7 didn't really help in this case. If I get into the overplay
8 that he's a drug dealer, that maybe makes the prior -- the
9 prior bad acts might bring -- drag it out and make it
10 admissible, which I certainly didn't want.

11 Q. Are you testifying you didn't explore this at length
12 because you didn't think it would be useful?

13 A. I mean, you use whatever you've got as far as whether
14 it's useful. I mean, it was pretty clear he was a drug
15 dealer. There's no question about it. That was the reason
16 they were there. Because he had marijuana that he believed
17 he was gonna be selling to Kenneth. So there's no question
18 that he was a drug dealer. And I don't think -- it's hard
19 for me to imagine the jury didn't understand that.

20 Q. And then for the final issue, sir, looking at page 128
21 of the record, it looks like in the Court's opening
22 statements, they state that the trial is the search for the
23 truth in an effort to make sure justice is done between the
24 parties and that searching for the truth in trying to make
25 sure that justice is done is often slow and repetitive. Is

1 there a reason why you didn't object to "search for the
2 truth" language in this case?

3 A. Well, I mean, some of this is art and some of it is
4 science, okay. When you -- if you object to
5 something -- this the prosecutor speaking or the judge?

6 Q. The judge.

7 A. Okay. Well, I suppose I could've asked to approach.
8 But you don't want to get into an argument with a judge to
9 start things off, just as a matter. And it's not, you know,
10 do I want to tell the jury that this is not a search for the
11 truth when the judge says it was. I mean, just as a matter
12 of, you know, ladies and gentlemen of the jury, I understand
13 the course. It's a quest to find out whether the State has
14 proven its case, and that they are not required to
15 find -- make a determination to what the actual facts are if
16 they're not proven to them. I'm aware of that. I'm aware
17 of the cases that do that.

18 But in terms of whether or not to object to that, if
19 you object to something, you draw attention to it. And, I
20 mean, then you have to say, well, what's the response gonna
21 be if this is granted? Oh, I'm sorry, I shouldn't have said
22 to y'all; it's not a search for the truth; you guys are just
23 supposed to do whatever you want. Which they can, of
24 course. So is there a reason why I didn't? There's
25 several. One of them is it draws attention to it; second, I

1 would get in an argument with the judge right to start the
2 case, which is not usually very smart; and third, you've got
3 a chance over the course of time to maybe fix that by the
4 end to explain to them through the course of the case that,
5 you know, this is a matter of whether the State has proven
6 its case beyond a reasonable doubt. Does that answer your
7 question?

8 Q. Yeah. But you would agree that that's as per Supreme
9 Court precedent that's ---

10 A. Right.

11 Q. --- a misstatement of the law?

12 A. That's an improper charge. That's correct.

13 **MS. MARTO:** One moment, Your Honor.

14 Nothing further.

15 **THE COURT:** Ms. Dixon?

16 **MS. DIXON:** May it please the Court?

17 - - - - -

18 CROSS-EXAMINATION

19 BY MS. DIXON:

20 Q. Mr. Matthews, can you hear me?

21 A. I can. Who am I talking to?

22 Q. This is Danielle Dixon.

23 A. Okay.

24 Q. Assistant Attorney General.

25 A. Yes.

1 Q. Just gonna go through some questions real quickly. Can
2 you tell us, first of all, about your background as a
3 lawyer?

4 A. I was admitted to the Florida Bar in 1985 to the
5 South Carolina Bar in 1987. I started out in the Beaufort
6 Public Defender's Office in 1987 or so. I worked for
7 Attorney Jim Moss for four years in Beaufort after that.
8 Then I was on my own for a little while. I was the county
9 attorney for Jasper County for about five years. I've
10 practiced all kinds of law, but I've always also practiced
11 criminal law throughout the course of that. I probably
12 tried, I don't know, maybe 15 murder trials, something like
13 that. I don't know what the number is exactly, but
14 something like that. And handled thousands and thousands of
15 criminal cases.

16 Q. Gotcha. And then in terms of this case, you reviewed
17 the State's evidence, correct?

18 A. You know, I have it. As far as what I reviewed, I
19 don't -- you know, I'm a witness. I'm only going to
20 prepare -- I will answer honestly whatever questions I'm
21 asked. You know, I don't ---

22 Q. Do you recall a text ---

23 A. I work as hard as I can trying the case. On PCRs, you
24 guys do whatever you want. It's all good to me.

25 Q. Do you recall a text between the victim and the

1 defendant shortly before the murders?

2 A. The text about setting up the meeting?

3 Q. Yes.

4 A. Yeah, I remember that was -- I do remember that was
5 part of the case, yes.

6 Q. Okay. Do you remember the 9-year-old victim
7 identifying him as the shooter in a lineup?

8 A. I remember. And I did have some problems with whether
9 or not this was something seen on TV. I did have a question
10 about that. With child witnesses, you always have a -- you
11 always have some concern whether they were coached and
12 whether or not they're testifying what they remember or what
13 they were told to remember. It's always -- that's always a
14 problem. Unfortunately, I think -- my recollection is kind
15 of vague. But it seems to me like she was a pretty good
16 witness. And, you know, you can talk about time and you can
17 talk about necklaces. But when they come out and do a
18 credible job and look likable and believable, it's really
19 hard to get past that.

20 Q. Do you recall that she drew a picture of the shooter?

21 A. Yes.

22 Q. And do you recall doing a motion to suppress that
23 picture?

24 A. I was looking at my notes and saw that when I talked
25 about it, I needed to make a motion to suppress. I'm sure I

1 did.

2 Q. And then do you recall the testimony of the
3 codefendant, LaShay, that he was in the vehicle with her and
4 she identified him as the shooter?

5 A. I do.

6 Q. And do you recall any DNA from the victims blood being
7 on the defendant's shoes?

8 A. I don't recall it. Yeah, I actually kinda -- it's
9 vaguely coming back to me. But whatever is in the
10 transcript. But, yeah, I think there was something about
11 that. And I may have had some problem -- any time -- you
12 know, I've always had a problem with how DNA is collected.
13 One of the problems I have -- and I never won this -- but
14 any time I've made this motion, I've never won it. And I
15 continue to beat the drum, and it isn't going to matter.

16 But a suspect swab ought to be -- the stem of it ought
17 to be a different color than the unknown swabs because they
18 look the same. You know, if you take a white swab from the
19 victim or the defendant or whoever you want, you could just
20 take five of them and then call one of them the swab that we
21 took from the scene or the shooter or whatever you like. If
22 you have different stem colors, you've got a chance to argue
23 that, you know, it would have to take -- it wouldn't just be
24 a mistake; it would have to be a very purposeful malevolent
25 act if you were to do that. But I never won that.

1 And so I always have a problem with it. I'm sure I
2 would have looked at it. I don't remember. But I always
3 have a problem with DNA swabs with the color of the swabs
4 just because it would be -- there's always the possibility
5 of mixing up the swabs. I mean, I know they label things
6 and they go through a great deal of trouble to explain why.
7 It just seems like that would be an easy thing to do. But
8 anyway, yes.

9 Q. And do you -- let's see. Do you recall the State
10 actually got surveillance videos from different businesses
11 showing the victim's car?

12 A. Yes.

13 Q. Following the defendant's ---

14 A. Yes, I recall that.

15 Q. Okay. Okay. And then in terms of your strategy, do
16 you recall -- I think you said on direct examination that
17 Mr. Chisolm told you he was not there that day?

18 A. That's my recollection, yeah.

19 Q. And so in terms of a trial strategy, what was your
20 primary strategy going into this trial?

21 A. Well, I mean, you try to find somebody, if you can. I
22 mean, I think because -- one of the relatives there, an aunt
23 or somebody like that, said that she thought that the adult
24 male victim had said that another -- and he put it just
25 basically another black guy. And I think that words he used

1 were actually not that confident. I think they were pretty
2 racist. But said owed him money. And because of that, I
3 think I looked into the possibility, tried to ---

4 **MS. DIXON:** Hold on. Mr. Matthews, I'm sorry, the
5 audio has cut out again.

6 A. --- maybe there was some confusion.

7 **THE COURT:** Start over. I'm sorry.

8 Q. Mr. Matthews, can you repeat. We apologize.

9 A. Yeah. Well, there was a possibility an aunt or
10 somebody like the victim's sister maybe -- I don't remember
11 who it was -- but had said that in a call to -- I don't know
12 if it was Angela Stallings or who it was -- but made a call
13 or a text to somebody saying that he had said that
14 another -- I'm gonna use the phrase African-American male.
15 That's not the phrase he used -- owed him money. Presumably
16 from drugs, might have been from something else, but owed
17 him money. I looked into the possibility that maybe he
18 could've been the suspect. I don't think it worked out.
19 But if you're just going with "it wasn't me," then it's nice
20 if you have somebody else who could've been. And we looked
21 into that possibility. I don't think it stuck. But that
22 was one of the things I looked at and tried to suggest.

23 Q. And do you have a copy of the transcript?

24 A. I do.

25 Q. If you can turn to page 829 during your closing

1 argument. Do you see where you were kind of trying to
2 insinuate to the jury that the defendant -- or that the
3 victim had a conflict with somebody else?

4 A. Okay. What do you want me to ---

5 Q. Was that part of your strategy of trying to do the best
6 you can to try to pinpoint it on somebody else?

7 A. Well, yeah. I mean, that's part -- they were talking
8 about one other -- another witness and one other possible
9 suspect. Then again, why Nephentina wasn't charged, beyond
10 my understanding. Why LaShay is very proudly walking the
11 streets right now, I don't know. So, you know, we argued
12 that LaShay was lying, Nephentina should have been charged,
13 so their testimony was tainted. Also another
14 witness -- yeah, another possible person. I don't know
15 where it is in that questioning. But, yeah, that's what I
16 would've been talking about.

17 Q. And then if you flip back to pages 816, 17, 18, 19,
18 would you agree that at that part of the closing you were
19 trying to attack the 9-year-old's ability to identify him?

20 A. I'm sure I did. I mean, like I said, as far as reading
21 this, one of the things helpful too is -- actually, I guess
22 you guys go through a lot of these. But, you know, and the
23 closing argument is a good summary of things and quicker
24 probably. But I'm sure I also asked actual questions during
25 the case in chief. So, yeah.

1 Q. Okay. And then going -- you have your notes, correct?

2 A. Yes.

3 Q. If you'll look on page 19 of your notes, would you
4 agree on page 19 of your notes that it indicates that the
5 file with your office, with the public defender's office,
6 was opened June 6, 2017?

7 A. I'm scrolling down and I had some technical
8 difficulties with this, accessing it. And it's early and I
9 don't want -- okay, there we are. Okay. What date?

10 Q. On page 19.

11 A. Right. File open on June 5th, right, by
12 Wanda Caldwell.

13 Q. Okay. And that same page, would you agree that it
14 indicates you visited Mr. Chisolm at the detention center on
15 June 12, 2017?

16 A. Yes.

17 Q. And then if you flip to page 18, would you agree that
18 indicates you visited him at the detention center on
19 September 14, 2017?

20 A. Yes.

21 Q. And then if you flip to page 16, would you agree that
22 on February 6, 2018, there was a consent order substituting
23 Trasi Campbell as his lawyer?

24 A. Right.

25 Q. And so you didn't do anything in that interim. If you

1 go to page 11 and look at the entry for June -- or I'm
2 sorry -- for December 6, 2021, would you agree that that is
3 when you got the case back?

4 A. Hold on, I'm looking. Yes.

5 Q. And then if you look at page 10, and entry for
6 January 13, 2022, would you agree that that indicates you
7 had a video visit that day?

8 A. Yes.

9 Q. And then on page 10 an entry for March 22, 2022, would
10 you agree that indicates you had a phone call with the
11 defendant that day?

12 A. Yes.

13 Q. And then on page 1 an entry for June 27, 2022, would
14 you agree that that indicates you had a phone call with him
15 that day?

16 A. Hold on, I'm looking. What's the date again?

17 Q. June 27, 2022. This is page 1.

18 A. Yes, right. I'm looking. Yes.

19 Q. Does that indicate you had a phone call on June 27th?

20 A. Yes. Yeah. PC -- PCF (ph), DE (ph) got a phone call.

21 We reviewed the letter we received on June 3rd. I told him
22 I didn't think I could get him out on habeas corpus, but I'd
23 move for bond reduction if this case isn't tried in August.
24 And there's more, but . . .

25 Q. And then if you go to page 8 of your notes, does it

1 indicate that you had a jail visit on July 20, 2022?

2 A. July what? July 20th?

3 Q. Yes, sir. July 20th.

4 A. Yeah. Yeah. CW, consult with the defendant in
5 Beaufort jail for about an hour. Discussed whether he
6 testify, limitations on what I can ask, and attorney-client,
7 discuss possible trial issues.

8 Q. And then if you go to page 7, would you agree that
9 indicates you had a visit on August 8, 2022?

10 A. Go to Beaufort, spoke to defendant for about an hour.
11 Let him read LaShay's statement. TL says there's no
12 recorded statement. Yeah. Yes.

13 Q. And, just to clarify, are these your notes that you
14 took contemporaneous with your representation?

15 A. Everything that's says "created by David Matthews," I
16 wrote. Other people also worked on the case. They would
17 have their names, would be by what they did on it.
18 Carly Anderson is on there and some others. But there's a
19 lot of David Matthews and those things that I did, yes.

20 Q. And that would be an accurate reflection of the work
21 you did on this case, correct?

22 A. I didn't do less than that.

23 Q. Okay. And I'm just gonna touch real briefly on their
24 last allegation about the victim, Phillip's character
25 issues. I believe you testified on direct that you didn't

1 have any evidence that the victim had any kind of gang
2 affiliations. Is that correct?

3 A. Well, I don't remember any. I mean, I don't . . .

4 Q. Gotcha. Okay. And did you try to do anything to
5 attack his character during the trial?

6 A. It's whatever the record says. I certainly would have.
7 You've gotta be careful when you attack a victim,
8 particularly a dead one. I mean, you certainly want to make
9 sure that there's a basis. You want to maybe smudge him a
10 little but not too much because they're dead. And in this
11 case, it was more complicated because his wife was dead and
12 his autistic son was dead and his daughter was shot. So
13 those are -- you know, yes, I would've got to things
14 involved in that, and particularly when the possibility that
15 somebody else may have had something to do with it because
16 of the racial slur he used to describe him.

17 So as far as tarring his character, you know, I tried
18 to do things to show the possibility. It has to be relevant
19 to a material issue. And certainly the identity of
20 somebody, the possibility that it was somebody else, makes
21 that relevant. But you've gotta be careful. So, yeah, I
22 mean, I mentioned things that would've caused a jury to, you
23 know, maybe look at him not as the same. But you can't go
24 too hard on that because of the facts.

25 Q. Thank you, Mr. Matthews.